Dear [Name],

I refer to your request to the NZ Transport Agency of 11 March 2019, pursuant to the Official Information Act 1982, seeking:

“the research [underpinning the change to the 2004 Road User Rule] referred to here, regarding the use of e-scooters that was done around this change in 2004.”

This request was transferred to the Ministry of Transport to answer from the NZ Transport Agency on 26 March 2019. The reference in your request is to the response you received on 11 March 2019, OIA-4685.

The Land Transport (Road User) Rule 2004 (the Road User Rule) was the first time that e-scooters (and the category of vehicle they fall within – wheeled recreational devices) were considered under New Zealand law. Before this rule was made, the Traffic Regulations 1976 were silent on where non-motorised vehicles such as e-scooters, scooters, skateboards and such like could be used.

The Road User Rule defined what a wheeled recreational device is and was a mobility device is. The following documents fall within the scope of your request and provide the analysis and background research that was done at the time to make these changes.

Some of the further research used to make these decisions from 2001 – 2004 is available in hard copy from the Ministry of Transport. However, due to the timeliness of our response we have only compiled the documents we think you will find the most relevant to how the decisions were made at the time. Should you require more information, you are welcome to set up a time to visit and look through the remaining information stored in our hard copy files.

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Information has been withheld in documents 4 and 9 relating to the privacy of natural persons under section 9(2)(a) of the Act. We have withheld the name of an official.

We have also withheld document 6 in full, under section 9(2)(h) of the Act. This document must be withheld to maintain legal professional privilege as it is drafting instructions between the Ministry of Transport and the Parliamentary Counsel Office.

The Ministry publishes our Official Information Act responses and the information contained in our reply to you will be published on the Ministry website. Before publishing we will remove any personal or identifiable information.

You have the right under section 28(3) of the Official Information Act 1982 to make a complaint about the withholding of information to the Ombudsman. You can contact the Office of the Ombudsman at info@ombudsman.parliament.nz or:

The Ombudsman
Office of the Ombudsman
PO Box 10-152
Wellington

Yours sincerely

Brent Johnston
Manager, Mobility and Safety
For CHIEF EXECUTIVE
5 Recreational devices, motorised mobility scooters and wheelchairs

The LTSA often receives comment on traffic law as it applies to non-motorised ‘recreational devices’, for example scooters, skateboards and in-line skates, and motorised mobility scooters and wheelchairs. There are concerns expressed, for example, about the safety of people riding scooters and skateboards on the roadway, and about the effects on pedestrian safety of riding these on the footpath. The LTSA receives comments that traffic law should prohibit or regulate use of such devices on footpaths or roadways, or that the wearing of safety equipment should be made compulsory. This section discusses the existing legislation, safety issues and the LTSA views on changing the law.

Background

Legislation

The Traffic Regulations 1976 (the regulations):

- classify pedestrian traffic and vehicle traffic;
- specify requirements for various sub-categories of vehicle traffic, including motor vehicles, mopeds and cycles; and
- distinguish between the roadway for vehicle traffic and the footpath for pedestrian traffic.

In particular, the regulations require that:

- a motor vehicle must not be driven on a footpath;
- an ‘invalid carriage’ wider than 90 cm or capable of a speed in excess of 6 km/h must not be driven on a footpath.
- pedestrian traffic must keep to the footpath or as near as practicable to the edge of the road if there is no footpath.
- pedestrian traffic must not loiter on a pedestrian crossing or in the roadway.
- a cycle (with few exceptions) must not be ridden on the footpath and must be ridden on the roadway in a careful and considerate manner.

In the regulations, ‘pedestrian’ means any person on foot on a road; and includes any person in or on any contrivance equipped with wheels or revolving runners that is not a vehicle. The definition of a vehicle is a ‘contrivance equipped with wheels, tracks, or revolving runners upon which it moves or is moved’ and excludes children’s toys, small cycles with wheels less than 35cm in diameter, non-motorised wheelchairs and other objects with wheels.
The intention of the regulations was to allow activities associated with children on the footpath. A scooter, skateboard, in-line skates, tricycle or small bicycle (with a road-wheel diameter 35cm or less) designed for a child and used by a child is classed as pedestrian traffic. A scooter or in-line skates designed for an adult and used by an adult as a means of transport may not be caught by the definition of pedestrian and may be considered as vehicular traffic.

The regulations do not allow motor vehicles and cycles to use footpaths. Other non-motorised vehicles have a common law right of passage over the roadway, and in some cases also the footpath. While the user of a recreational device may not fall within the definition of pedestrian, it does not necessarily follow that the user has no right to be on a footpath. If a recreational device is classified as a vehicle, then it may be restricted to the roadway unless it is of a type seen to be reasonable to be used by a pedestrian on a footpath.

The only motorised ‘vehicle’ of any description permitted by the regulations to use a footpath is an ‘invalid carriage’. By definition, the use of ‘invalid carriages’ is restricted to people with physical disabilities. The regulations can be interpreted to mean that an elderly but otherwise able-bodied person is not entitled to use an ‘invalid carriage’ on a footpath.

The regulations permit ‘invalid carriages’ to a width of 90 cm with a speed capability of no more than 6 km/h. Many people could be non-compliant as some devices designed for use by the elderly or disabled are marginally wider than 90 cm or, in order to be able to cope with hills, capable of speeds more than 6 km/h.

While the regulations specify what rules a driver of a vehicle must follow when on the roadway, it is not clear what rules apply to pedestrian traffic on a footpath. The traffic laws of the footpath essentially arise from common law and include such concepts as negligence, obstruction and nuisance. When the Land Transport Act 1998 was debated this issue concerned Parliament who expressly included in the definition of vehicle: skateboards, in-line skates and roller skates (but not scooters). The effect of this was to make it clear that ‘drivers’ of these ‘vehicles’ could be prosecuted under section 8 of the Act for careless or inconsiderate use of a vehicle on a road.

In summary, the practical effects of the legal distinction between pedestrian traffic and vehicle traffic are:

- where there is a footpath, pedestrian traffic must use it and not the roadway;
- vehicle drivers may be prosecuted for careless use of a vehicle under the Land Transport Act 1998; and
- when on a footpath, pedestrian traffic is not governed by any specific traffic rules on the footpath.

Local authorities may use by-laws to prohibit vehicles from footpaths and other areas. By-laws are frequently used to control activities like skateboarding in central city areas.
Comment

Safety issues

Recreational devices

There are differences in the performance and characteristics of various recreational devices, for example, skateboards and scooters are capable of differing speeds and they require different handling. Authorities in the UK, US and Australia have reached the following conclusions when looking at the risks as they apply generally to recreational devices:

- they are a significant source of personal injuries. Injuries tend to be minor and the largest proportion occur to riders in a recreational setting away from roadways and footpaths.

- road design standards do not consider them, so roadways and footpaths may pose hazards for recreational devices that do not affect normal traffic. For example, reports from overseas of scooter wheels lodging in roadway drain covers and riders falling into the path of other traffic.

- riders are less at risk of death or serious injury when on the footpath compared to the roadway. The difference in risk is entirely due to exposure to motor vehicle traffic.

- they do not have the performance characteristics of cycles. Using cycle-type safety equipment on the roadway will not make recreational devices as safe as cycles.

While something is known about the hazards faced by recreational devices in different settings, information about the frequency of use of recreational devices and distances travelled is virtually non-existent. It is therefore difficult to comment on the relative risk of use on the footpath v the roadway, or road use v recreational use. Some conclusions can be drawn from looking at the safety outcomes: the incidence of injuries and other social costs reported.

Crash statistics

Casualties from crashes between recreational devices and motor vehicles on roadways are recorded on New Zealand’s road crash database. Figures have been collected separately for skateboarders for some time, but a category distinct from pedestrians for ‘wheeled pedestrians’ such as in-line skaters and scooter riders has only been included from 1998. Injuries from falls to pedestrians or riders of recreational devices on footpaths are not captured by New Zealand’s road crash database as no motor vehicle is involved.

From 1995 to 2000 there were 35 reported skateboarder casualties resulting from crashes with a motor vehicle on the roadway, including one fatality. In the same period, there were 6041 pedestrian casualties, including 384 fatalities, and 4225
cyclist casualties, including 82 fatalities, resulting from crashes with motor vehicles. From 1998 to 2000 there were seven casualties recorded as wheeled pedestrians on the roadway. There were an additional 15 skateboarder casualties and five ‘wheeled pedestrian’ casualties, from crashes involving motor vehicles on footpaths (generally motor vehicles entering or leaving a driveway).

The relatively small number of skateboard and ‘wheeled pedestrian’ casualties indicates that frequency of use on roadways is relatively low. Most adult riders realise the risks and do not use the roadway and children are taught not to ride such devices on the roadway.

The ACC has begun monitoring claims made because of scooter, in-line skate and skateboard-related accidents. Of the 2264 accidents resulting in claims (excluding those involving a motor vehicle) between 1 July 2000 and 31 January 2001, 22.6% are recorded as happening on a road or street (including a footpath), 27.6% at home, 24.4% at a place of recreation or sport and 8% at school. Of these accidents, 42 are recorded as involving hitting another person or an animal. Loss of balance or personal control is by far the biggest attributable cause of accidents resulting in injury.

In New Zealand, the majority of injuries to riders of recreational devices occur away from the road. Injuries to pedestrians caused by crashes with recreational devices on footpaths are not common. Nevertheless, there is clearly sufficient volume of footpath traffic to give rise to identifiable social costs in the form of mainly minor injuries to riders and to pedestrians. This is similar to overseas experience.

Regulating to require riders of recreational devices to wear safety equipment such as helmets or kneepads may be beneficial, although much more work would need to be undertaken to determine whether the costs imposed would be justified. Regulations made under land transport legislation can only apply to roads. The level of social costs from the use of recreational devices on other than roads is by far the bigger proportion. We believe it appropriate that any question of mandatory equipment requirements be considered in this wider context.

**Motorised mobility scooters and wheelchairs**

Information on injuries to users of motorised mobility scooters and wheelchairs is difficult to find. Occasionally, there are reports of such devices being hit while crossing the road. Hospital discharge statistics suggest that some injuries result from these devices tipping on footpaths, but incidents are not common. Information is not available about the extent to which pedestrians are injured by such devices. We believe that there are few crashes and any injuries would tend to be minor.

In the past, the predominant user of mobility scooters has been disabled people, but now the elderly are increasingly using them as an aid to everyday mobility. The performance of mobility scooters has improved so that they now handle difficult conditions better, which in turn increases their capacity for higher speeds on the flat. Their maximum design speeds are still very low.

Motorised mobility scooters and wheelchairs are not capable of interacting safely with motor vehicle traffic on the roadway. They are not designed for roadway use, but have
been specially designed for use on footpaths. We do not believe that they pose a high level of risk to pedestrians on the footpath as long as they are used as designed and with consideration for other footpath traffic.

**LTSA view**

Making the distinction between what is a vehicle and what is not a vehicle is fundamental to the workings of traffic law. The latest developments in 'personal transportation' do not fit easily with the regulations as drafted and consequently there is plenty of capacity for confusion and uncertainty. In particular, adult use of scooters on footpaths and roadways for transportation and increased use of motorised wheelchairs and scooters for mobility purposes. When the regulations were made, it was not envisaged that scooters, in-line skates and the like would achieve the performance levels for speed, ride and handling that they have. It was not envisaged that scooters and motorised mobility scooters, for instance, would be designed for and used by adults for 'general transportation' or to 'assist mobility'.

The LTSA does not believe there is a strong case to ban footpath use of recreational devices. To be justified a high degree of risk to riders and pedestrians on the footpath would need to be shown. This does not seem to be the case. We do not see a ban on all footpath use as practically workable or even necessarily desirable. Local authorities do have a legal capacity, through by-laws, to control the use of recreational devices on any specified road or public place where use would impose risks to other footpath users.

**LTSA proposals**

The LTSA proposes to introduce a revised definition of pedestrian in the *Road User Rule* to cover any conveyance propelled by human power that is not a cycle. The practical effect of this would be to make it clear that all riders of recreational devices are subject to traffic law on the same basis as pedestrians, and in particular requiring them to use the footpath. Skateboarders, in-line skaters and scooter users would be classed as pedestrian traffic. This approach would be consistent with lessening the risk of death or serious injury, which is most strongly related to use on the roadway. The LTSA believes this is consistent with how the majority of road users perceive riders of recreational devices and treat them in a traffic environment, that is other traffic generally views recreational devices as more 'pedestrian-like' than 'cycle-like' or 'vehicle-like' in nature.

If the definition of pedestrian were adopted as suggested the *Road User Rule* should also include a requirement that anyone using a 'conveyance propelled by human power' on a footpath must do so in a careful and considerate manner, and at a speed that is reasonable. This will enable enforcement action to be taken based on observed behaviour and would be in line with the approach taken with cyclists and motorists. Breaches would attract a lower maximum penalty than careless use of a vehicle, although more serious traffic offences could still be applied in extreme circumstances.

The LTSA proposes to rename and redefine 'invalid carriage' so as to include any motorised device designed to operate on a footpath as a mobility aid. It is proposed to remove the speed and width restrictions and require that they be operated on a
footpath in a careful and considerate manner, and at a speed that is reasonable. As with recreational devices, there are advantages in setting out a general standard of behaviour that enables enforcement action to be taken based on observed behaviour in the circumstances in line with the approach taken with cyclists.
Use of footpaths and roads by scooters, skateboards, motorised mobility scooters etc

Background
The issue is how should traffic law regulate use of motorised mobility scooters and recreational devices such as scooters, skateboards, in-line roller skates in relation to use on the footpath versus use on the roadway?

When the Traffic Regulations 1976 were made it was not envisaged that scooters, in-line skates and the like would achieve the performance levels of speed, ride and handling they have today. At that time scooters weren't being used by adults.

What is the current situation?
In current traffic law a pedestrian is a person on foot and a person who is on a device with wheels or rollers that is not a vehicle.

The intention was to ensure that what were seen at the time as children's activities were classed as pedestrian traffic. This would include a child riding a scooter, skateboard, in-line roller skates, tricycle etc that is designed for a child.

However what this definition doesn't necessarily include are scooters and in-line skates designed and used as transport for adults. These should be considered vehicle traffic.

The only motorised "device" permitted to use a footpath is defined separately as an "invalid carriage". The use of these is restricted to those with physical disabilities. A possible interpretation is that an elderly but otherwise able-bodied person is not entitled to use them on a footpath. The regulations also restrict invalid carriages to a width of 90 cm with a speed capability of 6 km/h. Many people appear not to be complying with the regulations.

Local authorities have the power to make by-laws that restrict the use of recreational devices on particular roads or public places if there are risks to other footpath users.

What Would Change?
The definition of pedestrian would change to include any conveyance propelled by human power that is not a cycle. This would make it clear that riders of such devices should keep to the footpath.

However, allowing "conveyances propelled by human power" to use the footpath does put pedestrians at risk. Speed limits could be imposed but this would be difficult to do reasonably. However, too much speed can be a risk to other footpath users. We favour changing traffic law so anyone using a "conveyance propelled by human power" on a footpath must do so in a careful

4 Traffic Regulation Two.
and considerate manner, and at a speed that is reasonable. It would also be in line with the approach taken to cyclists and motorists. Penalties for breaching this would be lower than that for careless use of a vehicle. Penalties for more serious traffic offences could still be applied in extreme circumstances.

The definition of invalid carriage would be replaced by motorised mobility scooters and wheelchairs. The definition would be changed to include any motorised device designed to operate on a footpath as a mobility aid. The speed and width restrictions would be removed. Riders would be required to operate on a footpath in a careful and considerate manner, and at a speed that is reasonable.

**What are the implications?**
This would mean all riders of non-motorised recreational devices are subject to the same traffic law as pedestrians. They would be required to keep to the footpath.

The majority of road users perceive riders of recreational devices as being more like pedestrians than those driving vehicles or riding cycles. This new law would be consistent with this perception.
Traffic law in respect of scooters, skateboards, in-line skates and other recreational devices, and motorised mobility scooters and wheelchairs

Issue:

The Traffic Regulations are silent on where non-motorised vehicles such as scooters, skateboards, in-line roller skates and the like may be operated (when being used by an adult), and do not place any particular restrictions on them such as speed limits. Road users look to traffic law to give appropriate guidance to what may and may not be operated on roadways and footpaths and in what manner. The issue is what should traffic law specify in respect of these devices?

Position Consulted on:

To introduce a revised definition of pedestrian in the Road User Rule to cover any conveyance propelled by human power that is not a cycle. The practical effect of this would be to make it clear that all riders of recreational devices are subject to traffic law on the same basis as pedestrians, and in particular requiring them to use the footpath.

The Road User Rule to include a requirement that anyone using a ‘conveyance propelled by human power’ on a footpath must do so in a careful and considerate manner, and at a speed that is reasonable. This will enable enforcement action to be taken based on observed behaviour and would be in line with the approach taken to cyclists and motorists.

To change the definition of ‘invalid carriage’ to include any motorised device designed to operate on a footpath as a mobility aid. It is proposed to remove the speed and width restrictions and require that they can only be operated on a footpath in a careful and considerate manner, and at a speed that is reasonable.

Summary/Classification of Submissions

(1) Submissions from Road Users and Road User Representative Groups

Submission No: 17, 23, 24, 33, 36, 41, 42, 43, 62, 63, 80, 90, 97, 98, 100, 101 (BRONZ Otago), 109, 123, 135, 140, 143, 145, 148, 151, 155, 160 (Road Safe Nelson Bays), 165 (Fed Farmers), 167 (Drivewise Tairawhiti), 169, 170 (Waimakariri RS Ctte), 175, 176 (AA Driver Ed. Found), 179, 184, 186, 191, 192, 193, 194, 198, 209, 213 (Wn RTA), 216 (Hurunui RSC), 217 (Selwyn RSC), 229, 235 (CAN), 237 Waikato, 241 (AA)

Agree/disagree with Position:

- Agree
Reasons Given:

- Common sense related to risk.
- Important to emphasise the ability of RCAs to make bans where circumstances warrant.
- Important that Police have a basis to take action against clearly inappropriate behaviour.

Submission No: 31, 102, 103, 127, 131, 136, 141, 154, 180, 182 (RS West Coast)

Agree/disagree with Position:

- Disagree

Reasons Given:

- Skateboards and similar are an unacceptable risk to pedestrians and should not be permitted on any footpath.
- Treat such devices as cycles for the purpose of traffic law.

Submission No: 228

Agree/disagree with Position:

- Disagree

Reasons Given:

- In-line skaters are more suited to the roadway, especially in terms of speed. Must not be mandatory to use footpath. If allowed to use footpath, then agree with speed limit being put in place.
- Support having to have safety equipment if allowed onto the roadway.

Submission No: 84, 85, 108, 172 (U Hutt RS Ctte), 190 (Foundation for the Blind), 219 (Chch Ctte for RS), 222 (RS Auckland), 243 (Hutt City)

Agree/disagree with Position:

- Disagree.

Reasons Given:

- Likelihood of pedestrian injury will be related to the mass and speed of recreational devices and mobility devices on the footpath. Difficult to control mass so support the Australian approach of a maximum speed for any of these devices on a footpath of 10 km/h (4km/h was another suggestion).
- For similar reasons restrict width of mobility devices to 1 metre.
- Need a restriction on size and/or speed limit and should be applied to all devices permitted to operate on the footpath.
(2) Submissions by road controlling authorities, consulting engineers or professional groups representing traffic engineers.

Submission No: 68, 83, 112, 119 (Transit), 130, 134, 138 (Transfund), 144 (TRAFINZ), 152, 173, 199, 207

Agree/disagree with Position:

• Agree

Reasons Given:

• 130, 144: subject to a requirement that users of such devices must give precedence to pedestrians on a footpath.

Submission no: 128, 205, 211, 223 (IPENZ), 233

• Disagree

Reasons Given:

• Agree for mobility devices but do not want cycles, scooters etc to have free use of footpaths.
• Speed limits for anything other than a pedestrian on a footpath.
• 205: need maximum width for mobility devices to be retained to ensure compatibility with pedestrian facilities provided e.g. drop crossing points.
• Easier to enforce speed and/or width requirements. Retain these for any device operated on a footpath.

Submission no: 206

Agree/disagree with Position:

• Disagree

Reasons Given:

• Favour allowing use of footpath or roadway but with rules to make it clear if using footpath then must operate in pedestrian like way, but if on roadway then all rules for vehicular traffic apply.

(3) Police Submission

• The reference in the current regulations to a “child’s toy” has caused difficulties for Police because it does not make it explicitly clear that not only must the device be designed for a child, but be used by a child. Would also like to see “child” defined in age terms.
• Inclusion of some recreational devices as vehicles under LT Act also has effect of making persons riding such devices responsible for reporting crashes involving injury or death. Would like to see this retained.
• While Police can understand arguments for removing speed and width restrictions on mobility devices, still believe there is a need to retain a speed restriction as otherwise manufacturers would be left to determine their own standards.

(4) Submissions from other groups

Ins Council: Support LTSA Position.

NRTC:
• AURR define four categories of traffic of this type, these being pedestrians, wheeled toys, wheeled recreational devices and motorised wheelchairs.
• Aspects of AURR covering “wheeled recreational devices” are currently under review, in particular the inclusion of scooters within the definition of cycle.
• Another problem being looked at is the confusion being caused because of the different rules which exist for the same device depending on whether they are being used by a person under 12 (wheeled toy) or someone older (wheeled recreational device).
• Motorised recreational devices and wheelchairs must not be capable of exceeding 10 km/h.

Sum up and Comment

• 88 submissions commented on this issue. Among road user and road user representative groups there was majority support for the LTSA position by a ratio of 2:1, including from the AA.
• The two principal reasons for disagreement with the LTSA position among road user and road user representative groups were: the possibility of increased risk to pedestrians of allowing recreational and other devices on footpaths; and a preference for speed or width restrictions on devices operating on footpaths as being “better” traffic law than specifying that any use on a footpath must be in a careful and considerate manner.

Among road controlling authorities and related groups there was a preference for speed or width restrictions on devices operating on footpaths as being “more workable” traffic law than specifying that any use on a footpath must be in a careful and considerate manner. On the other hand the Police consider that there are practical problems with enforcement of very low speed limits and therefore the “careful and considerate” requirement is important in ensuring a reasonable approach to enforcement.
Response

- The legal distinction between motorised and non-motorised transport is simple to understand and apply. There is no real problem with restricting motorised transport to roadways, and in specifying that any motorised vehicle on the roadway must meet vehicle requirements, and the driver must be appropriately licensed.

- The problem lies with vehicles which are not motorised but which have speed and other characteristics that may place a person on foot at risk if they were permitted to operate without restriction on footpaths. Similarly it may not be reasonable to operate certain vehicles on the roadway if they have performance characteristics (e.g., height above the roadway, or lack of brakes) which would make this excessively hazardous for their users or other road users, or simply "cause a nuisance to traffic". A related issue is the need for roadway and footpath standards (including maintenance standards) to take into account the performance characteristics of the traffic using the facility.

- Another complicating factor is who might be using a device. Children and toys have a different connotation than adults and transportation.

- The objective is to ensure that traffic law gives appropriate guidance to what may and may not be operated on roadways and footpaths and in what manner. Another objective is to ensure the penalties for breaches of any traffic law are appropriate to the risk the law is seeking to mitigate. From a risk perspective the users of the types of vehicles being operated at the moment (skateboards, in-line roller skates, scooters and the like) are at greater risk of death or serious injury on the roadway, but do not increase the risks to motor vehicle occupants. Operation on the footpath would increase the risk to pedestrians, but serious injuries or death would be very rare events.

Conclusion

Traffic law that restricts the operation of such devices to the footpath would be more acceptable to the majority, including road controlling authorities and the Police from an enforcement perspective, if it gave priority to the needs of persons on foot. In other words these devices would be defined as a separate category of traffic, which although permitted to use the footpath, must do so under their own particular rules, including giving precedence to pedestrians. This is the approach adopted in the Australian Uniform Road Rules. As an important element of controlling the risk such devices present to pedestrians is speed, and this should be limited to no more than 10 km/h to achieve compatibility with pedestrian performance.

An objective is to ensure the penalties for breaches of traffic law are appropriate to the risk the law is seeking to mitigate. The preference of the Police is to be able to deal with the rider of a recreational device or mobility device in a similar manner to a vehicle (which includes a cycle) that is for any reason being operated on a roadway in a careless manner, or is involved in a serious crash involving death or injury no matter where it may occur.
It is recommended a modified proposal from that contained in the Road User Rule Consultation Paper be advanced through the yellow draft of the Road User Rule, that being to:

- include scooters, skateboards, in-line roller skates and the like within a category of traffic called “wheeled recreational device” defined along the lines of: any wheeled conveyance propelled by human power or gravity that is not a cycle.

- restrict the operation of “wheeled recreational devices” to the footpath where they must be operated in a careful and considerate manner, and at all times at a speed of no more than 10km/h.

- change the term “invalid carriage” to “mobility device”, and expand the definition to include any motorised device 1m in width or narrower designed to operate on a footpath as a mobility aid.

- require that a mobility device may only be operated on a footpath in a careful and considerate manner, and at all times at a speed of no more than 10km/h.
10 July 2002

Minister of Transport
Associate Minister of Transport

LAND TRANSPORT ROAD USER RULE

Purpose

1. This paper advises you on the progress of the proposed Land Transport Road User Rule and seeks your agreement for the Ministry of Transport (the Ministry) to issue drafting instructions to Parliamentary Counsel Office (PCO) to draft a Road User Rule in advance of Cabinet confirmation.

Background

2. In preparation for the development of the proposed Land Transport Road User Rule, the Land Transport Safety Authority (LTSA) prepared the Road User Rule Consultation Paper June 2001 that was circulated to road users groups and the transport sector for comment. Submissions on this paper closed on 21 September 2001.

Comment

3. The LTSA has analysed the submissions received on the rule and the Ministry is now seeking permission to issue drafting instructions to PCO. It has been decided that PCO will draft this rule because of its complexity and as it will impact on all road users. Most of the duties in Traffic Regulations 1976 will be carried over into the new Rule. A number of changes were proposed in the consultation document. These included:

- the use of cycle lanes;
- signalling at roundabouts;
- the Give Way rules at intersections and ‘T-junctions’;
- pedestrian crossings;
- using scooters and other recreational devices, and mobility vehicles and wheelchairs;
- turning left at a red light;
- traffic driving past stationary school buses;
- extending the hours of darkness; and
- the use of cellphones while driving.
8. We recommend that the yellow draft of the Road User Rule be modified slightly from the proposal advanced in the consultation document in respect of traffic law for scooters, skateboards, in-line skates and other recreational devices, and motorised mobility scooters and wheelchairs. In addition, we propose that the Rule relating to extending the hours of darkness be modified slightly from the original proposal.

10. A full analysis of the individual proposals is attached for your information in Appendix One.
11. Recommend that traffic laws relating to scooters, skateboards, in-line skates and other recreational devices and motorised scooters and wheelchairs should (see paragraph 19 of the appendix):
• allow these devices to be classed as a separate category of traffic that may use the footpath;
• stipulate that this traffic give pedestrians precedence on the footpath; and
• be used in a ‘careful and considerate’ manner.
Adviser, Safety and Environment

Information withheld under section 9(2)(a) of the OIA.

Agreed

Hon Judith Tizard
Acting Minister of Transport

Date: ______/_____/_____
Appendix One

Analysis of submissions for the Land Transport Road User Rule

Information is out of scope of the request

Released under the Official Information Act 1982
Traffic law for scooters, skateboards, in-line skates and other recreational devices, and motorised mobility scooters and wheelchairs

Current situation and proposal

16. The current definition of ‘pedestrian’ does not adequately capture all recreational devices and invalid carriages used on the footpath. Due to concerns about the safety (for instance) of people riding scooters and skateboards on roadways, and the effects on pedestrian safety of riding these devices on the footpath, the LTSA wishes to look at traffic law as it applies to non-motorised ‘recreational devices’. This includes scooters, skateboards, wheelchairs, bicycles for children, in-line skates and so on. The LTSA believes that current regulation is no longer appropriate because at the time it was drafted it was not envisaged that some personal vehicles (ie. scooters or mobility vehicles) would achieve the level of performance that they do now. It proposed that ‘pedestrian’ should include any conveyance propelled by human power that is not a cycle.
Positive support for the proposals

17. In the main, road users and road user representative groups supported the policy underpinning the proposals put forward. It was broadly accepted that scooters and similar devices should not be operated on the roadway. There was a clear preference stated for maintaining speed and/or width restrictions on devices operating on footpaths as being ‘better’ traffic law than just specifying that any use on a footpath must be in a careful and considerate manner and at a speed which is reasonable. However, the Police consider that there are practical problems with enforcement of very low speed limits and, therefore, the ‘careful and considerate’ requirement is also important in ensuring a reasonable approach can be taken in enforcement.

Negative view towards the proposals

18. The principal objections to the proposal raised in submissions were in relation to the risk to pedestrians of increased use of vehicles of these types on footpaths, even where speeds would be limited. This was a particular concern from groups representing the elderly. Some users of recreational devices did not want to be restricted to the footpath where speeds would be limited.

Recommendation

19. On balance, the use of a skateboard or in-line roller skates on the road would place the rider at great risk of serious injury or death, but not other road vehicle users. On the pavement, the risk to pedestrians is increased, however, the likelihood of serious injury or death is remote. Traffic law which restricts the operation of such devices on the footpath would be more acceptable to the majority, including road controlling authorities, and the Police for an enforcement perspective, if it gave priority to the needs of persons on foot. Therefore, these devices would be defined as a separate category of traffic which, although permitted to use the footpath, must do so under their own particular rules, including giving precedence to pedestrians. The penalty regime should be appropriate for the severity of the risk to other pedestrians.

Information is out of scope of the request
Land Transport (Road User) Rule

Rule 61001
Scooters, skateboards, in-line skates and other recreational devices, and motorised mobility scooters and wheelchairs

(see definitions at clause 1.5, and clauses 1.4, 2.2, 2.12, 10.1, and 11.1 to 11.7)

Road users look to traffic law to give appropriate guidance to what may and may not be operated on roadways and footpaths and in what manner. The Traffic Regulations do not allow motor vehicles (except for ‘invalid carriages’) or cycles to use footpaths. The regulations restrict activities associated with children to the footpath, by including toys and small cycles within the definition of ‘pedestrian’.

The Traffic Regulations do not specify where non-motorised vehicles such as scooters, skateboards, in-line roller skates and other recreational devices may be operated (when being used by an adult), and do not place any particular restrictions on them, such as speed limits. These vehicles therefore have a common law right of passage over the roadway and, in some cases, also the footpath. While the user of such a ‘wheeled recreational device’ does not fall within the definition of ‘pedestrian’, it does not necessarily follow that the user has no right to be on a footpath. A vehicle may be restricted to the roadway unless it is seen to be reasonable to use it on a footpath.

The proposal in the Road User Rule Consultation Paper is set out below.

- Introduce a revised definition of ‘pedestrian’ to include any conveyance propelled by human power that is not a cycle. The practical effect of this would be to make it clear that all riders of such devices are subject to traffic law on the same basis as pedestrians, and, in particular, requiring them to use the footpath.

- Include a requirement that anyone using a ‘conveyance propelled by human power’ on a footpath must do so in a careful and considerate manner, and at a speed that is reasonable. This would enable enforcement action to be taken based on observed behaviour and would be consistent with the approach taken to cyclists and motorists.

- Change the term ‘invalid carriage’ to ‘mobility device’, and expand the definition to include any motorised device designed to operate on a footpath as a mobility aid, remove the speed and width restrictions, and require that they can...
only be operated on a footpath in a careful and considerate manner, and at a speed that is reasonable.

Consultation

Of the submissions received, 88 commented on this issue. Among road user and road user representative groups there was majority support for the policy underpinning the proposals put forward. The principal objection raised in submissions disagreeing with the LTSA’s proposal was the risk to pedestrians of increased use of vehicles of these types on footpaths. Some users of recreational devices did not want to be restricted to the footpath where speeds would be limited. In summary, it was broadly accepted that scooters, skateboards, in-line roller skates and other recreational devices should not be operated on the roadway. However, some groups, particularly those representing the elderly, are not happy with the operation of such vehicles on the footpath under any conditions.

There were two different schools of thought represented in those submissions that agreed with the policy put forward. This was between those who agreed with the proposals as suggested, and those expressing a preference for creating a category of road user separate from pedestrians as a means of establishing duties on users of recreational and mobility devices.

There was a clear preference stated for maintaining speed and/or width restrictions on devices operating on footpaths as being ‘better’ traffic law than just specifying that any use on a footpath must be in a careful and considerate manner and at a speed which is reasonable. Road controlling authorities and related groups in particular expressed this view. The Police consider that there are practical problems with enforcement of very low speed limits and therefore the ‘careful and considerate’ requirement is also important in ensuring a reasonable approach can be taken to enforcement.

Analysis

Scooters, skateboards, in-line roller skates and some other recreational devices are capable of speed and other characteristics that could place a person on foot at risk if operated carelessly on footpaths. However, the risk of serious injury or death to either the user or pedestrians is not high. Also, if the users of such devices travel on footpaths at speeds in excess of what drivers expect from pedestrians, they will be at increased risk of being hit by cars entering and leaving roadways. Between 1995 and 2000 there were 15 skateboarder and five ‘wheeled pedestrian’ casualties from crashes on footpaths involving motor vehicles.
Scooters, skateboards, in-line roller skates and some other recreational devices possess characteristics (for example, lack of height above the roadway, or lack of brakes) which make use on the roadway excessively hazardous for their users, and cause a nuisance to other traffic. From 1995 to 2000 there were 35 reported skateboarder casualties resulting from crashes with a motor vehicle on the roadway, including one fatality. Between 1998 and 2000 there were seven casualties recorded as 'wheeled pedestrians' on the roadway. The users of these devices are at greater risk of death or serious injury on the roadway compared to use on the footpath.

A related issue is that roadway standards (including maintenance standards) do not take into account the performance characteristics (in particular, the small wheel diameter) of such devices. No matter how skilled the rider may be at interacting with traffic, features such as drain covers or surface irregularities which would not present hazards to other traffic will increase the risk of the rider falling into the path of motor vehicle traffic.

Risk could be reduced by traffic law giving appropriate guidance to what may and may not be operated on roadways and footpaths and in what manner. The users of skateboards, in-line roller skates, scooters and other recreational devices are at greater risk of death or serious injury on the roadway, but do not increase the risks to motor vehicle occupants.

Operation on the footpath would increase the risk to pedestrians, but the probability of serious injury or death to riders or pedestrians would be remote. On a safety analysis, the riders of such devices should not be permitted by traffic law to operate on roadways, and operation on a footpath should be in a manner which does not unreasonably place pedestrians at increased risk. This suggests that speed, in particular, should be commensurate with pedestrian traffic.

Traffic law, which restricts the operation of such devices to the footpath, would be more acceptable to the majority, including road controlling authorities and the Police from an enforcement perspective, if it gives priority to the needs of persons on foot. In other words, these devices would be defined as a separate category of traffic, which although permitted to use the footpath, must do so under their own particular rules, including giving precedence to pedestrians. This is the approach adopted in the Australian Uniform Road Rules. As speed is an important element of controlling the risk such devices present to pedestrians, the Rule proposes to limit this to not more than 10 km/h to achieve compatibility with pedestrian speed.

An objective is to ensure that the penalties for breaches of traffic law are appropriate to the risk the law is seeking to mitigate. The
preference of the Police is to be able to deal with the rider of a recreational device or 'mobility device' in a similar manner to the driver or a rider of a vehicle, including a cycle, in certain circumstances. That is if, for any reason, it is being operated on a roadway in a careless manner, or is involved in a serious crash involving death or injury, no matter where it may occur.

An advertising programme to inform users of such devices of the change in traffic law and to inform them of their responsibilities has been costed at $50,000 a year. This should run for two years (a total of $100,000).

The proposal put forward in the yellow draft of the proposed Rule is:

- to include scooters, skateboards, in-line roller skates, and other recreational devices within a category of traffic called 'wheeled recreational device' defined as: any wheeled conveyance (other than a cycle that has a wheel diameter exceeding 355 mm) that is propelled by human power or gravity and including a conveyance to which are attached one or more auxiliary propulsion motors that have a combined power output not exceeding 200 watts;

- to restrict the operation of 'wheeled recreational devices' to the footpath where they must be operated in a careful and considerate manner, and at all times at a speed of not more than 10 km/h;

- to include the new definition of the term 'mobility device', which will encompass any motorised device one metre in width or narrower, designed to operate on a footpath as a mobility aid;

- to require that a 'mobility device' may only be operated on a footpath in a careful and considerate manner, and at all times at a speed of not more than 10 km/h;

- to require the riders of wheeled recreational devices and mobility devices to comply with the rules relating to pedestrians.

The proposal is changed from that put forward in the Road User Rule Consultation Paper, in that definitions have been modified and a maximum speed for the operation of a 'mobility device' and a 'wheeled recreation device' has been specified.

If you wish to comment on this proposal please refer to Information on Submissions at the front of this publication.
Scooters, Skateboards, In-line skates and Other Recreational Devices, and Motorised Mobility Scooters and Wheelchairs

Proposal

To include scooters, skateboards, in-line roller skates, and other recreational devices within a category of traffic called 'wheeled recreational device' defined as: any wheeled conveyance (other than a cycle that has a wheel diameter exceeding 355 mm) that is propelled by human power or gravity and including a conveyance to which are attached one or more auxiliary propulsion motors that have a combined power output not exceeding 200 watts;

To restrict the operation of 'wheeled recreational devices' to the footpath where they must be operated in a careful and considerate manner, and at all times at a speed of not more than 10 km/h;

To include the new definition of the term 'mobility device', which will encompass any motorised device one metre in width or narrower, designed to operate on a footpath as a mobility aid;

To require that a 'mobility device' may only be operated on a footpath in a careful and considerate manner, and at all times at a speed of not more than 10 km/h;

To require the riders of wheeled recreational devices and mobility devices to comply with the rules relating to pedestrians.

110 Submissions, 33 Agree, 54 Disagree, 11 Conditional, 11 Unclear

<table>
<thead>
<tr>
<th>Submissions</th>
<th>Agree Reasons</th>
<th>LTSA comment</th>
</tr>
</thead>
<tbody>
<tr>
<td>25, 26, 29, 31, 40, 50, 53, 64, 114, 134, 138, 146, 154, 156, 214, 236, 239, 242, 246, 248, 254, 285, 288, 303, 308, 309</td>
<td>Agree with the proposal, no reasons given but conditions or issues might have been raised</td>
<td>Noted</td>
</tr>
<tr>
<td>66</td>
<td>The road is not a place for skateboarders</td>
<td></td>
</tr>
<tr>
<td>258, 338</td>
<td>It is better that recreational vehicles are on the footpath than on the road</td>
<td></td>
</tr>
<tr>
<td>66, 122</td>
<td>The proposals seem eminently sensible</td>
<td></td>
</tr>
<tr>
<td>152</td>
<td>We receive many complaints about these devices and have put in by-laws prohibiting them from some places</td>
<td></td>
</tr>
<tr>
<td>338</td>
<td>10 km/h provides some protection to vulnerable pedestrians i.e. children and elderly</td>
<td></td>
</tr>
<tr>
<td>157</td>
<td>Support the proposals because they define what devices should be on the road and what devices should be on the footpath</td>
<td></td>
</tr>
</tbody>
</table>

The aim was to reduce the overall risk by having these devices on the footpath instead of the road. Submitters were very concerned about the increased risk to pedestrians.

Further research indicates that the risks on the road are not as high as originally thought. Changes to the proposal are planned.

Yes - this was the aim of the rule. However, more research is necessary. So the proposal will be amended. Further work will be completed along side the Pedestrian and Cyclist.
<table>
<thead>
<tr>
<th>20</th>
<th>Agree - provided scooter means unmotorised scooter</th>
<th>It is proposed a scooter be allowed a small motor not exceeding 200 watts. This is close to the power output of a human cycling.</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Disagree Reasons</strong></td>
<td></td>
<td>There are concerns that banning recreational devices from the road is unnecessarily restricting the movement of these devices. These devices can be used as a commuting devices and as such are a sustainable form of transport. However there are significantly safety risks of having these devices on the road.</td>
</tr>
<tr>
<td>92</td>
<td>The footpath illogically and unreasonably constraining for recreational vehicles</td>
<td>The level of risk and how to mitigate that risk is not currently known. Research on a safety framework is being completed as part of the pedestrian and cyclists framework.</td>
</tr>
<tr>
<td>229, 208, 166, 302, 238, 261, 290, 351, 345, 352, 348, 355</td>
<td>It restricts a valid sustainable form of transport</td>
<td>Recommend that the decision regarding a ban be delayed until pedestrian and cyclists framework completed</td>
</tr>
<tr>
<td>238, 320</td>
<td>This proposal leaves only the ‘toy’ option for these devices. Commuter use would be restricted</td>
<td></td>
</tr>
<tr>
<td>131</td>
<td>Currently these devices have the right to use the road and the footpath</td>
<td></td>
</tr>
<tr>
<td>231</td>
<td>Should not be restricting access of devices that are alternatives to polluting, road congesting vehicles</td>
<td></td>
</tr>
<tr>
<td>229, 206</td>
<td>Inefficient use of recreational vehicles</td>
<td></td>
</tr>
<tr>
<td>166</td>
<td>Contradicts the Government’s policy on sustainable transport</td>
<td></td>
</tr>
<tr>
<td>238</td>
<td>Contrary to their use in London Paris, Brisbane and New York</td>
<td></td>
</tr>
<tr>
<td>6</td>
<td>Not much fun for skateboarders</td>
<td></td>
</tr>
<tr>
<td>6, 195</td>
<td>Transfers risk to pedestrians</td>
<td></td>
</tr>
<tr>
<td>270, 240</td>
<td>Rule transfers risk from voluntary users to compulsory users of the footpath</td>
<td></td>
</tr>
<tr>
<td>6</td>
<td>Leave the risk with the skateboarders</td>
<td></td>
</tr>
<tr>
<td>220, 204, 243</td>
<td>Impracticality of the rule-difficulties of ascertaining speed</td>
<td></td>
</tr>
<tr>
<td>205, 30</td>
<td>10 km/h would not be obeyed</td>
<td></td>
</tr>
<tr>
<td>175, 69, 46</td>
<td>A speed limit of 10 km/h is unenforceable</td>
<td></td>
</tr>
<tr>
<td>69</td>
<td>No one has ever being killed by a skateboarder</td>
<td></td>
</tr>
<tr>
<td>131</td>
<td>Cause unnecessary friction</td>
<td></td>
</tr>
<tr>
<td>187, 268, 192</td>
<td>Ban all recreational vehicles from specified areas e.g. CBDS</td>
<td></td>
</tr>
</tbody>
</table>

The concern is primarily with the injuries a fast moving skateboard could cause to people on the footpath.

The current law is silent about usage of these devices on the footpath. The amended proposal is an attempt to control their use and reduce the risk to pedestrians.

Local authorities retain the ability to ban these devices from specified areas.
<table>
<thead>
<tr>
<th>Page</th>
<th>Text</th>
<th>Note</th>
</tr>
</thead>
<tbody>
<tr>
<td>196</td>
<td>Pedestrians do not seem to have many rights these days, the question of their rights should be addressed</td>
<td>Pedestrian rights will be considered as part of the Pedestrian and Cycling Strategy.</td>
</tr>
<tr>
<td>227, 204, 199, 205</td>
<td>Enormous bureaucracy and unnecessarily diverts police resources</td>
<td>Noted</td>
</tr>
<tr>
<td>228</td>
<td>Accidents on the footpath will increase</td>
<td>These devices are currently allowed to use the footpath. There is considerable concern that banning the devices on the road will increase the risk to pedestrians.</td>
</tr>
<tr>
<td>270</td>
<td>Older people are slower to react and young people may not recognise the danger – a complete ban is needed for these devices</td>
<td>The amended proposal starts from the principle that pedestrians should have priority on the footpath. The question is then how to minimise the risk to pedestrians from these devices. The proposal is that these devices have to give way to pedestrians and have to ride at a speed and manner that does not endanger other footpath users. These rules will have fines associated with them.</td>
</tr>
<tr>
<td>195, 129</td>
<td>Ban recreational devices for the safety of pedestrians</td>
<td></td>
</tr>
<tr>
<td>227</td>
<td>Don’t make a law yet – allow more careful consideration and input from the public first. Don’t stop future possibilities.</td>
<td></td>
</tr>
<tr>
<td>250, 244, 293, 296, 340</td>
<td>Concerns about pedestrian safety given that footpaths are primarily a means of allowing pedestrians to walk safely</td>
<td></td>
</tr>
<tr>
<td>188, 240, 228, 129, 28, 224, 339</td>
<td>Mobility devices on footpath ok but not recreational devices</td>
<td>Both devices create risk on the footpath but mobility devices are more acceptable because they are catering for the physically infirm</td>
</tr>
<tr>
<td>270</td>
<td>Skateboarders are overconfident of their abilities</td>
<td>Noted</td>
</tr>
<tr>
<td>219</td>
<td>It is how they are operated not their speed</td>
<td>Yes how they are operated is important but so is the overall speed.</td>
</tr>
<tr>
<td>229, 302</td>
<td>Need a rule for motor vehicles crossing footpaths their speed is a danger to wheeled recreational devices</td>
<td>The research statistics show that 1/3 of accidents involving wheeled recreational devices were at driveways. There needs to be rules that control the behaviour of the wheeled recreational devices and cars around driveways. The Road User Rule clause 4.3 controls car driver’s behaviour, the rule states drivers entering and exiting driveways must give way to other road users on the footpath or road. See below for changes proposed for wheeled recreational devices.</td>
</tr>
<tr>
<td>231</td>
<td>A speed limit of 10 km/h is unrealistic, unmanageable – too slow for wheeled recreational devices</td>
<td>The 10 km/h speed limit was proposed on the footpath to protect pedestrians. See below for the current proposals. However 10 km/h could be considered too slow if these devices are to be used for commuting to work. For this reason the question of these devices being allowed on the road (where they could travel faster) is to be considered in the Pedestrian and Cyclist Framework</td>
</tr>
<tr>
<td></td>
<td>Don’t place restrictions on walking and cycling because of the concerns that other dangerous road users make it unsafe</td>
<td>The Pedestrian and Cyclist Framework is examining how to encourage use while minimising risk.</td>
</tr>
<tr>
<td>---</td>
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</tr>
<tr>
<td>243, 244</td>
<td>Education is preferable</td>
<td>Clear guidance in the rules is necessary to make clear people’s responsibilities.</td>
</tr>
<tr>
<td>189</td>
<td>What do mobility devices do when there is no footpath?</td>
<td>The LTSA’s proposal is to provide the choice for the use of mobility devices to operate as a pedestrian or a vehicle. If the mobility rider chooses to act as a pedestrian (most are expected to) the rules relating to pedestrians when there is no footpath apply.</td>
</tr>
</tbody>
</table>

### Conditions/Issues

<table>
<thead>
<tr>
<th></th>
<th>More must be done to ensure the safety of pedestrians</th>
<th>Noted see comments above</th>
</tr>
</thead>
<tbody>
<tr>
<td>134</td>
<td>Provision need to be made for motorised scooters</td>
<td>Noted. The LTSA is considering how motorised scooters fit in the roading environment</td>
</tr>
<tr>
<td>156</td>
<td>Big education effort required</td>
<td>This issue will be part of the publicity campaign for the Road User Rule</td>
</tr>
<tr>
<td>196, 286, 239, 25, 246, 290, 301, 248, 288, 273, 285, 244, 129, 318</td>
<td>Concern how enforcement of the rule could be carried out</td>
<td>There was concern that the 10 km/h speed limit would not be easy to enforce. The proposal is to introduce give way and endangering rules, which will be easier to enforce.</td>
</tr>
<tr>
<td>63</td>
<td>Need a tool for enforcement agencies to remove devices for errant operators</td>
<td>Such a power would have to be included in Statute rather than a rule. This power would, it is believed, gain little support. The Police powers of arrest for types of behaviour are available and seem the most likely used option.</td>
</tr>
<tr>
<td>230</td>
<td>Many footpaths are not wide enough for shared use</td>
<td>Agreed this confirms the need for recreational devices to give way to pedestrians. Also partly covered by 2.12 (2)</td>
</tr>
<tr>
<td>286, 258</td>
<td>If recreational vehicles are on roads the riders need helmets</td>
<td>This issue will be examined as part of the Pedestrian and Cyclist Framework</td>
</tr>
<tr>
<td>115, 219, 101, 279</td>
<td>Local authorities need to be able to create bylaws restricting recreational devices</td>
<td>They will be able to</td>
</tr>
<tr>
<td>250</td>
<td>Footpaths are not designed for recreational devices</td>
<td>Footpaths are designed for pedestrians. The pedestrian and cycling framework will consider if other users can be accommodated and how risks can be minimised</td>
</tr>
<tr>
<td>6, 30, 250, 217, 175, 287</td>
<td>Walking speed 4-5 km/h not 10km/h. 10 km/h too fast for pedestrians</td>
<td>Agreed the proposal for a 10 km/h limit has been removed</td>
</tr>
<tr>
<td>245, 231</td>
<td>Allow recreational devices in cycle lanes</td>
<td>This will be considered as part of the pedestrian and cycling framework</td>
</tr>
<tr>
<td>250</td>
<td>Children to use recreational devices on footpath, adults on road</td>
<td>Noted</td>
</tr>
<tr>
<td>Page</td>
<td>Text</td>
<td>Notes</td>
</tr>
<tr>
<td>------</td>
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</tr>
<tr>
<td>250</td>
<td>Fundamental principal pedestrians have right of way on the footpath, this should be made explicit in the rule</td>
<td>Agreed the LTSA is proposing to require all other users to give way to pedestrians on the footpath.</td>
</tr>
<tr>
<td>213, 261, 220, 290</td>
<td>If used on footpath prefer they should be used in a careful and considerate manner rather than a speed limit</td>
<td>Noted the 10 km/h is to removed.</td>
</tr>
<tr>
<td>349</td>
<td>Concern wheeled recreational devices are thought vehicles therefore infringement fines and demerit points apply</td>
<td>Infringement offence provisions are considered more appropriate than having to invoke the Act. The current review of penalties is considering risk-based penalties and this might include demerit points being attached to certain non-motor vehicle offences.</td>
</tr>
<tr>
<td>230, 273</td>
<td>Recreational devices should give way to pedestrians</td>
<td>Agree this is the approach the LTSA intend to take.</td>
</tr>
<tr>
<td>303</td>
<td>Cyclists using cycle paths should not have the same constraint put on them</td>
<td>Agreed, as the priority user on a cycle path is the cyclist. Note that shared paths are different see analysis on shared zones.</td>
</tr>
<tr>
<td>3</td>
<td>No lights on devices and no practical means of fitting them</td>
<td>The Lighting Rule is considering the range of lights for cyclists some of these may be appropriate for these devices.</td>
</tr>
<tr>
<td>30, 261</td>
<td>If used on the road they should be covered by the same rules as cycles</td>
<td>Note this will be considered as part of the Pedestrian and Cyclist Framework.</td>
</tr>
<tr>
<td>220, 308</td>
<td>Speed limit of 10 km/h should be reviewed for appropriateness</td>
<td>Agreed the speed limit is being removed.</td>
</tr>
<tr>
<td>279, 277</td>
<td>Road Controlling authorities need to consider footpath and crossing design</td>
<td>The Pedestrian and Cyclist Guidelines will consider designs that might reduce risk.</td>
</tr>
<tr>
<td>236</td>
<td>A warning flag should be used for mobility devices</td>
<td>Such devices can be encouraged but doubt value of a mandatory requirement.</td>
</tr>
<tr>
<td>271</td>
<td>Only agree if the risk to pedestrians is not increased</td>
<td>The LTSA is aiming to minimise the risk to pedestrians.</td>
</tr>
<tr>
<td>279</td>
<td>If devices travel over 10 km/h do they need WOF and registration?</td>
<td>No. These requirements apply only to motor vehicles.</td>
</tr>
<tr>
<td>279, 286</td>
<td>The infrastructure is not there to support these devices.</td>
<td>This issue will be examined as part of the Pedestrian and Cyclist Framework. In the meantime the LTSA is establishing rules to minimise risks to them and other road users.</td>
</tr>
<tr>
<td>286</td>
<td>Concern these devices will go too fast so that there will be a lack of warning to vehicles entering and exiting driveways.</td>
<td>This is a concern and is one reason for the proposed change to introduce a clause - at a speed and manner that endangers other road users.</td>
</tr>
<tr>
<td>92</td>
<td>Suggested wording “to restrict the operation of wheeled recreational devices to the footpath where possible or otherwise as far to the left side of the carriageway as possible”</td>
<td>Noted</td>
</tr>
<tr>
<td></td>
<td>Footpath are designed primarily for pedestrians and the speed limit should be determined with their safety in mind</td>
<td>Agreed</td>
</tr>
<tr>
<td>---</td>
<td>----------------------------------------------------------------------------------------------------------</td>
<td>-------</td>
</tr>
<tr>
<td>89</td>
<td>Suggestions from importer of Personal Electronic Transport (PET) devices</td>
<td>Noted</td>
</tr>
<tr>
<td>174</td>
<td>Only allow devices in residential areas or areas designated by local authorities</td>
<td>Local authorities will be able to ban the devices from specified areas.</td>
</tr>
</tbody>
</table>
Wheeled Recreational Devices and Mobility Devices
100 submissions commented on this proposal, 33 Agreed, 54 Disagreed.

The main reason for agreeing was that these devices were not suited to the road.

Major organisations who supported the proposal were 12 Road Controlling Authorities, BRONZ, Cycle Advocates Network (CAN), AA Driver Education Foundation, and New Zealand Local Authority Traffic Institute (TRAFINZ). The AA supported the proposal but had concerns about enforcement of the rule and for the safety of pedestrians.

There two groups that disagreed with the proposal. The first group included:

Living Streets Aotearoa, Returned Serviceman Association (RSA), Royal Foundation for the Blind, Grey Power, National Council of Women, Age Concern. In general this group thought mobility devices were ok on the footpath with some controls but had concerns about recreational devices on the footpath. These organisations had the following concerns:

- Transfers risk to pedestrians
- Rule transfers risk from voluntary users to compulsory users of the footpath
- A speed limit of 10 km/h is unenforceable
- Pedestrians do not seem to have many rights these days, the question of their rights should be addressed
- Accidents on the footpath will increase
- Older people are slower to react and young people may not recognise the danger – a complete ban is needed for these devices
- Ban recreational devices for the safety of pedestrians
- Concerns about pedestrian safety given that footpaths are primarily a means of allowing pedestrians to walk safely

Many individual road users had similar concerns.

There was a second grouping (that did not include any major organisations) who were concerned about restrictions on mobility. Some of their comments were:

- The footpath illogically and unreasonably constraining for recreational vehicles
- It restricts a valid sustainable form of transport
- This proposal leaves only the ‘toy’ option for these devices. Commuter use would be restricted
- Should not be restricting access of devices that are alternatives to polluting, road congesting vehicles
- Inefficient use of recreational vehicles
- Contradicts the Government’s policy on sustainable transport
- Contrary to their use in London, Paris, Brisbane and New York
- Enormous bureaucracy and unnecessarily diverts police resources
- A speed limit of 10 km/h is unrealistic, unmanageable – too slow for wheeled recreational devices
Give-way rule

124 submissions commented on this proposal, 72 agreed, 17 disagreed.

There were two types of support for the proposal:

(1) Support that did not state conditions: 22 Road Controlling Authorities, TRAFINZ, NZ Contractors Federation, BRONZ, NZ Heavy Haulage Association, RSA, AA Driver Education Foundation.

(2) Support that was concerned about possible transitional problems and requested a major publicity/education campaign: RTF, AA, Grey Power, and National Council of Women, Age Concern, and Federated Farmers.

Some of the reasons for support were:

• Current rule confusing and open to interpretation
• Old rules cause too many accidents, impatient drivers overtaking etc
• New rule more intuitive, more natural
• New rule will reduce the probability of crashes
• Will lead to more consistent road user behaviour
• Old rule causes confusion with international visitors
• Traffic management workshop has been calling for change for many years
• Current rule requires more decision making and more stress (there are solid perceptual and cognitive reasons for acceptance of change)
• Improved safety for pedestrians—easier and safer to check for pedestrians
• Pedestrians, cyclists nearly taken out as right turning vehicle asserts ‘rights’
• Cyclists currently have problems when vehicles overtake them then stop to give way when turning left

There were no major organisations in the 17 who disagreed. The reasons for disagreeing were:

• Concern that there could be a significant number of extra crashes at intersections for some time until the new rule is accepted and the change understood
• Increase delays and danger to right turning vehicles
• Will cause extra confusion
• The proposal means the give way to your right rule will not longer be consistent
• Current rule is the only rule most drivers observe and it seems to work all right
• The problem is the driver’s poor awareness and knowledge of how to use road markings
• Not enough thought given to the efficiency costs and intersection improvement costs that the proposed change will create
• What is the evidence of expected accident reductions? If it is overseas comparison then is it valid given New Zealand drivers and conditions
August 2003

Associate Minister of Transport

LAND TRANSPORT ROAD USER RULE — UPDATE ON SIGNIFICANT ISSUES AUGUST 2003

Purpose

1. The purpose of this briefing note is to update you on the progress of the proposed Land Transport Road User Rule (the Rule) to date, with regard to the timeline and major implications to arise as a result of public consultation on the yellow draft of the Rule. We also seek your view on some issues, as a guide.

Background

2. The yellow draft of the Rule went out for consultation earlier this year, and submissions closed on 18 March 2003. The Land Transport Safety Authority (LTSA) has recently finished an analysis of submissions and work has begun on developing a regulatory impact and business compliance cost statement.

Problem

The Ministry of Transport (the Ministry) believes that these are important points to note, however, there may be an expectation that the rule comes into force sooner. The Ministry estimates that if the rule is signed by you February,
that it would be possible for the rule to come into force by the end of June 2004. While considering points raised by the LTSA, the Ministry would like your decision as to whether you would prefer the introduction in June or September.

The rule affects all road users, including pedestrians and cyclists as well as motorists. There are a number of contentious issues relating to the draft rule, and on which the LTSA and MoT were waiting on more information to come from submissions, to gain a better idea of the views of industry and the general public. These issues include:

- speed limits for heavy motor vehicles (including light trailer and speeds for school buses);
- the use of wheeled recreational devices on the footpath;
- changing give way rules; and
- the use of mobile phones while driving;

Comment

Wheeled Recreational Devices and Mobility Devices

The law is currently silent on rules relating to wheeled recreational devices (ie. skateboards, in-line skates, scooters etc), other than recognising them as vehicles and where they can be used. Consultation on a proposal that wheeled recreational devices or mobility device must travel on the footpath if one is available in a careful and considerate manner, at no more than 10km
per hour, and comply with all rules that apply to pedestrians, were not necessarily popular.

On one hand, pedestrian groups are concerned that this proposal disadvantages pedestrian on the footpath, while users of recreational devices feel constricted by being confined to the footpath. The LTSA and the Ministry believe more work should be done in this area, and that until such time, these devices can choose whether to travel on the footpath or road, but must give way to pedestrians on the footpath.

We seek your view on whether you agree with this option or not.

Recommendations

We recommend that you:
(a) note the proposed timing of the rule;
(b) indicate whether you prefer it to come into force in June or September 2004;
(c) 
(d) agree that the rule should not specify whether wheeled recreational devices should travel on footpath or road, but that if they choose to travel on the footpath, they must give way to pedestrians;
(e) 

-----
Adviser, Safety and Environment

Agree

Harry Duynhoven
Associate Minister of Transport

Noted

Hon Paul Swain
Minister of Transport

Date: / / 

Information is withheld under section 9(2)(a)

Information is out of scope of the request
Appendix One

Information is out of scope of the request

Released under the Official Information Act 1982
Wheeled Recreational Devices and Mobility Devices

It is proposed in the draft rule that a person on a wheeled recreational device or mobility device must travel on the footpath if one is available in a careful and considerate manner, at no more than 10km per hour, and comply with all rules that apply to pedestrians. A wheeled recreational device encompasses scooters, skateboards, in-line roller skates, and other devices that meet certain requirements. A mobility device is essentially a device designed to operate on a footpath as a mobility aid.

Submissions
The results of consultation show that a majority of submitters disagreed with the proposal. In general, the submissions thought that allowing mobility devices on the footpath was acceptable, but had concerns about the use of recreational devices. There was concern that pedestrians might be injured as a result of collisions with wheeled recreational devices, which was raised by pedestrian groups, including the Blind Foundation, Age Concern, RSA, Grey Power and other road users. The Police also indicated that the speed limit would be difficult to enforce. The other group (which did not include any major organisation) were concerned that the proposed rule would unreasonably constrain mobility, would not encourage efficient use of recreational vehicles which offer an environmentally friendly alternative to commuters and contradicts the government’s sustainable transport policy, is unnecessarily bureaucratic and waste of police resources and is contrary to use in other cities (i.e. London, Paris, Brisbane, New York).

Those submissions that agreed did so acknowledging that these devices are not suited to the road.
Comment
The government's desire to encourage walking is reflected in the New Zealand Transport Strategy and will be implemented via the Walking and Cycling Strategy, which is currently being drafted. The LTSA is also examining safety in a Walking and Cyclist Framework and, therefore, needs to carefully consider any proposal that might increase the risk to pedestrians.

The crash data shows where wheeled recreational device crashes have occurred. Accident Compensation Corporation figures show the majority (78%) of wheeled recreational device crashes occur away from roads or footpaths (only 22% of crashes were on a road or footpath).

LTSA crash statistics, which record injuries only on the footpath or the road, show there have been on average five serious injuries per annum for these devices in four years from 1998-2001. Investigation of recorded serious injuries over the last two years shows that injuries are equally divided between crashes at driveways, pedestrian crossings and on the road itself. This gives an indication that, given current usage, there are a similar number of wheeled recreational device crashes on the footpath as on the road. There is, however, no record of the distance ridden on the road or the footpath, so it cannot be determined whether the road or the footpath is more risky on a per kilometre basis.

LTSA Comment
The LTSA believes that the proposed rule would, at most, avoid only the 'on the road' crashes and may increase the risk of driveway crashes. If it is assumed that wheeled recreational devices are banned from roads and there is 100% compliance with the proposed rule, then approximately a third of the current crashes could be avoided. Using the social costs of a serious urban injury of $516,000, the maximum safety benefit, given current usage, is a saving of $360,000 per annum. This level of saving is unlikely because of the potential increased risk of driveway crashes and the probability of significant non-compliance.

The LTSA recommends restricting recreational vehicles on the footpath to reduce the risk to pedestrians, although notes that 10 km/h concern that not enforceable. Any provision must ensure that pedestrians have priority and are not endangered by wheeled recreational device users, who should give way. This would be consistent with Australian Road Rules as it puts the onus on wheeled recreational devices to slow down and, if necessary, stop to avoid a collision. To control the speed and behaviour of device users, wheeled recreational device users should operate the devices a speed and in a manner that does not endanger other footpath users. The LTSA believe the proposed wording will be more enforceable than a 10 km/h speed limit. These rule clauses will have associated infringement fines.

Overall, the number of crashes involving wheeled recreational devices is low with a corresponding small safety benefit— that does not endanger other footpath users. These rule clauses will have associated infringement fines.
Ministry Comment

The Ministry believes that the current provisions should remain, that is, devices should be able to travel on the foopath or road, but if they are on the footpath, then they must give way to pedestrians. The Ministry also feels that keeping a 10km gives a specific benchmark for the careful and considerate provision.
18 September 2003

Minister of Transport

LAND TRANSPORT ROAD USER RULE – UPDATE ON SIGNIFICANT ISSUES SEPTEMBER 2003

Purpose

1. This briefing note updates you on the progress of the proposed Land Transport Road User Rule (the Rule). We also seek your guidance on some issues and invite you to meet with us, should you wish to discuss any issues.

Background

2. The yellow draft of the Rule went out for consultation mid December 2002 and submissions closed on 18 March 2003. The Land Transport Safety Authority (LTSA) has recently finished an analysis of submissions and work has begun on developing a regulatory impact and business compliance cost statement.

Implementation Timing

3. According to the current time-table, the rule is to be considered by Cabinet at the end of this year and to be with you for consideration in February 2004. The LTSA recommends that September 2004 is the best time to implement the rule.

Comment

4. The rule affects all road users, including pedestrians and cyclists as well as motorists. There are a number of contentious issues relating to the draft rule, and on which the LTSA and MoT were waiting on more information to come from submissions, to gain a better idea of the views of industry and the general public. These issues include:

   • speed limits for heavy motor vehicles (including light vehicles towing trailers and speeds for school buses);
   • the use of wheeled recreational devices on the footpath;
   • changing give way rules; and
   • the use of mobile phones while driving;

5. A full discussion of the submission analysis and comments from the Ministry and LTSA is available in the attached Appendix document.
Wheeled Recreational Devices and Mobility Devices

8. The law is currently silent on rules relating to wheeled recreational devices (ie. skateboards, in-line skates, scooters etc) other than recognising them as vehicles and where they can be used. Consultation on a proposal that wheeled recreational devices or mobility device must travel on the footpath if one is available in a careful and considerate manner, at no more than 10km per hour, and comply with all rules that apply to pedestrians, showed that the proposal is not popular.

9. On one hand, pedestrian groups are concerned that this proposal disadvantages pedestrians on the footpath, while users of recreational devices feel constricted by being confined to the footpath. The Ministry and LTSA believe that until further work is done in this area, users of these devices should be able to choose whether to travel on the footpath or road. These devices should, however, be restricted in their use of the footpath to a speed and manner that does not endanger pedestrians.
Wheeled Recreational Devices and Mobility Devices

It is proposed in the draft rule that a person on a wheeled recreational device or mobility device must travel on the footpath if one is available in a careful and considerate manner, at no more than 10km per hour, and comply with all rules that apply to pedestrians. A wheeled recreational device encompasses scooters, skateboards, in-line roller skates, and other devices that meet certain requirements. A mobility device is essentially a device designed to operate on a footpath as a mobility aid.

Submissions
The results of consultation show that a majority of submitters disagreed with the proposal. In general, the submissions thought that allowing mobility devices on the footpath was acceptable, but had concerns about the use of recreational devices. There was concern that pedestrians might be injured as a result of collisions with wheeled recreational devices, which was raised by pedestrian groups, including the Blind Foundation, Age Concern, RSA, Grey Power and other road users. The Police also indicated that the speed limit would be difficult to enforce. The other group (which did not include any major organisation) were concerned that the proposed rule would unreasonably constrain mobility, would not encourage efficient use of recreational vehicles which offer an environmentally friendly alternative to commuters and contradicts the government’s sustainable transport policy, is unnecessarily bureaucratic and waste of police resources and is contrary to use in other cities (i.e. London, Paris, Brisbane, New York).

Those submissions that agreed did so acknowledging that these devices are not suited to the road.

Comment
The government’s desire to encourage walking is reflected in the New Zealand Transport Strategy and will be implemented via the Walking and Cycling Strategy, which is currently being drafted. The LTSA is also examining safety in a Walking and Cyclist Framework and, therefore, needs to carefully consider any proposal that might increase the risk to pedestrians.

The crash data shows where wheeled recreational device crashes have occurred. Accident Compensation Corporation figures show the majority (78%) of wheeled recreational device crashes occur away from roads or footpaths (only 22% of crashes were on a road or footpath).

LTSA crash statistics, which record injuries only on the footpath or the road, show there have been on average five serious injuries per annum for these devices in four years from 1998-2001. Investigation of recorded serious injuries over the last two years shows that injuries are equally divided between crashes at driveways, pedestrian crossings and on the road itself. This gives an indication that, given current usage, there are a similar number of wheeled recreational device crashes on the footpath as on the road. There is, however, no record of the distance ridden on the road or the footpath, so it cannot be determined whether the road or the footpath is more risky on a per kilometre basis.
**LTSA Comment**
The LTSA believes that the proposed rule would, at most, avoid only the 'on the road' crashes and may increase the risk of driveway crashes. If it is assumed that wheeled recreational devices are banned from roads and there is 100% compliance with the proposed rule, then approximately a third of the current crashes could be avoided. Using the social costs of a serious urban injury of $516,000, the maximum safety benefit, given current usage, is a saving of $860,000 per annum. This level of saving is unlikely because of the potential increased risk of driveway crashes and the probability of significant non-compliance. Overall, the number of crashes involving wheeled recreational devices is low with a corresponding small safety benefit.

The LTSA recommends restricting the use of recreational vehicles on the footpath to reduce the risk to pedestrians, although notes concern that a 10 km/h speed limit would be difficult to enforce. Any provision must ensure that pedestrians have priority and are not endangered by wheeled recreational device users, who should give way. This would be consistent with Australian Road Rules as it puts the onus on wheeled recreational devices to slow down and, if necessary, stop to avoid a collision. To control the speed and behaviour of device users, wheeled recreational device users should operate the devices at a speed and in a manner that does not endanger other users of the footpath. The LTSA believes the proposed wording will be more enforceable than a 10 km/h speed limit. These rule clauses will have associated infringement fines.

**Ministry Comment**
The Ministry believes that the current provisions should remain, that is, devices should be able to travel on the footpath or road, but if they are on the footpath, then they must give way to pedestrians. The Ministry also feels that the 10 km/h speed limit provision should remain in addition to the requirement to control the speed and manner in which the recreational device is used.
Land Transport Rules: Road User, Vehicle Lighting, and Traffic Control Devices Rules

The paper notifies the committee of the Minister for Transport Safety's intention to make the following land transport rules: Road User, Vehicle Lighting, and Traffic Control Devices Rules.

Completion of the Road User, Vehicle Lighting, and Traffic Control Devices Rules was included in the 2004/05 rules programme approved by Cabinet in July 2003 [EDC Min (03) 15/2].

Cabinet has agreed that, before making a rule on the approved programme, the Minister would refer it to Cabinet for noting [CAB (00) M20/1D].

The Road User, Vehicle Lighting and Traffic Control Device Rules are part of the rules programme to convert regulations into rules. The conversion process involves reviewing and updating requirements. For the three rules in the paper most of the requirements have been carried over from regulations, with some legal requirements relaxed, others clarified and some new minor requirements. The key drivers for the minor changes in the rules are the lack of clarity in some current provisions, and the need to accommodate advances in road engineering and vehicle lighting technology.

The Road User Rule changes include:

- a requirement that users of wheeled recreational devices and mobility devices operate in a careful and considerate manner and at a speed that does not create a hazard to other users of the footpath;
- clarification of driver and pedestrian obligations around pedestrian crossings;
- clarification of driver obligations at roundabouts and special vehicle lanes;
- an increase in the speed limit for vehicles towing trailers from 80km/h to 90km/h (in line with the recent alignment in the speed limit for all heavy vehicles at 90km/h).
The Vehicle Lighting Rule changes include:

- provision for vehicles manufactured overseas to meet approved overseas standards for vehicle lighting as an alternative to New Zealand requirements;
- specifications for the requirements for the fitting of additional types of lamp that have no safety purpose;
- clarification of fitting requirements for beacons.

Traffic Control Devices Rule changes include:

- a requirement that lane markings on multi-lane roundabouts direct the flow of traffic;
- limiting the length of undivided pedestrian crossings to 15 metres;
- clarification that cycle lanes and other special vehicle lanes must be clearly and consistently marked;
- provision for the use of new technologies such as variable message signs.

Baseline Implications
None.

Legislative Implications
The Road User, Vehicle Lighting, and Traffic Control Device Rules will replace provisions in the Traffic Regulations 1976 and Transport (Vehicle Standards) Regulations 1990 which will be revoked when these come into force. The Parliamentary Counsel Office has been instructed to draft consequential amendments.

Schedule 1 of the Land Transport (Offences and Penalties) Regulations 1999 will require amendment to include offences for breaches of the proposed rules.

Timing Issues
It is proposed that the Road User, Vehicle Lighting, and Traffic Control Device Rules be signed in November 2004 and be implemented in February 2005.

Announcement
The Land Transport Safety Authority will run a public information campaign on how the changes affect road users.

Consultation
The Minister of Transport was consulted.

Police, Defence, MED, Customs, Justice, TPK, Treasury, DoL, Health, DIA, Transit New Zealand, ACC, Courts, and Transfund New Zealand were consulted. DPMC was informed.

The Minister for Transport Safety indicates that consultation is not required with the government caucuses or other parties represented in Parliament.
The Minister for Transport Safety recommends that the Committee:

1. note that in July 2003 Cabinet approved the rules programme for each of the transport safety Crown entities for 2004/05 [EDC Min (04) 11/5];

2. note that the Minister for Transport Safety intends to make Land Transport Rules: Road User (Rule 61001); Vehicle Lighting (Rule 32005) and Traffic Control Devices (Rule 54002);

3. note that the Road User Rule, Vehicle Lighting Rule and Traffic Control Devices Rule are included in the approved Land Transport Rules programme for 2004/05 [EDC Min (03) 15/2];

4. note that the Road User Rule, Vehicle Lighting Rule and Traffic Control Devices Rule meet statutory criteria and consultation requirements prescribed for making ordinary rules under the Land Transport Act 1998;

5. note that the Minister for Transport Safety indicates that consultation is not required with the government caucuses or other parties represented in Parliament.

Nick Vincent
for Secretary of the Cabinet

Copies to:
Cabinet Economic Development Committee
Chief Executive, DPMC
Rosemary Cook, DPMC
Secretary to the Treasury
Geoff Dangerfield, Ministry of Economic Development
Chief Executive, Ministry of Economic Development
Minister of Justice
Secretary for Justice
Minister of Health
Director-General of Health
Chief Executive, Te Puni Kokiri
Minister of Internal Affairs
Secretary for Internal Affairs
Commissioner of Police
Secretary of Defence
Chief of Defence Force
Secretary of Labour
Minister for ACC
Secretary of Labour (ACC)
Chief Executive, ACC
Secretary for Justice (Courts)
Secretary for Justice
Secretary for Transport
Chief Parliamentary Counsel

EDC (04) 181

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Office of the Minister for Transport Safety

Cabinet Economic Development Committee

LAND TRANSPORT RULES: ROAD USER [RULE 61001], VEHICLE LIGHTING [RULE 32005] AND TRAFFIC CONTROL DEVICES [RULE 54002]

Proposal

1. The purpose of this paper is to notify the Committee of my intention to make, as Minister for Transport Safety, the following land transport rules:
   - Land Transport (Road User) Rule, (the Road User Rule)
   - Land Transport Rule: Vehicle Lighting, (the Vehicle Lighting Rule)
   - Land Transport Rule: Traffic Control Devices, (the Traffic Control Devices Rule)

Executive Summary

2. The Road User Rule, Vehicle Lighting Rule and Traffic Control Devices Rule are part of the rules programme to convert regulations into rules. The process involves reviewing and updating requirements. For the three rules most of the requirements have been carried over from regulations, with some legal requirements relaxed, others clarified and some new minor requirements.

3. The key drivers for the minor changes in the rules are the lack of clarity in some current provisions, and the need to accommodate advances in road engineering and vehicle lighting technology.

4. The Road User Rule changes include:
   - a requirement that users of wheeled recreational devices and mobility devices operate in a careful and considerate manner and at a speed that does not create a hazard to other users of the footpath;
   - clarification of driver and pedestrian obligations around pedestrian crossings;
   - clarification of driver obligations at roundabouts and special vehicle lanes; and
   - an increase in the speed limit for light vehicles towing trailers from 80km/h to 90km/h (in line with the recent alignment in the speed limit for all heavy vehicles at 90km/h).

5. The Vehicle Lighting Rule changes include:
   - provision for vehicles manufactured overseas to meet approved overseas standards for the fitting and performance of vehicle lighting as an alternative to New Zealand requirements;
   - specification of the requirements for the fitting of additional types of lamp that have no safety purpose, such as “cosmetic lamps” and illuminated vehicle-mounted signs; and
   - clarification of fitting requirements for beacons.
6. Traffic Control Devices Rule changes include:

- a requirement that lane markings on multi-lane roundabouts direct the flow of traffic;
- limiting the length of undivided pedestrian crossings to 15 metres;
- clarification that cycle lanes and other special vehicle lanes must be clearly and consistently marked; and
- provision for the use of new technologies such as variable message signs.

Background

7. Completion of the Road User Rule, Vehicle Lighting Rule and Traffic Control Devices Rule was included in the 2004/2005 rules programme approved by Cabinet (CAB (03) 23/4 refers). It is part of the programme of converting regulations and other secondary and tertiary legislation into Land Transport Rules. Cabinet has agreed that, before making a rule on the approved programme, the Minister would refer it to Cabinet for noting (CAB (00) M20/1D refers).

8. Offences and penalties relating to these three rules will move to the Land Transport (Offences and Penalties) Regulations 1999. For the Road User Rule and the Vehicle Lighting Rule some new offences and penalties will need to be created.

9. Land Transport Rules are developed by the Land Transport Safety Authority (LTSA) and are made by the Minister for Transport Safety under the Land Transport Act 1998 (the Act) on the recommendation of the Ministry of Transport (the Ministry). These rules have been prepared in accordance with the statutory criteria prescribed in sections 164 and 165 of the Act and the notification and consultation requirements of section 161 of the Act. They will replace various regulations, which are to be revoked.

10. The Minister must be satisfied that a proposed rule is not inconsistent with New Zealand’s international obligations concerning land transport safety. Under section 164 (2) of the Act, the Minister must also take certain criteria into account before making a rule. These are:

- the level of risk existing to land transport safety in each proposed activity or service;
- the nature of the particular activity or service for which this rule is being established;
- the level of risk existing to land transport safety in New Zealand in general;
- the need to maintain land transport safety;
- the costs of implementing land transport safety measures;
- the international circumstances in respect of land transport safety; and
- other such matters as the Minister considers appropriate in the circumstances.

11. There are linkages between the Road User, Vehicle Lighting and Traffic Control Devices Rules given that most of the provisions contained in the three rules are currently contained in the Traffic Regulations 1976. For example, it is proposed that the provisions outlining what lights can/must be used be divided between the Vehicle Lighting Rule (which would specify which lights must be on a vehicle), and the Road User Rule (which specifies when they can/must be used). This approach is logical because all technical requirements for vehicle lighting will be in one place and all road user requirements in another.
12. Each of the three rules aims to contribute to a safe and sustainable transport system by:
   • providing a set of legal requirements that will give maximum safety benefits;
   • accommodating advances in road engineering and vehicle lighting compared with existing technology;
   • consolidating, updating, clarifying and carrying over where appropriate the relevant requirements; and
   • relaxing some requirements where this would not adversely affect safety.

Road User Rule

Contents

13. The Road User Rule mainly carries over provisions contained in the Traffic Regulations 1976 which cover requirements to which road users must adhere when using the road network and which are broadly encompassed by the term “traffic law”. Traffic law assists in the safe and efficient operation of roads by providing a legal framework to support consistent and predictable responses by road users. The rule covers legal requirements around matters such as stopping, giving way, passing, maximum speed limits, and drivers’ responsibilities. Most of the legal requirements will remain unchanged.

14. Cabinet has previously considered several initiatives originally proposed in the Road User Rule (POL Min (04) 8/5 and CAB Min (04) 12/3 refer). These include:
   • changes to the give-way rules;
   • banning the use of handheld cellphones while driving; and
   • standardising heavy vehicle speed limits at 90km/h.

15. The proposals to change the give-way rules and ban the use of handheld cellphones while driving were not agreed to by Cabinet at this stage. Further work is being undertaken by officials on these issues and will be reported back on in due course. In May 2004 regulations were introduced to increase the speed limit for some heavy vehicle combinations from 80km/h to 90km/h.

Key Changes in Road User Rule

Speed limit for light vehicles towing trailers

16. The Road User Rule proposes to increase the speed limit for light vehicles towing trailers from 80km/h to 90km/h in a 100km/h speed limit zone. A majority of submitters on the rule, including eight Road Controlling Authorities, Federated Farmers and the AA Driver Education Foundation supported an increase in the speed limit to 90km/h.

17. Increasing the speed limit to 90km/h would align the speed limit for light vehicles towing trailers with the recently standardised speed limit for heavy vehicles. This would help improve traffic flows, and improve road safety by reducing driver frustration and dangerous overtaking manoeuvres, and may be marginally beneficial for some
small business owners that use light vehicles and trailers. Balanced against these benefits is a small increase in the risk of crashes caused by a loss of stability from travelling at higher speeds. A forthcoming land transport rule will introduce standards to address the stability issue. In the meantime, the LTSA is providing educational advice on safe vehicle to trailer mass ratio to assist in ensuring the safe operation of light vehicles towing trailers.

18. In line with the New Zealand Police's approach for enforcing the increased speed limit for some heavy vehicle combinations, the Police intend to apply a 5km/h discretionary tolerance for those exceeding the new 90km/h speed limit for light vehicles towing trailers.

Wheeled recreational devices and mobility devices

19. The rule addresses the safety risk posed to pedestrians by the use of wheeled recreational devices (for example, skateboards, scooters, and roller blades) on the footpath.

20. It is proposed that pedestrians and mobility device users (including electric wheelchair users) have priority on the footpath so that wheeled recreational device users must give way to them. Mobility device users and wheeled recreational devices users would be required to operate such devices in a careful and considerate manner and at a speed that does not create a hazard to other users.

Roundabouts

21. The complexity of multi-lane roundabouts can mean that some drivers may be confused about which lane they should be in and when they should indicate. The Road User Rule proposes to clarify the use of indicators at roundabouts and the Traffic Control Devices Rule specifies that road marking at multi-lane roundabouts must direct the flow of traffic.

Vehicle Lighting Rule

Contents

22. The Vehicle Lighting Rule covers the safety requirements and motor vehicle standards for lighting systems and components for motor vehicles and cycles.

23. It is important to regulate vehicle lighting because inadequate, defective, or dazzling vehicle lighting can contribute to crashes. Vehicle lighting aids a driver's ability to see and conveys important messages to other road users, such as the intention to turn the vehicle in a certain direction.

Key changes/issues in Vehicle Lighting Rule

Cosmetic lights and forward-facing lights

24. The current regulations specify requirements for items of vehicle lighting equipment with clear functions, such as headlamps, stop lamps, direction indicators, fog lamps etc. These requirements are carried over and updated in the Vehicle Lighting Rule. However, vehicle lamps that are fitted in addition to these functional lamps, such as those fitted for cosmetic reasons, have the potential to confuse, dazzle or distract
other road users. The rule proposes to regulate those lamps that are fitted to vehicles, but have no function in providing vision to the driver or in signalling his/her intentions. The rule sets out, in diagrammatic form, the positions where such lamps may be fitted on the vehicle and the angles of visibility of the light they are permitted to emit.

25. Cosmetic lamps at the front of a vehicle facing forward towards other road users will be banned. The removal of these lights involves a minimal cost for the comparatively small numbers of operators who use these. These provisions will also apply to additional lighting on the front of heavy motor vehicles (HMV’s).

26. Currently the law regarding cosmetic lighting is ambiguous. This lighting is becoming prevalent and serves little or no safety benefit (when compared to the allowed lighting scheme for HMV’s) and may in fact detract from safe lighting. After consultation, and given that the proposed lighting scheme for HMV’s in the Lighting Rule is less strict than existing law as regards position lamps and outline marker lamps—I recommend the removal of additional HMV lighting. This would not involve a significant cost for operators who use this lighting, as it tends to be quickly and cheaply installed and removed.

Illuminated Vehicle-mounted Signs

27. The Vehicle Lighting Rule recognises the lack of controls currently on people who use distracting or dazzling advertising signage on their vehicles. Only a small number of
people use illuminated vehicle-mounted signs. The paper proposes a clause to ensure illuminated vehicle-mounted signs do not dazzle or distract other motorists. Costs would be minimal\(^1\) and the LTSA will be providing educational material to ensure people have a way to ensure their equipment is compliant.

**Allowing overseas standards for vehicle lighting**

28. The Vehicle Lighting Rule will now allow vehicles manufactured overseas to meet approved overseas standards for the fitting and performance of vehicle lighting as an alternative to New Zealand requirements.

**Amending the Angle of Dip for vehicles**

29. The Vehicle Lighting Rule will require vehicles to alter the angle of dip for their headlights if they do not meet a degree that takes account of international best practice and changing headlight technology. The LTSA estimate in order to alter the dip angle, a one off cost to at most 750,000 motorists of at worst $10 at a warrant of fitness inspection may be required. The LTSA believes this minor cost is far outweighed by the safety benefits of ensuring outdated light dip angles are correctly set.

**Traffic Control Devices Rule**

**Contents**

30. The Traffic Control Devices Rule sets out requirements and standards for traffic control devices (including traffic signs, road markings, traffic signals and other road controlling devices), their design, construction, installation, operation and maintenance by road controlling authorities.

31. Traffic control devices must be safe, appropriate, effective, uniform and provide road users with clear and consistent messages to assist them to make appropriate and safe responses on the road network.

**Key Changes/Issues in Traffic Control Devices Rule**

**Pedestrian crossings**

32. The Traffic Control Devices Rule proposes to limit the length of undivided pedestrian crossings to 15 metres. This, in association with pedestrian crossing proposals in the Road User Rule, clarifies driver and pedestrian obligations around pedestrian crossings. Unless there is a pedestrian refuge (a raised island), drivers will have to give way to pedestrians on the crossing even if they are not on the driver’s half of the roadway.

33. The proposals have general support from submitters on the rule including several Road Controlling Authorities. The proposals are expected to reduce crashes around

\(^{1}\) The LTSA estimate the cost would be $10 to replace a bulb with one with a lower wattage if needed
pedestrian crossings\textsuperscript{2}. Costs associated with the installation of traffic islands and refuges, and minimal changes to road markings can be met through existing Road Controlling Authority budgets. A two-year lead-in period applies to this initiative to allow changes to be phased in in line with routine maintenance and to give Road Controlling Authorities time to make changes.

**Cycle lanes and other special vehicle lanes**

34. Drivers and riders need to be able to identify cycle lanes and special vehicle lanes so that the lanes can be used as intended. Dedicated cycle lanes and other special vehicle lanes have several functions including improving the efficiency of some forms of transport (e.g. bus lanes) and separating certain forms of transport (e.g. cycle lanes). The proposed Traffic Control Devices Rule specifies consistent signs and road markings for cycle lanes and special vehicle lanes for road controlling authorities to use. The proposed Road User Rule defines the requirements for road users to keep clear of special vehicle lanes unless they are of the type permitted to use the lanes.

**Consultation**

35. I am satisfied that the LTSA has publicly notified and consulted on these rules on my behalf in accordance with section 161(2) of the Act and the Agreement for Rules Development Services made between the Secretary for Transport and the LTSA. The public consultation drafts (yellow drafts) of these rules were advertised in 15 daily newspapers and the *New Zealand Gazette* and were available on the LTSA’s website. The LTSA received 360 submissions on the consultation draft of the Road User Rule, 108 submissions on the consultation draft of the Vehicle Lighting Rule and 65 submissions on the consultation draft of the Traffic Control Devices Rule.

36. A number of departments, organisations and individuals were consulted on these Rules during their respective consultation phases.

37. The following government departments and agencies were consulted on this paper: New Zealand Police, New Zealand Defence Force, Ministry of Economic Development, New Zealand Customs Service, Ministry of Justice, Te Puni Kokiri, The Treasury, Department of Labour, Transit New Zealand, Transfund New Zealand, Accident Compensation Corporation, Ministry of Health (Office of Disability Services), Department of Internal Affairs and Local Government New Zealand. The Department of the Prime Minister and Cabinet has also been informed.

38. The LTSA has also consulted with stakeholders, including industry organisations, in accordance with the requirements of the Act.

**Legislative Implications**

39. The Road User Rule, Vehicle Lighting Rule and Traffic Control Devices Rule will replace provisions in the *Traffic Regulations 1976* and *Transport (Vehicle Standards)*

\textsuperscript{2} A study undertaken in Western Australia found that the replacement of pedestrian crossings at 25 sites on four-lane arterial roads with traffic islands and pedestrian refuges reduced crashes involving pedestrians to a sixth of their previous levels.
Regulations 1990 which will be revoked when these rules come into force. The Parliamentary Counsel Office has been instructed to draft consequential amendments.

40. Section 167(a) and (b) of the Act empower the making of regulations specifying those breaches of Land Transport Rules that constitute offences against the Act, and specifying infringement offences/fees for the purposes of the Act. Schedule 1 of the Land Transport (Offences and Penalties) Regulations 1999 will require amendment to include offences for breaches of the proposed rules. These amendments will be put forward following finalisation of the rule.

Human Rights and Treaty Compliance


Financial Implications

42. The three rules involve no new costs to government.

New Zealand Transport Strategy Implications

43. The Vehicle Lighting Rule, Road User Rule and Traffic Control Devices Rule will enhance safety and personal security by ensuring:

- the road user requirements and the traffic control devices requirements promote safe and efficient road user behaviour;
- vehicles are fitted with lighting equipment that improves the driver's vision and is not unsafe to other road users.

44. The Road User Rule and the Traffic Control Devices Rule may assist with encouraging walking and cycling by providing for some changes to the environment that may make these road users feel safer.

- placing an obligation on mobility device users and wheeled recreational device users to operate the devices in a careful and considerate manner and at a speed that doesn't create a hazard to other users of the footpath (e.g. pedestrians);
- having adequate marking of cycle lanes to ensure other road users are aware of their obligations towards cyclists who use them.

45. The Road User Rule and the Traffic Control Devices Rule will also assist in transport efficiency by:

- requiring traffic control devices that assist traffic flow;
- providing requirements for special purpose lanes that aim to improve transport efficiency for certain vehicles, such as dedicated bus lanes for buses.
Publicity

46. A communications strategy has been developed, which includes a public statement when each rule is signed. Some stakeholders may raise their concerns because of the decision not to change the give-way rules and not to ban hand held cellphones while driving. It is proposed to advise stakeholders about the decision made on these issues when these rules are signed.

47. The LTSA is planning a public information campaign highlighting how the changes in the Road User Rule will affect road users, particularly in relation to roundabouts, speed for towing light trailers, the use of mobility devices, pedestrian crossings and special class lanes. This is planned for a period commencing with the signing of the Rules in October 2004.

Regulatory Impact and Business Compliance Cost Statement

48. The Ministry of Economic Development Business Compliance Cost Unit has advised that this paper does not require a Regulatory Impact Statement or Business Compliance Cost Statement. A Regulatory Impact Statement is not required, as this is a noting paper, informing Cabinet of my decision. No policy decisions are being sought. Officials estimate the proposed Road User Rule, Vehicle Lighting Rule and Traffic Control Devices Rule will not impose any significant new costs to business.

Timing of implementation

49. It is proposed that the Road User Rule, Vehicle Lighting Rule and Traffic Control Devices Rule be signed in November 2004 and be implemented in February 2005.

50. To reduce costs, existing traffic control devices that do not reflect the requirements in the proposed rules will be allowed to continue to be used as long as they remain in good repair and are safe and adequate for their intended use. The Traffic Control Devices Rule provides road controlling authorities with lead-in times for any new requirements that match normal maintenance and replacement times.

Recommendations

51. It is recommended that the Committee:

1. note that the Minister for Transport Safety intends to make Land Transport Rules: Road User (Rule 61001); Vehicle Lighting (Rule 32005) and Traffic Control Devices (Rule 54002);

2. note that the Road User Rule, Vehicle Lighting Rule and Traffic Control Devices Rule are included in the approved Land Transport Rules programme for 2004/05 [EDC Min (03) 15/2];

3. note that the Road User Rule, Vehicle Lighting Rule and Traffic Control Devices Rule meet statutory criteria and consultation requirements prescribed for making ordinary rules under the Land Transport Act 1998; and
note that the consultation on the rules raised a number of issues, which have been resolved and no policy direction is sought from the Committee.

Hon Harry Duynhoven
Minister for Transport Safety