Ministry of Transport
TE MANATŪ WAKA

BRIEFING

Accessible Streets package – draft Cabinet paper and regulatory impact assessment

Reason for this briefing	This briefing provides an overview of updates to the Accessible Streets package and seeks your feedback on the revised draft Cabinet paper and preliminary Regulatory Impact Assessment.
Action required	Consider the attached draft Cabinet paper (seeking approval to consult on draft rules) and preliminary Regulatory Impact Assessment and provide feedback.
Deadline	Tuesday, 19 March 2019.
Reason for deadline	This deadline allows for Ministerial consultation, and lodgement of the papers for consideration by the Cabinet Economic Development Committee meeting on 10 April 2019.

Contact for telephone discussion (if required)

Name	Position	Telephone	First contact
Brent Johnston	Manager, Mobility and Safety	[redacted]	✓
[redacted]	Senior Adviser, Mobility and Safety	[redacted]	

MINISTER'S COMMENTS:

Privacy

Date:	13 March 2019	**Briefing number:**	OC180637
Attention:	Hon Julie Anne Genter (Associate Minister of Transport) CC: Hon Phil Twyford (Minister of Transport)	**Security level:**	In-Confidence

Minister of Transport's office actions

☐ *Noted* ☐ *Seen* ☐ *Approved*

☐ *Needs change* ☐ *Referred to*

☐ *Withdrawn* ☐ *Not seen by Minister* ☐ *Overtaken by events*

Purpose of briefing

1. This briefing provides an overview of the changes to the Accessible Streets package (the Package).

2. A draft Cabinet paper and preliminary Regulatory Impact Assessment are attached for your consideration. Subject to incorporating your feedback, we propose that final versions of these papers are submitted for cross-party consultation on 22 March 2019.

Update on the Accessible Streets package

3. Following discussions with your office in late January, we have been updating the Package to address feedback. This included introducing a new proposal to allow wheeled recreational devices, including e-scooters, to operate in on road cycle lanes (paragraphs 42-45 of the Cabinet paper). We have also updated the Cabinet paper to cover matters relating to the building of better infrastructure and establishing better street design guidelines.

4. On 25 February 2019, we discussed these and other amendments to the Package with you and Minister Twyford (in the context of the wider road safety work programme). Minister Twyford and you agreed that officials would update the package to include:

    4.1. a description of the status quo requirements for ACC and infrastructure levies (paragraphs 20-22 of the Cabinet paper)

    4.2. a description of the status quo helmet requirements for wheeled recreational devices [OC190140 refers] (paragraphs 23-27 of the Cabinet paper).

5. As agreed, we have not undertaken analysis of these issues, as that would have required a longer timeframe. However, we consulted both ACC and the ACC policy team at the Ministry of Business, Innovation and Employment. They provided the statement in paragraph 22 of the Cabinet paper, which explains ACC's position.

Inconsistency of helmet requirements for cyclists and wheeled recreational devices

6. As agreed with you, the attached Cabinet paper does not propose changes to helmet requirements for users of wheeled recreational devices or cyclists. Our regulatory impact analysis does not consider the effectiveness of current arrangements or options for change.

7. As you will be aware, there is likely to be significant public interest in this issue, and particularly helmet requirements for e-scooters. The public interest is likely to centre on the inconsistency between the current mandatory helmet law for cyclists compared to there being no helmet requirement for users of wheeled recreational devices. The proposal to allow wheeled recreational devices in on-road cycle lanes is likely to increase attention on this contrasting approach since some users of cycle lanes would be required to wear helmets, while others would not be. This would be despite an equivalent level of risk to each user type.

8. Irrespective of whether proposals for change are included in the consultation package, we consider it is likely we will receive submissions on this issue.

9. As drafted, the Cabinet paper includes a recommendation for Cabinet to note that the Package will not include changes to helmet requirements (recommendation 13). This approach provides clarity for public communications that changes to helmet laws are out of scope for Accessible Streets.

10. An alternative approach would be to retain some flexibility to consider the matter post-consultation. If this is your preference, we would propose to complete regulatory analysis on

options in parallel to the consultation process occurring and that this is acknowledged in communications about the package. If you prefer this approach, we would discuss with you and the NZTA the implications for resourcing and other priorities.

NZ Transport Agency (NZTA) view

11. On a no-surprises basis, we understand the NZ Transport Agency's view is that e-scooter and other wheeled recreational device users are vulnerable to high speed conflicts with vehicles of much greater mass when using on-road cycle lanes. The NZTA's view and preferred approach is likely to be that users of wheeled recreational devices should be required to wear a helmet in such situations. At the time of writing, the NZTA was still confirming this position and a comment for inclusion in the Cabinet paper.

Engagement on the package

12. We have worked closely with the NZTA in developing the draft Cabinet paper and a preliminary Regulatory Impact Assessment. We have also received initial feedback from the NZ Police.

13. We plan to undertake departmental consultation concurrently with your consideration of the draft Cabinet paper. Any departmental feedback will be incorporated before you receive the final Cabinet paper, the timeline for which is noted in the table below.

14. There has been no formal consultation on the Package to date. However, many of the individual elements have been subject to consultation as part of research projects and several were discussed during the reference group process for the road safety strategy. Because there has been no formal consultation on the proposals, the Regulatory Impact Assessment is only preliminary. A final version will be produced following consultation. Where relevant, the preliminary Regulatory Impact Assessment and draft Cabinet paper provide advice on likely responses from stakeholders to the options proposed.

15. As you will be aware, the Package has already created media interest around e-scooters and footpath use. We are already developing a communications plan for this, in conjunction with the NZ Transport Agency and your office.

16. There will be numerous stakeholders with varying views on the Package. We expect some stakeholders will oppose additional users on footpaths. We have highlighted the communications risks in the draft Cabinet paper.

Next Steps

17. To ensure the Cabinet paper and Regulatory Impact Assessment are considered by Cabinet by early April 2019, the following timeline has been developed:

Step	Date
Draft Cabinet paper and preliminary Regulatory Impact Assessment to Ministers and provided for departmental consultation	13 March 2019
Receive Ministers' comments on draft Cabinet paper	19 March 2019
Final draft Cabinet paper provided to Ministers for Ministerial and cross party consultation	22 March – 1 April 2019 (7 working days)
Ministry makes any final changes following consultation	2-3 April 2019
Lodge final Cabinet paper	4 April 2019
Cabinet paper considered by Cabinet Economic Development Committee	10 April 2019

18. If Cabinet agrees, we will arrange for the amendment rules to be drafted by the NZTA and the Parliamentary Counsel Office[1]. New regulations will also need to be drafted to establish the associated penalties.

19. We anticipate this would allow us to carry out consultation on draft rules by August 2019. We expect to be able to produce a final package for your signature by the end of 2019. However, final timing is dependant on the outcome of consultation and the availability of resource to draft the rules.

To support efficient implementation of agreed rule changes, we plan to bring forward work preparing a publicity campaign

20. Successfully bringing the rule changes into effect will require the development and delivery of a substantial publicity campaign. Based on past experience, we estimate this could take up to six months to prepare.

21. Normally, we would commence this work after Rule changes have been agreed. However, in order to minimise the lead-time between the rules being made and implemented, we propose to begin work once Cabinet approves the draft rules for consultation.

22. There is a risk that some preparatory work becomes redundant if there are major changes to the proposals after consultation. However, we consider this approach is necessary in order for implementation by mid-2020 to be realistic.

Recommendations

23. The recommendations are that you:

(a)	**review** the attached draft Cabinet paper and preliminary Regulatory Impact Assessment and provide feedback to officials by 19 March 2019	
(b)	**indicate** whether you would like to rule out changes to helmet laws for users of wheeled recreational devices and cyclists	Yes/No
(c)	**note** departmental consultation is occurring concurrently with your review of the draft papers	
(d)	**note** that officials will submit the final Cabinet paper and Regulatory Impact Assessment for cross-party and Ministerial consultation on 22 March 2019	
(e)	**note** that we propose you lodge the Cabinet paper on 4 April 2019 for consideration by Cabinet Economic Development Committee on 10 April 2019	
(f)	**note** that the Cabinet paper seeks agreement not to return to Cabinet before you make any amendment rules to give effect to the proposals in the Accessible Streets package, unless public consultation identifies that significant changes to the preferred options are required	

[1] The NZ Transport Agency drafts changes to most land transport Rules. However, any changes to the Operator Licensing Rule 2017 or the Land Transport (Road User) Rule 2004 are traditionally drafted by the Parliamentary Counsel Office.

(g) **agree** that officials should start preparing a publicity campaign following Cabinet's approval to commence drafting the rules, and prior to public consultation on these rules. Yes/No

Brent Johnston
Manager, Mobility and Safety

MINISTER'S SIGNATURE:

DATE:

In Confidence

Office of the Associate Minister of Transport

Chair
Cabinet Economic Development Committee

ACCESSIBLE STREETS REGULATORY PACKAGE: PUBLIC CONSULTATION

Proposal

1. This paper seeks the Cabinet Economic Development Committee's agreement to proceed to public consultation on a draft amendment rule for the Accessible Streets Regulatory Package.

Executive summary

2. The Accessible Streets Regulatory Package (Accessible Streets) is a collection of rule changes designed to increase the safety and accessibility of our footpaths and cycle paths. It supports the strategic objectives of the Government Policy Statement on Land Transport 2018 (the GPS) to improve people's access to social and economic opportunities, and to increase people's safety when using the transport system.

3. Cabinet was informed about these potential rule changes in a March 2018 paper. The paper outlined a planned programme of key short- to medium-term initiatives to improve road safety in New Zealand [DEV-18-MIN-0025 refers], including proposed rule amendments to improve safety and accessibility for vulnerable users[1]. Accessible Streets is also identified in the 2018/2019 Rules programme.

4. The proposed rule changes respond, in part, to the increasing use of various forms of vehicles on our streets and footpaths. The vehicles referred to in this paper, such as mobility devices[2], e-scooters, e-skateboards, e-bikes, bicycles and push scooters are illustrated in Appendix 1.

5. Vehicles such as mobility scooters, e-bicycles and e-scooters offer significant transport benefits to users and non-users alike. They provide low-cost forms of mobility for short trips, often require no parking and compliment public transport. When used as an alternative to a private car their use has a public benefit of reducing congestion and harmful vehicle emissions.

[1] By vulnerable users, the package refers to pedestrians, cyclists, wheeled recreational device users, and the mobility impaired.
[2] 'Mobility devices' are currently allowed on the footpath. These devices must meet specified maximum power requirements and be designed and constructed (not merely adapted) for use by persons who require mobility assistance due to a physical or neurological impairment. The user does not need to meet any criteria.

6. The growth in these vehicles, however, come with risks as these vehicles are operated in contested space on the footpath and roadway. For example, people walking can be at risk from the higher speed of mobility and e-scooters on the footpath, while people using these vehicles can be at risk from larger, faster moving motor vehicles on the road.

7. In the long-term, changes to street design will allow us to reap the benefits of vehicles like e-scooters and skateboards, and mitigate their risks. For example, greater provision of wide shared paths or bike lanes on busy streets will separate people using these types of vehicles from fast moving car traffic, as well as people walking on the footpath. The Government's increased investment in walking and cycling infrastructure in the GPS will help to facilitate this outcome over time.

8. In the interim it is important that we have a regulatory environment that supports safe and accessible travel for all road users.

9. It is clear that a number of transport rules, however, deprioritise the movement of these modes of transport and the safety of people using them. Recognising this, Accessible Streets proposes a number of rule changes to address some of this misalignment between our transport rules and our transport priorities.

10. This paper seeks agreement to undertake public consultation on a package of proposed amendments to land transport rules and regulations. The changes intend to:

    10.1. enable wheeled recreational devices[3], including e-scooters, to use cycle lanes and cycle paths

    10.2. clarify the rules around what types of vehicles should be allowed on footpaths and under what conditions

    10.3. improve the safety of vulnerable users at intersections and in traffic through a variety of give way rule changes

    10.4. address other matters including to:

        10.4.1. mandate a minimum overtaking gap for motor vehicles when passing vulnerable road users[4] on the road

        10.4.2. give scheduled passenger buses priority when exiting bus stops on urban roads.

11. If Cabinet agrees to the proposed amendments to land transport rules, I will prepare draft amendment rules to be released for consultation later in 2019. In the case of the Land Transport (Road User) Rule 2004, this will include instructing the Parliamentary Counsel Office to prepare a draft amendment rule. Communications material is being prepared for consultation.

[3] A wheeled recreational device is defined in the Land Transport (Road User) Rule 2004:
(a) means a vehicle that is a wheeled conveyance (other than a cycle that has a wheel diameter exceeding 355 mm) and that is propelled by human power or gravity; and
(b) includes a conveyance to which are attached 1 or more auxiliary propulsion motors that have a combined maximum power output not exceeding 300 W.

[4] Vulnerable road users include cyclists, horse riders, and users of wheeled recreational devices, such as e-scooters.

12. I will return to Cabinet to seek its agreement to the changes prior to making the rules.

13. Most of the proposed changes are intended to support new behaviour norms on our roads and footpaths. To support these changes a national information and education campaign would be developed by the NZ Transport Agency. I anticipate any rule amendments coming into force by early 2020.

Background to the Accessible Streets package

14. In March 2018 I sought Cabinet's agreement to a paper *Improving Road Safety in New Zealand* [DEV-18-MIN-0025 refers]. Along with seeking agreement to the development of a new road safety strategy, the paper set out a planned programme of key short- to medium-term initiatives to improve road safety.

15. One of the initiatives identified in the March 2018 paper was a package of amendments to land transport rules to help make walking, cycling, and public transport safer and more accessible. This paper seeks agreement to undertake public consultation on draft amendment rules to give effect to these proposals.

16. Accessible Streets is a collection of rule changes that support the new focus in the GPS of improving New Zealanders' safety and access to economic and social opportunities. In particular, it aims to support a mode shift for trips in urban centres from private vehicles to more energy efficient, low-cost and healthier modes like walking, cycling and public transport. In doing so it will help achieve the goal of reducing harmful transport emissions. It will also support other government agencies, such as the Ministry of Health, to increase value for money and reduce overall public spend, by increasing the uptake of transport modes that improve health and wellbeing.

17. We know that cyclists are being disproportionately injured and killed on our roads. Approximately three percent of on-road fatalities over the last decade were cyclist deaths. However, cycling only contributes 1.5 percent to total time spent travelling. Similarly, seven percent of serious injuries were caused by crashes involving cyclists. Approximately 10 percent of on-road fatalities and 11 percent of serious injuries over the last decade were pedestrians. Walking comprises 10 percent of the total time spent travelling.[5]

18. These statistics indicate that the current settings are not supporting walking and cycling as accessible and safe forms of travel. Internationally, greater priority is provided for users of active modes, and steps need to be taken in New Zealand to shift the culture to achieve greater priority for these users. As there is a government focus on improving uptake of active modes, there is an opportunity to support this shift by changing the road user rules to mitigate the issues for cyclists and pedestrians.

19. Accessible Streets understands that more New Zealanders are choosing to use active modes, along with new and emerging vehicle types, such as e-scooters. The package also recognises that the aging population is leading to higher use of mobility devices.

[5] Ministry of Transport (2019) *Household Travel Survey, 2015-2018*. https://www.transport.govt.nz/mot-resources/household-travel-survey/new-results/.

20. I want to ensure the Government supports increased mobility in our towns and cities and makes them more liveable and vibrant, while ensuring that safety is paramount.

Wider benefits of Accessible Streets

21. An important part of making our streets safer and more accessible is ensuring that our design standards and guidelines support this. I expect the actions in the new road safety strategy to enable this, specifically in our urban areas where lower speed and risk environments should allow more trialling and innovation.

22. The proposed changes are intended to give effect to recommendations from the 2014 Cycling Safety Panel's report *Safer journeys for people who cycle,* and respond to the report from the Transport and Industrial Relations Select Committee on the petition of Joanne Clendon in May 2016 [2014/59] on children cycling on the footpath.

23. While Accessible Streets is a collection of small changes I expect that they will collectively improve access and safety, especially for people cycling, people using wheeled recreational devices such as e-scooters, and other vulnerable users.

Defining what is meant by different types of pathways

24. The proposed rule changes will affect the use of footpaths, shared paths, cycle lanes, cycle paths, and the roadway. These different terms are defined in the Road User Rule as follows.

25. A *footpath* is a path or way principally designed for, and used by, pedestrians. It can currently be used by mobility devices and wheeled recreational devices and by particular other vehicles in the course of making deliveries. Very small bicycles with a wheel circumference less than 355mm are also able to use the footpath – the largest wheel size that fits that measurement is about the bike size a five or six year old child would typically ride.

26. A *shared path is a path*, which may be used by pedestrians, cyclists, riders of mobility devices and riders of wheeled recreational devices. Shared paths will not be affected by the proposed rule changes. A shared path can be used by the vehicles stated above, and a sign or marking can be used to give priority to a particular user (e.g. pedestrians or cyclists).

27. A *cycle lane* is a longitudinal strip within the roadway (often painted) designed for the passage of cycles, meaning users are in a separate lane from other traffic. They can be located next to parking, next to the kerb, and between two traffic lanes (for example, when approaching an intersection). Currently cycle lanes can only be used by cyclists.

28. A *cycle path* is a part of the road that is physically separated from motor traffic. They are generally next to the roadway, usually within the road reserve. They are intended for the use of cyclists, but may also be used by pedestrians, users of wheeled recreational devices and users of mobility devices, unless signed and/or marked otherwise.

29. The *roadway* is the part of the road generally used by vehicles. Motor vehicles and bicycles can be used on the roadway, as can wheeled recreational devices as long as they are used as far to the left as practicable. Pedestrians and mobility device users may use the roadway where there is no footpath provided.

30. The road is a broad term, including the part of the road that motor vehicles use, cycle paths, cycle lanes, and footpaths.

Matters out of scope of rule changes

ACC and infrastructure levies

31. A number of Mayors and other commentators have questioned whether new vehicles, such as e-scooters, should contribute to the cost of providing transport infrastructure and ACC levies. I have therefore directed officials to consider the current situation regarding ACC and infrastructure levies, and how they might apply to wheeled recreational devices.

32. ACC is considering how it might respond to the kinds of emerging technology and business models, such as e-scooter sharing companies. ACC is already working on injury prevention strategies and is looking to better understand the incidence and severity of injuries caused by e-scooters. It notes that funding to cover treatment and rehabilitation for injuries from e-scooters is already provided for, primarily through the earner's and non-earner's accounts.

33. Councils already have the power to apply an infrastructure levy to a company operating an e-scooter or bike hiring scheme. This is enabled through the Local Government Act 2002. Sections 150 and 151 allow for the setting of fees via council bylaw.

Accessible Streets will not make changes to helmet wearing requirements

34. Several stakeholders, including the Mayor of Auckland, raised the issue of whether helmets should be made mandatory for e-scooters.

35. In many respects, New Zealand is an outlier having previously made a decision to mandate helmets be worn by cyclists. Many other jurisdictions do not mandate helmet use by cyclists and the same requirement in New Zealand does not currently apply for users of skateboards or other wheeled recreational devices.

36. I am aware there remain different views about the net safety benefits of helmet requirements. On one hand, it is clear that helmets provide a level of protection to individual users in the event of some crashes. On the other, there is evidence that the mandatory requirement serves as a deterrent to the uptake of active travel, which is likely to reduce health and other benefits; although the magnitude of this is debated.

37. A full analysis of the effectiveness of mandatory helmet requirements has not been undertaken and therefore I do not propose any changes to these requirements as part of Accessible Streets. Nevertheless, I anticipate some submissions on this matter.

38. While I encourage people to wear helmets when riding on the road, whether they're using a skateboard, push scooter or e-scooter, I have not asked officials to explore a mandatory standard

39. It is my view that until such time as we provide more safe, separated infrastructure for users of active modes it would be inappropriate to consider removing the mandatory requirement for cyclists to wear a helmet.

40. The NZ Transport Agency view is that e-scooter and other wheeled recreational device users are vulnerable to high speed conflicts with vehicles of much greater mass when using on-road cycle lanes. Its preferred approach is that users of wheeled recreational devices be required to wear a helmet in such situations.

Regulatory changes will be made through land transport rules

41. The primary changes are amendments to the Land Transport (Road User) Rule 2004 (the Road User Rule) and the Land Transport (Traffic Control Devices) Rule 2004. Consequential amendments to other land transport rules and to the Land Transport (Offences and Penalties) Regulations 1999 will also be required.

42. Accessible Streets is comprised of four parts and will amend rules to:

    42.1. clarify what types of vehicles should be allowed on footpaths, and under what conditions

    42.2. enable wheeled recreational devices, including e-scooters to use cycle lanes and cycle paths

    42.3. improve the safety of vulnerable users at intersections and in traffic through a variety of give way rule changes

    42.4. other matters including to:

        42.4.1. mandate a minimum overtaking gap for motor vehicles when passing vulnerable road users on the road

        42.4.2. give scheduled passenger buses priority when exiting bus stops on urban roads.

The parts of the Accessible Streets package

Enabling safer and more accessible use of cycle lanes and cycle paths

43. I propose to consult on amendments to the Road User Rule to enable wheeled recreational devices[6], including e-scooters, to be used in cycle lanes and cycle paths[7], to improve the safety and accessibility of vulnerable users.

44. Currently, only bicycles are allowed to use on-road painted cycle lanes (and some separated cycle paths, where councils have specified they are only to be used by cycles).

[6] Ibid 3.

[7] By definition, cycle lanes are a longitudinal strip within the roadway designed for the passage of cycles. Cycle paths are defined as a part of the road that is physically separated from the roadway.

45. The intention of this rule change is to encourage faster wheeled recreational devices to move off the footpath, and onto parts of the road where they are less likely to come into conflict with either pedestrians or fast-moving motor vehicles.

46. Wheeled recreational devices will continue to be able to use all other parts of the road – including the footpath, shared paths, most cycle paths and on the roadway (if they are as far to the left as practicable).

47. Making this rule change will enable the accessibility benefits of wheeled recreational devices to be better realised. It will help people to get to where they want to go in a way that aligns with the Government's goals of lowering transport emissions, creating more liveable cities and minimising disruption to others. This change will also improve the safety of other vulnerable users, especially pedestrians, as faster wheeled recreational device users will be able to use cycle lanes instead of footpaths.

Clarifying the rules around what types of vehicles should be allowed on footpaths, and under what conditions

48. I propose to consult on amendments to the Road User Rule to regulate safe use of vehicles on the footpath and restrict the size of vehicles using it.

49. The current rules governing our footpaths did not anticipate the growth of vehicles like mobility scooters and e-scooters. While these vehicles offer significant accessibility benefits, their use on the footpath needs to be managed to ensure pedestrians feel safe and their access is prioritised.

50. I propose to consult on a framework of new rules to govern how vehicles can be used on the footpath[8]. Under this framework vehicles that use the footpath would:

    50.1. not be able to travel faster than 15km/h (to ensure the safety of others sharing the footpath)

    50.2. not be wider than 750mm

    50.3. have to be operated in a courteous and considerate manner, in a way that does not constitute a hazard, and gives right-of-way to pedestrians[9].

51. The framework outlined above comprises general and easily understood requirements that are a mixture of principles (users must behave in a certain way), performance (vehicles must not exceed a specified speed) and prescription (vehicles may be no larger than a specified size).

52. Councils will still be able to make bylaws that adjust the above constraints on the use of footpaths in their areas. For example, a council could still exclude vehicles, like e-scooters, from footpaths in busy urban areas or in areas with especially narrow footpaths. They could also still set different maximum speeds as local conditions allow (this could be higher or lower than 15km/h).

[8] Non-powered wheelchairs, prams, baby buggies and similar devices are not legally "vehicles" and would not be affected by any of these requirements. Existing provisions that prevent vehicles that can be registered for use on the road, such as motor bikes, mopeds or cars, from using the footpath would continue.
[9] Users of non-powered wheelchairs are legally considered pedestrians.

53. The 15km/h limit was chosen as it aligns with the speed restrictions on e-scooters that have been trialled in Auckland. The outcome of that trial will help inform consultation on whether this limit is too high or too low. Officials originally recommended a limit of 10 km/h, however, I consider that 10 km/h is too slow and could result in many users being non-compliant.

54. The maximum width requirement will ensure that multiple users can still access the footpath. It may result in some uncommon, larger mobility scooters not being allowed on the footpath, for example, mobility scooters that are similar in size to small cars.

55. Vehicles using the footpath will also have to be operated in a courteous and considerate manner, in a way that does not constitute a hazard, and give way to pedestrians. Current rules already require all footpath users to behave in a courteous and considerate manner, in a way that does not constitute a hazard. The additional requirement of giving way to pedestrians recognises that with more of the new and emerging vehicles, like e-scooters in use, pedestrian use of footpaths needs to be protected.

56. The new framework for vehicles using the footpath has been designed to be easy to understand and follow, and therefore promote behaviour change. Although Police have noted the challenges of enforcing a speed limit, it is also recognised that a maximum speed is more enforceable than current requirements around wattage and power outputs of wheeled recreational devices on the footpath. Offences and penalties for not complying with the new requirements are also being developed.

57. The proposed rules are also designed to manage the possibility of new and emerging technologies including, for example, small driverless delivery vehicles that might operate on the footpath for some, or all, of their journey. The framework would limit these vehicles' use of the footpath if, for example, they were too large, moved too quickly, or were unable to yield to pedestrians.

58. I will also maintain existing exemption powers under land transport legislation, that provide the NZ Transport Agency with the discretion to exempt certain classes of vehicles from specific legislative requirements. In addition, I will consult on whether there are certain classes of vehicle, such as electric wheelchairs and other medically required mobility devices, that should be automatically excluded from the width requirement. The NZ Post's Paxster small electric delivery vehicles currently operate under a provision that allows mail delivery services to operate motor vehicles on the footpath. They are expected to be exempted from any minimum width requirements under the proposals, but would still need to comply with the proposed speed limit of 15km/h when on the footpath.

59. I am conscious that these changes may impact on owners of some mobility devices[10] that are currently unregulated. Existing mobility devices may exceed the proposed criteria for maximum width and some owners may no longer be able to use their devices as these could not be (legally) used on the road either. This restriction may have a negative impact on public accessibility, participation and independence of

[10] Ibid 2.

some users. These concerns will need to be balanced against the potential for improved safety for other users of the footpath.

60. It is unclear what number of vehicles that currently use the footpath would be impacted by the proposed width restriction. Officials will seek feedback on this through the consultation process. I will consider whether there needs to be any special transitional arrangements for these users.

61. Public understanding of these rule changes will be supported through an information and education campaign that will be undertaken by the NZ Transport Agency before any rule changes are enacted. This campaign is explained in more detail in the publicity section below.

Allowing people to cycle on the footpath under the proposed restrictions

62. I propose to consult on amendments to the Road User Rule to allow people to cycle on the footpath under the proposed restrictions discussed above.

63. The intention is to primarily accommodate children cycling at slow speeds in places where cycling on the road would put them at risk.

64. The current rule that restricts cycling on the footpath is inconsistent and confusing for children. For example, young children can ride a push scooter on the footpath but cannot legally ride a normal sized bicycle. Very small bicycles with a wheel circumference less than 355mm are also able to use the footpath – the largest wheel size that fits that measurement is about the bike size a five or six year old child would typically ride.

65. Most children are unaware that it is illegal to ride any bike larger than this on the footpath and the vast majority (86 percent of child cyclists between 7 and 15) have ridden on the footpath.[11]

66. Anecdotal evidence suggest that bad experiences cycling on the road deters children from cycling and parents from letting children do so. Submissions on Joanne Clendon's petition to Parliament in 2017 to allow children to cycle on the footpath also confirmed this view.

67. While this rule change would effectively allow anyone to cycle on the footpath, my expectation is that the proposed speed limit of 15km/h would deter the vast majority of adult cyclists, who travel at higher speeds, from doing so.

68. The associated information and education campaign would emphasise the message that this change is being made to keep children safe and that confident cyclists should continue using the road or cycle lanes.

Removing barriers to walking and cycling through 'give way' rule changes

[11] This is according to a recent survey by the Office of the Children's Commissioner: http://www.occ.org.nz/assets/Publications/Children-Riding-Bikes-on-Footpaths-submission2.pdf, August 2016.

69. I also propose to consult on rule changes to address situations where people walking, cycling or taking public transport are given less priority compared to people using cars, and to enable existing road user behaviour that is safe but currently illegal.

70. I propose to consult on amendments to rules to:

    70.1. *legitimise the practice of cyclists riding straight ahead from a left-turn lane*: the left turning lane can be a safer option when cycle lanes are not available, as the lane usually has less traffic and slower travel speeds. As cyclists need to ride as far left as practicable, left turning lanes can unfold beneath them on the approach to an intersection and it may be difficult to find a gap to move safely into the straight through lane during heavy traffic.

    70.2. *allow cyclists to carefully pass slow-moving motor vehicles ('undertake') on the left (unless the motor vehicle is indicating a left turn)*: undertaking allows cyclists to maintain a safe, steady speed past slow-moving and stop-start traffic, while following the rule requiring them to ride as far left as practicable. This contributes to the efficiency of cycling as a transport mode, helps cyclists access advanced stop boxes and helps them avoid the risks associated with moving between lanes of faster traffic. This change will legitimise already wide-spread practice.

    70.3. *give cyclists and buses priority over left-turning traffic when they are travelling straight through an intersection on a separated cycle or bus lane respectively (as they currently have on an unseparated cycle lane)*: by making the rule for giving way at both separated and unseparated cycle lanes the same, the behaviour required by road users will be simplified.

    70.4. *give priority to footpath, shared path and cycle path users over turning traffic when they are travelling straight across a side-road at specific locations where the required traffic control devices are installed:* this change will mean path users going straight ahead through an intersection are treated consistently with other road users going straight through where appropriate traffic control devices are installed. This will reduce delays to path users and help to make active modes more attractive, without Road Controlling Authorities needing to resort to the expense of installing signalised crossings or full pedestrian crossings across more minor side roads.

71. Attached as Appendix 2 are graphic descriptions of the above proposed rule changes.

72. Again, public understanding of these rule changes will be supported through the information and education campaign.

Other matters for consideration

Mandating a minimum overtaking gap for vehicles passing vulnerable road users

73. I propose a rule change to require minimum overtaking gaps for vehicles passing vulnerable road users in New Zealand. A 'vulnerable road user' is defined as someone cycling, riding a horse, or using a wheeled recreational device like an e-scooter. I propose to amend the Road User Rule to mandate a 1 metre minimum overtaking gap when travelling at or under 60km/h, and 1.5 metres when travelling at over 60km/h.

74. Nine percent of cyclist crashes in New Zealand between 2008 and 2017 involved overtaking vehicles. These types of crashes are much more likely to be fatal than other types, with 20 percent of fatal cyclist crashes involving overtaking vehicles. The proposal is consistent with the Cycling Safety Panel's 2014 report, which made a recommendation that New Zealand should introduce a trial of a minimum overtaking gap rule change.

75. A rule change would help to clarify the current legal situation where cyclists are involved in accidents with overtaking motor vehicles, by providing an explicit offence. A mandated minimum overtaking gap rule may also, arguably, make a stronger case for the prosecution of cycling fatalities for dangerous driving, if it can be proven that the closeness of the vehicle passing the cyclist was a cause of the crash.

76. This change would set a clear expectation about what a safe minimum passing distance is, by legitimising what is currently a guideline and by raising awareness of this practice.

77. While a number of other jurisdictions mandate minimum passing distances, such as most states in Australia, parts of the United Kingdom, and many states in the United States of America, there is only a small amount of research on the safety benefits of the policy. Some international evidence shows that mandatory minimum overtaking gaps lead to safety benefits for cyclists by reducing the number of dangerous close passes.

78. NZ Police have noted that mandatory passing distances would be difficult to actively enforce, however, these rules have been successfully enforced and prosecuted by Police in other jurisdictions. For example, the West Midlands Police force in the UK run a 'close passes' operation where unmarked police cyclists identify and radio in the details of close-pass drivers for in-car colleagues to stop. They have also used videos recorded by drivers and cyclists as an enforcement tool.

79. Public understanding of these rule changes will be supported through the information and education campaigns, explained in the publicity section below.

Giving buses priority when exiting bus stops in urban areas

80. I propose to consult on a change to a rule that would give buses legal priority when leaving a designated bus stop on a road with a posted speed limit of 60km/h or less, as long as it is safe to do so. Currently, other drivers do not have to give buses priority when buses pull out from bus stops and back into the flow of traffic. This has become

an increasing problem in Auckland but a law change would also benefit other urban centres, especially Wellington and Christchurch. Bus drivers would still be required to indicate for three seconds and otherwise behave in a safe manner before pulling out.

81. Giving way to buses leaving a bus stop is currently only considered a courtesy. When this courtesy is not extended, it creates delays for buses as they wait for a suitable break in traffic or for other road users to provide a gap for merging back into the traffic flow. If this delay is repeated many times on a bus route, it significantly impacts on travel time reliability, and the efficient operation and perception of public transport.

82. This rule change would come at a small cost to other motorists, in time lost. It has a low safety risk, would provide a time benefit to bus passengers and operators, promote public transport and reduce confusion over who should give way. The change is intended to signal that public transport has priority in traffic flows, as buses are carrying more people than cars.

83. This rule shows the Government's broader support for the increased use of public transport to reduce congestion in urban areas. In addition, this rule change would also assist with the implementation of the Employment Relations Amendment Act 2018 provisions concerning rest and meal breaks, which take effect from 6 May 2019. Reducing time spent at individual bus stops along routes would improve overall reliability and also make it easier to accommodate breaks within drivers' shifts.

Risks

84. Consultation on the Accessible Streets package is likely to create strong media and public interest (including potential diverse views from some sector groups). Issues around the use of the footpath and the equal treatment of people cycling are likely to be contentious among different interest groups, particularly those concerned about safety impacts for existing footpath users.

85. A communications package is being developed to support the consultation process and to manage the communications risks. The communications package will include looking at the role of local government, particularly around e-scooter issues.

86. Most of the proposed changes are intended to support new behaviour norms, or in some cases, legitimise existing practices. Following consultation, a national public information and education campaign would be developed by the NZ Transport Agency to ensure that the desired behaviour changes actually occur.

Stakeholder views

87. This paper seeks agreement to consult on the Accessible Streets package of proposed rule changes. There has been no formal consultation with any groups so far. In some cases, targeted, initial consultation has been undertaken as part of research projects that ultimately led to the development of Accessible Streets and, where relevant, the views of stakeholders from this phase have been reflected in this paper and in the preliminary Regulatory Impact Assessment.

88. Diverse views are expected from consultation on Accessible Streets. I know that some stakeholders, such as some disabled person representatives and pedestrian

advocates may be opposed to changes regarding allowing cycling on the footpath. Heavy vehicle operators and representatives of private motorists may also oppose the minimum overtaking gap and give way rule changes as they may consider them impractical to comply with. However, I expect most groups are likely to react positively to most elements of Accessible Streets.

89. Police supports the principles of the proposed Accessible Streets package. However, Police notes that there are significant enforcement challenges associated with some of the proposed rule changes, specifically those relating to potential speed limits for vehicles using the footpath, and minimum overtaking gaps for cyclists. These issues are discussed at paragraphs 51 and 78 respectively. Furthermore, Police notes that the changes also create an expectation that the proposed rules will be enforced. While Police is committed to ensuring the safety of all road users, Police must continually prioritise enforcement to those behaviours with the greatest road safety risk.

Next Steps

90. If Cabinet approves the proposed Accessible Streets package, I will issue drafting instructions to the Parliamentary Counsel Office, to enable a draft amendment rule to be published for consultation later in 2019.

91. I am also seeking authorisation to make decisions, consistent with the overall policy proposals in this paper, on any minor issues that arise during the course of drafting the changes and as a result of the targeted consultation process.

92. Officials will prepare a communications package, which will be ready for release ahead of public consultation later in 2019. I expect there will be media interest in the proposals and it will be important to send a clear message that the proposed changes are intended for consultation. Feedback will be taken into account to support any decisions on final rule changes.

93. I will return to Cabinet before making the amendment rule to give effect to Accessible Streets.

94. A timeline will be developed for the preparation and delivery of an information and education campaign prior to the implementation of Accessible Streets. I anticipate that changes would come into effect in early- to mid-2020.

95. Consequential changes to the Land Transport (Offences and Penalties) Regulations 1999 will be required to address any offences and penalties that need to be amended or prescribed. Once these have been identified, a Cabinet paper addressing any changes will be prepared for consideration by the Cabinet Legislation Committee.

Consultation

96. The following departments were consulted on the development of this paper: ACC, Local Government New Zealand, Ministry of Business, Innovation and Employment, Ministry of Education, Ministry of Health, Ministry of Justice, Ministry of Social Development, New Zealand Police, New Zealand Transport Agency, Office for

Disability Issues, Te Puni Kokiri, Treasury, and WorkSafe New Zealand. The Department of the Prime Minister and Cabinet (PAG) was informed.

97. All organisations consulted support the proposals being used as the basis for consultation and are generally supportive of their intent. However, the Ministry of Health and the Ministry of Social Development raised concerns with the lack of consultation with the disability sector, and LGNZ with the local government sector. I have requested officials undertake targeted engagement with the local government sector and disability representatives during the consultation process.

Financial implications

98. There are no financial implications arising from Accessible Streets.

99. An education campaign is needed to support the implementation of parts of Accessible Streets. Implementation of the campaign is contingent on funding, which will be sought from the National Land Transport Programme.

Human rights implications

100. There are no identified human rights implications arising from the proposals in this paper. Any eventual proposals that impact on the ability of disabled people to use mobility devices they already own may have to be considered against the right of freedom of movement in the New Zealand Bill of Rights Act 1990 and the right not to be discriminated against on the grounds of disability in the Human Rights Act 1993.

Legislative implications

101. The Land Transport (Road User) Rule 2004, the Land Transport (Traffic Control Devices) Rule 2004 and the Land Transport (Offences and Penalties) Regulations 1999 will need to be amended to implement the changes proposed in the Accessible Streets package.

102. Consequential amendments may also be required to other land transport rules to give effect to the proposals in this paper.

Regulatory Impact Analysis

103. The Regulatory Impact Analysis requirements apply to Accessible Streets, and a preliminary Regulatory Impact Assessment has been prepared and is attached.

104. The preliminary Regulatory Impact Assessment has been reviewed by the Ministry of Transport's Regulatory Impact Assessment Panel as partially meeting the quality assurance criteria. The Regulatory Impact Assessment demonstrates a clear problem definition and sets out an adequate range of options and evaluation criteria. However, the monetisation of costs and benefits of the proposed approach is not complete and appears to be constrained by information gaps.

105. The initial analysis in the preliminary Regulatory Impact Assessment will be used to support rule drafting and will be tested throughout the consultation process.

106. A final Regulatory Impact Assessment will be prepared before any amendment to rules are signed. It will be published on the Ministry of Transport's website.

107. We note that the minimum overtaking gaps chapter of the preliminary Regulatory Impact Assessment only considered impacts on cyclists, and not vulnerable road users. We will consider updating this for the final Regulatory Impact Assessment.

Transitional arrangements

108. Once Accessible Streets is agreed, transport officials will develop an implementation plan, to go along with the communications package, to identify any necessary transitional arrangements.

109. The implementation plan will map out the development and timing of education and information campaigns around rule changes. I anticipate that the Accessible Streets package will come into effect in early- to mid-2020.

Gender implications

110. No gender implications were identified by officials during the development of the proposals in this paper.

Disability perspective

111. It is recognised that the proposed changes may disproportionately impact people with disabilities, whose reliance on the footpath is higher than other parts of the population. These proposals may affect current users of mobility devices, whose use may be constrained compared to under current legislation. It may also affect people with limited visibility or hearing, who may feel risk if people are allowed to cycle on the footpath.

112. However it is also noted that the proposals aim to be implemented alongside the increase in cycling infrastructure and the 15km/h speed restriction on the footpath which will lower the risk to the more vulnerable footpath users.

113. I will work with disability organisations (in a way or manner that is accessible to disabled people) and other stakeholders during consultation to ensure their feedback is appropriately incorporated and any identified risks are minimised.

114. If Accessible Streets is implemented, the Ministry of Transport will work with the NZ Transport Agency, the Office for Disability Issues, the Ministry of Health and disability organisations to monitor and respond to any change in the level of services for people with disabilities, should it be necessary.

Publicity

115. The NZ Transport Agency will prepare a communications plan for the release of the draft amendment rule, as part of the normal rule making process.

116. A separate communications plan will also be developed for the final Accessible Streets package of changes once agreed.

117. I intend that this paper and the final Regulatory Impact Assessment, reflecting the feedback from consultation, will be publicly released on the Ministry of Transport's website.

Public information and education campaign

118. I intend to support the implementation of Accessible Streets with a public information and education campaign run by the NZ Transport Agency. This will help shape social norms around careful and considerate shared use of footpaths, cycle lanes and cycle paths. The campaign will inform people about how to considerately share space and include basic information about the new principles-based framework. The campaign could include multiple channels, such as print newspapers, radio, and online.

119. An education campaign will provide more information about how to be a considerate shared user of the footpath (for example, giving pedestrians right of way) and more detail about the types of vehicles that are allowed on the footpath, as well as the speed, width and behaviour requirements. It will also provide more information about what vehicles can use cycle lanes and paths.

Proactive Release

120. I intend to proactively release this Paper and associated papers within 30 days of the Cabinet decision.

Recommendations

121. The Associate Minister of Transport recommends that the Committee:

1. **agree** to proceed to public consultation on a draft amendment rule for the Accessible Streets Regulatory Package.

2. **agree**, subject to consultation, that the conditions under which vehicles operate on the footpath are that they:

    2.1. do not travel faster than 15km/h (to ensure the safety of others sharing the footpath);

    2.2. are not wider than 750mm (to enable multiple users to still access the footpath); and

    2.3. are operated in a courteous and considerate manner, in a way that does not constitute a hazard, and gives right of way to pedestrians.

3. **agree**, subject to consultation, to enable wheeled recreational devices, including e-scooters, to be used in cycle lanes and cycle paths.

4. **agree**, subject to consultation, to improve the safety of vulnerable users at intersections by:

    4.1. allowing cyclists to ride straight ahead from a left-turn lane;

    4.2. allowing cyclists to carefully pass slow-moving motor vehicles (‘undertake’) on the left (unless the motor vehicle is indicating a left turn);

    4.3. giving cyclists and buses priority over left turning traffic when they are travelling straight through an intersection on a separated cycle or bus lane respectively (as cyclists currently have on an unseparated cycle lane);

    4.4. enabling road controlling authorities to give priority to footpath, shared path and cycle path users over turning traffic when they are travelling straight across a side-road at specific locations where the required traffic control devices are installed.

5. **agree,** subject to consultation, to mandating a minimum overtaking gap for motor vehicles when passing cyclists on the road of 1 metre when travelling at or under 60km/h, and 1.5 metres when travelling at over 60km/h.

6. **agree,** subject to consultation, to giving scheduled passenger buses priority when exiting bus stops on roads where the posted speed limit is 60km/h or less.

7. **invite** the Associate Minister of Transport to issue drafting instructions to the Parliamentary Counsel Office to develop a draft amendment rule to give effect to the Accessible Streets Regulatory Package and proceed to public consultation on the draft amendment rule.

8. **authorise** the Associate Minister of Transport to make any necessary editorial or minor policy changes that arise during the drafting of the amendment rule prior to its release for public consultation.

9. **note** that work on standards and guidelines for our roads and streets is being progressed through the road safety strategy.

10. **note** that ACC is considering how it might respond to the kinds of emerging technology and business models seen in the micromobility sector.

11. **note** that councils are able to impose levies on e-scooter sharing operators through existing bylaw-making powers under the Local Government Act 2002.

12. **note** that the Accessible Streets Regulatory Package will not address whether helmets should be mandatory for wheeled recreational devices nor whether helmets should continue to be mandatory for cycling.

13. **note** that the initial analysis in the preliminary Regulatory Impact Assessment will be used to support the development of the draft amendment rules and will be tested throughout the consultation process.

14. **note** that a final Regulatory Impact Assessment will be prepared before any amendments to rules are signed and will be published on the Ministry of Transport's website.

15. **note** that communication plans will be prepared for the release of the draft amendment rule, as part of the normal rule making process and for the final Accessible Streets Regulatory Package of changes once agreed.

16. **note** that an implementation plan will be prepared that will map out the timing for bringing the amendment rule into force and for the required education campaigns on rule changes.

17. **note** this paper, along with the Regulatory Impact Assessment, will be proactively released following Cabinet's approval of the paper.

Hon Julie Anne Genter
Associate Minister of Transport
Dated: _____

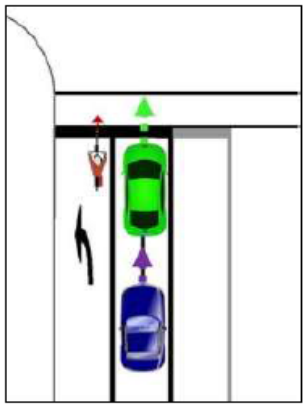
Appendix 1: Vehicle use in current and future states

Note: *Where certain vehicles are currently banned and would be allowed under Accessible Streets, this is indicated by the purple boxes*

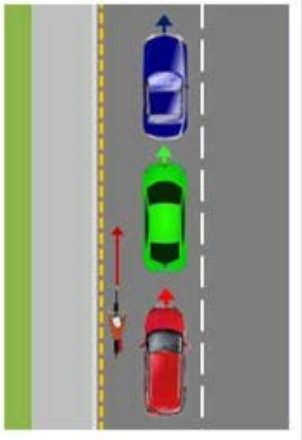
Example	Device/vehicle	Footpath	Shared path (incl. cycle path)	Cycle lane	Road
	Unpowered wheeled recreational devices • e.g. scooters, skateboards, roller skates	✓	✓	✓	✓
	Powered wheeled recreational devices • e.g. e-scooters, e-skateboards, hoverboards, e-unicycles • Changes may also enable higher-powered devices (e.g. e-scooters with max power output of over 300W)	✓	✓	✓	✓
	Cycles (including power assisted cycles)	✓	✓	✓	✓
	Mobility vehicles • Note: may only be used to the left of the roadway when no footpath is available	✓	✓	✗	✗
	Mopeds and motorcycles • Accessible Streets intends to continue restricting the use of mopeds and motorcycles on footpaths, shared paths and cycle lanes	✗	✗	✗	✓

Appendix 2: Graphic descriptions of give way rule changes

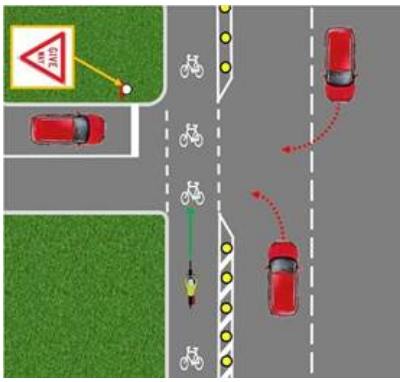
Legitimise the practice of cyclists riding straight ahead from a left-turn lane. This is demonstrated in the picture to the right, and would allow a cyclist to ride straight ahead in the left-turn lane without the need for specific road markings.



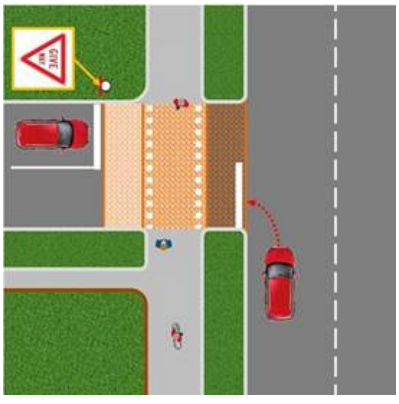
Allow cyclists to carefully pass slow-moving or stationary motor vehicles (‘undertake’) on the left (unless the motor vehicle is indicating a left turn). This is demonstrated by the cyclist and red arrow in the picture to the right.



Give cyclists and buses priority over left turning traffic when they are travelling straight through an intersection on a separated cycle or bus lane respectively. This is demonstrated by the cyclist and the green arrow in the picture to the right.



Give priority to footpath, shared path and cycle path users over turning traffic when they are travelling straight across a side-road at specific locations where the required traffic control devices are installed. This is demonstrated by the orange markings and paint showing priority on a footpath in the picture to the right.



Accessible Streets Package

Objectives and assessment criteria

The *Accessible Streets Package* aims to improve safety and accessibility for vulnerable users[1] of the land transport system. The Package encourages active transport and supports the creation of more liveable, vibrant towns and cities.

Objectives

The package aims to enable safer and more accessible outcomes for vulnerable road users. Our goal is to ensure that everyone feels and is safe when travelling down the street.

The objectives of the package align with the key priorities included in the Government Policy Statement on Land Transport 2018 (the GPS). The GPS outlines the Government's strategy to guide land transport investment over the next 10 years.

The package directly addresses the GPS's focus on improving New Zealanders' access to economic and social opportunities. It intends to support mode shift for trips in urban centres from private vehicles to more energy efficient, healthier, low cost modes like walking, cycling and wheeled recreational devices (WRDs). It will also assist with the goal of reducing harmful transport emissions. It recognises the importance of creating liveable cities that value public space, enhance safety outcomes and improve access. The package also supports the current safe system approach to road safety in New Zealand.

As part of this regulatory impact assessment, a Ministry of Social Development Child Impact Assessment Screening Sheet was completed determine whether the proposed package will improve the wellbeing of children and young people.[2] This is attached as Appendix 1.

Assessment criteria

As safety and access are the key strategic priorities for the Government, these have been used as the key assessment criteria for the package.

In assessing the individual elements of the package, greater weight in the decision-making framework has been given to the impacts on two aspects. These are the effects of the proposed changes on safety and the impacts of the proposed changes on how they affect equity and effectiveness of access to the transport network. This reflects the Government's priorities in this area. Practicality and feasibility are also included as assessment criteria, but with a lower weighting. The scale of the weighting varies for the four initiatives, reflecting the differing nature of the individual proposals. The four assessment criteria are:

- Equity: How equitably are the impacts of changes to access and safety distributed to the specified users
- Effectiveness: How does the option maintain or improve access, and the safety of, specified users

[1] By vulnerable users, the package refers to pedestrians, cyclists, wheeled recreational devices (WRD) users, and the mobility impaired.

[2] Information on the Child Impact Assessment Tool can be found here: https://www.msd.govt.nz/about-msd-and-our-work/publications-resources/resources/child-impact-assessment.html.

- Practicality: How enforceable and measurable is the option?
- Feasibility: How acceptable is the option and how likely is it to be complied with?

Proposed package

The proposed package of amendments consists of:

1. Enabling safer and more accessible use of the footpath by shifting to a more outcome-based regime based on:
    a. principles of careful and considerate use and pedestrians having right of way.
    b. restricting vehicles to a 10km/h speed limit on the footpath and excluding motorcycles and mopeds.
    c. limiting the maximum width of vehicles to 750mm.
2. Enabling safer and more accessible use of cycle lanes and cycle paths:
    a. enabling WRDs to be used in cycle lanes and cycle paths.
    b. requiring all WRDs to keep left, ride in a careful and considerate manner, not impede the passage of other users, and follow signs or markings that give priority to other users like cyclists.
3. Prioritising vulnerable users by:
    a. enabling cyclists to travel straight ahead from left-turning lanes instead of having to cycle where other traffic may be travelling.
    b. enabling cyclists to overtake slow-moving traffic on the left (also known as 'undertaking').
    c. enabling users of separated cycle and bus lanes to have priority over turning traffic when they are travelling straight through across a side-road.
    d. enabling road controlling authorities to give greater priority to path users over turning traffic where they are travelling straight through across a side-road at locations where traffic control devices are in place (e.g. signage, road marking, or raised platforms).
4. Other matters for consideration:
    a. mandating a minimum overtaking gap for motor vehicles passing cyclists.
    b. giving scheduled passenger buses priority when pulling out from bus stops in areas where the posted speed limit is less than 60km/h.

Chapter 1: Enabling safer and more accessible use of the footpath

Section 1: Problem definition and objectives

1.1 What is the policy problem or opportunity?

Current Situation

The policy opportunity is to make better use of footpaths to improve land transport safety and accessibility for vulnerable users. For the purposes of this analysis, vulnerable users are defined as users of the land transport system who are not in or on a registered class of motor vehicle.[3]

Under the current framework only pedestrians, users of mobility devices and wheeled recreational devices can use the footpath. Other vulnerable users who could use the footpath, but are currently not allowed to, include cyclists and people using new and emerging vehicles that do not properly belong in the current mobility device or wheeled recreational vehicle categories.

There are a range of potential new and emerging vehicles that could seek to use the footpath that are not currently addressed under existing regulation. These include a range of increasingly automated vehicles, from self-guiding mobility scooters to fully driverless delivery vehicles. Decisions need to be taken on whether these kinds of vehicles can be used on the footpath. Their uncontrolled use may negatively impact on other vulnerable users.

Who is currently allowed to use the footpath?

Pedestrians are generally accepted to be the primary users of the footpath. By definition a 'footpath' means a path or way principally designed for, and used by, pedestrians.[4] The term 'pedestrian' includes people on foot and in or on a 'contrivance equipped with wheels or revolving runners that is not a vehicle'.[5] In practical terms this includes wheelchairs that are not propelled by mechanical power and permits the use of a range of everyday items such as pushchairs and shopping trundlers.[6]

Two types of vehicle are currently allowed on the footpath:[7]

- Mobility devices – defined as devices that are designed and constructed (not merely adapted) for use by persons who require mobility assistance due to a physical or neurological impairment; and are powered solely by a motor that has a maximum power output not exceeding 1,500 watts.
- WRDs – defined as wheeled conveyances (other than a cycle that has a wheel diameter exceeding 355mm) that are propelled by human power or gravity. A WRD also includes a conveyance with one or more auxiliary propulsion motors with a combined maximum power output not exceeding 300 watts. This includes vehicles

[3] Land Transport (Motor Vehicle Registration and Licensing) Regulations 2011, reg. 5.

[4] Land Transport (Road User) Rule 2004, r 1.6 (definition of a footpath).

[5] Land Transport (Road User) Rule 2004, r 1.6 (definition of a pedestrian).

[6] Land Transport Act 1998, s 2 (definition of a vehicle).

[7] Land Transport (Road User) Rule 2004, r 1.6 (definition of a wheeled recreational device).

such as scooters, skateboards and in-line roller skates with or without small motors. Cyclists are otherwise not permitted to ride on the footpath.[8]

Mobility devices must use a footpath unless doing so is impractical. Currently, there are no restrictions on the width of a mobility device. There are no restrictions on where a WRD can be used.

Lastly, a person is permitted to ride a cycle, moped or motorcycle on a footpath in the course of delivering newspapers, mail, or printed material to letter boxes. However, mopeds or motorcycles can only be used if the relevant Road Controlling Authority has authorised the use of the footpath for that purpose.[9]

Known issues with the current system

The rules which govern the use of footpaths and shared paths and vehicle categories are inconsistent, complex and overly prescriptive. For example, most children over six years of age (when they begin to ride cycles with larger wheels) cannot currently legally ride a cycle on the footpath, while adults on electric scooters and electric skateboards along with mobility devices, which can travel up to 35km/h, can. The vehicle on the left is potentially allowed on the footpath, while the bicycle to the right is not.

The development in recent years of lightweight and more powerful motors and batteries means that mobility devices have changed from being slow moving, heavy devices that look like simple chairs on wheels to, in some cases, enclosed vehicles that are designed to look like cars. These enclosed mobility devices are becoming increasingly common and there are few controls to ensure their safe use, both for their operators and for pedestrians.

There are no official statistics on crashes associated with the use of mobility devices on footpaths, but research and media reports indicate they are a growing concern in some communities.[10] Sales of enclosed mobility devices on websites such as Trade Me show a steady increase in sales in recent years.

There is also a concern that the definition of 'mobility device' allows manufacturers to simply assert a vehicle is a mobility device without any evidence. Some distributers and importers appear to be using the term mobility device to bypass existing safety and operating requirements for other vehicle classes. For example, two-wheel electric scooters with 1,200

[8] Land Transport (Road User) Rule 2004 r11.11 Riding cycles on footpaths.

[9] NZ Post has a separate and specific exemption to enable them to use their 'Paxster' delivery vehicles on the footpath under tightly controlled conditions.

[10] NZ Transport Agency Research Report 621 *Regulations and safety for electric bicycles and other low-powered vehicles*, July 2017.

watt motors that are capable of travelling at speeds of up to 50km/h are being sold in New Zealand as mobility devices.

A further issue is the width of mobility devices. The NZ Transport Agency *Pedestrian Planning and Design Guide* states the minimum width of a new footpath in constrained situations should be 1.5 metres (plus 0.15m for the kerb). New footpaths range in width from the minimum 1.5 metres to 1.8 metres for collector roads and 2.4 metres or more in central business areas and high use areas.[11] Existing footpaths vary in width with examples of 1.1 metre wide footpaths being reported. Larger mobility devices (in some cases over 1 metre wide) reduce footpath accessibility for other users.

Some motorised devices that might aid mobility are not allowed to be used on the footpath because the manufacturer has not explicitly labelled them as a mobility device. For example, the Segway scooter is not primarily sold as a mobility device and the legality of its use on the footpath is unclear.

Power measured in watts (or kilowatts) is the primary criterion for what vehicles can operate on the footpath under current legislation. A vehicle's power can be relatively easily altered by a vehicle owner, or in some cases can be declared fraudulently. The actual power cannot be determined without highly specialised tools. This has led to the common sale and use of WRDs that exceed the 300-watt power limitation.

Current use of the footpath by cyclists

Cyclists are currently prohibited from riding on footpaths.[12] However, younger cyclists tend to ride on the footpath for the majority of their trips (with many children, and parents accompanying them, unaware this is illegal), and many cyclists use the footpath at some point in their journey in response to road environments which are perceived to be unsafe.[13] At the same time, the safety of both cyclists and pedestrians on the footpath is compromised because cycle skills trainers feel unable to teach safe footpath cycling, even to children, because footpath cycling is illegal.

Without safe places to cycle, people may avoid cycling altogether, resulting in a loss of access to social and economic opportunities and the public health benefits of greater participation in active modes. Increased provision of specific infrastructure for active modes will also help to discourage cyclists from cycling on the footpath.

Over a 10-year period (2006-2015) the New Zealand Crash Analysis System (CAS) recorded 1,065 cycle crashes on footpaths (note: this is just under 10 percent of all cycle crashes recorded). Two of those were fatal crashes, both of which involved an out-of-control motor vehicle. Fourteen of the 1,065 footpath crashes involved a pedestrian. Seven of those 14 resulted in serious injury (none were fatal).[14] Over the same 10-year period, 90 people were

[11] A NZ Transport Agency research project exploring the effectiveness of the funding, planning, design and maintenance of pedestrian facilities in urban areas is underway. The research is expected to provide recommendations around improvements to support the use of footpaths by pedestrians and is expected to be completed in September 2018.

[12] Land Transport (Road User) Rule 2004, r 11.11.

[13] An Office of the Commissioner for Children survey found that of 86% of the school student respondents who had ridden a bicycle had ridden on the footpath (see page 11, https://www.nzta.govt.nz/assets/Walking-Cycling-and-Public-Transport/docs/Footpath-Cycling-Research-FINAL.pdf). Auckland Regional Transport Authority (ARTA) did some surveying that showed a very high level of footpath cycling by children (around 80%). NZ Police regularly issue fines to adults for cycling on the footpath. Between February and July 2014, 521 cyclists were handed $55 fines for riding on a footpath or garden bed.

[14] There is high under-reporting of pedestrian and cycling crashes in the Crash Analysis System. While CAS data is deeper, the NZ Injury Query System (NIQS) (based on hospital admissions) gives a better picture of the

killed while cycling on our roads. Approximately a quarter of people killed or injured in traffic crashes while cycling were aged 10-19 years.

Perceived safety is also a concern. The health and environmental benefits generated by walking and cycling participation may be diminished by perceived danger or discomfort caused by faster modes sharing limited space on paths or roads.

The perceived danger posed by irresponsible cycling on the footpath (or shared paths) can scare pedestrians and may inhibit their walking activity. This is a particular concern for vulnerable pedestrians, such as older people, young children, people with cognitive impairments, blind people, people with or low-vision or deaf or hearing-impaired walkers.[15] Bigger and/or faster cyclists have the potential to generate greater levels of discomfort for pedestrians when a close pass occurs. Of the footpath cycling crashes where cyclist age is recorded in CAS, 80 percent involved cyclists over the age of 15 years.

Cycling to school has become increasingly unpopular as traffic volumes have grown over the last 30 years.[16] The perceived dangers of cycling on the road lead many people to cycle on the footpath in situations where the road environment includes fast and/or heavy traffic. A recent survey by the Office of the Children's Commissioner found that 86 percent of child cyclist respondents (aged 7-15 years) had ridden on the footpath, and 71 percent were not aware that it was illegal. 70 percent of all children surveyed supported a law change to allow them to cycle on the footpath.[17]

On 2 May 2016, Petition 2014/59 of Joanne Clendon was referred to the Transport and Industrial Relations Select Committee. The petition concerned current rules around cycling on footpaths and recommended that vulnerable users such as children under 14 years of age (and accompanying adults), seniors over 65, and people with mental or physical disabilities be permitted to cycle on the footpath. On 12 May 2017, the Select Committee presented its report on the petition to the House. The report recommends that children up to and including 12 years of age or Year 8 at school (and accompanying adults) be allowed to cycle on the footpath, as well as seniors over 65, and vulnerable users (such as those with mental or physical disabilities).

Research by Haworth and Schramm (2014) carried out for the Centre for Accident Research and Road Safety in Brisbane (in locations in Brisbane where footpath cycling is legal for all ages) found that adult cyclists tended to be reluctant to ride on the footpath – only 5 percent of all cycling took place on footpaths. The average speed of cycling on the footpath was found to be much slower than on shared paths or roads (11 km/h versus 21 km/h and 29 km/h respectively). Footpath cycling tended to be more popular amongst novice cyclists.

scale of the problem (which is fairly small, but a bit bigger than CAS data indicates) – see https://www.nzta.govt.nz/assets/Walking-Cycling-and-Public-Transport/docs/Footpath-Cycling-Addendum-to-the-report-Final.pdf.

15 https://www.nzta.govt.nz/assets/Walking-Cycling-and-Public-Transport/docs/Footpath-Cycling-Research-FINAL.pdf.

16 Recent Household Travel Survey results show an ongoing decline in children cycling to school. Data and reports on household travel behaviour between 2003-2014, available here: https://www.transport.govt.nz/resources/household-travel-survey/.

17 For a summary of submissions and recommendations from the Children's Commissioner, see http://www.occ.org.nz/assets/Publications/Children-Riding-Bikes-on-Footpaths-submission2.pdf.

Cost benefit analysis of cycling on the footpath (this section to be confirmed)

A draft cost benefit analysis of the change to current rules to allow cycling on the footpath has been completed. A positive benefit-cost ratio of 1.63 was found. Benefits totalled $166.22 million over 10 years, comprising lower vehicle emissions if being able to cycle on footpaths leads to reduced use of motor vehicles for some trips, health benefits of cycling, and vehicle operating cost benefits. Costs totalled $101.91 million over 10 years, comprising the costs of deaths and injuries to pedestrians and cyclists resulting from crashes between these users on footpaths.

Data to carry out the cost benefit analysis is limited, and assumptions have been made to quantify and monetise the benefits and costs involved. More information will be included in consultation to inform the discussion.

Current use of the footpath by wheeled recreational devices

WRDs are devices that can operate on the footpath and are propelled by human power, gravity or a small motor. They can include skateboards, push scooters, in-line roller skates and e-scooters.[18] Recently, WRDs have become increasingly popular with New Zealanders, and concerns surrounding safe usage have been equally topical. The following issues have generated interest/concern:

- There is currently no speed limit for WRDs. Lime Scooters, for example, are capable of speeds up to 25 to 27km/h and this may be dangerous when riding on a busy footpath.
- WRDs are an additional risk to vulnerable footpath users such as the elderly or the disabled due to their potential speed and, in the case of e-scooters, silent motor. Someone with a hearing disability, for example, may not hear or see them coming.
- There are concerns around the use of helmets. The Transport Agency recommends that users of e-scooters wear helmets, but this is not mandatory for any WRD user.[19]
- There is uncertainty around the legal age of riders. Lime Scooters state the minimum age to ride their shared e-scooters is 18, but there is no legal age limit to ride a WRD and this is widely ignored.
- Share schemes available for WRDs like e-scooters pose the risk of cluttering footpaths when they are parked or dumped irresponsibly. However, it should be noted that cars, delivery vehicles, and advertising signs also regularly block footpaths.
- Some powered devices may experience technical issues resulting in serious safety concerns. Recently, Lime scooters were temporarily suspended from Auckland and Dunedin after a number of braking issues resulted in injuries.[20] These issues have also occurred internationally.[21]

Faster WRDs such as e-scooters are gaining in popularity due to the micro mobility benefits they bring, enabling people to get to where they want to go in a way that is quick, can be relatively cheap, and means people don't need to rely on private vehicles, public transport, or ride sharing schemes for shorter trips.[22] E-scooters are classified as a WRD and look like a push scooter with a small electric motor.[23] They tend to be larger than most push scooters and are popular, as surveys of recent trials have shown.[24] However, there are safety implications and ACC costs related to using them. Statistics from the Accident Compensation Corporation (ACC) show that since the introduction of sharing schemes, there have been injuries caused by their usage. Between the 14th of October 2018 and the 23rd of January 2019, there have been 888 claims lodged with ACC related to injuries caused by e-scooters.[25] By comparison, there were 3,437 claims related to non-electric push scooters,[26] 11,312 claims for bicycles[27] and 1,837 claims for skateboard related accidents.[28]

Notably, the claim count and the cost of injury differ greatly between accidents caused by e-scooters and push scooters. Statistics for Auckland and Christchurch are listed in Table 1 below.[29] These indicate that e-scooter claims can produce a greater cost when an accident occurs. This is likely to be due to the greater severity of the injuries, which may be influenced by the greater speeds that e-scooters can operate at. For example, in a study of 200,000 injuries to children related to scooters, e-scooter injuries were more than three times as likely to be severe enough to require hospitalisation than push scooter injuries.[30]

Table 1: Claim count and costs for scooter injuries in Auckland and Christchurch in 2018

	Claim count		**Costs to date (ex. GST)**	
	E-scooter	Push scooters	E-scooter	Push scooters
Auckland	490	1,227	$219,540	$401,762
Christchurch	262	361	$81,954	$70,548

Changing the rules so that users know how to responsibly operate e-scooters and other WRDs, along with clear information and promotion of the changes, could help mitigate public concerns, decrease the number of incidents and allow New Zealanders to continue to reap the benefits of more accessible travel.

What about shared paths and cycleways?
Road Controlling Authorities can prescribe the use of a shared path or cycle path, where both pedestrians and cycles can use the same infrastructure, by making a bylaw. Currently, shared paths are designated for shared use between cyclists and footpath users.

How is the situation expected to develop if no further action is taken?
There is continued risk of harm to vulnerable users if no action is taken. In the absence of clear regulation, larger mobility devices are becoming more prevalent on the footpath. Similarly, as

18 New Zealand Transport Agency (2018) *About other road users* https://www.nzta.govt.nz/resources/roadcode/about-other-road-users/information-for-mobility-device-riders/.

19 https://www.nzta.govt.nz/vehicles/vehicle-types/low-powered-vehicles/.

20 https://www.newshub.co.nz/home/new-zealand/2019/02/auckland-council-temporarily-bans-lime-scooters-amid-safety-concerns.html.

21 https://www.smartcompany.com.au/startupsmart/news-analysis/lime-scooter-sharing-switzerland-glitch/.

22 For example, see the summary of the e-scooter trial in Portland, Oregon: Portland Bureau of Transportation (2018) E-scooter findings report. https://www.portlandoregon.gov/transportation/article/709719.

23 More information about e-scooters can be found on the NZ Transport Agency website here: https://www.nzta.govt.nz/vehicles/vehicle-types/low-powered-vehicles/.

24 An email survey was carried out in Christchurch in response to the current Lime Scooter Trial. When given an opportunity to choose a word that best described e-scooters. The most common word was “fun”. This was followed by “convenient” and “dangerous”.

25 Accident Compensation Corporation (2019) E-scooter and scooter related claims, 14 October 2018 to 23 January 2019.

26 Ibid.

27 Accident Compensation Corporation (2019) Bike related claims, 14 October 2018 to 23 January 2019.

28 Accident Compensation Corporation (2019) Skateboard related claims, 14 October 2018 to 23 January 2019.

29 Accident Compensation Corporation (2019) E-scooter and scooter related claims, 14 October 2018 to 23 January 2019.

30 Griffin, R, CT Parks, LW Rue 3rd and GJ McGwin (2008) Comparison of severe injuries between powered and nonpowered scooters among children aged 2 to 12 in the United States. *Ambulatory Pediatrics 8***,** no.6: 379–382.

technology advances and becomes cheaper, people can gain access to easy-to-use devices capable of higher and higher speeds. Enforcement around devices in the current settings is very difficult, as it is hard to know their wattage, and there are no speed limits for footpaths.

People will also continue to be deterred from cycling if no action is taken, as they can only cycle on the road (or cycleways, which cover a very small proportion of urban streets). This is especially the case for young cyclists, who from around the age of six (when they begin to ride cycles with larger wheels), can currently only legally cycle on the road. On-road cycle skills training is not given to children until their mental and physical abilities are sufficiently developed – typically by age 10 or 11.

1.2 Who is affected and how?

If action is taken, pedestrians would be encouraged to accept a wider range of users on the footpath.

Users of mobility devices would need to consider other users of the footpath when selecting their devices, specifically by considering how wide their vehicles are and how other users can fit on the footpath when passing.

Users of WRDs would have greater flexibility in their choice of vehicle, including the ability to use higher wattage devices, but would need to be considerate of other users, such as by staying below a speed limit.

Cyclists would have increased access to the footpath and, like users of WRDs, would need to be considerate of other users, possibly by staying below a speed limit.

Manufacturers, importers, distributors and retailers of mobility devices and WRDs would need to adapt to a new regime, as would people who already own vehicles that may not fit within a new set of requirements.

It is unclear if fully automated delivery vehicles that are intended to operate for some or all of their journey on the footpath will become common. The proposed changes do not seek to address the specific issues of how automated delivery vehicles might be regulated. However, as a minimum, if they were to operate on the footpath, automated vehicles would be expected to comply with any requirements for maximum size and maximum footpath speed and to operate with courtesy to other footpath users.

A range of stakeholder groups would have views about regulation affecting the use of the footpath. These would include those representing the disability sector and people with visual impairments, older people, and advocates for walking and cycling. These are discussed below.

Depending on the weight of various devices using the footpath there may be increased maintenance costs for road controlling authorities that maintain these.

Public information and education campaign

A public information and education campaign would seek to shape social norms around careful and considerate shared use of footpaths, cycle lanes and cycle paths. The campaign would inform people, including drivers, about how to share space in a careful and considerate manner, and include basic information about the new principles-based framework. The campaign would include many channels eg print newspapers, radio, online, and social and/or outdoor (e.g. street posters, pedestrian adshells).

An education campaign would provide more information about how to be a considerate shared user of the footpath and more detail about the types of vehicles allowed on the footpath, as

well as the speed, width and behaviour requirements. Examples of considerate behaviours may include giving pedestrians right of way, and giving space when passing. Changes to content will need to be introduced across the full range of the Transport Agency's relevant education programmes e.g. the Staying Safe Programme for older persons, BikeReady, etc. The campaign would include many channels, e.g. NZ Transport Agency website, leaflets and posters, short video/s showing behaviours required, and information provided in appropriate vehicle publications.

1.3 Are there any constraints on the scope for decision making?

Ministers have directed the Ministry of Transport that the Accessible Streets Package needs to progress quickly with policy decisions in mid-2019 and Rule changes within the 2019/20 financial year. These requirements exclude options that require changes to primary legislation, specifically the Land Transport Act 1998.

A range of anomalies concerning e-bikes relating to current power-rating based requirements are out of scope.

The issue of mandatory helmets for cyclists and WRD users is out of the scope of this chapter.

Interdependencies
The proposed package will feed into the new Road Safety Strategy which the Government is developing. It also makes up a part of a broader Vulnerable Road Users workstream, which includes a gap analysis of current central and local government work underway around walking and cycling and other vulnerable users.

Section 2: Options identification

2.1 What options have been considered?

Options:
The options are:

- Option 1: No change
- Option 2: Any vehicle, other than one that can be registered to operate on the road (such as a car, motorbike, or moped) can be used on the footpath if it travels less than 10km/h[31], is less than 750mm[32] wide, and where the operator gives way to pedestrians and behaves in a careful and considerate manner that does not constitute a hazard to other footpath users (preferred option).
- Option 3: Only pedestrians and authorised mobility device users are allowed to use the footpath – no other wheeled vehicles at all. This option would involve the creation

[31] The speed of 10km/h is proposed because it is roughly twice an average walking pace, it is an easily understood round number, and is intended to indicate that slow travel is required. There is also evidence that children naturally cycle at around this speed, as mentioned above.

[32] The width requirement of less than 750mm is based on the size of what we understand to be a standard wheeled mobility device. It is understood there may be other vehicles, such as mountain bikes, that are wider than this. Powered wheelchairs are proposed to be excepted from this rule. We will seek this feedback on the 750mm requirement during the consultation phase.

mobility device user authorisation process and framework. Elderly and disabled users would likely qualify for authorisation.

- Option 4: Status quo plus cycling on the footpath for children up to 12 years of age (and accompanying adults), seniors over 65, and people with disabilities. The use of bicycle bells is mandatory and local authorities can, on a reasonable basis, exclude certain footpaths from being used for cycling (Select Committee recommendation)
- Option 5: Any vehicle can use the footpath, provided the operator gives way to pedestrians and behaves in a careful and considerate manner that does not constitute a hazard to other footpath users

In all options, Councils would have additional powers to make bylaws to limit access for any types of vehicles from footpaths in designated locations.

Criteria:

- Equity: How equitably are the impacts of changes to access and safety distributed to pedestrians, users of mobility devices, cyclists, and other users?
- Effectiveness: How does the option maintain or improve accessibility for, and the safety of, users?
- Practicality: How enforceable and measurable is the option?
- Feasibility: How acceptable is the option to the public?

Option 1: No change

Pros –

- There are existing rules which set out how all users should operate on the footpath and these have largely worked for most users.

Cons –

- There is currently wide-spread non-compliance and limited enforcement of the current framework, as it is not clear or fit-for-purpose. Due to developments in technologies which have led to new types of devices, the current rules which regulate footpath usage are complex and inconsistent. Currently children from about the age of six years old cannot legally ride on the footpath, while the NZ Police do not recommend that they ride on the road until the age of 10. Users of large and powerful enclosed mobility devices are not specifically regulated, and a range of devices are potentially prevented from use, simply because they were not considered when the laws were developed.

Option 2: 10km/h, 750mm wide, behaviour component (preferred option)

Pros –

- This option sets a principle-based framework for who, and what vehicles, should be allowed to use the footpath. It requires a slow speed, a width of vehicle which is compatible with general footpath design in New Zealand, and guides users to give way to pedestrians and to behave in a careful and considerate manner that does not constitute a hazard.
- Improved accessibility for cyclists, especially younger cyclists, may mean that cycling trips become feasible when they were previously perceived as too dangerous. An increase in cycling will have health, traffic congestion and environmental benefits.

- As many cyclists use the footpath already anyway (children predominantly cycle on the footpath, and many adults use sections of the footpath for parts of their journey where they feel in danger on the road), this change would align the rules with current behaviour, ensure the rules for footpath use are clear, and enable cycle skills trainers to prepare novice riders for the risks associated with footpath cycling.
- Prescribing a slow footpath speed limit will mean many cyclists are likely to continue using the road/cycleways under most circumstances, ensuring a continued focus on improving on-road cycling infrastructure.
- Prescribing a slow footpath speed is intended to reduce the risk from impact with cyclists, mobility devices and other motorised users, especially with vulnerable users of the footpath such as the elderly or people with disabilities.
- Prescribing a slow footpath speed will help to mitigate the seriousness of the injuries caused by with technological malfunctions in WRDs with small motors. For example, some Lime e-scooters in Switzerland have experienced a glitch that has led to the front wheel of the scooter locking up and throwing users off.[33] Recently, Lime e-scooters in Auckland have experienced similar safety problem.[34] In both cases serious injuries have resulted, and in both cases Lime has removed the affected scooters from circulation. When riding at slower speeds, riders will have more of an opportunity to take action to protect themselves if these situations occur.
- Prescribing a maximum width for mobility vehicles will ensure that the use of footpaths are limited to vehicles that can readily fit on New Zealand footpaths and that would more often be able to pass other mobility vehicle users.

Cons –

- Allowing anyone to cycle on the footpath may mean people walking on the footpath feel and are less safe, especially vulnerable users, such as the elderly, young children and people with disabilities. It is difficult to estimate how great this risk is. However, the risk could be mitigated by the speed limit, improved courtesy of cyclists through targeted training, greater social interaction and passive surveillance.
- Allowing everyone to cycle on the footpath could undermine the promotion and expectation of safe cycling on the road. This is expected to be offset by the slow speed limit imposed on footpaths, ensuring many cyclists continue to ride on the road or cycleways in most circumstances.
- There will be a wider mix of users on the footpath, with some required to wear helmets (cyclists) and others not (WRD users). This may cause confusion for users and may be perceived as inequitable.
- There is a risk that cyclists are criticised by motorists for using the road when they are able to use the footpath. This risk is expected to be offset by the slow speed limit imposed on footpaths.
- Mobility devices may be driven on the road, illegally, so that they can travel faster than 10km/h, exposing the occupant to greater safety risks, especially from motorists in vehicles.

[33] https://www.smartcompany.com.au/startupsmart/news-analysis/lime-scooter-sharing-switzerland-glitch/.

[34] https://www.nzherald.co.nz/nz/news/article.cfm?c_id=1&objectid=12204522.

- There are practical challenges with enforcing a speed limit where most of the vehicles do not have speedometers. Also, existing speed detection devices are known to be less accurate at low speeds. Given the historic low level of enforcement activity directed at footpath use, there is a risk that vehicles will be operated at speeds above the proposed 10km/h once their use on the footpath is legitimised, particularly if policing is not visible. Due to the potential speed differentials between different users of the footpath, this may cause safety issues especially for more vulnerable users. This risk is likely to be mitigated through the use of a public information and education campaign.
- People who have purchased mobility devices that are wider than 750mm may not be able to continue to use them and could suffer financial and physical hardship.

Implications

- Option 2 effectively makes all footpaths shared. Road Controlling Authorities will invest in designated shared path infrastructure where higher speeds can be safely permitted and there will be a presumption that all users are equal unless otherwise indicated (removing the need for a right of way for pedestrians). Road Controlling Authorities could be given the power to set a higher speed limit for designated shared paths where this is appropriate and specific signage is in place. An upper limit will be considered during consultation; at this stage 30km/h is being explored.
- Another implication is whether Road Controlling Authorities should be able to access funding assistance for footpath infrastructure from the National Land Transport Programme as part of the cycling network.
- Additionally, it is noted that the Select Committee report recommended that bells be made mandatory for any bicycle used on footpaths or shared paths. Following the principles set out in the Government's expectations for the design of regulatory systems, specifically the expectation to achieve the least adverse impact on individual autonomy, it is proposed that a general principle of considerate behaviour matched with a social marketing campaign to promote the use of bells by cyclists should achieve the objective of safe shared use of the footpath. If this is found to be inadequate it could be provided for through a subsequent change, such as through the annual Regulatory Stewardship Rule process.
- A final implication is looking to extend safety measures to WRDs, with their boom in popularity leading to more of these devices on the roads and footpaths – particularly devices like e-scooters capable of travelling quickly. This would mean considering whether WRDs should be allowed to operate in cycle lanes (see Chapter 2).

Option 3: Only pedestrians and authorised mobility device users

Pros –

- This option would promote safe movement on the footpath for all pedestrians. It would particularly benefit more vulnerable pedestrians, and those users specifically authorised to use mobility devices, likely to include such as the elderly, the young, and those with disabilities.[35]

[35] Seventy-four percent of pedestrian hospitalisations (and 100% of fatalities) due to crashes that occur on the footpath are due to crashes with motor vehicles, despite them not being allowed on the footpath (driveways,

Cons –

- Many current users of the footpath would be required to use the road instead, including mobility device users, such as those on mobility scooters, as well as children on small wheeled cycles and kick scooters. Children on larger wheeled cycles and other less safe cyclists would also still be legally required to ride on the road. In the absence of increased enforcement, it is likely that cyclists and users of other currently legal motorised devices would ignore the requirement, as occurs at present.
- Mobility device users would need to be specifically authorised to use mobility devices on footpaths. This would introduce administrative costs for both users and government.

Option 4: Status quo plus select cyclists (under 12, over 65 and people with disabilities)

Pros –

- This option has similar benefits to Option 2, except that cyclists over the age of 12 and under the age of 65 (apart from those with a disability) would not be allowed on the footpath. This option provides for the safety of young children on bicycles by allowing them to ride on the footpath.

Cons –

- This option does not increase the safety of most people between the ages of 12 and 65. Cyclists in this age group are likely to continue to use the footpath illegally. This option discriminates based on age which may not be a good proxy for the safety risk posed by a cyclist and does not address the safety risks associated with adults riding on the footpath at high speed.
- It does not address the use of newly developed wheeled devices that are not currently legal or being appropriately managed through a lack of clarity in the current Rules.
- This option is also complicated, and compliance would be difficult to enforce.

Option 5: Only a behaviour component

Pros –

- This option allows anyone and any non-road vehicle to operate on the footpath, so long as it operates in a considerate manner, does not constitute a hazard, and gives way to pedestrians. In some instances, given the lack of awareness and compliance with existing laws, this is what is currently happening.

Cons –

- This option does not include any size or speed criteria so that, although users must behave considerately, the speed differentials may be so great that the behavioural element is very difficult to comply with.
- Higher speed devices would likely lead to a greater number of crashes (particularly at driveways) and those crashes are likely to result in more severe injuries. This

etc). Another 13% of hospitalisations occur due to crashes with cyclists, despite them not being allowed on footpaths. This option leads to improved perceived safety but does not ensure safety for pedestrians.

option also does little to persuade vehicles, which have been designed for the road and not the footpath, to use the road.

Changes to Offences and Penalties Regulations
Any options will require changes to the Land Transport (Offences and Penalties) Regulations 1999. Such changes would include removing riding on the footpath as an offence and make breaking the 10km/h speed limit an offence (if the preferred Option 2 were implemented).

2.2 Which of these options is the proposed approach?					
	Option 1: Status Quo	**Option 2:** 10km/h, 750mm wide, behaviour component	**Option 3:** Only pedestrians	**Option 4:** Status quo plus select cyclists (under 12, over 65 and people with disabilities)	**Option 5:** Only a behaviour component
Equity: How equitably are the impacts of changes to access and safety distributed to pedestrians?	**0**	-	++	-	- - -
Equity: How equitably are the impacts of changes to access and safety distributed to users of mobility devices?	**0**	+	- -	-	+
Equity: How equitably are the impacts of changes to access and safety distributed to cyclists?	**0**	++	- -	+	++
Equity: How equitably are the impacts of changes to access and safety to other users?	**0**	+	- -	-	+
Effectiveness: How does the option maintain or improve access for users?	**0**	+	- -	+	+
Effectiveness: How does the option maintain or improve the safety of users?	**0**	+	+	-	-
Practicality: How enforceable and measurable is the option?	**0**	-	+	- -	-
Feasibility: How acceptable is the option to the public?	**0**	+	- -	++	- -
Overall assessment:	**0**	**5**	**-6**	**-2**	**-2**

Equity and Effectiveness have been given greater weight in the above decision-making framework. This weighting reflects the Government's priorities in this area. As indicated in the Government Policy Statement on Land Transport 2018, access and safety are of highest priority.

The proposed approach is **Option 2**: Any vehicle can be used on the footpath that travels less than 10km/h, is less than 750mm wide, and where the operator gives way to pedestrians and behaves in a careful and considerate manner that does not constitute a hazard to other footpath users.

Increased use of the footpath by other users has the benefit of greater accessibility. As footpaths are generally seen as a safer place to travel than on the road, many users will take advantage of using the footpath as a form of travel. This could contribute to more New Zealanders cycling or using sharing schemes as an alternative to driving.

However, more people and devices on the footpath could result in increased risk for our most vulnerable footpath users – vulnerable pedestrians include the elderly, children and people with impairments and disabilities. Introducing a 10km/h speed limit is seen to mitigate these risks. It is an extension to the existing rule to ride in a careful and considerate manner, in that it clarifies what careful and considerate should look like in terms of speed. It also helps to mitigate the seriousness of injuries if accidents did occur.

Travelling within the speed limit could be a challenge as many cycles and WRDs do not have a speedometer. Enforcement of the speed limit is also seen as a challenge. This is because monitoring lower speeds with a speed detection device is often unreliable, and because NZ Police will target its resources to wherever the greatest risk of harm exists (which is unlikely to be the footpath in most cases). However, it is expected that users (particularly cyclists) wishing to travel at greater speeds will look to travelling in cycle lanes or roads. If the option proposed in chapter 2 is accepted, WRDs like e-scooters would also be able to travel in cycle lanes, giving greater room to other footpath users.

Despite these challenges, the preferred approach encompasses the greatest number of modes and is most in line with the government's goal of making transport more accessible with a clear definition of how to travel safely on the footpath.

Section 3: Impact Analysis (proposed approach)

3.1 Summary table of costs and benefits

Note: Cost-benefit analysis to be completed following public engagement on draft.

Affected parties *(identify)*	**Comment**: nature of cost or benefit (eg ongoing, one-off), evidence and assumption (eg compliance rates), risks	**Impact** *$m present value, for monetised impacts; high, medium or low for non-monetised impacts*
Additional costs of proposed approach, compared to taking no action		
Regulated parties	Some vehicles currently sold as mobility devices may no longer be permitted. This could cause hardship to people who have already purchased these vehicles. There may also be impacts on businesses holding stock which would no longer be permitted on the footpath. Some users may seek exemptions for over-width vehicles.	TBD following consultation
	There may be more low-speed collisions between cyclists, powered vehicles and cars on driveways and between users of the footpath.	Medium
	Footpath use by cyclists may pose a barrier to walking for some people (safety and comfort dis-benefits).	Low
	Deaths and injuries (minor and serious) to pedestrians and cyclists resulting from crashes between these users on the footpath.	Approx. $101.91 million over 10 years (6% discount rate per annum) [TBC]
Regulators	Publicity and education campaigns (NZ Transport Agency). NOTE: Costs of *year one* of campaign and consultant shared across whole package. *Year two* is likely to be only for this part of the package, due to the size of the change/higher risk.	Publicity: Y1: Approx. $600,000 – 800,000 Y2: Approx. $300,000 Education: Y1: Approx. $300,000 - $400,000 Y2: Approx. $100,000 Communications consultant: Approx. $220,000 [TBC]

	Changes to current regulatory services products and associated systems (NZ Transport Agency).	[TBD]
	Compliance costs eg enforcement, infringement fee processing and collection costs (NZ Police).	Further consultation required with NZ Police. Cell phone use ban was estimated in 2009 to cost $850,000 in the first year and $720,000 over the next two years
	Road Controlling Authorities will need to designate existing shared paths where higher speeds are desired and introduce road/path markings and signage.	Approx. $1 million nationally
Wider government		
Other parties		
Total Monetised Cost		The total monetised costs are yet to be determined.
Non-monetised costs		The total non-monetised costs are yet to be determined.

Expected benefits of proposed approach, compared to taking no action		
Regulated parties	Improved understanding of requirements – simpler rules around who can use footpaths. Increased access to transport and uptake of cycling. Increased cycling safety, particularly for children and vulnerable users. Safety benefits for cyclists and pedestrians, as this will allow safe footpath cycling to be proactively taught, with clear expectations of pedestrian priority reinforced.	Medium / High (some benefits already realised through current illegal use of the footpath). Increased access $ Reduced DSI $
	Reduced vehicle emissions, health benefits of increased cycling, vehicle operating costs saved.	Approx. 166.22 million over 10 years (6% discount rate per annum) [TBC]
Regulators	Reduced resourcing for processing exemption requests for mobility devices outside proposed dimensions.	
Wider government	Public health benefits of encouraging active transport modes.	
Other parties	Increased market for low speed new and emerging vehicles, increased bicycle sales.	
Total Monetised Benefit		The total monetised benefit is yet to be determined.

Non-monetised benefits		The total non-monetised costs are yet to be determined.

3.2 What other impacts is this approach likely to have?

Allowing cyclists and additional powered devices on footpaths in some situations will impact particular groups. It is possible this would increase the number of cyclists and other users on the footpath. This would have flow-on effects for the safety of cyclists and pedestrians and especially, vulnerable users such as the young or disabled people. It could also have effects on the provision of on-road facilities for cyclists. However, research suggests that the current rule is not well-known or observed by children, meaning the change is unlikely to have a significant effect on the number of children cycling on footpaths.

There is a possibility that allowing cyclists and more powered devices on footpaths could be considered inconsistent with New Zealand's obligations under the UN Convention on the Rights of People with Disabilities, if it were to result in restricted accessibility. This will be considered as part of consultation.

Section 4: Stakeholder views

4.1 What do stakeholders think about the problem and the proposed solution?

The programme timeline includes public consultation on draft Rule changes. This is likely to be open for submission for six weeks. Key stakeholders include:

- Pedestrian stakeholders who represent a diverse group of perspectives. They are generally likely to have concerns around wider use of the footpath by those other than pedestrians. The advocacy group Living Streets has previously indicated that it would like to see the footpath reserved for pedestrian use only.
- Cycling stakeholders who are likely to support increased use of the footpath by at least some cyclists.
- E-scooter stakeholders (e.g. share companies like Lime) are likely to be supportive of the change, as it will clarify the rules around where and how e-scooters can be used. Their views about the footpath speed limit will be gained during consultation.
- There are strong concerns in the disability sector about the use of vehicles on footpaths and the safety issues and resulting lack of accessibility to social and economic opportunities this causes. This is particularly an issue for people who have a visual impairment or hearing impairment. Others are likely to be concerned that access to the footpath may be reduced for people using wheelchairs, mobility devices, etc. if there is increased use by other users.
- Manufacturers and retailers of mobility and other wheeled devices are expected to have diverging views, depending on the size, speed and marketing of their products.
- It is unclear what the public will think of the changes. Many people seem to be unaware of the current rules around the footpath. There is a vocal dissenting part of the population on cycling issues who may be opposed to adults riding on the footpath.

People may use this as an opportunity to discuss mandatory helmet laws, and helmets for WRDs.

Section 5: Implementation and operation

5.1 How will the new arrangements be given effect?

The new arrangements will be given effect by the NZ Transport Agency, Road Controlling Authorities, NZ Police and local government.

Implementing Option 2 would require changes to the Land Transport (Road User) Rule 2004 (the Road User Rule). This would be drafted by the Parliamentary Counsel Office, with instructions written by the Ministry of Transport and the NZ Transport Agency, as part of the wider Accessible Streets package changes.

The NZ Transport Agency would be responsible for a public information campaign with governance oversight from the Ministry of Transport. The information campaign would come into effect at the same time as the rest of the proposed package and could include encouraging the use of bells by cyclists and other powered vehicles. Implementation planning would need to allow sufficient time for the NZ Transport Agency to prepare a campaign. Note this would need to compete for funding from the contestable Road Safety Promotion and Demand Management activity class within the National Land Transport Programme.

A public education campaign to inform the public of the proposed changes would be developed and implemented before any rule changes came into effect. However, a more dedicated behaviour change campaign that would seek to shape social norms around careful and considerate shared use of the footpath is not planned at this time. It will be considered if there is evidence that people are not following the rules and intervention is required.

Implementation would also involve communications with all key stakeholders, media releases, changes to the official road codes and code for cyclists, and changes to cyclist training. Extra signs may be applied to selected footpaths during a period of several months after implementation.

Road Controlling Authorities would need to assess their local network for any unintended consequences; for example, a specific bylaw may be necessary to increase speed limits where this is appropriate. Bylaw making is generally a slow and time-consuming process for local councils. We will consider, as part of the consultation, whether the implementation plan needs to allow for any legislative changes by local government before full deployment.

The NZ Police would be responsible for enforcement associated with the proposed change. The NZ Police will target its resources to wherever the greatest risk of harm exists and, while this is unlikely to be on the footpath, effort would be directed there if harm is occurring.

Minimal preparation time is expected for regulated parties to prepare for the recommended changes.

Implementation risks could be managed with extra communications and signage if necessary.

Section 6: Monitoring, evaluation and review

6.1 How will the impact of the new arrangements be monitored?

The annual Household Travel Survey provides insight into how people are travelling and using footpaths.

Existing data on footpath safety is available in the Crash Analysis System and the National Injury Query System, as well as ACC claims data.

The annual Regulatory Stewardship Rule process allows for technical adjustments to Rules where minor corrections are required to ensure the regulatory system is functioning properly. Potential issues can be addressed through this process.

6.2 When and how will the new arrangements be reviewed?

The safety impacts of the proposed Accessible Streets package will be monitored as part of the implementation of the new Road Safety Strategy, due to be released in 2020. Notable variations from the expected impacts, especially any negative safety impacts, will be monitored and addressed.

Chapter 2: Enabling safer & more accessible use of cycle lanes & cycle paths

Section 1: Problem definition and objectives

1.1 What is the policy problem or opportunity?

Current situation and opportunity

Currently, wheeled recreational devices (WRDs) such as scooters, roller skates and skateboards with or without small motors[36] can be used on footpaths, shared paths and cycle paths, and on the road. However, they cannot be operated in on-road cycle lanes, and on some cycle paths if specified by council bylaw.

There is an opportunity to allow WRDs to operate in on-road cycle lanes. This would enable the micromobility benefits of WRDs to be better realised, helping people to get to where they want to go in a way that aligns with the government's goals of lowering transport emissions and creating more liveable cities. It would also improve the safety of WRD users who would otherwise be using the road.

Decisions need to be made on whether WRDs can be used in on-road cycle lanes, and if there needs to be greater consistency in their use on cycle paths. It is not expected that all WRD users will choose to use cycle lanes in the future. However, this change would:

- provide a safer place for WRDs to be legally used when riders wish to go faster than they would be able to go on footpaths if a speed limit is introduced (see Chapter 1)[37]
- provide more consistency across the Road User Rule about where these devices can be used, and
- ensure the Road User Rule can account for new vehicles that may emerge in the future.

Who is currently allowed to use cycle lanes and cycle paths?

Cyclists are generally accepted to be the primary users of cycle lanes and cycle paths. By definition, cycle lanes are a longitudinal strip within the roadway designed for the passage of cycles.[38] This means users are in a lane separate from other traffic. Cycle paths are defined as a part of the road that is physically separated from the roadway. They are intended for the use of cyclists, but may also be used by pedestrians, including users of WRDs.[39]

The image below on the left shows an on-road cycle lane, and the image on the right shows a separated cycle path. Shared paths are described as paths, which may be used by pedestrians, cyclists, riders of mobility devices and riders of WRDs, and a sign or marking can be used to give priority to a particular user (e.g. pedestrians or cyclists).[40]

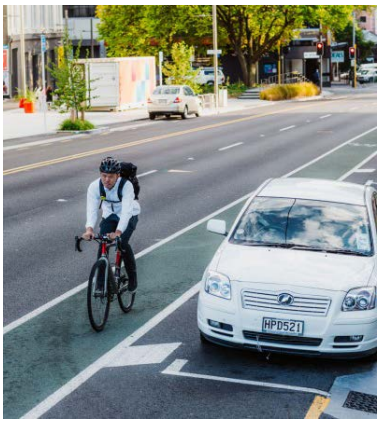
[36] As outlined in Chapter 1, WRDs are defined as wheeled conveyances (other than a cycle that has a wheel diameter exceeding 355mm) that are propelled by human power or gravity. A WRD also includes a conveyance with one or more auxiliary propulsion motors with a combined maximum power output not exceeding 300 watts.

[37] Faster devices are likely to include both devices without motors like skateboards/longboards and some push scooters (particularly when travelling downhill or on the flat depending on surface condition), and devices with motors such as e-scooters and e-skateboards.

[38] Land Transport (Road User) Rule 2004. r. 1.6 (*interpretation of cycle lane*).

[39] Land Transport (Road User) Rule 2004. r. 1.6 (*interpretation of cycle path*).

[40] Land Transport (Road User) Rule 2004. r. 11.1A *(use of shared path).*



On-road cycle lanes are classified as special vehicle lanes, which are restricted to the use of the type of vehicle on the relevant signs or markings.[41] Road Controlling Authorities must then make a bylaw to restrict the use of the lane to cycles only.[42]

Currently, Road Controlling Authorities can also set conditions by bylaw or resolution for the use of cycle paths.[43] In some cases, cycle paths are restricted to cycles only. This can be because separated cycle paths can end at intersections, which can place vulnerable users like pedestrians in a more dangerous position on the road where they would otherwise be separated from traffic on a footpath. Also, as cycle paths are most often built to ensure significant numbers of cyclists can move quickly and safely, pedestrians and WRD users (which tend to travel much slower) may slow the passage of, or conflict with, fast-moving cyclists if using the cycle path.

Known issues with the current system

The rules governing the use of cycle lanes and cycle paths are inconsistent.

Under the current system, WRD users may use footpaths, shared paths and cycle paths (unless otherwise restricted by council bylaw). When using footpaths, WRD users must give way to pedestrians and mobility device users and ride at a safe speed. On all paths, they must ride in a careful and considerate manner that does not constitute a hazard for other users.

WRDs can also be used on roads if they stay as far left as is practicable. They may not be used in cycle lanes, which are often located to the far left of the roadway. They may also be prohibited from some separated cycle paths under council bylaws, which have been made to keep pedestrians and users of WRDs safe and cyclists flowing efficiently.

Vehicles travelling in the same lanes at different speeds cause concern

The speeds some WRD users can travel at are comparable to those of cyclists, particularly some WRDs that are powered by small motors. For example, some e-scooters can go upwards of 24

41 Land Transport (Road User) Rule 2004 r. 1.6 (*interpretation of a special vehicle lane*). Intended users of on-road cycle lanes are set out in the Road User Rule.

42 Land Transport Act 1998. r. 22AB. (*Road controlling authorities may make certain bylaws*).

43 Ibid.

km/h on the flat,[44] and some e-skateboards can travel up to 38 km/h[45]. One study in Portland found the speed of skateboards when used for transport was approximately 13 to 24 km/h, with some downhill skateboarders going above 64 km/h.[46] This compares to cyclists and e-bikers who can travel at speeds up to, and sometimes exceeding 40 km/h on the flat. As such, WRDs are well suited to using cycle lanes or being used to the left of the road in lower speed environments (e.g., 30km/h zones like in Christchurch CBD).

It is not always safest for WRDs to be mixing closely with motor vehicles, even though in New Zealand the road is the only higher speed environment WRDs have consistent access to. Between 2012 and 2016, 110 skateboarders and 151 wheeled pedestrians (including people on push scooters, and people in wheelchairs and using mobility devices) were injured in motor vehicle crashes.[47]

In the United States, 147 skateboarders were killed between 2011 and 2015, almost all on roads, and were found to experience similar fatality rates as pedestrians and cyclists.[48] Cyclists face similar dangers on the road, but are required to wear helmets and use lights and reflectors. Bicycles are also equipped with larger wheels, which are more stable than smaller wheels. Cycle lanes tend to be safer than general traffic lanes as the people using them are in a lane away from other traffic,[49] and although separated cycle paths tend to have high crash rates (due to the mix of users behaving differently, and interactions with driveways) [50] these crashes are less likely to be fatal as the speed and mass of the vehicles involved is lower.

How are different lanes currently used

Anecdotally, we know that some users of WRDs already use cycle lanes. While limited data is available about where and how different types of WRDs are currently being used, a survey conducted as part of the Lime e-scooter trial in Christchurch found that, of the 2,298 people surveyed who used the devices, 58 percent liked riding on separated cycle paths and 28 percent preferred riding in on-road cycle lanes.[51][52] As such, rules around cycle lanes, and restrictions on the use of some cycle paths, are not consistent with current practice.

44 More information on general e-scooter speeds can be found here: https://www.cnet.com/news/electric-scooters-bikes-dockless-ride-share-bird-lime-jump-spin-scoot/.

45 Research report 621 pg 37 https://www.nzta.govt.nz/assets/resources/research/reports/621/621-regulations-and-safety-for-electric-bicycles-and-other-low-powered-vehicles.pdf.

46 Walker, T. (2013). Skateboarding as Transportation: Findings from an Exploratory Study. https://pdxscholar.library.pdx.edu/cgi/viewcontent.cgi?article=2515&context=open_access_etds.

47 Ministry of Transport (2017). Pedestrians. Note: This report does not specify whether WRD crashes with motor vehicles occurred on the footpath (ie around driveways) or on the road https://www.transport.govt.nz/assets/Uploads/Research/Documents/0fc1c10bab/pedestrians-2017.pdf.

48 K. Fang & S. Handy (2017). Skate and die? The safety performance of skateboard travel: A look at injury data, fatality data, and rider behaviour. *Journal of Transport & Health. 7.* 288-297. https://www.sciencedirect.com/science/article/pii/S2214140516303401?via%3Dihub.

49 Parsons, J. & Koorey, G. (2013). The effect of cycle lanes on cycle numbers and safety. *IPENZ Transportation Group Conference Dunedin.* https://ir.canterbury.ac.nz/bitstream/handle/10092/9176/12648235_2013-ParsonsKoorey-IPENZTG-CycleLaneSafety.pdf

50 For example, see Teschke et al. (2012). Route infrastructure and the risk of injuries to bicyclists: A case-crossover study. *American Journal of Public Health 22, 12*. https://ajph.aphapublications.org/doi/pdf/10.2105/AJPH.2012.300762.

51 Christchurch City Council (2019) Feedback on Christchurch Lime e-scooter use, 63-64.

52 Likewise, a 2018 pilot of e-scooters in Portland, Oregon found that e-scooter users preferred riding on the roadway in low-speed streets and in cycle lanes. E-scooter users had lower rates of riding on footpaths in

The same survey found that only 19 percent of users preferred riding on the road. In contrast, 67 percent liked riding on shared paths and 49 percent preferred riding on footpaths.[53] If a speed limit of 10 km/h is placed on footpaths as proposed in Chapter 1, the footpath may not always be the most viable option for all of these devices given the personal mobility benefits riders can achieve when going faster. This may lead to more riders using the road, increasing the possibility of conflict with motor vehicles. Having use of cycle lanes and more consistent use of cycle paths would mean they would be in less conflict with motorists on the road, and with pedestrians on footpaths. It should be noted that this could potentially lead to increased conflict between cyclists and WRD users on cycle lanes.

The rules around where WRDs may be used are also not widely known. According to the Christchurch survey on e-scooter usage, 58 percent of all 4,506 people surveyed thought e-scooters could be used on footpaths and 26 percent thought e-scooters were not allowed to be used in cycle lanes. Only half of those surveyed felt it was a requirement that riders must behave carefully and considerately on footpaths, give way to pedestrians and mobility device users, and ride at safe speeds on footpaths. For people that didn't feel safe riding e-scooters, 52 percent said that the lack of clarity around the rules about where and how to ride them safely contributed to this feeling.[54] E-scooter hire schemes also currently provide information that is inconsistent with the Road User Rule. For example, Lime states in the terms and conditions on its app that the devices should not be ridden on the footpath.[55]

People surveyed were also concerned about the impact of the devices on other people, particularly footpath users: 42 percent of people thought e-scooters were making it more difficult for people walking, and 60 percent of people who felt unsafe riding an e-scooter said it was due to the risk of injury to others.[56]

The benefits of WRD use

It is also important to ensure the benefits of accessibility, micromobility, lower transport emissions through mode shift, and more liveable cities provided by WRDs like e-scooters continue to be realised. One example of these benefits of micromobility can be seen in a 2018 pilot of e-scooters in Portland, Oregon, which found that e-scooters were replacing driving and ride-hailing trips: 34 percent of local riders and 48 percent of visitors were taking an e-scooter instead of driving or ride-sharing.[57] Creating a more consistent environment for the use of WRDs will help these benefits to be realised.

How is the situation expected to develop if no further action is taken?
If the proposal to limit speeds of vehicles on the footpath to 10 km/h is put in place, people may be deterred from using faster WRDs as they will only be able to go relatively slowly on the footpath, their ability to be used on separated cycle paths will continue to be inconsistent, and they will not be able to use on-road cycle lanes.

low-speed streets or in streets with dedicated space like cycle lanes and paths. (2018 E-scooter findings report, Portland Bureau of Transportation https://www.portlandoregon.gov/transportation/article/709719).

53 Christchurch City Council (2019), 63-64.

54 Ibid, 43-44.

55 Full terms and conditions available on Lime app. Screenshots are pasted in this article: https://www.stuff.co.nz/auckland/108102534/explainer-where-can-you-ride-escooters-and-what-are-the-rules.

56 Christchurch City Council (2019), 45.

57 2018 E-scooter findings report, Portland Bureau of Transportation https://www.portlandoregon.gov/transportation/article/709719.

This means there is a continued risk to vulnerable users if no action is taken. The only higher speed environment these devices will have consistent use of is the road, a less safe environment than dedicated cycle lanes located to the left and separated paths. If WRD users continue to travel fast on the footpath, they may have conflicts with more pedestrians at higher speeds.

1.2 Who is affected and how?

The change will mean that vehicles travelling at similar speeds are likely to use the same infrastructure. For example, cars will travel on the road (but not on cycle lanes) bikes and faster WRDs are likely to use cycle lanes, cycle paths and shared path, and slower wheeled devices, pedestrians and mobility devices will use footpaths.

If change occurs, it is likely that many users of WRDs will continue to use the footpath. It is a safe environment, and most that are human powered do not go particularly fast and may, in many cases, prefer not to mix with faster vehicles on the road and other vehicles (including bikes and fast-travelling WRDs) in cycle lanes.

Users of faster WRDs, such as e-scooters, will benefit the most from this change, given the change proposed in Chapter 1 to put in place a slow footpath speed.

People cycling will need to share cycle lanes with more users. However, as the change may lead to an increase in people wanting to use cycle lanes, this may lead to greater support for more cycle lanes which could benefit cyclists overall.

Rules around staying as far left as practicable would likely be maintained, and there would be a requirement to be careful and considerate and not cause a hazard for other users and give way to users given priority on a sign or marking. WRD users could also be encouraged to use bells to notify other users when on cycle paths and cycle lanes. This could be achieved through a public information and education campaign.

The change is also likely to legitimise current behaviour: in practice, people are already riding e-scooters (and likely other WRDs) in cycle lanes.

Councils may in some cases need to make changes to signs and markings to show who can use cycle lanes.

Public information and education campaign
A public information campaign would inform people that WRDs can use cycle lanes. The campaign could include multiple channels eg print newspapers, radio, online, and social media.

An education campaign would provide more information about exactly what vehicles could legally use cycle lanes. Changes to content will need to be introduced across the full range of the NZ Transport Agency's relevant education programmes e.g. the Staying Safe Programme for older persons, BikeReady etc. The campaign could include multiple channels, e.g. NZ Transport Agency website, leaflets and posters, short video/s showing behaviours required, information provided in appropriate vehicle publications.

1.3 Are there any constraints on the scope for decision making?

Ministers have directed the Ministry of Transport that the Accessible Streets Package needs to progress quickly with policy decisions in mid-2019 and Rule changes within the 2019/20 financial year. These requirements exclude options that require changes to primary legislation, specifically the Land Transport Act 1998.

Issues concerning the classification and power ratings of e-scooters are out of scope.

The issue of mandating helmet use for e-scooters or WRDs is out of scope. Currently, users of WRDs (including faster devices like e-scooters) are not required to wear a helmet. This applies in all environments (e.g. on footpaths, shared paths and on the road) and to all users (children and adults).

A further and more significant review of issues associated with road use and vehicle classifications, which will include potential changes to primary legislation, is currently under development.

Interdependencies
The proposed package will feed into the new Road Safety Strategy, which the Government is developing. It also makes up a part of a broader Vulnerable Road Users work stream, which includes a gap analysis of current central and local government work underway around walking and cycling and other vulnerable users.

The Cycling Action Network, under contract with the NZ Transport Agency, runs the Share the Road Campaign. The proposed package is likely to benefit from the Share the Road Campaign messages, which encourage road users to be courteous to each other.

Section 2: Options identification

2.1 What options have been considered?

Options:
The options are:

- Option 1: Status quo
- Option 2: Wheeled recreational devices may be used in cycle lanes and cycle paths; all users must keep left, ride in a careful and considerate manner, not impede the passage of other users, and follow signs or markings that give priority to particular users (e.g. cyclists)
- Option 3: WRDs powered with a small motor (powered WRDs) may be used in cycle lanes and cycle paths, if they keep left, ride in a careful and considerate manner, do not impede the passage of other users, and follow signs or markings that give priority to particular users (e.g. cyclists)

In all options, councils would continue to have the power to make bylaws to restrict access to cycle lanes and cycle paths in designated locations.

Criteria:

- Equity: How equitably are the impacts of changes to access and safety distributed to pedestrians, users of mobility devices, cyclists, and other users?
- Effectiveness: How does the option maintain or improve accessibility for, and the safety of, users?
- Practicality: How enforceable and measurable is the option?

- Feasibility: How acceptable is the option to the public?

Option 1: Status quo

Pros –

- Cyclists will continue to have a dedicated lane to ride in on the road, enabling relatively safe and fast travel for people on bikes.

Cons –

- If the proposal to limit speeds of vehicles on the footpath to 10 km/h is put in place, people could be deterred from using some faster WRDs: they will only be able to travel slowly on the footpath. WRD use on separated cycle paths will continue to be inconsistent, and they will not be able to use on-road cycle lanes. This means the only higher speed environment these devices will have consistent use of is the road, a less safe environment, and shared paths which tend to accommodate lower speeds than the road.

Option 2: WRDs may be used in cycle lanes and cycle paths; all users must keep left, ride in a careful and considerate manner, not impede the passage of other users, and give priority to specified users (preferred option)

Pros –

- This option sets a principle-based framework for how on-road cycle lanes and separated cycle paths should be used. The framework requires all users to stay to the left, and ride carefully and considerately without impeding the passage of other users – requirements that are consistent with requirements already in the Road User Rule.
- Provides a more consistent environment nationally, where WRDs can be used by default in all cycle lanes and cycle paths. Road Controlling Authorities will be able to install a sign or marking giving priority to a certain mode and will still be able to restrict cycle paths to cycles by making a bylaw.
- Ensures there are safe, higher speed environments for WRDs to ride in where there are existing cycle lanes and paths and where new ones are constructed, particularly if a maximum footpath speed of 10 km/h is in place (as proposed in Chapter 1). This would mean the personal mobility benefits of devices, such as e-scooters, will continue to be realised.
- Having use of cycle lanes and more consistent use of cycle paths would mean WRDs would be in less conflict with motorists on the road and pedestrians on footpaths.

Cons –

- There would be conflict between cyclists and users of WRDs in cycle lanes, particularly if users of these devices are travelling slowly, moving erratically or in a way that is different to the straight-ahead movement of cyclists (e.g. the side to side movement of people using rollerblades, or skateboards going downhill). However, cyclists already have to manage different speeds and overtake when required. Guidance will be provided recommending that WRDs travelling slowly, such as roller skates and children on push scooters, or slower powered WRDs like some electric unicycles, are ridden on footpaths and shared paths, and are not used in on-road cycle lanes or on the road.
- There may be more conflict between cyclists and drivers as cyclists may need to leave a dedicated facility to overtake a WRD, in doing so entering the live traffic lane. More cyclists may also choose to ride on the road instead of cycle lanes if they perceive cycle lanes to be

a slower environment, which could lead to more interactions (and potentially higher safety risks) between cyclists and cars.

- There may be more conflict between WRD users and motorists, where car doors open into cycle lanes, where cycle lanes cross left-turn lanes, and at intersections in general.
- Small-wheeled devices may be more exposed to potholes and manhole covers etc on roadways.
- As is currently the case on the road and on paths, WRD users will not be required to wear a helmet when riding in cycle lanes. As there would be a wider mix of users with different rules around helmet use (cyclists would still need to wear helmets, but people on e-scooters, scooters, skateboards etc. would not), this may cause confusion for users and may be perceived as inequitable.

Implications

- The change could lead to increasing public acceptance of and demand for cycle lanes if they can be used by a wider range of vehicles. In the long term, this may help to encourage greater provision of separate infrastructure for vulnerable road users such as cyclists and WRD users.
- Cyclists are still expected to be the priority users of most cycle lanes, and cycle paths. This change intends to create a more consistent environment around where WRDs may be used, while also improving the safety of device users choosing to use environments more suitable for higher speeds. Although cyclists already have to manage different speeds in cycle lanes and overtake when required, it is acknowledged that this change may cause difficulties, and potential safety concerns, for cyclists overtaking WRDs or riding on the road to avoid them. Current design guidance suggests a desired cycle lane width of 1.6 metres where the cycle lane is next to the kerb or road edge in areas with a speed limit of 50km/h or lower.[58]
- Pedestrians and users of mobility devices will still only be able to use the roadway where there is no footpath provided.
- Pedestrians will still be able to be restricted from using separated cycle paths, meaning they will continue to be in a safe position on the footpath.
- If the rule is changed to enable WRDs to use cycle lanes, current council bylaws may be over-ridden. If councils wish to continue to restrict users in that location (instead of just prioritising specified users using signs or markings), they will need to make a new bylaw. This can be a time consuming and costly process for councils. Additional signs and markings are unlikely to be needed in most cases, as the current signs and markings can remain to confer priority to people cycling. Where additional signs and markings are needed, councils will also need to cover the costs of these. Guidance will be provided to councils about implementation of the changes.

[58] The width of cycle lanes varies depending on matters such as whether or not parking is provided, parking turnover rates, road gradient, speed and volume of motor vehicle traffic, the ability to make road space available given the needs of other road users, and physical constraints. For more information, see: https://www.nzta.govt.nz/walking-cycling-and-public-transport/cycling/cycling-standards-and-guidance/cycling-network-guidance/designing-a-cycle-facility/between-intersections/cycle-lanes/.

- If wattage requirements for WRDs[59] are removed as part of these changes, not only will highly powered WRDs be allowed to be used on footpaths (while going 10km/h or under) – they will also be able to be used on roads and in cycle lanes, going the speed limit, with no safety gear required.

Option 3: WRDs powered with a small motor (powered WRDs) may be used in cycle lanes and cycle paths, provided they keep left, ride in a careful and considerate manner, do not impede the passage of other users, and give priority to specified users

Pros –

- Some of the pros of Option 2 will apply, but only for powered WRDs. These include:
  - setting clear principles for how on-road cycle lanes and separated cycle paths should be used
  - providing a more consistent environment in which these devices can be used, and
  - providing riders of faster powered WRDs like e-scooters and e-skateboards with safe, higher speed environments to ride in.
- Less conflict between slow or unstable WRDs and motor vehicles and cyclists, as fewer types of WRD will be permitted to use cycle lanes.

Cons –

- It is very difficult to tell the difference between powered and non-powered WRDs, and distinguishing between the two will likely become more difficult as batteries on devices get smaller with the evolution of technology. This will make this option unenforceable.
- The inconsistencies in the rule will remain, meaning other WRDs including devices capable of going quickly in some conditions such as skateboards and push scooters will still be able to travel on the left of the road, but will not legally be able to use cycle lanes (often located to the left of the road). This option would also mean that potentially slower powered WRDs that can be more difficult to ride (for example, e-unicycles) could use cycle lanes.
- This option only allows certain types of devices to have access to a safer environment for going at higher speeds. It will not provide the faster users of non-powered devices the accessibility benefits (getting to where you want to go faster) and safety benefits (going faster in a space separated from traffic) of this proposal. As noted above, some of these non-powered devices are capable of travelling at comparable speeds to powered WRDs, for example skateboards and scooters going downhill.
- This option does not align with the future-proofed, principles-based approach the Accessible Streets package is aiming to achieve. It creates a new inconsistency in the rule as it is specific to a particular kind of WRD, instead of being general to the WRD category. This is overly prescriptive and will mean some devices currently using high speed environments will not be allowed to do this in a safer way. It also assumes that all future devices will be powered in a way that we would be able to define in the present.

Changes to Offences and Penalties Regulations

Any options will require changes to the Land Transport (Offences and Penalties) Regulations 1999. Such changes would include making *failure to give priority on a cycle lane* and *operating a WRD in a cycle lane without care/inconsiderately* offences (if the preferred Option 2 were implemented).

[59] As outlined in Chapter 1, currently WRDs may have one or more auxiliary propulsion motors with a combined maximum power output not exceeding 300 watts.

2.2 Which of these options is the proposed approach?			
	Option 1: Status Quo	**Option 2:** WRDs may be used in cycle lanes and cycle paths	**Option 3:** Only powered WRDs may be used in cycle lanes and cycle paths
Equity: How equitably are the impacts of changes to access and safety distributed to path users?	**0**	+	+
Equity: How equitably are the impacts of changes to access and safety distributed to cyclists?	**0**	**- -**	**-**
Equity: How equitably are the impacts of changes to access and safety distributed to WRD users?	**0**	**+ + +**	+
Equity: How equitably are the impacts of changes to access and safety distributed to motorists?	**0**	**0**	**0**
Effectiveness: How does the option maintain or improve access for targeted users?	**0**	**+ +**	+
Effectiveness: How does the option maintain or improve the safety of users?	**0**	0	0
Practicality: How enforceable and measurable is the option?	**0**	-	**- - -**
Feasibility: How acceptable is the option to the public?	**0**	**-**	**0**
Overall assessment:	**0**	**2**	**-1**

Equity and Effectiveness have been given greater weight in the above decision-making framework. This weighting reflects the Government's priorities in this area. As indicated in the Government Policy Statement on Land Transport 2018, access and safety are of highest priority.

The proposed approach is **Option 2**: Wheeled recreational devices may be used in cycle lanes and cycle paths; all users must keep left, ride in a careful and considerate manner, not impede the passage of other users, and follow signs or markings that give priority to particular users (e.g. cyclists).

The preferred approach is intended to provide greater accessibility and safety for users of WRDs by allowing them to use cycle lanes and cycle paths. This will enable users of WRDs to get to where they need to go faster, more safely separated from traffic than they would be on the road. Without this change, we risk discouraging new forms of transport or alternatively, giving fast devices a choice between the footpath (where the speed limit may be decreased to 10km/h if the proposal in Chapter 1 is adopted), shared paths (not always appropriate for higher speeds), or the road.

There may be a risk of conflict between cyclists and WRDs while operating in cycle lanes which could lead to cyclists moving into the road to overtake or avoid other slower users and coming into conflict with motor vehicles on the road. This risk to cyclists is slightly less in Option 3, because Option 3 would allow fewer types of WRD to use cycle lanes. However, the access and safety

benefits for WRD users are also not as great in Option 3, as these will only be experienced by some users.

Option 3 is also unenforceable as it is very difficult to distinguish between powered and non-powered WRDs, and does not align with the future-proofed, principles-based approach the Accessible Streets package is aiming to achieve.

We consider that the benefits of Option 2 outweigh the risks. Safety concerns for cyclists are is expected to be mitigated by WRD users giving priority to cyclists, keeping to the left and allowing cyclists to pass safely. Guidance will also be provided recommending that WRDs travelling slowly, such as roller skates and children on push scooters, or slower powered WRDs like some electric unicycles, are ridden on footpaths and shared paths, and are not used in on-road cycle lanes or on the road. Design guidelines and guidance for councils around implementation will also help to increase the safety of cycle lanes.

Section 3: Impact Analysis (proposed approach)

3.1 Summary table of costs and benefits

Note: Cost-benefit analysis to be completed following public engagement on draft.

Affected parties *(identify)*	**Comment**: nature of cost or benefit (eg ongoing, one-off), evidence and assumption (eg compliance rates), risks	**Impact** *$m present value, for monetised impacts; high, medium or low for non-monetised impacts*
Additional costs of proposed approach, compared to taking no action		
Regulated parties	There is risk of more collisions between cyclists and WRD users and motor vehicles on roads in some instances. For instance, more cyclists may use the road to overtake WRDs	Medium
	There may be collisions between WRD users and cyclists on cycle lanes	Low
	Reduced level of service for motorists and cyclists	Travel time costs – expected to be neutral
Regulators	Publicity and education campaigns (NZ Transport Agency) NOTE: Costs of campaign and consultant shared across whole package.	Publicity: Approx. $600,000 – $800,000 Education: Approx. $300,000 - $400,000 Communications consultant: Approx. $220,000 [TBC]
	Changes to current regulatory services, products and associated systems (NZ Transport Agency)	[TBD]
	Compliance costs e.g. enforcement, infringement fee processing and collection costs (NZ Police)	Further consultation required with NZ Police.
	Road Controlling Authorities will need to pay for markings and signs required.	Average cost expected to be approx. $1,000 per site [TBC]
	Road Controlling Authorities will need to update bylaws.	[TBD]
Wider government		
Other parties		
Total Monetised Cost		The total monetised costs are yet to be determined.

Non-monetised costs		The total non-monetised costs are yet to be determined.

Expected benefits of proposed approach, compared to taking no action		
Regulated parties	Improved levels of service for riders of WRDs Greater uptake and use of WRDs Safety gains for WRD users	Travel time savings – expected to be neutral Public health benefits (TBD) Reduced DSIs (TBD)
Regulators		
Wider government		
Other parties	Increased market for new and emerging WRDs Increased uptake of shared e-scooters	
Total Monetised Benefit		The total monetised benefits are yet to be determined.
Non-monetised benefits		The total non-monetised benefits are yet to be determined.

3.2 What other impacts is this approach likely to have?

Allowing WRDs in cycle lanes and more consistently in cycle paths will impact particular groups. This may increase the number of WRDs in cycle lanes and cycle paths. This may have flow-on effects for the safety and convenience of cyclists. However, as the current rule is not well-known or observed, the change is unlikely to have a significant effect on the number of WRDs using cycle lanes and cycle paths in the short term. As the new rule is likely to be better known due to the accompanying information and education campaign, combined with increasing numbers of users, the rule change could have significant impact on the number of WRDs using cycle lanes over time.

Section 4: Stakeholder views

4.1 What do stakeholders think about the problem and the proposed solution?

The programme timeline includes public consultation on draft Rule changes. This is likely to be open for submission for six weeks. Key stakeholders include:

- E-scooter stakeholders (e.g. share companies like Lime) are likely to be supportive of the change, as it will clarify the rules around where e-scooters can be used and make them more consistent.
- Cycling stakeholders who may have concerns about sharing on-road cycle lanes with WRDs due to differences in speed, behaviour and appearance between many of these devices and bikes.

- Pedestrian stakeholders are likely to be supportive of the change, as it may result in fewer WRDs using the footpaths (particularly at higher speeds).
- It is unclear what the public will think of the changes. Many people seem to be unaware of the current rules around cycle lanes and cycle paths. People may use this as an opportunity to discuss mandatory helmet laws, and helmets for WRDs.

Section 5: Implementation and operation

5.1 How will the new arrangements be given effect?

The new arrangements will be given effect by the NZ Transport Agency, Road Controlling Authorities, NZ Police and local government.

Implementing Option 2 would require changes to the Land Transport (Road User) Rule 2004 (the Road User Rule). This would be drafted by the Parliamentary Counsel Office, with instructions written by the Ministry of Transport and the NZ Transport Agency, as part of the wider Accessible Streets package of changes.

The NZ Transport Agency would be responsible for a public information campaign with governance oversight from the Ministry of Transport. The information campaign would come into effect at the same time as the rest of the proposed package and could include encouraging the use of bells by cyclists and other powered vehicles. Implementation planning would need to allow sufficient time for the NZ Transport Agency to prepare a campaign. Note this would need to compete for funding from the contestable Road Safety Promotion and Demand Management activity class within the National Land Transport Programme.

A public education campaign to inform the public of the proposed changes would be developed and implemented before any rule changes came into effect. However, a more dedicated behaviour change campaign that would seek to shape social norms around careful and considerate shared use of cycle lanes is not planned at this time. It will be considered if there is evidence that people are not following the rules and intervention is required.

Implementation would also involve communications with all key stakeholders, media releases, changes to the official road code and code for cyclists, and changes to cyclist training. Extra signs may be applied to selected cycle lanes and cycle paths during a period of several months after implementation.

Road Controlling Authorities would need to assess their local network for any unintended consequences, and change any bylaws, signs and markings as necessary.

The NZ Police would be responsible for enforcement associated with the proposed change. The NZ Police will target its resources to wherever the greatest risk of harm exists and, while this is unlikely to be in cycle lanes, effort would be directed there if harm is occurring.

Minimal preparation time is expected for regulated parties to prepare for the recommended changes. Implementation risks could be managed with extra communications and signage if necessary.

Section 6: Monitoring, evaluation and review

6.1 How will the impact of the new arrangements be monitored?
The annual Regulatory Stewardship Rule process allows for technical adjustments to Rules where minor corrections are required to ensure the regulatory system is functioning properly. Potential issues can be addressed through this process.

6.2 When and how will the new arrangements be reviewed?
The safety impacts of the proposed Accessible Streets package will be monitored as part of the implementation of the new Road Safety Strategy, due to be released in 2020. Notable variations from the expected impacts, especially any negative safety impacts, will be monitored and addressed.

Chapter 3: Prioritising vulnerable road users

Section 1: Problem definition and objectives

1.1 What is the policy problem or opportunity?

Current Situation

The safety and access of our most vulnerable road users is not being prioritised in land transport rules, which have been written primarily for drivers of motor vehicles. There are inconsistencies in the Land Transport (Road User) Rule 2004 (the Road User Rule) that either do not align with common sense practice, increase risk, or deter others from using active modes of transport.

Cyclists are being disproportionately injured and killed on our roads. Approximately three percent of on-road fatalities over the last decade were cyclist deaths. However, cycling only contributes 1.5 percent to total time spent travelling. Similarly, seven percent of serious injuries were caused by crashes involving cyclists. Approximately 10 percent of on-road fatalities and 11 percent of serious injuries over the last decade were pedestrians. Walking comprises 10 percent of the total time spent travelling.[60]

These statistics indicate that the current settings are not supporting walking and cycling as accessible and safe forms of travel. Internationally, greater priority is provided for users of active modes, and steps need to be taken in New Zealand to shift the culture to achieve greater priority for these users. As there is a government focus on improving uptake of active modes, there is an opportunity to support this shift by changing the road user rules to mitigate the issues for cyclists and pedestrians investigated below.

Opportunities to increase safety and accessibility in the current system

Cyclists cannot use left-turning lanes to travel straight through intersections

Section 2.4 of the Road User Rule states that vehicles (including bicycles) must abide by the road markings illustrated in each lane when approaching an intersection.[61] This means it is illegal for cyclists to use left turning lanes to travel straight through an intersection. The current required behaviour is shown in Figure 2.1 below.

However, the left turning lane can be a safer option when cycle lanes are not available as the lane usually has less traffic and slower travel speeds. Complying with the current rule adds the risk of travelling with increased traffic, moving at a faster pace, which can increase the possibility and severity of an accident.[62]

60 Ministry of Transport (2019) *Household Travel Survey, 2015-2018*. https://www.transport.govt.nz/mot-resources/household-travel-survey/new-results/.

61 Land Transport (Road User) Rule 2004, r 2.4 (Route of driving at intersections marked or signed in lanes).

62 MWH and ViaStrada (2016) *Review of road user rules for people walking and cycling*. Prepared for the New Zealand Transport Agency, 32. https://www.nzta.govt.nz/assets/Walking-Cycling-and-Public-Transport/docs/RUR-MWH-FINAL.pdf.

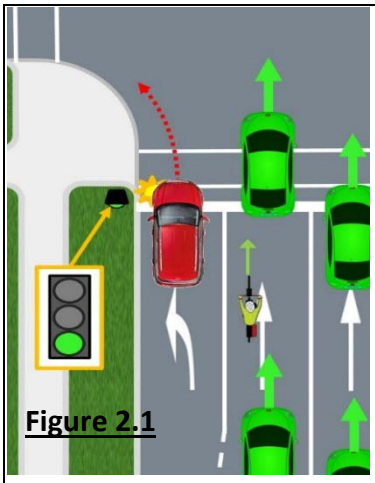


Figure 2.1

Currently, an observed 80 percent of cyclists choose to ignore the rule, making the law inconsistent with not only cyclist behaviour, but with what is generally considered safe practice.[63] *The Official New Zealand Code for Cyclists,*[64] for example, explains that when there are heavy flows of traffic, it is safest to ride "just to the left of this lane."[65] There is an additional concern that potential riders may avoid cycling because the rule does not favour the safety of cyclists.[66]

To overcome this challenge, **Proposal 1 is to adopt a rule change allowing cyclists to use a left turning lane while riding straight ahead.**

Cyclists are prohibited from overtaking slow-moving traffic on the left

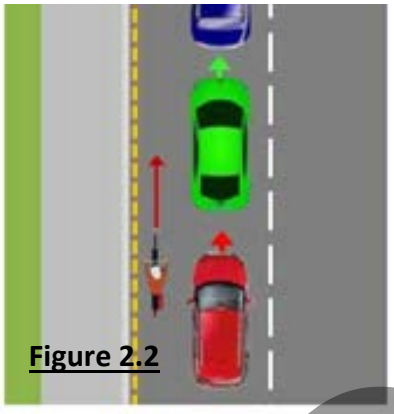


Figure 2.2

Section 2.8 of the Road User Rule prohibits cyclists from overtaking a vehicle on the left, unless that vehicle has stopped.[67] (Cyclists can do so if they are in a marked cycle lane.)[68]

However, it is common for riders outside of cycle lanes to 'undertake' (overtake on the left-hand side) slow moving vehicles when they believe it safe to do so (see Figure 2.2). Doing so reduces the risks associated with moving between lanes of fast moving traffic and can also lead to faster travel times, as moving to the left means both other vehicles and cyclists spend less time waiting for cyclists to merge into traffic to overtake other vehicles.[69]

This means that the current rule is not consistent with common and safe behaviour. It also differs from other countries. Australia, for example, allows cyclists to pass on the left unless the vehicle being passed is signalling to turn left.[70] This suggests that the rule may need to be updated to reflect current behaviour, safe practice, and help cities to best accommodate their cyclists.

To address these concerns, **Proposal 2 is to adopt a rule change which allows cyclists outside of cycle lanes to undertake slow-moving vehicles (unless that vehicle is making a left turn).**

63 Ibid, 36.

64 New Zealand Transport Agency (2016) *The Official New Zealand Code for Cyclists.*

65 Ibid, 40.

66 MWH and ViaStrada (2016), 32.

67 Land Transport (Road User) Rule 2004 r 2.8, (Passing on left).

68 Land Transport (Road User) Rule 2004 r 2.6(2), (General Requirements about passing other vehicles).

69 MWH and ViaStrada (2016), 44.

70 Ibid, 43.

Special vehicle lane users do not have right of way over turning vehicles when crossing side roads if their lane is separated from traffic

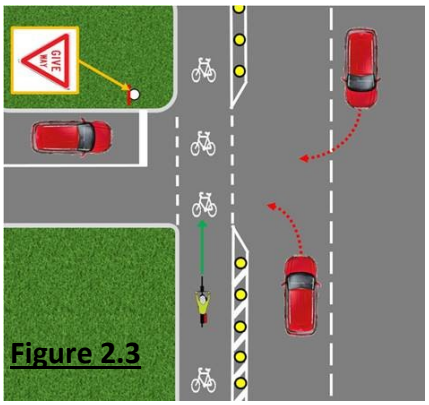


Figure 2.3

If a cyclist or bus is travelling past a side street in a separated special vehicle lane, they must give way to vehicles turning into that street before proceeding forward. For example, as pictured in figure 2.3, the cyclist in the separated cycleway must give way to the vehicles turning into the side street before continuing.

This is not specified in the Road User Rule but comes from the definition of *roadways* in Section 1.6 of the Rule.[71] The definition excludes lanes that are physically separated from other traffic on the roadway, which has been interpreted to mean that cyclists and buses in separate lanes must give way to traffic turning across their path.[72]

This can create confusion for motorists, and particularly those who are new to New Zealand roads, like tourists or learner drivers. Road users are also less likely to be aware of separate lane users or slow down when turning because they have the right of way or are not thinking to look for cyclists. Between 2011 and 2015, 78 crashes have involved a turning motorist and a cyclist crossing an intersection from a separated lane. While none of these have been fatal (no fatalities since 2006) further clarity on these rules may reduce crash statistics and increase safety.[73]

It can also cause major travel delays for cyclists and buses if there is heavy traffic. As a result, some cyclists choose to use the road instead of the cycleway or cycle across pedestrian crossings, which can create further risks.[74] With this in mind, cycleway designers often end a separated cycleway and return riders to the roadway on the approach to intersections (significantly reducing the Level of Service for users at intersections).

This can not only be unsafe, but also impractical as the interpretation is inconsistent with the give way rules that cyclists follow when on the road. To address these concerns, **Proposal 3 is to adopt a rule change to give priority to users of separated special vehicle lanes over turning traffic where they are travelling straight through across a side road.**

Path users do not have precedence over turning traffic when crossing side streets

Sections 3 and 4 of the Road User Rule provide guidance on giving way for vehicles on roadways, and pedestrians at signalised intersections and pedestrian (zebra) crossings. The

71 Land Transport (Road User) Rule 2004 r 1.6 (Interpretation of *roadways.)*

72 MWH and ViaStrada (2016), 6.

73 Ibid, 14.

74 Ibid.

rules do not address crossings of footpaths, cycle paths and shared pathways at non-signalised intersections.

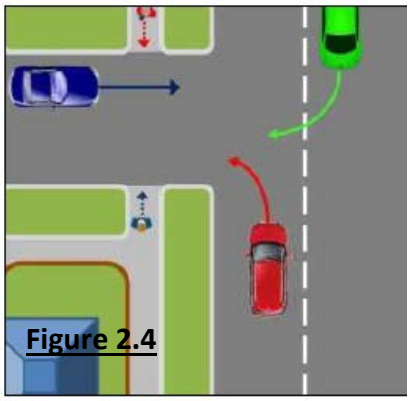


Figure 2.4

Many countries prioritise footpath (and other path) users travelling parallel to the main road when they are crossing a side street with no traffic signals.[75] In New Zealand, footpath users only have precedence when a pedestrian crossing is installed. These crossings are usually set slightly back from the actual intersection, creating more of a mid-block treatment.[76] For example, as pictured in figure 2.4, the pedestrians on the path in New Zealand must give way to the vehicles turning into the side street before continuing.

Rules are also inconsistent about cars giving way to path users at a pedestrian crossing. At the time of drafting the Road User Rule, the potential use of pedestrian crossing facilities by user groups other than pedestrians (which includes mobility device users and WRD users) was not considered. At pedestrian crossings, cars are not required by law to give way to cyclists using the crossing as part of a shared path route, making cyclists the only users that do not have priority. This is a growing issue as Road Controlling Authorities are increasing the availability of shared pathways and cycle paths.

A recent study into the feasibility of implementing rules prioritising footpath users in New Zealand also found that on average 78% of those surveyed were already willing to give way to pedestrians at side streets (as opposed to pedestrian crossings which are generally set back from intersections) if there are markings to show pedestrians have priority.[77] Without markings, the study found roughly half this level of support (only about 38%) for giving way to pedestrians at side streets.

To address these issues, **Proposal 4 is to adopt a rule change that enables Road Controlling Authorities to give greater priority to footpath, shared path and cycle path users over turning traffic where they are travelling straight through at specific locations where traffic control devices are installed (e.g. signage, road markings, raised platforms)**, without resorting to the expense of a signalised crossing.

This proposal could act as a safe step towards requiring drivers to give way to path users when entering or exiting uncontrolled side roads, once drivers have become more accepting of giving way to path users at side-roads with required traffic control devices.

1.2 Who is affected and how?

75 For examples, see Koorey, G. & McCrostie, C. (2015). *Feasibility of implementing international 'pedestrian crosswalk' laws in New Zealand.* https://ir.canterbury.ac.nz/bitstream/handle/10092/10959/12655274_paper-koorey-glen-feasibility-ped-crosswalk.pdf?sequence=2&isAllowed=y.

76 Ibid.

77 Ibid.

Road users and path users will be affected. However, overall the long-term impact is expected to be minimal, because the proposals are relatively minor rule changes.

Allowing cyclists to travel straight ahead from left-turning lanes and overtake slow-moving traffic on the left would legitimise common existing behaviour. As such, we expect little change in behaviour, other than minor changes to cycle skills instruction which will be able to teach the behaviour safely. This would encourage riders to consider the potential risks associated with undertaking slow-moving vehicles or riding straight ahead from a left-turn lane and adopt strategies to minimise those risks (and maximise the potential safety and efficiency gains).

Road Controlling Authorities may apply markings and/or signs to encourage or restrict riding straight through in a left-turn lane in some situations. Advanced stop boxes and green road paint can also be used to guide cyclists. These changes are generally supported by Road Controlling Authorities and cycling and walking advocates. There are likely to be opponents to allowing cyclists to overtake slow moving traffic on the left amongst professional drivers (as they regularly experience unsafe undertaking behaviour).

Introducing priority for separated special vehicle lanes may allow more cycleways to be built with separation from traffic maintained right up to the side-road, thus increasing the perceived safety and appeal of cycling as a transport choice.

Introducing priority for path users involves changing the behaviour of drivers who currently have legal right of way over path users at intersections. Without a change in driver behaviour, there is potential for an increase in DSI crashes at intersections over the status quo, particularly in the short term. This change would require drivers to give way to path users crossing side-roads at some intersections with traffic control devices in place (such as signs and markings, and treatments like raised platforms). At these intersections, path users would be able to travel across side-roads more quickly, thus reducing their travel time, at the expense of traffic turning into and out of side-roads.

In the long term, the goal is to achieve a shift in the culture of road users toward vunerable users having priority over traffic turning off the main road, similar to the culture seen in Canada and Europe.

Public education campaign

A public education campaign would inform road users and path users of the changes for people riding bikes and using paths and remind people of their obligations and the need to still take care when crossing conflict points. Changes to content will need to be introduced across the full range of the Transport Agency's relevant education programmes e.g. the Staying Safe Programme for older persons, BikeReady, etc. The campaign could include multiple channels, e.g. NZ Transport Agency website, leaflets and posters, short video/s showing behaviours required, information provided in appropriate vehicle publications.

These changes would likely be too complicated for a public information/publicity campaign. They would require a very visual approach e.g. graphics/video to explain the changes clearly. However, the public information campaign used for Chapters 1 and 2 would note that these are just some of the changes coming into effect and provide a link for more information that would cover all of these individual changes.

1.3 Are there any constraints on the scope for decision making?

In response to the Cycle Safety Panel Report, *Safer Journeys for People who Cycle*,[78] the previous Associate Minister of Transport approved in-principle a number of rule changes and investigations. These are outlined in the report, *Making Cycling Safer and More Attractive*[79] which was the NZ Transport Agency's response to the Cycle Safety Panel's recommendations. Additionally, a number of options were discussed in the MWH and ViaStrada report *Review of road user rules for people walking and cycling*[80] which informs the options in this chapter.

Ministers have directed the Ministry of Transport that the Accessible Streets Package needs to progress quickly with policy decisions by mid-2019 and Rule changes within the 2019/20 financial year. These requirements exclude options that require changes to primary legislation, specifically the Land Transport Act 1998.

Interdependencies
The proposed package will feed into the new Road Safety Strategy which the Government is developing.

The Cycling Action Network under contract with the Transport Agency runs the Share the Road Campaign. The proposed package is likely to benefit from the Share the Road Campaign messages, which encourage road users to be courteous to each other.

Section 2: Options identification

2.1 What options have been considered?

Options:
Option 1: Status quo

- No change to any of the areas discussed above.

Option 2 (Preferred):

- Proposal 1: Adopt a rule change allowing cyclists to use a left turning lane while riding straight ahead.
- Proposal 2: Adopt a rule change which allows cyclists outside of cycle lanes to 'undertake' slow-moving vehicles (unless that vehicle is making a left turn).
- Proposal 3: Adopt a rule change to give priority to users of separated cycle and bus lanes over turning traffic where they are travelling straight through across a side-road.

78 Safer Journeys for People who Cycle: Cycling safety panel final report and recommendations, December 2014. https://www.saferjourneys.govt.nz/assets/Safer-journeys-files/Cycling-safety-panel-final-report.pdf.

79 Making Cycling Safer and More Attractive: The NZ Transport Agency's cycling safety action plan, August 2015. https://www.nzta.govt.nz/assets/Walking-Cycling-and-Public-Transport/docs/making-cycling-safer-more-attractive.pdf.

80 MWH and ViaStrada (2016), 16.

- Proposal 4: Adopt a rule change that enables RCAs to give greater priority to path users over turning traffic where they are travelling straight through across a side-road at specific locations where the required traffic control devices are installed.

Option 3:

- Proposal 3: Adopt a rule change to give priority to users of separated cycle and bus lanes over turning traffic where they are travelling straight through across a side-road.
- Proposal 4: Adopt a rule change that enables RCAs to give greater priority to path users over turning traffic where they are travelling straight through across a side-road at specific locations where the required traffic control devices are installed.

Criteria:

- Equity: How equitably are the impacts of changes to access and safety distributed to pedestrians, users of mobility devices, cyclists, and other users?
- Effectiveness: How does the option maintain or improve accessibility for, and the safety of, users?
- Practicality: How enforceable and measurable is the option?
- Feasibility: How acceptable is the option to the public?

Option 1: Status quo

Pros –

- No costs of change would be incurred.
- No increase in current right turn vehicle/through cyclist conflicts

Cons –

- Cyclists continue to decide between compliance and increased risk or ignoring the road rules for increased safety and efficiency. Cyclists as a result, are penalised for carrying out what they perceive to be safe behaviour.
- No effort is made to reduce the current rate of collisions between motorists and cyclists travelling straight through intersections.
- The development of crossings that provide efficient flow for path users would continue to be restricted by the legal loss of priority at side-road crossings.
- Benefits of the preferred approach (option 2) will not be realised.

Option 2: Proposals 1, 2, 3 and 4 (preferred option)

Proposal 1: Adopt a rule change allowing cyclists to use a left turning lane while riding straight ahead

Pros –

- Makes common and safe behaviour by cyclists legal.
- Reduce conflicts between cyclists and traffic travelling straight through an intersection.

- Reduce the need to install cycle lanes at every location, while still making cycling appealing to potential riders.
- Reduce travel times for other road users, as they are not being slowed down by cyclists remaining in the through lane.
- Likely to reduce negative attitudes towards cyclists by motorists because it clarifies and justifies legal cyclist behaviour.

Cons –

- Conflicts could occur in the merging space immediately after the intersection if drivers or cyclists are not paying attention.
- There could be conflict if a cyclist is waiting in the left lane at an intersection, and a vehicle is wanting to use the same lane for a left turn. The same applies for a driver waiting to make a right turn. This could be solved with an advanced stop box in the straight-through lane.[81]
- Conflicts could increase when a motorist believes that a cyclist in the left-turning lane is going to turn left, then doesn't. This could, for example, cause someone to brake suddenly and the following driver to hit the back of a cyclist or another vehicle.
- Delays for turning traffic due to a through-cyclist waiting.
- Delays to, and potential for conflict with, right-turning drivers facing a left-turning cyclist approaching in the left-turn lane, unsure whether the rider was going straight or not (assuming that there is space for both vehicles to enter the side road side-by-side).
- Users of WRDs like e-scooters riding on the road will not be affected by the rule change: they will not be able to use a left turning lane while riding straight ahead.

Implications –

- While there are potential risks to changing the rule, it is unlikely to have a significant impact as most cyclists already use the left turn lane to cycle straight. Crash data also illustrates a minimal impact for changing this rule. Between 2010 and 2015, one incident was reportedly caused by travelling straight ahead from a turning lane and one fatality has been reported since 2006.[82]

Proposal 2: Adopt a rule change which allows cyclists outside of cycle lanes to 'undertake' slow-moving vehicles (unless that vehicle is making a left turn)

Pros –

Proposal two shares some of the same benefits as proposal one. These include:

- Makes common and safe behaviour by cyclists legal.
- Reduces the need to install cycle lanes at every location, while still making cycling appealing to potential riders.

81 An advanced stop box is an area (painted green) in front of a general traffic lane on an approach to a signalised intersection to raise awareness of cyclists by motorists and to give priority to cyclists over other traffic for a manoeuvre.

82 MWH and ViaStrada (2016), 38.

- Likely to reduce negative attitudes towards cyclists by motorists because it clarifies and justifies legal cyclist behaviour.

Other benefits include:

- Cyclists will be in a safer space when moving through traffic.
- Allows cyclists to ride without being held up by slow-moving and stop/start traffic.
- Eliminates the inconsistency within the current rule (that allows cyclists to undertake stopped traffic but prohibits it once traffic starts moving).

Cons –

- Conflicts could occur between a left-turning motorist (particularly with large trucks) slowing to turn and a cyclist mistakenly undertaking them.
- Conflicts could occur between a motorist turning right through what they perceive to be a gap in traffic and an oncoming cyclist undertaking that line of traffic.
- Conflicts between cyclists and pedestrians crossing through gaps in traffic.
- Delays for motorists waiting to turn into a side street where a cyclist is undertaking.

Implications:

- Most risks are unlikely to have a significant impact because cyclists undertake slow-moving traffic already. There have been two recorded deaths since 2006 related to undertaking, and data assessed between 2011 and 2015 found no connection between undertaking and collisions with pedestrians and car doors.[83] Delays for other motorists are also expected to be insignificant.[84]
- Two issues already exist and will continue to exist under the rule change. The first is if cyclists undertake a vehicle slowing down to turn left or turning left. The rule change will not allow for cyclists to do this, but accidents could occur especially if a vehicle indicates too late, if a cyclist is in a truck's blind spot, or if the rider or driver is not paying attention. The second issue is motorists turning right through a gap in traffic and not seeing (or thinking to look for) cyclists coming through an intersection after undertaking another vehicle. Accidents relating to right turning vehicles already contribute to 15.3 percent of cyclist deaths and injuries, so this is a serious concern.[85]
- We believe that introducing the rule change with appropriate public information and education campaign encouraging drivers to be mindful of cyclists on the road and instructing riders to undertake in a safe and careful manner should mitigate these issues.
- Between 2011 and 2015, there have been a recorded 31 crashes related to "overtaking on left without due care".[86] Making undertaking legal means we can add clarity to what undertaking means and when it is safe to do so.

83 MWH and ViaStrada (2016), 45.

84 Ibid, 44.

85 Ministry of Transport (2017), 9.

86 MWH and ViaStrada (2016), 45.

Proposal 3: Adopt a rule change to give priority to users of separated cycle and bus lanes over turning traffic where they are travelling straight through across a side-road

Pros –

- Likely to reduce negative attitudes towards cyclists by motorists because it clarifies and justifies legal cyclist behaviour.
- Makes it clear to all road users who has right of way at an intersection with a separate lane.
- Means that separated cycle lanes can be built all the way up to intersections (making roads safer for cyclists), enabling Road Controlling Authorities to provide a higher Level of Service for cyclists using separated cycle lanes.
- Makes the give way rules more consistent as the rule changes (will match what cyclists on the road currently do.
- Over time, traffic is more likely to slow down before turning, to check for cyclists.
- Reduced delays for cyclists who do not have to wait for turning traffic.

Cons –

- Conflicts could occur between a motorist turning right through a gap in traffic and an oncoming cyclist undertaking the line of traffic. This could be mitigated by marking the lane through the intersection.
- Conflicts could occur between straight-through cyclists and left-turning motorists.
- Conflicts could occur when a vehicle stops suddenly for a cyclist, or if a vehicle suddenly drives out of a side street and a cyclist is crossing in front of them.
- There may be some delays for traffic giving way to cyclists as they move slower than vehicles.

Implications –

- While there are potential risks to changing the rule, these are expected to have minimal impacts on road users. Pedestrians are unlikely to be affected and motorists can expect some delay, but this will be minimal as turning motorists generally already give way to straight through users of cycle lanes, regardless of whether the lane is separated or not.[87]
- However, the type of intersection and the volume and flow of traffic is likely to impact how effective the rule change will be. For example, giving separated cycle and bus lanes priority at a poorly performing intersection is likely to reduce travel times for cyclists and buses, but cause major delays for other motorists. It also may be safer for cyclists to give way on roads where a lot of larger vehicles turn. Essentially, the rule change can be implemented when it is safe and practical to do so, but this will not include all roads and intersections. Where it is deemed necessary, movements from separated special vehicle lanes can be controlled with mode-specific traffic signals.
- More importantly, changing the rule provides clarity on what to expect from those in separate lanes and is likely to make motorists more aware of cyclists coming through

[87] Ibid, 10.

traffic. During 2011 to 2015, there were 78 "left-turn sideswipe crashes" where motorists did not check or notice another party.[88] Implementing a rule change and making motorists aware of the change through an education campaign are likely to encourage motorists to pay more attention to cyclists and to slow down when turning, which is likely to decrease accidents.

Proposal 4: Adopt a rule change that enables RCAs to give greater priority to path users over turning traffic where they are travelling straight through across a side-road at specific locations where the required traffic control devices are installed

Pros –

- Improved status of path users in our road networks, making walking, scooting and cycling more attractive transport options. This is not only due to the potential for increased frequency of path crossings, but also due to paths being recognised as part of the thoroughfare, with crossings acting as a continuation of the thoroughfare, rather than set back from the intersection as pedestrian/zebra crossings tend to be.
- Better consistency around the precedence for through-cyclists over turning traffic, regardless of where on the road corridor they are riding.
- More certainty for pedestrians that they have priority over vehicular traffic at more locations, where the required traffic control devices are installed.
- Potential to reduce delays for cyclists and pedestrians who do not have to wait for turning traffic when crossing some side-roads.
- Improved safety over time due to drivers taking greater care and using slower speeds when turning.
- Safer and easier for pedestrians to cross the road who are visually, cognitively or otherwise impaired, or young pedestrians as their right of way will be signalled by traffic control devices to both path users and motorists.
- Consistency for overseas visitors used to more pedestrian-friendly crossing laws elsewhere, such as in Europe and parts of the United States.[89] This is a step towards New Zealand achieving this sort of priority for users of active modes.
- May encourage further investment in new facilities if cyclist priority is possible across shared paths.
- Reduced likelihood or severity of conflicts between through-cyclists, pedestrians and turning traffic *if* the traffic slows down more before turning.

Cons –

- Conflicts between turning traffic (particularly large trucks) off the main road into a side street and path users crossing their path, including pedestrians, cyclists, mobility devices and wheeled pedestrians.
- Conflicts between through traffic on the main road and turning traffic in front of them who slow down or stop suddenly for path users.

88 Ibid, 14.

89 For examples, see Koorey & McCrostie (2015).

- Delays to turning traffic who must wait for path users to cross their path, and delays to through traffic on the main road held up in the same lane as turning traffic.
- Different locations nationwide may require different treatments, which could result in confusion. This is also the case under the status quo where Road Controlling Authorities wish to give cyclists priority at different locations. The Transport Agency will produce design guidance to support councils in delivering consistent treatments.
- Extra signage at intersections may present a challenge for Road Controlling Authorities and users, as there is often a lot of information for users to absorb already. As such, it is possible that additional signs and markings may have little impact on user behaviour in some situations. Road Controlling Authorities will be able to decide which intersections are appropriate for this treatment.

Implications –

- The potential for conflict with motor vehicles, and the safety implications of this for vulnerable path users, are particularly great in the case of long-haul trucks with long-bonnets. With these trucks, people are hidden from view when they are 0-4.5m away from the front and sides of the truck (most other long-haul trucks have a 3m blind spot), meaning they may not see path users crossing the road – even with traffic control devices in place. This currently occurs already at pedestrian crossings,[90] and under this proposal the problem may be exacerbated as these crossing points are likely to be located right at the intersection as a continuation of the thoroughfare. This could be quite a major issue: anecdotal evidence suggests long-haul trucks, including these long-bonneted trucks, spent over 50% of their time in urban areas in 2018.[91] Given that there is already a general obligation for trucks to comply with traffic control devices, that they may be unable to in some circumstances is a wider problem that may need to be addressed as part of a different project.
- Road Controlling Authorities will be able to decide which side-roads are appropriate for this treatment. Different levels of treatment are likely to be required in different contexts. Significant safety benefits have been noted when raised pedestrian crossings are introduced (39% average crash reduction).[92] There is therefore a clear safety advantage from using raised platforms for side-road crossings as they reduce the speed of vehicles and keep pedestrians in a higher position on the road. As such, raised platforms are likely to be recommended as best practice, in particular for use in areas with high volumes of path users and motor vehicles, in addition to other traffic control devices. Requiring a minimum level of traffic control device or treatment will help to ensure some national consistency, to ensure motorists know how to behave in these situations.
- Zebra crossings can increase the occurrence of conflict between path users and motor vehicles, and under this change drivers turning into a side street may be less likely to expect to encounter a zebra crossing. However, proposed mitigation treatments to increase the awareness of motorists (especially where a raised platform is included) will serve to reduce the likelihood and severity of such conflicts, as reported by

90 For a recent example, see this article from 31.01.19: https://www.stuff.co.nz/dominion-post/110276163/one-seriously-injured-after-being-hit-by-car-in-central-wellington.

91 Based on conversations between the TR Group rental manager and NZ Transport Agency staff in 2018.

92 Elvik et al. (2009) The handbook of road safety measures, 2nd edition, Emerald Group Publishing, 1124.

international research. Existing Road User Rule clause 11.5 also puts an onus on pedestrians (including faster wheeled devices) to not enter a crossing suddenly if motorists are unable to stop safely.[93]

- Many of the other risks of this proposal are expected to have minimal impact on road users as the change in priority will only apply at intersections where appropriate traffic control devices have been installed. The targeted introduction of this rule change, along with an education campaign, will help people (motorists and path users) get used to the change and help to avoid the safety risk to path users in the short term.
- Motorists can also expect some delay at these intersections, but this will not be excessive. One study found that the maximum expected road user costs of the travel time delay over 40 years to motorists would be approximately $30,000 at a busy T-intersection. As the crash cost for a single pedestrian fatality in a 50km/h zone is approximately $3.05m,[94] the safety benefits of this proposal are considered to outweigh the potential costs of travel time delay. Moreover, the study found that the relative delays to motorists from such a rule were largely balanced by the relative time savings to pedestrians. Similar effects are likely to apply to cyclists using shared paths.[95]

Option 3: Proposals 3 and 4

Pros –

- The benefits of proposals 3 and 4 are the same as listed under option 2.
- Less expensive as proposals 1 and 2 are excluded.

Cons –

- The potential cons of proposals 3 and 4 remain the same as those listed under option 2.
- Cyclists continue to decide between compliance and increased risk or ignoring the road rules for increased safety. Cyclists as a result, are penalised for carrying out what they perceive to be safe behaviour.
- Only a limited effort is made to reduce the current rate of collisions between motorists and cyclists travelling straight through intersections and increase accessibility for people cycling. This effort would be increased if option 2 was introduced.
- Adopting this option does not realise the potential of the preferred approach (option 2)

93 MWH and ViaStrada, 2016, 8.

94 NZ Transport Agency, (2013) *Economic evaluation manual.*

95 Koorey G., McCrostie C. (2015), "Feasibility of Implementing International Pedestrian Crosswalk Laws in New Zealand", *IPENZ Transportation Group Conference*, Christchurch, 22-24 Mar 2015, 16.

2.2 Which of these options is the proposed approach?			
	Option 1: Status quo	**Option 2:** Proposals 1, 2, 3 and 4	**Option 3:** Proposals 3 and 4
Equity: How equitably are the impacts of changes to access and safety distributed to path users?	**0**	**+++**	**+++**
Equity: How equitably are the impacts of changes to access and safety distributed to cyclists?	**0**	**+++**	**+**
Equity: How equitably are the impacts of changes to access and safety distributed to motorists?	**0**	**- -**	**-**
Effectiveness: How does the option maintain or improve access for targeted users?	**0**	**+++**	**++**
Effectiveness: How does the option maintain or improve the safety of users?	**0**	**++**	**+**
Practicality: How enforceable and measurable is the option?	**0**	**+**	**+**
Feasibility: How acceptable is the option to the public?	**0**	**0**	**+**
Overall assessment:	**0**	**10**	**8**

Equity and Effectiveness have been given greater weight in the above decision-making framework. This weighting reflects the Government's priorities in this area. As indicated in the Government Policy Statement on Land Transport 2018, access and safety are of highest priority.

The proposed approach is **Option 2:** Adopting rule changes allowing cyclists to use a left turning lane while riding straight ahead, allowing cyclists outside of cycle lanes to 'undertake' slow-moving vehicles (unless that vehicle is making a left turn), giving priority to users of separated cycle and bus lanes over turning traffic where they are travelling straight through across a side-road, and giving priority to path users over turning traffic where they are travelling straight through across a side-road at specific locations where the required traffic control devices are installed.

The preferred approach is intended to increase cyclist safety by helping to reduce conflicts between cyclists and traffic and improve cyclist visibility, while legitimising common travel and overtaking practices used by many cyclists. This approach should help to make streets

more active mode-friendly, improving efficiency for those choosing active transport modes by prioritising pedestrian, cyclist and bus movements, and in the long term improving the safety of people walking and cycling due to turning drivers taking greater care and adopting slower speeds.

There are several potential safety risks associated with these rule changes, including conflicts between turning traffic on main roads and cyclists and pedestrians crossing their path. We consider that the proposed mitigation treatments, which may include road markings, signs, and raised platforms, and educating the public will help to manage the severity of these conflicts – by managing the speed of motorists turning into side roads and raising their awareness.

Giving greater priority to vulnerable road users is also likely to have an impact on the current priority afforded to drivers of motor vehicles. We consider that these impacts align with the government's goals of lowering transport emissions and creating more liveable cities.

Section 3: Impact Analysis (proposed approach)

3.1 Summary table of costs and benefits

Note: Cost-benefit analysis to be completed following public engagement on draft.

Affected parties *(identify)*	**Comment**: nature of cost or benefit (eg ongoing, one-off), evidence and assumption (eg compliance rates), risks	**Impact** *$m present value, for monetised impacts; high, medium or low for non-monetised impacts*
Additional costs of proposed approach, compared to taking no action		
Regulated parties	Delays for road users	Total travel time costs associated with all proposals yet to be determined.
Regulators	Public education campaign (NZ Transport Agency). NOTE: Costs of campaign and consultant shared across whole package.	Education campaign: Approx. $300,000 - $400,000 Communications consultant: Approx. $220,000 [TBC]
	Changes to current regulatory services, products and associated systems (NZ Transport Agency)	[TBD]
	Road Controlling Authorities will need to meet the costs of any additional information and education required at the local level.	[TBD]
	Crossing costs may be minimal for Road Controlling Authorities who would otherwise have marked an on-road cycle lane across the side road instead of a separated shared path.	Approx. $2,000 per side road entrance to supply and install.

	Road Controlling Authorities will need to provide a minimum level of traffic control devices at selected side road intersections. Treatments required are expected to be context-dependent. RCAs may wish to provide platforms as best practice, as well as traffic control devices, at side-road intersections where there is concern about conflicts between path users and turning traffic.	Approx. $1,000 to $20,000 per site, depending on the level of treatment. Average cost expected to be between $10,000 to $15,000 per intersection. 100 to 200 intersections are expected to be addressed in the next five years at an estimated cost of $1m to $3m
Wider government		
Other parties		
Total Monetised Cost		The total monetised costs are yet to be determined.
Non-monetised costs		The total non-monetised costs are yet to be determined.

Expected benefits of proposed approach, compared to taking no action		
Regulated parties	Improved levels of service for pedestrians, cyclists, riders of wheeled recreation devices and mobility devices, and buses Greater uptake of active modes Safety gains	Travel time savings – expected to be neutral Public health benefits (TBD) Reduced DSIs (TBD)
Regulators		
Wider government		
Other parties		
Total Monetised Benefit		The total monetised benefits are yet to be determined.
Non-monetised benefits		The total non-monetised benefits are yet to be determined.

3.2 What other impacts is this approach likely to have?

Some members of the public or focus groups may be opposed to the changes.

Most of the policy options considered will have only minor impacts, largely due to the fact that they align regulations with existing behaviour. In particular, allowing cyclists to travel straight ahead at left-turning lanes and to overtake slow-moving traffic on the left are likely to have negligible impacts.

Section 4: Stakeholder views

4.1 What do stakeholders think about the problem and the proposed solution?
During preparation of the research report by MWH and ViaStrada there was considerable engagement with Road Controlling Authorities represented on the Active Modes Infrastructure Group. Consultation also occurred with a range of stakeholders, including Cycling Action Network, Living Streets Aotearoa, NZ Police, NZ Automobile Association, Bike Auckland, Cycle Aware Wellington, the Blind Foundation, Alzheimer's NZ, CCS disability Action, and the Shared Footpaths Working Group. All stakeholders will be consulted further on the draft rules.

Section 5: Implementation and operation

5.1 How will the new arrangements be given effect?
The rule changes will be given effect through amendments to the Road User Rule and the Land Transport (Traffic Control Devices) Rule 2004. This could involve trials of crossing designs, changes to cycleway and pedestrian facility design guidance online, and training modules for path designers. There will also be communications with all key stakeholders and media releases, changes to the official road codes and code for cyclists, and changes to driver and cyclist training. The NZ Transport Agency would be responsible for a public information campaign with governance oversight from the Ministry of Transport. The information campaign would come into effect at the same time as the rest of the changes proposed in the Accessible Streets package. Implementation planning would need to allow sufficient time for the Transport Agency to prepare a campaign and allow for delay of information on Proposal 4 until engineering work is ready. This component is likely to have a local rather than national focus. Note this would need to compete for funding from the Promotion of road safety and demand management activity class within the National Land Transport Programme. Extra signs may be applied to new pathway crossings during a period of several months after implementation. Road Controlling Authorities will be responsible for the ongoing operation of any facilities enabled by the new rules. Most Road Controlling Authorities are supportive of these changes. The NZ Police would be responsible for any enforcement associated with the change in the rules. We expect the impact on NZ Police to be relatively minimal. Implementation risks would be managed with extra communications and signage, if necessary, and possibly by restricting the initial roll-out of new crossing designs to a trial at limited sites approved by the NZ Transport Agency.

Section 6: Monitoring, evaluation and review

6.1 How will the impact of the new arrangements be monitored?
Rule changes will be monitored by the New Zealand Transport Agency and enforced by the New Zealand Police. The annual Regulatory Stewardship Rule process allows for technical adjustments to Rules where minor corrections are required to ensure the regulatory system is functioning properly. Potential issues can be addressed through this process.

6.2 When and how will the new arrangements be reviewed?
The safety impacts of the proposed Accessible Streets package will be monitored as part of the implementation of the new Road Safety Strategy, due to be released in 2020. Notable variations from the expected impacts, especially any negative safety impacts, will be monitored and addressed.

Chapter 4: Other Matters for Consideration

Two matters that are not proposed above but still warrant consideration are:

- prescribing a minimum overtaking gap (MOG) for cyclists, and
- allowing road users to give way to buses.

These are outlined below as issues 1 (pages 1 - 5) and 2 (pages 6 – 10).

Issue 1: There is no mandatory minimum overtaking gap for cyclists

Section 1: Problem definition and objectives

1.1 What is the policy problem or opportunity?

Current situation

Passing cyclists too closely (in a vehicle) can increase the risk of serious injury or death for cyclists. Unfortunately, this does not deter drivers from doing so. Between 2008 and 2017, vehicles overtaking cyclists contributed to nine percent of all cyclist crashes and 20 percent of fatal cyclist crashes. 2017 saw 18 cyclist fatalities, a sharp rise from five fatalities in 2016.[96]

Drivers who pass cyclists must comply with transport rules and guidelines.[97] They can also be liable for fines under the Land Transport (Offences and Penalties) Regulations 1999 and are potentially liable for serious offences under the Land Transport Act 1988 (for dangerous or careless driving)[98] or the Crimes Act 1961.

Although these mechanisms exist, some drivers do not understand them or choose to ignore the current rules and guidelines. Additionally, some drivers are not aware that they can cross the centre line to safely pass a cyclist or that they should wait behind a cyclist until there is a safe passing point. Worse still, some drivers are simply not paying attention to other road users like cyclists.

To deal with this, we propose introducing a mandatory minimum overtaking gap (MOG) that drivers must abide by when passing cyclists.

Why the Problem needs to be addressed now

Creating a mandatory MOG will mitigate the number of cyclist crashes, injuries and deaths on our roads as it will make it illegal for motorists to pass cyclists too closely. Introducing a MOG also provides some clarity about current guidelines.

How much confidence is there in the evidence behind the problem definition?

96 Data from the Crash Analysis System (CAS).

97 Section 2.6 of the Road User Rule (*General requirements about passing other vehicles)* states that a driver must not pass another vehicle (like a cyclist) unless it is safe to do so. The Official New Zealand Road Code recommends that drivers should allow for a space of at least 1.5 metres when passing a cyclist as part of their guidelines.

98 Sections 7 and 8 of the Land Transport Act state that a person may not drive a motor vehicle recklessly or carelessly.

Research was conducted by the New Zealand Transport Agency and Opus Research in 2016, which investigated the feasibility of trialling a MOG law in New Zealand.[99] The research included an international literature review and analysis of crash data, as well as installing technology on bikes to collect on-road field data (through video cameras and LIDAR).[100] The on-road data found that close passes do occur, and this varies on different types of roads.
The Cycling Safety Panel in their 2014 report *Safer journeys for people who cycle*, also recommended that New Zealand trial a MOG rule change.[101]

1.2 Who is affected and how?

Cyclists and motorists are the most likely affected parties.

Cyclists will benefit the most from this proposal as a mandatory MOG means that cyclists will have more space on the road and will be safer.

Motorists will be expected to change their driving patterns to ensure they are keeping an appropriate distance between their vehicle and cyclists on the road.

1.3 Are there any constraints on the scope for decision making?

Amending the Road User Rule to allow for a MOG rule is being investigated as part of a wider package looking to improve safety for vulnerable users and clarify the rules around who and what can travel on footpaths, cycleways, and shared paths.

99 OPUS (2016) Investigating the feasibility of trialling minimum overtaking gap law for motorists overtaking cyclists in New Zealand, 1-58. https://www.nzta.govt.nz/assets/Walking-Cycling-and-Public-Transport/docs/Minimum-Overtaking-Gap-Feasibility-Study-FINAL.pdf.

100 LIDAR stands for laser imagining detection and ranging.

101 The Cycling Safety Panel (2014) *Safer journeys for people who cycle,* 33. https://www.saferjourneys.govt.nz/assets/Safer-journeys-files/Cycling-safety-panel-final-report.pdf.

Section 2: Options identification

2.1 What options have been considered?

Options:

- Option 1: Status quo.
- Option 2: Introduce an education campaign.
- Option 3: Amend the Road User Rule to allow for a mandatory MOG with an education campaign.

Criteria:

- Equity: How does the option distribute the benefits and burdens to drivers and cyclists?
- Effectiveness: How much does the option improve the safety of cyclists?
- Practicality: How enforceable and measurable is the option?
- Political feasibility: How acceptable is the option to the public?

Option 1: Status Quo

Pros –

- There are already guidelines in place advising motorists on passing cyclists and most motorists pass cyclists safely.
- Maintaining the status quo will incur no additional costs.

Cons –

- Although most motorists comply with guidelines, those that don't comply can severely injure or kill cyclists. Doing nothing allows for this to continue.
- While guidelines reflect the law, they are not enforceable.
- The perceived risk of being hit by a passing vehicle is a barrier to the up-take of cycling.

Option 2: Introduce an education campaign

Pros –

- Would raise awareness about correct passing distances between drivers and cyclists.
- Through higher awareness, safety is expected to increase for cyclists.
- It is easy to implement an education campaign and most of the public is expected to respond positively to a campaign.

Cons –

- Difficult to measure how many safety benefits cyclists will gain through an education campaign.
- There will be a portion of the population who respond negatively to an education campaign.

Option 3: Amend the Road User Rule to allow for a mandated MOG with an accompanying education campaign

Pros –

Option 3 shares some of the same benefits of option 2. These include:

- Would raise awareness about correct passing distances between drivers and cyclists.
- Through higher awareness, safety is expected to increase for cyclists.
- It is easy to implement an education campaign and most of the public is expected to respond positively to a campaign.

Other benefits include:

- Reduces conflict between vehicles and cyclists caused by close passes, making cycling safer.
- A MOG law may also make a stronger case for the prosecution of cyclist fatalities for dangerous driving in some cases.
- It is assumed that the rule change and accompanying education campaign is expected to save two lives over ten years. This would have a $8.36 million benefit, though this cannot be modelled.[102]

Cons –

- A MOG rule would be difficult to enforce
- Cyclists and drivers may not be aware of what 1.5 metres is – i.e. it is difficult to monitor a measurement while vehicles and cyclists are moving.
- There could be backlash from members of the public that do not favour cycling.

2.2 Which of these options is the proposed approach?

The preferred option is **option 3:** Amending the Road User Rule to allow for a mandated MOG with an accompanying education campaign. It is likely that MOG rule change would bring perceived benefits of increased safety to cyclists.

A campaign and a rule change together are likely to provide more incentive to change behaviour than a campaign on its own. While enforceability may be an issue it will provide more clarity on the legal requirements and is more consistent with the Government safe system approach, which leans on the side of the safety, particularly for such a vulnerable user group. There is also limited chance of over-regulation given this is an accepted safe overtaking approach whether by education or regulation.

It is important to note, however, that the safety benefits of changing the rule may not always be clear. For example, a MOG trial carried out in Queensland between 2014 and 2016 found that enforcement officers believed that the rule improved safety but found the rule difficult to enforce. They also believed that the rule change did not alter motorist attitudes to cyclists.[103] A trial in New South Wales, on the other hand, was thought to have improved safety and reduced casualty crashes by an estimated 15 percent.[104]

[102] The OPUS report assumes that there are on average ten cyclist fatalities per year, and 20 percent of these fatalities are caused by vehicles passing too closely to cyclists. It is also assumed that the change is expected to reduce fatalities by 10% over this period. We would also expect a reduction in serious injuries, but this has not been quantified.

[103] OPUS (2016), 29-30.

[104] Ibid, 31.

It seems likely that a mandatory MOG would bring perceived benefits of increased safety to cyclists, and this may encourage more New Zealanders to get on a bike.

Section 3: Impact Analysis (proposed approach)

3.1 What other impacts is this approach likely to have?

- Delays for motorists waiting for a safe time to pass a cyclist (although this should already be occurring).
- There would be less loss of life and clean-up costs for New Zealanders.
- For every two lives saved, approximately $8.36 million will be saved.
- Improvements to safety are likely to increase uptake of cycling.
- Depending on how the education campaign is designed it may be possible to improve overtaking behaviour generally.
- There will be a cost to introducing an education campaign.

Section 4: Stakeholder views

4.1 What do stakeholders think about the problem and the proposed solution?

Consultation with stakeholders has occurred in the past around the wider issue of a MOG law in New Zealand. Many stakeholders were interested in the idea and their views tended to be quite polarising – those that supported cycling supported the introduction of a MOG rule, while most other stakeholder groups did not.

Stakeholders are likely to be less concerned about the introduction of an education campaign. Stakeholders who support cycling, however, may be concerned that such a campaign does not go far enough to address the problem. Stakeholders will be formerly consulted further on in the development of this package, through a discussion document, at draft rule stage.

Section 5: Implementation and operation

5.1 How will the new arrangements be given effect?

The NZ Transport Agency would be responsible for the delivery of a long-term behaviour change campaign with governance oversight from the Ministry of Transport. Note this would need to compete for funding from the contestable road safety activity class within the National Land Transport Programme. The rule change and/or education campaign would likely come into effect at the same time as the rest of the proposed package of change. This is likely to be in 2019.

The greatest risk with the proposed option of introduction of a behaviour change campaign around MOG, is how large the safety impact would be. The safety impact may be small, as the main benefit is to make cycling feel like a safer transport choice. If this option is to be introduced, effective

monitoring and evaluation will need to be undertaken to ensure that any effects from the proposal can be accurately measured.

Section 6: Monitoring, evaluation and review

6.1 How will the impact of the new arrangements be monitored?
Monitoring and evaluation will be determined during the preparation stage if a mandatory MOG rule change is introduced. The NZ Transport Agency would likely monitor the rule, while the NZ Police would enforce it.

6.2 When and how will the new arrangements be reviewed?
An education campaign would be implemented for a period, with a review after the campaign. The framework of this would be decided by the NZ Transport Agency during preparation of the campaign. The safety impacts of the proposed Accessible Streets package will be monitored as part of the implementation of the new Road Safety Strategy, due to be released in 2020. Notable variations from the expected impacts, especially any negative safety impacts, will be monitored and addressed.

Issue 2: Drivers do not have to give way to buses

Section 1: Problem definition and objectives

1.1 What is the policy problem or opportunity?
Current situation In New Zealand, giving way to buses pulling out of a bus stop is only considered a courtesy. When this courtesy is not extended it creates delays for buses as they must wait for a suitable break in traffic or for other road users to provide a gap for merging back into the traffic flow. If this delay is repeated through a bus route it significantly impacts on the reliability, efficient operation and perception of public transport. With a trend of increasing congestion in urban areas during peak periods it is becoming more difficult for buses to re-enter traffic flows from a bus stop. As a result, frequent delays can occur, impacting service reliability and operational costs. Part 4 of the Road User Rule does not make any provisions for buses re-entering traffic after pulling into a bus stop.[105] Requirements for bus operators to display 'give way to the bus' signage on buses is merely a request for courtesy from other road users. There is a perception that many road users give way to buses re-entering traffic flow regardless of a legal requirement to do so, suggesting that a rule change would formalise what is, in part, already occurring.

[105] Part 4 of the Road User Rule provide rules related to stopping and giving way.

The proposed Accessible Streets package provides an opportunity to address the current situation and clarify the roles of each road user group about when (and where in the traffic flow) road users must give way. Within in this, we propose introducing a rule that makes it mandatory for vehicles to give way to a bus pulling out of a bus stop.

1.2 Who is affected and how?

The primary groups affected by a rule change would be bus drivers, and bus operators more generally, local government, users of public transport and motorists. There may be some increased level of enforcement required, primarily by the NZ Police.

Existing rules and signals are already available to give buses priority when exiting bus lanes or at traffic lights so were considered outside the scope of this review. The issue is around buses being easily able to re-enter the traffic flow.

The rule change will apply to all drivers in the flow of traffic, so all drivers (regardless of the vehicle they are driving) must stop for buses leaving the bus stop. At busy bus stops where multiple buses are trying to exit at the same time there should be a certain level of 'courtesy' applied. As with current practice when overtaking, the expectation is that the first in line takes priority. Design guidelines govern the positioning and safety of bus stop locations, requiring these facilities are a certain distance from intersections. Existing road rules for straight ahead traffic vs. turning traffic would apply to turning buses if faced with a bus exiting a bus stop.

1.3 Are there any constraints on the scope of decision making?

The scope of the change is limited to giving buses priority when on roads with a posted speed limit of 60 kilometres an hour or less.

1.4 How much confidence is there in the evidence behind the problem definition?

Research carried out by Abley Transportation Consultants Limited in 2017 for this proposal, recommended that that buses should have right of way.[106]

Section 2: Options identification

2.1 What options have been considered?

Options:

- Option 1: Status quo.
- Option 2: Make all vehicles give way to a bus exiting a bus stop (when speed limit is 60 kilometres per hour or less).

Criteria used to assess options:

- Equity: How equitably are the impacts distributed to other motorists, cyclists and other users
- Effectiveness: How does the option maintain or improve access, and the safety of, users

106 Abley Transportation Consultants Limited (2017) Quantifying the economic and other benefits of enabling priority bus egress from bus stops, 1-77. https://www.nzta.govt.nz/assets/resources/research/reports/609/609-quantifying-the-benefit-of-bus-egress.pdf.

- Practicality: How enforceable and measurable is the option?
- Feasibility: How acceptable is the option to the public?

Option 1: Status Quo

Pros –

- Road users already give way to buses. Participants in research undertaken for this proposal felt that up to 50% of road users currently give way to buses.[107]
- There would be no additional cost to maintaining the status quo.

Cons –

- There is confusion surrounding how and when road users should give way to buses. This inconsistency could lead to incidents on the road.
- When road users do not give way to buses, it creates delays for the public transport system which could deter people from using it.

Option 2: Make it mandatory for all vehicles give way to buses exiting a bus stop (when the speed limit is 60km/h or less.

Pros –

- Less delay for those travelling on buses, meaning they have improved access to social and economic opportunities.
- Vehicle operation costs are likely to decrease for bus operators.
- Likely to reduce stress and frustration levels for bus drivers.
- Legitimises what is already occurring in larger urban areas.

Cons –

- There could be some delays for other road users waiting for a bus to pull out of a bus stop. These delays could encourage motorists to use public transport.
- There could be a risk to other road users if buses pull out without checking for or failing to see other road users. Although, there is no evidence to suggest this would happen.
- There is no conclusive evidence that changing the rule will lead to less safe or safer outcomes for New Zealanders.

2.2 Which of these options is the proposed approach?

The preferred approach is **Option 2:** Make it mandatory for all vehicles give way to buses exiting a bus stop (when the speed limit is 60km/h or less. This option provides numerous positive impacts for all road users.

Other unmeasurable positive impacts include a reduction in driver stress and frustration, clarity of driver obligations, improved driver courtesy and improving the perception of public transport for all

[107] Ibid, 34.

road users. Option 2 formalises behaviour that is already happening among many road users and has no identifiable negative safety impacts for road users.

However, it is recognised that safe and successful implementation of a rule change should include a nationwide education campaign and advertising to raise awareness, along with effective law enforcement.

The addition of highly visible signage on the backs of buses would also assist in the successful and safe implementation of a change to the Road User Rule to give buses priority over other road users when exiting a bus stop.

Section 3: Impact Analysis (proposed approach)

3.2 What other impacts is this approach likely to have?

- There is expected to be costs associated with vehicle signage, including potential loss of advertising space on bus backs.
- There will be travel time costs for other road users that have to give way.
- Costs for an education campaign and other implementation costs.
- Travel time benefits for users of transport.
- Vehicle operating savings.
- Greater trust and reliability in bus services.
- It may reduce bus door entrapment deaths and injuries.

Section 4: Stakeholder views

4.1 What do stakeholders think about the problem and the proposed solution?

As part of the research undertaken for the NZ Transport Agency, questionnaires were sent to stakeholder organisations including to Auckland Transport, Environment Canterbury, the Bus and Coach Association, the Automobile Association and Cycling Action Network.

Responses were received from eight out of nine organisations. The consensus among respondents was the current situation causes confusion for motorists some of the time. Most respondents stated a rule change would create more certainty for bus drivers as there would be clearer obligations for all road users. Several respondents considered that if a law change was well publicised and had public support, with reasonable enforcement, then it could have a positive impact on behaviour.

The AA carried out a membership survey looking at the response of its members to the proposed change to give way rules to allow buses priority when re-entering the flow of traffic from a bus stop. The AA concluded that:

- The only group supporting a give way to buses rule change was bus users
- Vulnerable road users such as cyclists and motorcyclists disagreed that it was safe.
- Were a rule to be considered it would be preferable to implement it with a permanent sign on the back of the bus.

Section 5: Implementation and operation

5.1 How will the new arrangements be given effect?

This approach would require a change to the Road User Rule, to give scheduled buses priority when exiting legally authorised bus stops. The safe and successful implementation of a rule change will require a nationwide education campaign and advertising to raise awareness, to be undertaken by the NZ Transport Agency.

It is anticipated there would be a transitional 'grace' period following the enactment of the rule change before full enforcement of the rule change is implemented to enable awareness raising via a public information campaign. The awareness raising activities could include signage on the backs of buses. Note this would need to compete for funding from the Road Safety Promotion and Demand Management activity class within the National Land Transport Programme.

The rule change would take effect with the Accessible Streets Package, which is expected to be in 2020.

Section 6: Monitoring, evaluation and review

6.1 How will the impact of the new arrangements be monitored?

The impact of a rule giving buses priority when exiting bus stops would be monitored by the NZ Transport Agency and enforced by the NZ Police.
Bus companies, and organisations such as Metlink and Auckland Transport, are required to collect information on complaints. This information would include other road user complaints against bus drivers and could be monitored.

6.2 When and how will the new arrangements be reviewed?

An education campaign would be implemented for a set period with a review scheduled post campaign. The best arrangements for this would be determined by the NZ Transport Agency during the preparation of the campaign.

The safety impacts of the proposed Accessible Streets package will be monitored as part of the implementation of the new Road Safety Strategy, due to be released in 2020. Notable variations from the expected impacts, especially any negative safety impacts, will be monitored and addressed.

Appendix 1: Child Impact Assessment

SCREENING SHEET

1. What is the proposal?

The *Accessible Streets* regulatory package aims to improve safety and accessibility for vulnerable users of the land transport system. The package will enhance the liveability and vibrancy of New Zealand cities and towns through better designed and regulated pathways, which will reduce barriers to active transport.

The package addresses issues around what vehicles can use footpaths and other legally defined pathways, such as shared paths. The package also looks at a series of relatively straightforward changes to rules to clarify specific legal issues around the use of cycle safety, cycle path design and pedestrian safety. These amendments are intended to:

- clarify the rules around what types of vehicles should be allowed on footpaths, and shared paths and under what conditions.
- Enable the use of wheeled recreational devices (WRDs) in cycle lane and some cycle paths.
- improve the safety of vulnerable road users (predominately pedestrians) at intersections and in traffic.

We also consider options to mandate a minimum overtaking gap for motor vehicles when passing cyclists on the road, and to give scheduled passenger buses priority when exiting bus stops.

This package will have an impact on children and young people. New rules around what types of vehicles can operate on the footpath is expected to have the greatest impact. This part of the package is proposing a new principle-based approach to footpath regulation. Our preferred option, would allow anyone to ride their bicycle or WRD on the footpath at 10km/h. Currently, under the Road User Rule, cycling on the footpath is limited to those with wheels smaller than 355mm (ie small children's cycles). Children generally progress to a larger wheel size around the age of six years old, and then cannot legally cycle on the footpath,[108] however, they are allowed to use a skateboard or scooter on the footpath. Setting a speed limit means that children are expected to go at a slower speed to ensure their safety and the safety of others.

There are also concerns around the growing popularity of WRDs and sharing schemes for e-scooters. There is currently no age limit on their usage, or any requirements around speed or the use of a helmet.

None of the other proposed amendments to the rules have children as a specific audience or are likely to impact children or young people in a considerable way. Indirectly, children may be impacted by some of the slight changes around give way rules for walking and cycling, however these planned rule changes are relatively small. These changes include:

[108] Land Transport (Road User) Rule 2004 r.1.6 states that the wheel diameter of a WRD should not exceed 355mm. Very small bicycles fit this category (for children under the age of about six). However, when children outgrow these bicycles, they are no longer legally allowed on the footpath.

- enabling cyclists to legally travel straight ahead from left-turning lanes instead of having to cycle in a narrow adjacent lane where other traffic may be travelling
- enabling cyclists to legally overtake slow-moving traffic on the left (also known as "undertaking")
- clarifying give way rules for special vehicle lane users at intersections (currently it is unclear whether turning motor vehicles or straight ahead special vehicle lane users have priority)
- allowing footpaths, shared paths or cycleways to have right of way over crossing side roads. This would be in specified circumstances and marked with paint or other signage.

2. What are the impacts on children and young people of this proposal?

As noted above the main impacts from the proposals would be allowing children and young people to ride their bicycles on the footpath. We consider this change to have a positive impact on children, as currently the NZ Police do not recommend that children under the age of 10 ride on the road, however most children outgrow the specified wheel size by the age of five or six.

A potential negative impact of more children riding their bicycles on the footpath, is increased interactions and accidents with children and other footpath users and/or vehicles entering and exiting driveways. There may also be potential for increased interactions between mobility devices, and WRDs such as e-scooters, and children and young people who are walking and cycling.

These impacts can be lessened by making cycling on the footpath legal. Children can be safely taught how to do so under the National Cycling Education System through cycle skills training, teaching them how to interact with other footpath users, such as those on mobility devices. For instance, currently children are taught how to safely cross roads, and scooter on footpaths, which could be easily translated to cycle skills training. The speed limit additionally helps to lower risk for children on the footpath as they are travelling at a safer speed. Those in cycles or WRDs wishing to go faster than 10km/h will opt to use cycle lanes and cycle paths where they are able to travel at greater speeds. It also encourages a mindset for young people to be mindful of others on the footpath.

Allowing children to cycle on the footpath would enable active transport, especially for children to cycle safely to school. This increase in active transport would likely have positive health and educational benefits.

However, further consideration may be required in outlining age limits and helmet use.

3. What are the likely impacts on Māori children of this proposal?

We do not believe that there are any significant specific impacts on Māori children, as distinct from other children and young people.

4. Have children and young people had a say and their voice heard in this proposal?

In 2016 a petition was put before Parliament asking for children to be allowed to ride their bikes on the footpath. Concurrently with this, the NZ Transport Agency commissioned research looking at footpath usage. As part of this research the Children's Commissioner

surveyed young people and found that around 70% of children did not know it was illegal to ride their bikes on the footpath.[109] When asked about this law, children were concerned to learn that they could be breaking the law by cycling on the footpath, but most did not think it was safe, or their parents did not think it was safe, for them to cycle on the road. Further consultation will occur during the rule making process for this proposal. We will look to consult with children's representatives to ensure that they are not affected negatively by any of the proposed changes.
5. Do the impacts identified require further analysis?
We do not believe that a full CIA needs to be completed for this proposal.

109 New Zealand Transport Agency (2016) Children's Commissioner survey https://www.nzta.govt.nz/assets/Walking-Cycling-.