

Preliminary Regulatory Impact Statement

Accessible Streets Package

29 October 2019



Accessible Streets Package

Objectives and assessment criteria

The Accessible Streets Package aims to improve the safety and accessibility of our footpaths, shared paths, cycle lanes and cycle paths. 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 a range of path users.¹ 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 (the GPS). The GPS outlines the Government's strategy to guide land transport investment over the next 10 years.

The proposed rules respond to the increasing use of micro-mobility devices like e-scooters on our streets and footpaths and 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 use of 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 improves access.

The package also supports the current safe system approach to road safety in New Zealand.

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
- *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 By path users, the package refers to pedestrians, cyclists, wheeled recreational device users and the mobility impaired.

1. A proposal to reshape current vehicle and device definitions into new categories to enable better regulation of new and emerging transport devices and better regulation of where and how they can be used.
2. A proposal to change who is allowed on footpaths and introduce conditions that users need to follow when using the footpath. The changes would require users riding on the footpath to:
 - (a) Operate in a courteous and considerate manner, in a way that does not constitute a hazard, and gives right of way to pedestrians.
 - (b) Not travel faster than 15km/h per hour (to ensure the safety of others on the footpath).
 - (c) Not ride a device wider than 750mm [other than wheelchairs] (to ensure multiple users can still access the footpath).
3. Enable wheeled recreational devices (or transport devices) such as e-scooters and skateboards to use cycle lanes and cycle paths.
4. Make changes to the priority of road users by:
 - (a) Allowing cyclists and transport device users to ride straight ahead from a left turn lane.
 - (b) Allowing cyclists and transport device users to pass slow moving vehicles on the left.
 - (c) Clarifying that turning traffic must give way to all users in separated lanes, if those users are travelling straight through at an intersection.
 - (d) Giving greater priority to footpath, shared paths and cycle path users on side roads where minimum markings (two white lines) are installed.
5. Introduce lighting requirements for transport device users. The change would permit transport device users on the road at night, provided:
 - (a) The transport device is fitted with reflectors or,
 - (b) The user is wearing reflective clothing.
6. Mandate a minimum overtaking gap for motor vehicles passing cyclists, horse riders, pedestrians, and device users of:
 - (a) 1 meter if the posted speed limit is 60km/h or under
 - (b) 1.5 metres if the posted speed limit exceeds 60km/h.
7. Require road users to give way to buses pulling out of bus stops in urban areas, on roads with a posted speed of 60km/h or less.

Public consultation will assist in further informing these proposals. The regulatory impact statement will be updated with this information post-consultation.

Additional proposals:

The proposed package will also include, and publicly consult on, two additional proposals that are not included in the Regulatory Impact Statement.

These proposals are:

1. Clarify who is allowed on shared paths and cycle paths and introduce conditions that users need to follow when using a shared path or cycle path. The changes will clarify that:
 - (a) The speed limit on shared paths and cycle paths will match the adjacent roadway. If there is no adjacent roadway, a speed limit of 50km/h will apply on these paths.
 - (b) Pedestrians have priority on shared paths, and cyclists have priority on cycle paths.
 - (c) Road controlling authorities can create shared paths and cycle paths by declaring them

2. Clarify road controlling authority powers around the use of berms. The change would enable and simplify local decision-making processes to restrict berm parking (by vehicles like cars or trucks).

Public consultation will be used as any opportunity to inform further consideration and analysis on these proposals. The Regulatory Impact Statement will be updated to include these proposals once public consultation has ended.

Chapter 1: Re-categorise vehicles and devices allowed on paths

Section 1: Problem definition and objectives

1.1 What is the policy problem or opportunity?

Current situation and opportunity

The types of vehicles and devices currently used on footpaths, shared paths, cycle paths and cycle lanes are categorised into different groups to help regulators, councils, and the public understand where and how they can be used. These categories are intended to ensure different devices are used in spaces safely and do not impend on other users.

Recently new vehicles and devices like oversized mobility devices, e-bikes and e-scooters have become increasingly popular. While these devices have many benefits, they also introduce new challenges in the form of; greater speeds, easier access through share schemes, and greater congestion on spaces like the footpath.

The categories presently used to govern vehicles and devices in these spaces have not easily accommodated the growth of new vehicles and devices and it has become increasingly difficult to ensure that the use of these devices in different spaces are safe and ensure the passage of other users. This is particularly the case on the footpath.

To overcome these challenges, we propose re-categorising the types of vehicles and devices used on spaces like the footpath, shared path, cycle paths and cycle lanes. Updating these categories will help regulators to accommodate new and emerging technology and ensure they are used in a safe way.

What are the current categories?

Pedestrians

The term pedestrian includes people on foot, un-powered wheelchairs and wheeled items used by those who are walking. For example, a person pushing a pram, or a shopping trolley is considered a pedestrian. Pedestrians are typically the main users of the footpath.

Mobility devices

Mobility devices refers to a group of devices or vehicles for those who require mobility assistance for medical purposes (like a physical or neurological impairment). They are powered by a motor that has a maximum power output of 1,500 watts. Mobility scooters and powered wheelchairs are the most common example of a mobility device. Users of mobility devices typically use the footpath.





Wheeled recreational devices

Wheeled recreational devices (WRDs) are devices with wheels, propelled by human power, gravity or a small motor with a maximum power output of 300 watts. It includes cycles with a maximum wheel diameter 355mm or less (e.g. a bike typically ridden by 6-year-old or younger). This means that most bicycles are excluded from this definition. Examples of wheeled recreational devices include scooters, skateboards, in-line roller skates and includes some low powered versions of these devices (like e-scooters and e-skateboards).

Cycles and e-bikes

Cycles (which include adult tricycles) and e-bikes are treated as their own vehicle category. However, cycles and e-bikes with a wheel diameter of 355mm or less (typically a cycle ridden by a six-year-old or younger) are both a wheeled recreational device and a cycle. E-bikes also have a maximum power output of 300 watts. An e-bike that exceeds this limit is not included in the cycle category.

The table below outlines where these devices can be used:

Types of device and vehicles and where they can go under the current state:				
Category (Device/vehicle)	Footpath	Shared path	Cycle path	Cycle lane
	Speed limit: Matches adjacent roadway No width limit	Speed limit: Matches adjacent roadway	Speed limit: Matches adjacent roadway	Speed limit: Matches adjacent roadway
Pedestrian 	✓✓	✓✓	✓	✓ (If footpath is not available)
Mobility device 	✓	✓	✓	✓ (If footpath is not available)
Wheeled recreational devices 	✓	✓	✓	✗
Cycles and e-bikes 	✗ (Unless wheel diameter is 355mm or less)	✓	✓	✓
✓✓ = users have priority	✓ = Users are permitted	✓✓ = users have priority if permitted by road controlling authorities		
✓ = Users are permitted but road controlling authorities can restrict use		✗ = Users are not permitted		

Known issues with the current system

The term 'pedestrian' excludes powered wheelchairs

Currently, a powered wheelchair is not treated as a pedestrian, but an unpowered wheelchair is. This is inconsistent as both powered and unpowered wheelchairs are used for medical purposes, travel at slow speeds (typically up to 6km/h) and are crucial to the movement of the person using it.

This can differ from a mobility device, which may be important for a user to travel around but may not always be required to move from place to place. A mobility device also typically travels faster than a powered wheelchair (reaching speeds between 12km/h and 49km/h²). Given the major differences between these devices and their purposes, regulators should be able to distinguish between them, but the law does not currently allow for this.

Wheeled recreational devices includes too many devices

Due to the emergence of new technology, the definition of WRD now includes a range of diverse devices. For example, roller blades and e-scooters are both WRDs, yet travel at different speeds. Some e-scooters can reach speeds up to 25km/h, while roller blade users average about 12km/h. These devices are also used in different ways. For example, it is rare for roller blades to be used on the road, but common for e-scooter users.

This can make it challenging for regulators to permit or restrict certain types of devices, which can result in inconsistencies. For example, a road controlling authority may wish to place limitations on the use of e-scooters on the footpath, but this means that those limitations could miss other fast-moving powered devices with the same risks.

These challenges in differentiating between unpowered and powered devices could also result in the restriction of all devices in some areas when it is not appropriate. For example, if road controlling authorities chose to ban wheeled recreational devices from using a certain space, the decision would exclude a range of users who may not pose a risk in that space.

Issues with the definition of wheeled recreational device

Currently, a range of low-powered wheeled recreational devices (e.g. e-skateboards, powered unicycles, and hoverboards) are also considered motor vehicles and are not permitted on the footpath.

This can be confusing for both users and regulators as a device that fits the definition of a wheeled recreational device is intended to be used on the footpath.

How are these devices also considered motor vehicles?

A motor vehicle is defined as “a vehicle drawn or propelled by a mechanical power” and is only permitted on the road. While this definition typically applies to larger vehicles like cars, it is also broad enough to include smaller, low-powered WRDs like e-skateboards, powered unicycles, and hoverboards.

Are any devices excluded from this shared definition?

² News stories have outlined the differences in speeds here: <https://www.stuff.co.nz/national/108518118/mobility-scooters-reaching-speeds-of-up-to-49kph-transport-ministry-struggling-to-keep-up>
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The definition of 'motor vehicle' excludes vehicles or devices that have been declared by the NZ Transport Agency not to be a motor vehicle. So far, the NZ Transport Agency has made declarations for e-bikes³, yike-bikes and e-scooters. All other low-powered wheeled recreational devices are considered both motor vehicles and WRDs.

What definition applies to these devices? Are they permitted on the footpath, or are they excluded?

The definition of motor vehicle supersedes the definition of wheeled recreational device. This means that all low-powered devices (except for yike-bikes and e-scooters) are treated as motor vehicles and are not permitted on the footpath – unless the NZ Transport Agency declares they are not motor vehicles.

These requirements can make it difficult for users to understand where and how they can use their devices.

It isn't clear how wide a mobility device should be:

The definition of mobility device does not have a width requirement. As a result, devices of varying size are used on the footpath and elsewhere. This can be restrictive and dangerous for other users if a device is wide enough to take up most of the footpath.

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.⁴ 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 distributors 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-watt motors that are capable of travelling at speeds of up to 50km/h are being sold in New Zealand as 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. 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 but the legality of its use on the footpath is unclear.

³ E-bikes (with a maximum power output of 300 watts) have been declared not to be a motor vehicle but are treated as a cycle. Currently, they are not permitted on the footpath (unless their wheel diameter is 355mm or less).

⁴ NZ Transport Agency Research Report 621 *Regulations and safety for electric bicycles and other low-powered vehicles*, July 2017.

In 2011, a Segway user was prosecuted by Police for using the device on footpath on the basis that it was a motor vehicle. In 2014, the District Court ruled that the Segway being used was a mobility device and was permitted to be used on the footpath.

While this judgement clarified the legal status of the device in question, the judgement was also clear it did not mean all Segways were necessarily mobility devices since the design and power output may differ.

As a result, there is still some uncertainty about the legal status of Segways. Resolving this uncertainty may require legislative change and will be dealt with by a more comprehensive review of vehicle classifications.

To overcome these challenges, we propose to re-categorise the vehicles and devices allowed on footpaths, shared paths, cycle paths and cycle lanes.

1.2 Who is affected and how?

The change will impact:

- Pedestrians
- Powered wheelchair users
- Wheeled recreational device users
- Mobility device users
- Wheeled recreational device users

Changes could result in increased access for powered wheelchair users, less access for wider devices (which could include a mobility devices) and greater clarity around where different types of wheeled recreational devices may be used.

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 late-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.

The issue of mandating helmet-use for e-scooters or other wheeled recreational devices is out of scope. Currently, users (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).

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.

Section 2: Options identification

2.1 What options have been considered?

Options:

The options are:

- **Option 1:** Modified status quo (categorised by use type and power) with broad category of wheeled devices
- **Option 2:** Categories based on speed capability
- **Option 3:** Categories based on risk (preferred option)

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: Modified status quo

This option categorises devices/vehicles by design characteristics with a focus on traditional use types and maximum power output. The categories stay like their original state, and more focus is placed on regulating the space they are used in. The proposed categories for assessing this option are:

- pedestrian
- mobility device up to 1500W maximum power output
- cycle and power-assisted cycle up to 300W maximum power output
- wheeled recreational device up to 300W maximum power output

Pros –

- Device/vehicle design characteristics and their resulting use types provide a sensible baseline for any categorisation and make intuitive sense to most people. For example, having the ability to regulate a bicycle differently to a wheeled recreational device (e.g. skateboard).
- Despite the difficulties in measuring power (discussed as a con below), many jurisdictions continue to use power output to quantify and differentiate vehicle types.
- Focusing more on conditions for using a space like the footpath (outlined in later chapters)

Cons –

- The use of maximum power output (the term used in New Zealand's current legislation) is problematic as there is no process to test it. The regulator is left to accept whatever testing method and metric a manufacturer chooses to use.
- The reliance on power as a key categorisation factor (including continuous power output) also does not adequately reflect the design characteristics of different low powered vehicles. A 1500W e-scooter will be a significantly faster and therefore higher risk device than a 1500W self-balancing device (e.g. Segway) that is using its additional power to maintain balance rather than provide propulsion.

- Creating categories that are too broad (e.g. wheeled devices) does not provide for sufficient sub-classification across devices that can be quite different in their design and operation. Differences can include: the number and size of different wheels, the presence or absence of seats, pedals or handlebars, breaking systems or if a device has manual or automatic controls.
- Combing unpowered and powered devices, like e-scooters and push scooters, in the same category is likely to lead to road controlling authorities making bylaws for specific devices such as e-scooters or e-skateboards.

Option 2: Categories based speed capability

This option involves classifying devices/vehicles primarily by speed capability. The proposed categories for assessing this option are:

- pedestrians and devices / vehicles up to 10km/h (approx. pedestrian speeds)
- devices / vehicles up to 20 km/h
- devices / vehicles up to 45km/h.

Pros –

- Speed is a superior safety measure than maximum power output. It is the key risk factor that contributes to both likelihood and severity of harm.
- Motor speed control (i.e. cut outs) can be applied to many pedal assist systems and speed limiting is possible on more advanced e-scooters and related devices.

Cons –

- While speed is a key risk factor that contributes to the likelihood and consequence of crashes, other factors such as mass, rate of acceleration, user control and stability are also important risk factors that can and should inform the categorisation of these devices/vehicles.

Option 3: Categories based on risk (preferred option)

This option uses a risk matrix to provide classifications that take multiple device/vehicle characteristics and performance into consideration.

Assumptions

Risk is assessed based on average riders/users operating within a range of dynamic environments (footpaths, shared paths, cycle paths and cycle lanes) containing a mix of potential users, path/lane widths and user volumes.

- Vehicles are being used within their normal design parameters (e.g. by one person).
- A default speed limit of 15km/h will be applied.
- Risk includes potential harm to riders/users and others in the environment.

NOT included:

- Potential mitigations (e.g. wearing protective gear).
- Projections or other hazards.
- Night-time use (i.e. capacity/need for lighting, etc).

- Parking (e.g. where devices are left and whether this constitutes a further hazard).

Risk Factors:

Risk consists of the probability that an event will occur (likelihood) and the harm (consequence) that is expected if the event occurs.

Factor	Description	Primary risk component
Device / Vehicle Size	The critical dimension and focus here is width. 750mm represents 50% of the minimum width for a footpath. This allows footpath users to pass each other. The average handlebar width on mountain bikes has traditionally been around 660mm, though some now extend to over 800mm. Over 750mm is a significant catch hazard and is rated high risk. Some current mobility devices are over 750mm wide and restrict two-way movement.	Likelihood
Control	How easy the device / vehicle is to manoeuvre and stop.	Likelihood
Stability	Stability assessments are based on typical rider/user experience (not expert riders, etc)	Likelihood
Predictability	How easily other path / lane users can predict the path of travel or other behaviour of a device or vehicle. The proposed proxy is how easily a rider / user can signal changes in their direction of travel.	Likelihood
Speed	General (nominal) operating speed.	Likelihood and consequence
Device / Vehicle Mass	Weight of device / vehicle without rider / user. 40kg is identified as a useful threshold weight for the risk range value on the basis that when matched with a 40kg+ rider a device/vehicle will present a greater risk to a 80kg person.	Consequence
Rider/User Mass	This is based on the average passenger weight definition in the Land Transport Rule: Vehicle Dimensions and Mass 2016.	Consequence

Rating ranges:

	Size	Control	Stability	Predictability	Speed	Device / Vehicle Mass	Rider / User Mass
<i>Low</i>	< 500mm	Limited steering and/or braking	Inherently unstable within normal operating parameters	Rider / user cannot or does not normally signal changes in their direction of travel to others	≤ 9km/h	< 10kg	< 40 kg
<i>Med</i>	500mm – 750mm	Effective steering and braking	Stable within normal operating parameters	Rider / user has limited ability to signal changes in their direction of travel to others	10 – 20km/h	10 – 40kg	40 – 80kg
<i>High</i>	> 750mm	Effective steering and emergency	Inherently stable within normal	Rider / user can easily signal changes in their	> 20km/h	> 40kg	> 80kg

		braking performance	operating parameters	direction of travel to others			
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Rating values:

	Size	Control	Stability	Predictability	Speed	Device / Vehicle Mass	Rider / User Mass
<i>Low</i>	1	5	5	5	1	1	1
<i>Med</i>	3	3	3	3	3	3	2
<i>High</i>	5	1	1	1	5	5	3

Risk matrix for devices/vehicles on footpaths, shared paths, cycle paths and cycle lanes:

		Likelihood (size, control, stability and predictability)		
Consequence (speed, device/vehicle mass and rider/user mass)		Low	Med	High
Low		Low (7)	Low-med (15)	Med (23)
Medium		Low-med (12)	Med (20)	Med-high (28)
High		Med (17)	Med-high (25)	High (33)

Ratings:

Assessment based on typical examples.

	Size	Control	Stability	Predictability	Speed	Device / Vehicle Mass	Rider / User Mass	Rating
<i>Walkers</i>	1	1	1	1	1	-	3	8
<i>Runners</i>	1	1	1	1	3	-	3	10
Kids tricycles	1	3	3	5	1	1	1	15
Kids bikes (small bicycles)	1	3	3	3	3	1	1	15
Kick scooters	1	1	3	5	3	1	2	16
Powered wheelchairs	5	1	1	1	1	5	3	17
Mobility scooter (3 & 4 wheeled) ⁵	3	1	3	1	3	5	3	19
Segway	3	3	1	3	3	5	3	21
Roller-skates & Rollerblades	1	5	5	3	3	1	3	21
Yike bike	3	3	3	3	3	3	3	21
Cycles (excluding	3	1	3	3	5	3	3	21

⁵ This assessment does not take into account that the users of mobility devices are often more susceptible to injury than the wider population, particularly in the event of the device tipping over.

large trikes and extra wide mountain bikes)								
Electric cycles (excluding large trikes and extra wide mountain bikes)	3	1	3	3	5	3	3	21
Skateboards	1	5	5	5	3	1	2	22
Drift trikes	5	5	3	3	3	1	3	23
Hoverboards	3	3	5	3	3	3	3	23
Monowheel (e-unicycle)	1	5	5	5	3	1	3	23
Powered scooters	3	3	3	3	5	3	3	23
Powered skateboards	1	5	5	5	5	1	2	24
Mini-vehicles (wider than 750mm)	5	3	3	1	5	5	3	25

Pros –

- Provides a model for taking a wide range of factors into account to build a more risk-based set of categories.
- Recognises the similarities in risks between powered wheelchairs and pedestrians by including powered wheelchair in the definition of pedestrian. Powered wheelchairs are operated in pedestrian spaces, and travel at similar speeds to pedestrians and unpowered wheelchairs. They also face similar risks from other users on the footpath as pedestrians.
- Captures the difference between wheeled recreational devices that are powered and those that are unpowered. This can assist road controlling authorities assess where these different types of devices cannot be used without unnecessarily restricting other devices. For example, not allowing powered transport devices on a shared path, but allowing unpowered transport devices because most users of the path are parents with young children on push scooters and roller blades. This is something that would be difficult to accomplish under the current state or the other proposed changes.

Cons –

- This option does not readily provide for the application of device/vehicle specific interventions within a category such as regulating throttle control on e-bikes or applying specific controls to e-skateboards but not e-scooters, etc. within the powered transport device category.
- This option does not consider the age of the user, which could pose some significant risks, particularly when there is no requirement to wear a helmet on powered transport devices. This may have a negative impact on children.

- The option does not provide a solution to devices that are perceived to be too large to be operated on the footpath. However, this is expected to be reviewed at a later stage, as part of future work to improve the definitions of a range of different vehicles.

Implications

There needs to be consideration given to NZTA powers under 168A of the Land Transport Act – that is, their power to declare a device not to be a motor vehicle.

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).

2.2 Which of these options is the proposed approach?

	Option 1: Modified Status Quo	Option 2: Categories based on speed capability	Option 3: Categories based on risk
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	-	-
Effectiveness: How does the option maintain or improve access for targeted users?	+	++	+
Effectiveness: How does the option maintain or improve the safety of other users?	0	0	+
Practicality: How enforceable and measurable is the option?	+	-	++
Feasibility: How acceptable is the option to the public?	0	+	0
Overall assessment:	2	4	8

Key:

++ = Much better than doing nothing/the status quo

+ = Better than doing nothing/the status quo

0 = About the same as doing nothing/the status quo

- = Worse than doing nothing/the status quo

-- = Much worse than doing nothing/the status quo







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 3: Categories based on risk**

This option uses a risk matrix to group devices/vehicles based on a risk assessment of their design and performance characteristics. The following categories and descriptions are proposed:

Category	Proposed description / requirements
Pedestrian	Same as the current pedestrian definition: Pedestrian— (a) means a person on foot on a road; and (b) includes a person in or on a contrivance equipped with wheels or revolving runners that is not a vehicle. (e.g. a person pushing a pram or a person in a unpowered or powered wheelchair.
Powered Wheelchair	A new category that is distinguishable from a mobility device and can be used to include powered wheelchairs within the definition of pedestrian. A key distinction is that a powered wheelchair is operated by a joystick or other specialist interface and does not include a mobility device operated by a tiller or handlebar.
Mobility Device	A mobility device is used by a person who requires mobility assistance due to a physical or neurological impairment. The original definition will be preserved under these changes.
Unpowered Transport Device	This is intended to include devices/vehicles that are propelled by human power or gravity.
Powered Transport Device	This is intended to include devices/vehicles with one or more propulsion motors. For a device or vehicle to be categorised as a powered transport device, it needs to be declared by the NZ Transport Agency as not a motor vehicle.
Transport Device	Collective term for both unpowered and powered transport devices.
Cycle	This is a catch all description for the current definitions of cycle and power-assisted cycle which would remain unchanged.

The following table is an overview of proposed use by path/lane space and category:

Types of devices/vehicles and where they can go under the proposed changes:				
Category (device/vehicle)	Footpath	Shared path	Cycle path	Cycle lane
	Speed limit: 15km/h Width limit: 750mm	Speed limit: Matches adjacent roadway or 50km/h	Speed limit: Matches adjacent roadway or 50km/h	Speed limit: Matches adjacent roadway or 50km/h
Pedestrian 	✓✓	✓✓	✓	✓ (If footpath is not available)
Powered wheelchair <i>(new category)</i> 	✓✓	✓✓	✓	✓ (If footpath is not available)
Mobility device 	✓	✓	✓	✓ (If footpath is not available)
Unpowered transport devices <i>(new category)</i> 	✓	✓	✓	✓
Powered transport devices <i>(new category)</i> 	✓	✓	✓	✓
Cycles and e-bikes 	✓	✓	✓✓	✓✓
✓✓ = users have priority		✓=Users are permitted	✓✓=users have priority if permitted by road controlling authorities	
✓ = Users can be permitted in these spaces by road controlling authorities				

Note that these new categories will be referred to throughout the remainder of this Regulatory Impact Statement.

The impacts of this proposed approach will be explored during public consultation and included in the final Accessible Streets regulatory impact statement that will be prepared post consultation.

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 <i>(identify)</i>	Comment: nature of cost or benefit (eg ongoing, one-off), evidence and assumption (eg compliance rates), risks	Impact <i>\$m present value, for monetised impacts; high, medium or low for non-monetised impacts</i>
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Additional costs of proposed approach, compared to taking no action

Regulated parties	TBC – post consultation	
Regulators		
Wider government		
Other parties		
Total Monetised Cost		
Non-monetised costs		

Expected benefits of proposed approach, compared to taking no action

Regulated parties		
Regulators		

Wider government		
Other parties		
Total Monetised Benefit		
Non-monetised benefits		

3.2 What other impacts is this approach likely to have?

TBC – post consultation

Section 4: Stakeholder views

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

Specific stakeholder views on potential device/ vehicle categories include:

Abley Consultants carried out a 2016 study titled Footpath Cycling Rule Options Research.⁶ A range of engagement activities were carried out with stakeholders including conversations with everyday footpath users and workshops with government agencies and advocacy groups, some of which already had a clear position on footpath cycling. There were a wide range of perspectives and it was clear that a consensus on footpath cycling was unlikely. Key issues that were raised included the safety of pedestrians, the safety of cyclists (particularly children) at driveways and side roads, and the benefits of more safety-conscious footpath cycling. Some felt that allowing footpath cycling would reduce pedestrian participation, particularly for older people and those with mobility impairments. Others felt that facilitating safe footpath cycling is essential given New Zealand’s typical road design and traffic conditions. Others felt that with typical road design and traffic conditions they did not want to see footpath cycling as an alternative to continuing to provide cycleways.

On 12 May 2017, the Transport and Industrial Relations Select Committee presented its report on Petition 2014/59 of Joanne Clendon. 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).”

Living Streets has a campaign called: Accessible Streets – Footpaths for pedestrians.⁷ Key points include: E-scooters, bikes, e-skateboards and other micro-mobility powered vehicles (rental or personal, docked or Dockless) can have a place in a modern low-carbon transport system. However, in New Zealand they have been allowed onto our busy and often narrow footpaths. Elderly, young, frail, blind or low vision, deaf and other people often have no independent alternative but walking.

Issues noted by Living Streets:

⁶ Abley Transportation Consultants (2016) Footpath Cycling Rule Options Research (carried out for the NZ Transport Agency) <https://www.nzta.govt.nz/assets/Walking-Cycling-and-Public-Transport/docs/Footpath-Cycling-Research-FINAL.pdf>

⁷ Living Streets campaign materials can be accessed here: <https://www.livingstreets.org.nz/node/4952>

- A significant increase in the number of motorised vehicles allowed on footpaths means that pedestrians are often startled by their appearance, and feel less safe to walk, or have been involved in a crash
- Users are not necessarily familiar with the Road Rules or have the necessary skills to be safe and keep others safe
- Parking of the vehicles is haphazard and often unsafe
- They are not active travel as they are motorized and require no effort, yet they will replace active walking trips. Not everyone can use them
- They require daily servicing by motor-vehicle using 'Juicers' thus creating more traffic and emissions.
- They may be replacing some car journeys (22% reported in Auckland) but are also replacing walking and public transport trips or are just for fun (78% self-reported in Auckland by Lime)
- E-scooters were declared not to be motor-vehicles (2018) so can be treated as recreational devices allowed on the footpath. This was done without consultation. There is no speed limit for these vehicles, and e-scooters can travel at 27km hour. There is no enforcement of moving vehicles on footpaths.

The Blind Foundation have voiced serious concerns about the use of devices like e-scooters on the footpath and their view is that footpaths should be prioritised as safe and accessible for pedestrians and devices like e-scooters should be used on cycle paths or the road, instead of the footpath to ensure pedestrian safety.

Early this year, The Blind Foundation contacted their members asking how they felt about the use of e-scooters on the footpath.⁸ Of the 210 people that responded, 88% agreed with the Blind Foundation view that e-scooters should be banned from the footpath, 2% of respondents disagreed and 10% agreed to some extent.

The Blind foundation have also been prominent in the media about the dangers of e-scooters and members sharing the footpath, sharing that members have been seriously injured by e-scooter users and that members feel unsafe walking on the footpath.⁹

The Cycling Action Network has published a policy illustrating their support for allowing cyclists on the footpath – when it is hazardous for cyclists to travel on the road, or if that cyclist is 12 years old or younger. They also outline that if a cyclist is using the footpath, they must give priority to pedestrians.¹⁰

Use of new and emerging devices also has a high profile with the general public. Many New Zealanders feel strongly for or against the use of these devices in spaces and this is particularly the case for the use of e-scooters on the footpath. This is evident in surveys carried out in Auckland and Christchurch around the use of e-scooters¹¹ and in the media.¹²

⁸ The Blind Foundation's media release about its survey results can be accessed here:

<https://blindfoundation.org.nz/community/e-scooters-your-voices/>

⁹ News stories can be accessed here: <https://www.stuff.co.nz/national/111820308/blind-and-visually-impaired-people-want-escooters-off-the-footpath-for-good> and here:

<https://www.stuff.co.nz/national/113779841/people-thinking-twice-about-going-to-shops-because-of-escooters-on-footpaths>

¹⁰ The Cycling Action Network policy can be accessed here: <https://can.org.nz/canpolicy/cyclists-on-footpaths>

¹¹ Kantar TNS (2019) Public response to shared e-scooters in Auckland and Christchurch.

¹² Media coverage around the use of e-scooters can be accessed here:

<https://www.stuff.co.nz/dominion-post/news/113983324/government-could-ask-cyclists-to-share-bike->

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 3 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. 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.

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.

DRAFT

Chapter 2: 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 users of those footpaths.

Under the current framework only pedestrians, users of mobility devices and wheeled recreational devices can use the footpath. Other users who could use the footpath, but are currently not allowed to, include cyclists and those using vehicles or devices that are not included in the mobility device or transport device categories.

There are a range of new and emerging vehicles that could seek to use the footpath but 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 path users.

Who is currently allowed to use the footpath?

Pedestrians are generally accepted as the main users of the footpath. By definition a 'footpath' means a path or way principally designed for, and used by, pedestrians.¹³ The term 'pedestrian' includes people on foot and in or on a 'contrivance equipped with wheels or revolving runners that is not a vehicle'.¹⁴ In practical terms this includes wheelchairs¹⁵ that are not propelled by mechanical power and permits the use of a range of everyday items such as pushchairs and shopping trundlers.¹⁶

Two types of vehicle are currently allowed on the footpath:¹⁷

- Mobility devices – defined as devices that are designed and constructed for use by persons who require mobility assistance due to a physical or neurological impairment. The device can be powered or unpowered but must have a maximum width of 750mm.
- Wheeled recreational devices – defined as a device with wheels conveyances (other than a cycle that has a wheel diameter exceeding 355mm) that can be propelled by human power, gravity or a motor not exceeding 300 watts. Cyclists with a wheel diameter greater than 355mm are not permitted to ride on the footpath.¹⁸

Mobility devices must use a footpath unless doing so is impractical. Wheeled recreational devices are only barred from use of cycle lanes and some cycle paths (unless a road controlling authority restricts their use in other spaces).

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

¹³ Land Transport (Road User) Rule 2004, r 1.6 (definition of a footpath).

¹⁴ Land Transport (Road User) Rule 2004, r 1.6 (definition of a pedestrian).

¹⁵ If the changes proposed in chapter 1 are introduced,

¹⁶ Land Transport Act 1998, s 2 (definition of a vehicle).

¹⁷ Land Transport (Road User) Rule 2004, r 1.6 (definition of a wheeled recreational device).

¹⁸ Land Transport (Road User) Rule 2004 r11.11 Riding cycles on footpaths.

motorcycles can only be used if the relevant Road Controlling Authority has authorised the use of the footpath for that purpose.¹⁹

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 e-scooters and mobility devices, which can travel up to 35km/h, can.

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.²⁰ 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.

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.²¹ 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.²² 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 (This is just under 10 percent of all cycle crashes recorded).

¹⁹ NZ Post has a separate and specific exemption to enable them to use their 'Paxster' delivery vehicles on the footpath under tightly controlled conditions.

²⁰ 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.

²¹ Land Transport (Road User) Rule 2004, r 11.11.

²² 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.

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).²³ Over the same 10-year period, 90 people were killed while cycling on our roads. Approximately a quarter of people killed or injured in traffic crashes while cycling was 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.²⁴ 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.²⁵ 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.²⁶

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.

²³ 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 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>.

²⁴ <https://www.nzta.govt.nz/assets/Walking-Cycling-and-Public-Transport/docs/Footpath-Cycling-Research-FINAL.pdf>.

²⁵ 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/>.

²⁶ 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

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 and consultation will further these policy discussions.

Current use of the footpath by wheeled recreational devices

Wheeled recreational devices 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.²⁷ Recently, transport devices have become increasingly popular with New Zealanders, and concerns surrounding safe usage have been equally topical. The following issues have generated interest and concerns:

- There is currently no speed limit for devices when they are in use on the footpath. 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.
- Wheeled recreational devices 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.²⁸
- 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 or e-scooters and advice is widely ignored.
- Available share schemes (like e-scooter schemes) 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. In early 2019, Lime scooters were temporarily suspended from Auckland and Dunedin after a number of braking issues resulted in injuries.²⁹ These issues have also occurred internationally.³⁰

Faster transport devices 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.³¹ E-scooters are classified as a wheeled recreational device and look like a push scooter with a small electric motor.³² They tend to be larger than most push scooters and are popular, as surveys of recent trials have shown.³³ 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.³⁴ By comparison, there were 3,437 claims related to non-electric push scooters,³⁵ 11,312 claims for bicycles³⁶ and 1,837 claims for skateboard related accidents.³⁷

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.³⁸ 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.³⁹

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
<i>Auckland</i>	490	1,227	\$219,540	\$401,762
<i>Christchurch</i>	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 concern, 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. 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 path users if no action is taken. In the absence of clear regulation, larger mobility devices are becoming more prevalent on the footpath. Similarly, as 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

²⁷ 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/>.

²⁸ <https://www.nzta.govt.nz/vehicles/vehicle-types/low-powered-vehicles/>.

²⁹ <https://www.newshub.co.nz/home/new-zealand/2019/02/auckland-council-temporarily-bans-lime-scooters-amid-safety-concerns.html>.

³⁰ <https://www.smartcompany.com.au/startupsmart/news-analysis/lime-scooter-sharing-switzerland-glitch/>.

³¹ 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>.

³² 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/>.

³³ 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”.

³⁴ Accident Compensation Corporation (2019) E-scooter and scooter related claims, 14 October 2018 to 23 January 2019.

³⁵ Ibid.

³⁶ Accident Compensation Corporation (2019) Bike related claims, 14 October 2018 to 23 January 2019.

³⁷ Accident Compensation Corporation (2019) Skateboard related claims, 14 October 2018 to 23 January 2019.

³⁸ Accident Compensation Corporation (2019) E-scooter and scooter related claims, 14 October 2018 to 23 January 2019.

³⁹ 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.

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 e.g. print newspapers, radio, online, and social and/or outdoor (e.g. street posters).

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 transport device 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:** Status quo (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 behaves in a careful and considerate manner that does not constitute a hazard to other footpath users, travels less than 15km/h⁴⁰, is less than 750mm⁴¹ wide, and where the operator gives way to pedestrians and (preferred option).
- **Option 3:** Only pedestrians and authorised medical mobility device users are allowed to use the footpath – no other wheeled vehicles at all. This option would involve the creation 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)

⁴⁰ 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.

⁴¹ 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 exempted from this rule. We will seek this feedback on the 750mm requirement during the consultation phase.

- **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 maintain powers 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: behaviour component, 15km/h, 750mm wide (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 powered transport devices 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.⁴² Early this year, Lime e-scooters in Auckland have experienced similar safety problems.⁴³ 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 is 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 pedestrians, 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, encouraging many cyclists to continue riding 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 (transport device users). This may cause confusion for users and may be perceived as inequitable.
- There is a risk that cyclists will be 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.
- Medical mobility devices may be driven on the road, illegally, so that they can travel faster than 15km/h, exposing the occupant to greater safety risks, especially from motorists in vehicles.
- 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 15km/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 devices that are wider than 750mm may not be able to continue to use them and could suffer financial and physical hardship.

Implications

⁴² <https://www.smartcompany.com.au/startupsmart/news-analysis/lime-scooter-sharing-switzerland-glitch/>

⁴³ https://www.nzherald.co.nz/nz/news/article.cfm?c_id=1&objectid=12204522

- 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.
- 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 transport devices, 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 medical 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 medical mobility devices, likely to include such as the elderly, the young, and those with disabilities.⁴⁴

Cons –

- Many current users of the footpath would be required to use the road instead, including 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 powered transport devices would ignore the requirement, as occurs at present.
- Those who are not pedestrians or users of medical mobility devices would need to be specifically authorised to use their 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 –

⁴⁴ 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, 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.

- 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 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 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, that travels less than 15km/h, and is less than 750mm wide.

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 15km/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 transport devices 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 3 is accepted, powered transport devices 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 <i>(identify)</i>	Comment: nature of cost or benefit (eg ongoing, one-off), evidence and assumption (eg compliance rates), risks	Impact <i>\$m present value, for monetised impacts; high, medium or low for non-monetised impacts</i>
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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 <i>year one</i> of campaign and consultant shared across whole package. <i>Year two</i> 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.	Medium / High (some benefits already realised through current illegal use of the footpath). Increased access \$
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	Safety benefits for cyclists and pedestrians, as this will allow safe footpath cycling to be proactively taught, with clear expectations of pedestrian priority reinforced.	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 on footpaths in some situations will impact particular groups. This could 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 pedestrians 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 will result in the creation of a new rule, the Land Transport: Footpaths, Shared Paths, and Cycle Paths Rule (the Paths Rule). The proposed new Rule aims to redefine the users of footpaths, shared paths and cycle paths and gives effect to a national framework to govern which vehicles can be used on footpaths under which conditions. The Rule also provides a mechanism for road controlling authorities to vary parts of this framework. This proposal will focus on what this means for footpath use.

The changes would require vehicles using the footpath 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.
- Not travel faster than 15km/h (to ensure the safety of others sharing the footpath)
- Not be wider than 750mm (to ensure multiple users can still access the footpath)

The framework would then mean the following types of vehicles would be allowed to be used on footpaths (if they follow the above requirements):

- Powered wheelchairs (would not be required to follow width requirements)
- Mobility devices
- Transport devices (formally wheeled recreational devices)
- Cycles, including e-bikes

None of the changes will restrict the opportunity for people to walk or run on the footpath. The changes are meant to assist a variety of users to access safe spaces to travel, while maintaining and prioritising the access of pedestrians.

The Paths Rule would also allow road controlling authorities to permit or restrict users of the footpath.

Implementing option 2 would also 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.

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.

DRAFT

Chapter 3: 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 motors⁴⁵ 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 and cycle paths. This would enable the micromobility benefits of WRDs to be better realised and helps users 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 some 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)⁴⁶
- 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 main users of cycle lanes and cycle paths. Cycle lanes are a longitudinal strip within the roadway designed for the passage of cycles.⁴⁷ 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 and mobility device users when there are no footpaths available.⁴⁸

⁴⁵ As outlined in Chapter 1, wheeled recreational devices will be referred to as transport devices if the proposed changes are introduced. Transport devices will consist of two separate categories – unpowered transport devices (wheeled devices that are propelled by human power or gravity) and powered transport devices (wheeled devices that are powered by one or more auxiliary motor and have been declared by the Transport Agency not to be a motor vehicle).

⁴⁶ 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.

⁴⁷ Land Transport (Road User) Rule 2004. r. 1.6 (*interpretation of cycle lane*).

⁴⁸ Land Transport (Road User) Rule 2004. r. 1.6 (*interpretation of cycle path*).



The image 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).⁴⁹

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.⁵⁰ Road controlling authorities must then make a resolution to restrict the use of the lane to cycles only.⁵¹

Currently, Road Controlling Authorities can also set conditions by bylaw or resolution for the use of cycle paths.⁵² 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. 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 road controlling authorities). 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 devices that are powered by small motors. For example, some e-scooters can go upwards of 24 km/h on the flat,⁵³. A 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.⁵⁴ This compares to cyclists and e-bikers who can travel at speeds up to, and sometimes exceeding

⁴⁹ Land Transport (Road User) Rule 2004. r. 11.1A (*use of shared path*).

⁵⁰ 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.

⁵¹ Land Transport Act 1998. r. 22AB. (*Road controlling authorities may make certain bylaws*).

⁵³ 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/>.

⁵⁴ 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.

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 these users have consistent access to. From 2012 to 2018, 130 skateboarders and 232 wheeled pedestrians (including people on push scooters, people in wheelchairs and using mobility devices) were injured in vehicle crashes. A further 1 skateboarder and 11 wheeled pedestrians were killed in the same period.⁵⁵

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.⁵⁶ 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,⁵⁷ and although separated cycle paths tend to have high crash rates (due to the mix of users behaving differently, and interactions with driveways)⁵⁸ 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 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.⁵⁹ As such, rules around cycle lanes, and restrictions on the use of some cycle paths, are not consistent with current practice.

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.⁶⁰

A 2018 pilot of e-scooters in Portland, Oregon found that e-scooter users preferred riding on the road in low-speed streets and cycle lanes. E-scooter users had lower rates of riding on the footpaths in low-speed streets or streets with dedicated spaces like cycle lanes and cycle paths.⁶¹

If a speed limit of 10 km/h is placed on footpaths as proposed in Chapter 2, the footpath may not always be the most viable option for these device users 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

⁵⁵ Data from the Crash Analysis System (CAS).

⁵⁶ 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>.

⁵⁷ 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

⁵⁸ 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>.

⁵⁹ Christchurch City Council (2019) Feedback on Christchurch Lime e-scooter use, 63-64.

⁶⁰ Christchurch City Council (2019), 63-64.

⁶¹ Portland Bureau of Transportation (2018) E-scooter findings report <https://www.portlandoregon.gov/transportation/article/709719>.

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 in cycle lanes.

The rules around when transport devices 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.⁶² 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.⁶³

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.⁶⁴

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 devices 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.⁶⁵ Creating a more consistent environment for use 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 15 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.

This means there is a continued risk to other path users if no action is taken. If users continue to travel fast on the footpath, they may have conflicts with more pedestrians at higher speeds. But the only higher speed environment these devices will have consistent use of is the road, a much 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 device users, pedestrians and mobility devices will use footpaths.

⁶² Christchurch City Council (2019), 43-44.

⁶³ 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>.

⁶⁴ Christchurch City Council (2019), 45.

⁶⁵ Portland Bureau of Transportation (2018) E-scooter findings report, <https://www.portlandoregon.gov/transportation/article/709719>.

If change occurs, it is likely that many WRD users will continue to use the footpath. It is a safe environment, and users who do not go particularly fast 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 2 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.

Road controlling authorities 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 e.g. 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 late-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.

Mandating helmet use for e-scooters or other WRDs is out of scope. Currently, device users 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.

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, like cyclists. **(preferred option)**
- 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, road controlling authorities would continue to have the power to permit or 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 15 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 lanes and paths to cycles via a resolution.
- Ensures there are safe, higher speed environments for WRDs to ride in where there are existing cycle lanes and cycle paths and where new ones are constructed, particularly if a maximum footpath speed of 15 km/h is in place (as proposed in Chapter 2). 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 manage different speeds and overtake when required. Guidance could 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.⁶⁶
- 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.
- If wattage requirements for WRDs⁶⁷ 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:
 - This option sets clear principles for how on-road cycle lanes and separated cycle paths should be used,
 - provides a more consistent environment in which these devices can be used, and
 - provides riders of faster powered WRDs like e-scooters and e-skateboards with safe, higher speed environments to ride in.
- This option is expected to deter powered WRD users, who want to travel at a faster pace from using the footpath when a cycle lane is available.

⁶⁶ 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/>.

⁶⁷ 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.

- 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 users such as cyclists and powered WRD users.
- There is likely to be less conflict between slow or unstable WRDs and motor vehicles and cyclists, as fewer types of WRDs will be permitted to use cycle lanes.

Cons –

- 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 can travel at comparable speeds to powered WRDs, for example skateboards and scooters going downhill.
- Users of powered WRDs would not be required to wear any kind of safety gear, like helmets, when travelling in on-road cycle lanes. This will be inconsistent with the requirements of cyclists.
- 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.

Implications

- 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 powered transport devices may be used, while also improving the safety of device users choosing to use environments more suitable for higher speeds. Although cyclists already 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 transport devices 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.⁶⁸
- Pedestrians, powered wheelchairs and medical mobility devices will still be able to use cycle lanes when there is no footpath provided.
- Road controlling authorities will be able to restrict users in cycle lanes if appropriate. Additional signs and markings are unlikely to be needed in most cases, as the current signs and

⁶⁸ 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/>.

markings can remain to confer priority to people cycling. Where additional signs and markings are needed, road controlling authorities will need to cover the costs of these. Guidance will be provided to councils about implementation of the changes.

- If wattage requirements for powered transport devices⁶⁹ are removed as part of these changes, not only will fast moving powered transport be allowed to be used on footpaths (while going 15km/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.

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).

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 equitable are the impacts of changes to access and safety distributed to path users?	0	+	++
Equity: How equitable are the impacts of changes to access and safety distributed to cyclists?	0	--	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	-	+
Overall assessment:	0	2	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.

⁶⁹ 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.

The proposed approach is **Option 3: 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 15km/h if the proposal in Chapter 2 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.

We consider that the benefits of Option 2 outweigh the risks. Safety concerns for cyclists are 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 (<i>identify</i>)	Comment: nature of cost or benefit (eg ongoing, one-off), evidence and assumption (eg compliance rates), risks	Impact <i>\$m present value, for monetised impacts; high, medium or low for non-monetised impacts</i>
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Additional costs of proposed approach, compared to taking no action

Regulated parties	There is risk of more collisions between cyclists and WRD users (transport device users) and motor vehicles on roads in some instances. For instance, more cyclists may use the road to overtake WRDs (transport device users)	Medium
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	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	Travel time savings – expected to be neutral
	Greater uptake and use of WRDs	Public health benefits (TBD)
	Safety gains for WRD users	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 3 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.

Mention the creation of transport devices

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

People walking, cycling, riding a device, or taking public transport are often given less priority compared to those using motor vehicles. There are also situations where the law restricts pedestrians, cyclists and device users from engaging in safe behaviours that would improve their visibility or reduce conflicts with motor vehicles.

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.⁷⁰

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

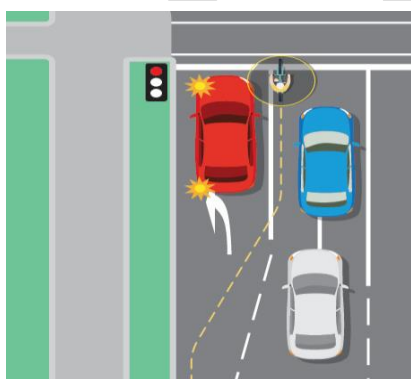


Figure 1A: Under the current state, cyclists must legally cross from the left-hand lane into the straight-ahead lane to travel straight ahead.

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

⁷⁰ Ministry of Transport (2019) *Household Travel Survey, 2015-2018*.

<https://www.transport.govt.nz/mot-resources/household-travel-survey/new-results/>.

intersection.⁷¹ 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 1A.

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.⁷²

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.⁷³ *The Official New Zealand Code for Cyclists*,⁷⁴ for example, explains that when there are heavy flows of traffic, it is safest to ride “just to the left of this lane.”⁷⁵ There is an additional concern that potential riders may avoid cycling because the rule does not favour the safety of cyclists.⁷⁶

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

Section 2.8 of the Road User Rule prohibits cyclists from overtaking a vehicle on the left, unless that vehicle has stopped.⁷⁷ (Cyclists can do so if they are in a marked cycle lane.)⁷⁸

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. 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.⁷⁹

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.⁸⁰ This suggests that the rule may need to be updated to reflect current behaviour, safe practice, and help cities to better 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).**

⁷¹ Land Transport (Road User) Rule 2004, r 2.4 (Route of driving at intersections marked or signed in lanes).

⁷² 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>.

⁷³ Ibid, 36.

⁷⁴ New Zealand Transport Agency (2016) *The Official New Zealand Code for Cyclists*.

⁷⁵ Ibid, 40.

⁷⁶ MWH and ViaStrada (2016), 32.

⁷⁷ Land Transport (Road User) Rule 2004 r 2.8, (Passing on left).

⁷⁸ Land Transport (Road User) Rule 2004 r 2.6(2), (General Requirements about passing other vehicles).

⁷⁹ MWH and ViaStrada (2016), 44.

⁸⁰ 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

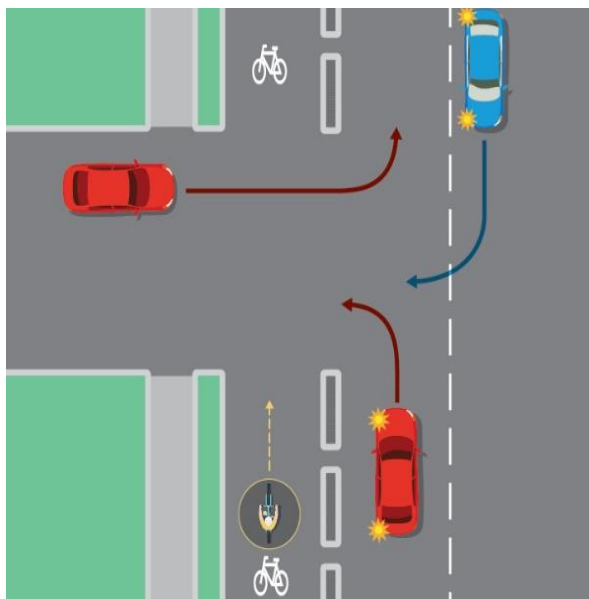


Figure 3A: Currently, the cyclist going straight ahead must give way to turning traffic due to the level of separation.

There is an existing requirement that turning traffic must give way to users in special vehicle lanes prior to crossing the lane. However, if the lane is separated (for example, with bollards or concrete barriers) and it passes through an intersection, it is less clear if turning traffic needs to give way to the users of the special vehicle lane that are riding straight ahead. For example, the cyclist pictured in Figure 3D is intending to travel past a side road in a separated lane. But it is not clear if the red and blue cars need to give way to the cyclist before turning into the side road.

This is not specified in the Road User Rule but comes from the definition of *roadways* in Section 1.6 of the Rule.⁸¹ 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.⁸²

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.⁸³

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.⁸⁴ 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.**

⁸¹ Land Transport (Road User) Rule 2004 r 1.6 (Interpretation of *roadways*.)

⁸² MWH and ViaStrada (2016), 6.

⁸³ *Ibid*, 14.

⁸⁴ *Ibid*.

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

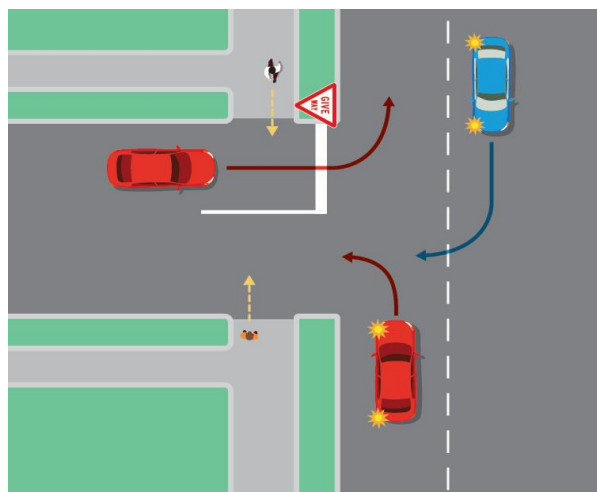


Figure 4A: Currently, users of footpaths, shared paths and cycle paths going straight ahead across side roads must give way to turning traffic.

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

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.⁸⁵ 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.⁸⁶ For example, as pictured in figure 4A, 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.⁸⁷ 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**

⁸⁵ 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.

⁸⁶ Ibid.

⁸⁷ Ibid.

users over turning traffic where they are travelling straight through at specific locations where minimum markings (two white lines across the side road).

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?

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 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 road user priority from cars to more active modes like walking and cycling. This is similar to current road and path user 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*,⁸⁸ 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*⁸⁹ 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*⁹⁰ 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.

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.

⁸⁸ 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>.

⁸⁹ 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>.

⁹⁰ 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 –

- The option 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.⁹¹
- 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 2006.⁹²

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.
- 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 –

⁹¹ 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.

⁹² MWH and ViaStrada (2016), 38.

- 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.⁹³ Delays for other motorists are also expected to be insignificant.⁹⁴
- 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.⁹⁵
- 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".⁹⁶ Making undertaking legal means we can add clarity to what undertaking means and when it is safe to do so.

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.

⁹³ MWH and ViaStrada (2016), 45.

⁹⁴ Ibid, 44.

⁹⁵ Ministry of Transport (2017), 9.

⁹⁶ MWH and ViaStrada (2016), 45.

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.⁹⁷
- 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 traffic. During 2011 to 2015, there were 78 “left-turn sideswipe crashes” where motorists did not check or notice another party.⁹⁸ 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. The device will be two white lines along the side street.

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.

⁹⁷ Ibid, 10.

⁹⁸ Ibid, 14.

- 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.⁹⁹ 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.
- 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,¹⁰⁰ 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

⁹⁹ For examples, see Koorey & McCrostie (2015).

¹⁰⁰ 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>.

these long-bonneted trucks, spent over 50% of their time in urban areas in 2018.¹⁰¹ 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).¹⁰² 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 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.¹⁰³
- 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,¹⁰⁴ 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.¹⁰⁵

Option 3: Proposals 3 and 4

Pros –

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

¹⁰¹ Based on conversations between the TR Group rental manager and NZ Transport Agency staff in 2018.

¹⁰² Elvik et al. (2009) *The handbook of road safety measures*, 2nd edition, Emerald Group Publishing, 1124.

¹⁰³ MWH and ViaStrada, 2016, 8.

¹⁰⁴ NZ Transport Agency, (2013) *Economic evaluation manual*.

¹⁰⁵ 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.

- 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)

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 (<i>identify</i>)	Comment: nature of cost or benefit (eg ongoing, one-off), evidence and assumption (eg compliance rates), risks	Impact <i>\$m present value, for monetised impacts; high, medium or low for non-monetised impacts</i>
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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 5: Introduce consistent reflector requirements for transport devices at night time

Section 1: Problem definition and objectives

1.1 What is the policy problem or opportunity?

Current Situation

Clause 11.12 of Road User Rule requires cyclists to use a headlamp, reflectors and a rearward-facing position lamp when riding a bicycle (or e-bike) at night.¹⁰⁶

Cyclists are also not permitted to ride on the road at night unless the cycle has pedal reflectors and the cyclist is wearing reflective material.¹⁰⁷

Requiring cyclists to use lighting equipment has largely been acknowledged as a way to mitigate risks associated with travelling alongside motorists at night. For example, research has shown that using a reflector reduces the risk of a rear-end collision in darkness by 80%.¹⁰⁸

Transport device users, while permitted on the road, do not have any lighting requirements. This inconsistency can be dangerous as it means transport devices users who travel at night are not required to be visible to other road users. This risk is amplified if the user is on the road with fast-moving traffic.

Chapter 3 proposes allowing transport devices in cycle lanes and cycle paths. If this proposal is adopted, transport device users would also be permitted in these spaces at night without a requirement to use lighting equipment. There is a considerable risk in allowing transport device users in these spaces without such equipment. Cycle lanes and cycle paths frequently pass through intersections and past driveways. If transport device users are not visible to motorists turning at an intersection or coming out of a driveway at night, this can increase the opportunity for conflict between these users.

To mitigate the risks associated with transport device users riding in these spaces at night time, we propose to extend reflector requirements for cyclists to all transport device users when travelling on the road at night.

This means transport device users would be permitted to ride on the road at night provided:

- The transport device is fitted with reflectors or,
- the user is wearing reflective clothing.

If proposals 3 (enabling transport device users to use cycle lanes and cycle path) and 4C (giving separated lane users priority over turning traffic) are introduced, transport device users would also need to follow these requirements if they are riding in a cycle lane or cycle path at night.

¹⁰⁶ Land Transport (Road User) Rule 2004. r 11.12 (1) *Lighting and reflector requirements for cyclists.*

¹⁰⁷ Land Transport (Road User) Rule 2004. r 11.12 (2) *Lighting and reflector requirements for cyclists.*

¹⁰⁸ Elvik, R., Høye, A., Vaa, T., and Sørensen, M. (2009) *The Handbook of Road Safety Measures*. Table 4.25.1 Effects on potential accident rates of different types of equipment on bicycles.

We are not proposing to require users to follow these requirements on footpaths or shared paths.

1.2 Who is affected and how?

The safety of transport device users is expected to improve if the proposed change is adopted, as users will be more visible to motorists and cyclists when travelling on the road or in other spaces (if other proposals are introduced).

However, some transport devices (such as skateboards) do not have fitted reflectors and many users do not own or use reflective clothing. The change would likely require users to purchase a reflector for their device or reflective clothing for themselves. This may be impractical or expensive and could act as a barrier to continued use of a device at night.

Other road users such as cyclists and motorists will benefit from the proposed change. Motorists and cyclists will be able to see other transport device users more easily, so they can safely pass, adjust speeds, or change lanes if necessary.

Pedestrians and mobility device users may be negatively affected by the proposed change because the requirements will not apply to footpaths and shared paths. Many transport device users travel at greater speeds compared to pedestrians and this could be a risk to vulnerable footpath users who do not see them coming.

Share scheme companies may be affected if their devices do not already have reflectors. This could mean that they can only require their devices to be used on the footpath or shared paths.

Further analysis and feedback are needed to help inform if other users may be affected. We will be using public consultation for Accessible Streets to help inform that analysis.

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 late-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. It also makes up a part of a broader workstream, which includes analysis of current central and local government work underway about walking and cycling and other path users.

Section 2: Options identification

2.1 What options have been considered?

Options:

The options are:

- Option 1: Status quo (No change)
- Option 2: **(preferred option)** Permit transport device users to use the road, cycle lanes and cycle paths at night, provided:
 - The transport device is fitted with reflectors or,
 - The user is wearing reflective clothing

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 (No change)

Pros –

- No cost of change would be incurred.
- There would be no additional cost to users that travel at night without reflectors or reflective clothing.
- There would be no additional barriers to travelling at night on a transport device.

Cons –

- Riders of transport devices are less visible than other users and this can increase the risk of conflict. This can be particularly problematic when users are travelling at vastly different speeds on the road.
- The status quo is inconsistent with the requirements of other road users. Motorists and cyclists, for example, are required to follow lighting requirements at night, yet transport device users are not.

Option 2: (preferred option) Permit transport device users to use the road, cycle lanes and cycle paths at night, provided:

- The transport device is fitted with reflectors or,
- The user is wearing reflective clothing

Pros –

- The proposed change increases the visibility of a range of devices when travelling in different spaces. This means other users like motorists and cyclists will be able to safely pass, adjust speeds or change lanes if a transport device user is travelling in the same space.
- The change creates consistency with requirements on the road, where cyclist and motorists are also required to follow lighting requirements.
- If proposals 3 (enabling transport device users to use cycle lanes and cycle path) and 4 (giving separated lane users priority over turning traffic) are introduced, lighting requirements for transport devices will be consistent with cyclists in these spaces.

- The requirement could encourage a move from private cars to transport device use for short trips at night as trips on a transport device can be cheaper and more efficient.

Cons –

- Creating more requirements for transport device users could make use at night less accessible for a range of users that either cannot afford or are not practically (due to the type of device) able to attach reflectors. Reflective clothing may also be an additional cost to users.
- There is a risk in not applying these requirements to users riding in shared paths and on the footpath. While many users in these spaces are not required to use lighting equipment (like pedestrians and mobility device users), not requiring transport device users to use reflectors or reflective clothing mean users who travel at greater speeds are less visible to slower or vision impaired pedestrians and to motorists at pedestrian crossings at night time.

Implications –

The proposed change will only apply to transport device use on the road at night, unless proposals 3 (enabling transport device users to use cycle lanes and cycle path) and 4C (giving separated lane users priority over turning traffic) are introduced. However, if proposal 3 is adopted, but proposal 4C is not, transport device users will be permitted in cycle lanes and cycle paths, but users will only be required to follow lighting requirements when they are in cycle lanes. Proposal 4C is needs to be adopted for lighting requirements to be consistent.

Reflectors or reflective clothing may be expensive or impractical for users to purchase. If this proposal is adopted, it may be helpful to investigate how users respond to these changes and how easily they can follow requirements.

Limited analysis has been carried out for this proposal. Consultation for Accessible Streets will be used as an opportunity help inform this analysis.

Changes to Offences and Penalties Regulations

Transport device users could potentially be fined for not following lighting requirements.

2.2 Which of these options is the proposed approach?		
	Option 1: Status Quo	Option 2: lighting requirements for transport device users
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	+
Practicality: How enforceable and measurable is the option?	0	-
Feasibility: How acceptable is the option to the public?	0	0
Overall assessment:	0	6
<p>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.</p> <p>The proposed approach is Option 2: Introducing lighting requirements for transport device users allows for all devices on the road to be visible to other users, which can decrease the risk of an incident and ensure the safe passage for a range of users on the road at night. This can make using a transport device more appealing than the use of a car for short trips at night.</p>		

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 <i>(identify)</i>	Comment: nature of cost or benefit (eg ongoing, one-off), evidence and assumption (eg compliance rates), risks	Impact <i>\$m present value, for monetised impacts; high, medium or low for non-monetised impacts</i>
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Additional costs of proposed approach, compared to taking no action		
Regulated parties	TBC post- consultation	

Regulators	The police and local government currently work together to ensure that cyclists follow lighting requirements. It is expected that this process is extended to transport device users.	[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	TBC – post consultation	
Regulators		
Wider government		
Other parties		
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?
Other impacts will be confirmed after public consultation.

Section 4: Stakeholder views

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

- Pedestrian stakeholders who represent a diverse group of perspective are likely to have concerns around wider use of the footpath at night by transport devices, particularly if they are not visible. The advocacy group Living Streets, for example, has previously indicated that it would like to see the footpath reserved for pedestrian use only.¹⁰⁹
- Cycling stakeholders are likely to support increased lighting requirements for other users that will ride in the same space as them at night.
- E-scooter stakeholders (e.g. share companies like Lime) already have lighting equipment on their devices. However, it is not clear if further equipment is needed to make these devices consistent with the proposed lighting requirements.
- It is unclear what the public will think of the changes as it is not clear how many users will need to add/purchase equipment or if users don't use their devices at night.
- While the proposed change will ensure motorists can see transport device users more clearly on the road, some motorists may not support the use of transport devices on the road at night time because they would rather share the road with other motorists.
- Women in Urbanism have been actively supportive of the use of transport devices like e-scooters at night as they offer a safe way for women to get home from the bus stop when it is dark outside.¹¹⁰

Stakeholder views will be further informed by public consultation.

Section 5: Implementation and operation

5.1 How will the new arrangements be given effect?

¹⁰⁹ Living Streets campaign materials can be accessed here: <https://www.livingstreets.org.nz/node/4952>

¹¹⁰ Women in Urbanism article about the benefits of e-scooters can be accessed here: <https://thespinoff.co.nz/auckland/26-11-2018/where-should-lime-scooters-go-on-the-little-road-of-course/>

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

Implementing Option 2 will result in an amendment to the Land Transport (Road User) Rule, effectively extending the requirements for cyclists to include transport device users. This would be drafted by the Parliamentary Counsel Office (PCO), with instructions written by the Ministry of Transport and the NZ Transport Agency, as part of the wider Accessible Streets package.

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. 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.

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.

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.

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 different spaces.

Existing data on road injuries 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 6: Mandating a minimum overtaking gap for vehicles passing cyclists, transport device users, horses, mobility device users and pedestrians

Section 1: Problem definition and objectives

1.1 What is the policy problem or opportunity?

Current situation

Passing some road users, such as cyclists, transport device users, horses, mobility device users and pedestrians on the side of a road, too closely (in a vehicle) can increase the risk of serious injury or death for that road user.

Drivers who pass road users must comply with transport rules and guidelines.¹¹¹ 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)¹¹² or the Crimes Act 1961.

Unfortunately, this does not deter drivers from passing too closely. 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 2016.¹¹³

Although these mechanisms exist, many drivers do not understand it 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 road user or that they should wait behind a cyclist until there is a safe passing point.

To overcome these challenges, we propose introducing a mandatory minimum overtaking gap (MOG) that drivers must abide by when passing road users, such as cyclists, transport device users, mobility device users and pedestrians on the side of the road.

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

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.¹¹⁴ 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).¹¹⁵ The on-road data found that close passes do occur, and this varies on different types of roads.

¹¹¹ 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.

¹¹² Sections 7 and 8 of the Land Transport Act state that a person may not drive a motor vehicle recklessly or carelessly.

¹¹³ Data from the Crash Analysis System (CAS).

¹¹⁴ 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>.

¹¹⁵ LIDAR stands for laser imaging detection and ranging.

The Cycling Safety Panel in their 2014 report *Safer journeys for people who cycle*, also recommended that New Zealand trial a MOG rule change.¹¹⁶

1.2 Who is affected and how?

Cyclists, transport device users, horses, mobility device users, pedestrians and motorists are the most likely affected parties and will benefit the most from this proposal as a minimum means these users will have more space on the road.

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.

Cycling stakeholders are likely to support the introduction of a minimum overtaking gap. Those who are unlikely to support such a change include stakeholders such as the Road Transport Forum who would be concerned about the viability of such a rule on narrow roads with large vehicles. There is also a vocal dissenting part of the population on cycling issues which would likely express unhappiness with this proposal.

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

Amending the Road User Rule to allow for minimum overtaking gap is being investigated as part of a wider package looking to improve safety and accessibility for path and road user and clarify the rules around who and what can travel on footpaths, cycleways, and shared paths.

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 minimum overtaking gap 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 and performance-based laws, advising motorists on how to pass other road users like cyclists. While some stakeholders

¹¹⁶ The Cycling Safety Panel (2014) *Safer journeys for people who cycle*, 33.

believe that changing the minimum mandated overtaking gaps would improve safety, most of the public already 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 vulnerable road users. Making no change allows for this to continue.
- While guidelines reflect the law, they are not enforceable, nor are they applicable to other users on the road such as transport device users, medical mobility device users and pedestrians.
- The perceived risk of being hit by a passing vehicle is a barrier to the up-take of active modes like cycling and walking.

Option 2: Introduce an education campaign

Pros –

- An education campaign would raise awareness about correct passing distances between drivers and other road users and ensure all motor vehicle drivers were aware of the appropriate passing distances.
- Through higher awareness, safety is expected to increase for cyclists, transport device users, mobility device users and pedestrians.
- It is easy to implement an education campaign and most of the public is expected to respond positively to a campaign.

Cons –

- It may be difficult to measure how many safety benefits other road users 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 minimum overtaking gap 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:

- This option would reduce conflict between vehicles and other road users caused by close passes, making the use of active modes on the road safer.
- A minimum overtaking gap may also make a stronger case for the prosecution of fatalities for dangerous driving in some cases where the passing distance was the cause of death.
- 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.¹¹⁷

Cons –

- A minimum overtaking gap would be difficult to enforce by police as the distance is difficult to measure. Although, recent technologies such as video analytics or LIDAR may make this more enforceable than in the past.
- Road users may not be aware of what 1.5 metres is as it is difficult to monitor a measurement while motor vehicles and other road users 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 minimum overtaking gap with an accompanying education campaign**. It is likely that MOG rule change would bring perceived benefits of increased safety to cyclists, transport device users, medical mobility device users, and pedestrians (when on the road).

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 that the safety benefits of changing the rule may not always be clear. For example, a 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.¹¹⁸ 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.¹¹⁹

It seems likely that a mandatory minimum overtaking gap would bring perceived benefits of increased safety to road users, and this may encourage more New Zealanders to take up active modes.

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

Additional costs of proposed approach, compared to taking no action		
Regulated parties	Cyclists and motorists: There will be some extra costs on motorists through delays due to waiting to	Low

¹¹⁷ 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.

¹¹⁸ OPUS (2016), 29-30.

¹¹⁹ Ibid, 31.

	find safe opportunities to pass cyclists, although this should already be occurring.	
Regulators	NZ Transport Agency, NZ Police	\$350,000+ (excluding staff costs) primarily for education
Wider government		
Other parties		
Total Monetised Cost		Total monetised costs are yet to be determined.
Non-monetised costs		Total non-monetised cost is yet to be determined.

Expected benefits of proposed approach, compared to taking no action		
Regulated parties	Cyclists and motorists	Approx. 2 lives saved \$8.36 million ¹²⁰
Regulators	Government, NZ Police	
Wider government	Public health benefits	
Other parties		
Total Monetised Benefit		Total monetised benefit is yet to be determined.
Non-monetised benefits		Total non-monetised benefits have yet to be determined.

3.2 What other impacts is this approach likely to have?

- Delays for motorists waiting for a safe time to pass a road user (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?

¹²⁰ This is based on the assumption that there are on average ten cyclist fatalities per year, that 20 percent of these fatalities are caused by vehicles passing too close and that the change reduces fatalities by 10% over this period. We would also expect a reduction in serious injuries but these have not been quantified.

Consultation with stakeholders has occurred in the past around the wider issue of minimum overtaking gaps in New Zealand. Many stakeholders were interested in the idea, but their views tended to be quite polarising – those that supported cycling supported the introduction of a gap, while most other stakeholder groups (who didn't support cycling) 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. 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 the minimum overtaking gap, 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 minimum overtaking gap 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.

Chapter 7: Give buses priority when exiting bus stops in urban areas

Section 1: Problem definition and objectives

1.1 What is the policy problem or opportunity?

Current situation

In New Zealand, there is no legal requirement to give way to buses pulling out of a bus stop. Doing so is only considered a courtesy. However, when this courtesy is not extended it can delay buses as they must wait for a suitable break in traffic to merge back into the traffic flow.

Part 4 of the Road User Rule does not make any provisions for buses re-entering traffic after pulling into a bus stop.¹²¹ Requirements for bus operators to display 'give way to the bus' signage on buses is merely a request for courtesy from other road users.

Research undertaken on behalf of the NZ Transport Agency in 2017 calculated a network wide delay of 29.51 hours per day for buses in the Auckland region due to road users failing to give way to bus drivers just when exiting bus stops. This means that significant time and operational cost is lost as buses wait to pull out of bus stops and passengers experience numerous small delays across their journey. This can negatively impact the reliability 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.

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.

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 this, we propose introducing a rule that makes it mandatory for vehicles to give way to a bus pulling out of an area marked as a bus stop.

1.2 Who is affected and how?

The primary groups affected by a rule change would be bus drivers, bus operators, 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

¹²¹ Part 4 of the Road User Rule provide rules related to stopping and giving way.

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.

Road controlling authorities will be able to restrict non-urban buses (e.g. tour buses and charter services) from using bus stops in busy urban areas.

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

The scope of the change is limited to urban buses on scheduled public transport services. The proposed change will not apply to unscheduled bus services, for example on-demand shared mobility services.

Priority will only occur on roads with a posted speed limit of 60 kilometres an hour or less and will not apply to urban buses leaving an area that is not signed or marked as a bus stop. For example, if a bus is merging into traffic at the end of a bus lane.

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.¹²²

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

Option 1: Status Quo

Pros –

- Many road users already give way to buses. The perception by focus group participants in research undertaken for this proposal (primarily bus drivers) was that up to 50% of road users currently give way to buses.¹²³

¹²² 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>.

¹²³ Ibid, 34.

- 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. This is likely to be exacerbated as congestion increases, negatively impacting public transport users.

Option 2: Give urban buses priority when exiting an area marked as a bus stop (when the speed limit is 60km/h or less (preferred approach))

Pros –

- The research undertaken for the NZ Transport Agency found, the proposed option would have nationwide benefits, with a benefit cost ratio (BCR) between 2.9 and 8.7 with most showing a positive BCR around 4.0.
- This option would formalise what is already happening in some larger urban areas. This is expected to result in less delay for those travelling on buses and shorter travel times, which will improve access to social and economic opportunities.
- Improved service reliability which is likely to impact positively on customer perception and satisfaction with bus services and have a flow on effect of increased patronage.
- Vehicle operation costs are likely to decrease for bus operators as this option is expected to lower dead running time.
- Likely to reduce stress and frustration levels for bus drivers as they will be able travel from stop to stop more easily.
- This option could offset or defer investment in other bus priority measures in some locations.
- Stakeholders and focus groups have been consistently supportive of a move to review and change current rules around urban bus priority.
- The option would bring New Zealand in line with international practice, such as in Queensland where road users must give way to a bus that clearly displays a 'give way to the buses' when leaving a bus stop, road shoulder or drop off point in any speed zone 60km/h or under.

Cons –

- There could be some delays for other road users waiting for a bus to pull out of a bus stop, particularly during peak periods. This cost is expected to be mitigated by the positive impacts on urban bus users as their travel time has improved. Delays for other users could also encourage them to use public transport.
- Vehicles travelling at normal speeds in uncongested traffic flows will be required to slow or stop from 50-60km/h whenever a bus is exiting a bus stop. This could lead to a short-term increase in nose to tail crashes until other road users become used to this change. This risk could be mitigated by an education campaign encouraging road users to take care around urban buses.
- There could be a risk to other road users if buses pull out without checking for or failing to see other road users. The proposed rule change will clarify who gives way, but these risks will need to be mitigated with extensive communication through public information campaigns, signage on buses and effective enforcement.

There is no conclusive evidence that changing the rule will lead to less safe or safer outcomes for New Zealanders, based on New Zealand crash history records, literature review findings, stakeholder consultation or international case studies.

2.2 Which of these options is the proposed approach?

The preferred approach is **Option 2: Give urban buses priority when exiting an area marked as a bus stop (when the speed limit is 60km/h or less).**

The proposed change would require road users to give urban buses (scheduled public transport services) legal priority after indicating for three seconds and then when leaving an area signed as a bus stop on a road with a posted speed limit of 60km/h or less.

This option provides numerous positive impacts for all road users. These include travel time, vehicle operating costs and public transport reliability benefits.

Other 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 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)

3.1 Summary table of costs and benefits

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

Additional costs of proposed approach, compared to taking no action

Regulated parties	Vehicle signage costs including potential loss of advertising space on bus backs	\$3 million (signage) \$0.2million/annum (decals)
	Travel time costs	\$211415/annum (general traffic road user) \$281,992/annum (Additional Vehicle operating costs)
Regulators	NZ Transport Agency public information campaign Road marking and road signage costs	\$350,000 (excluding staff costs) primarily for education TBD

Wider government	Education campaign, legislative change and other implementation costs	
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	Travel time benefits Vehicle operating benefits PT reliability benefits	\$261,588/annum (vehicles and freight) \$3693.44/day \$1,348,091.00/annum (passenger) \$ \$36,135.00/annum (idle time) \$ \$253,675.00/annum (driver time) \$1,140,318.40/annum (improved reliability benefits – conservative estimate)
Regulators/ Wider government/ Other parties		
Total Monetised Benefit		The total monetised benefit is yet to be determined.
Non-monetised benefits	<p>1. There are a number of benefits that are of an intangible nature so are not quantifiable using existing evaluation methods and procedures. These include:</p> <ul style="list-style-type: none"> • clearer driver obligations at bus stops • legislation change creating a catalyst towards increased courtesy and understanding between buses and other motorists • introduction of give way to bus legislation into a new driver training and education programme • increased perception of public transport on road user hierarchy • potential to offset or defer investment in other bus priority measures at some locations. 	Medium

3.1 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.

Research carried out for the NZ Transport Agency also found that, while a higher percentage of bus users responded positively to the idea of a rule change, there was strong support across other mode users as well. Similarly, road users who returned neutral responses also outnumbered those that opposed.

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 urban buses (scheduled public transport services) priority when exiting areas marked as 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.

Activities for raising awareness could include signage on the backs of buses. 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 mid-2020.

Section 6: Monitoring, evaluation and review

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

The proposed change 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 and public information 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.

The effectiveness of this change will be measured by using data available from regional councils related to bus reliability and punctuality, average trip times and patronage.