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Auckland Transport's submission on the Accessible Streets package of changes to the Land Transport Rules

For decision:

For noting:

Te tūhonga / Recommendation

That the Auckland Transport Board (board):

- a) Approve the attached submission to NZ Transport Agency on the Accessible Streets package of changes to the Land Transport Rules.

Te whakarāpopototanga matua / Executive summary

1. The NZ Transport Agency has released a set of proposed changes to the Land Transport Rule, which are intended to improve safety and support public transport and active mode use.
2. Auckland Transport has prepared a submission in response to the nine proposals. Auckland Transport supports the intent of all the proposals and the detail of most proposals. There are, however, some proposals which have significant potential implications for Auckland Transport and transport network users, related to cost (specifically required additional infrastructure and enforcement) and safety (related to changed user priority arrangements at intersections) and we have recommended changes and adjustments to address these concerns and to better achieve the desired intent.
3. The NZ Transport Agency has not engaged in a substantive way to date on these proposals. We have stated in the submission our desire to work with them collaboratively to address the identified issues.

Ngā tuhinga ō mua / Previous deliberations

4. There are no relevant previous deliberations for this paper.

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Te horopaki me te tīaroaro rautaki / Context and strategic alignment

5. The purpose of this paper is to outline Auckland Transport’s submission to NZ Transport Agency in response to their proposed package of changes, called the Accessible Streets Regulatory Package (Accessible Streets).
6. The package is a set of additions and changes to the Land Transport Rule with the overall intent to improve the desirability of using active and public transport. This intent aligns strongly with Auckland Transport’s goals and the direction of the Auckland Plan to *increase genuine travel choices for a healthy, vibrant and equitable Auckland*.
7. Overall we see this package of changes proposed by NZ Transport Agency (and our submission suggestions) as supporting walking and cycling. We believe that this is particularly relevant if there is an uptake in the use of these modes post Covid-19 (though we note it will take time for the proposals to flow through to implementation).
8. A working group made up of representatives from across Auckland Transport was formed to review the proposals and develop the submission. This group included a representative from Auckland Council’s Transport Strategy team, to ensure broad alignment between Auckland Transport’s submission and Auckland Council’s submission.
9. While the working group strongly supported the package, there were some components which have raised concerns and others for which the working group has suggested amendments.

Ngā matapakinga me ngā tātaritanga / Discussion and analysis

10. The following are the proposed changes, in brief and summarised amendments (where applicable):

Proposed changes	Summarised feedback/amendments
Proposal 1 - change the definitions around the various users of paths (for instance establishing a new category of ‘powered wheelchair’ and splitting ‘wheeled recreation devices’ into ‘powered’ and ‘unpowered’ categories)	AT suggests that the new system remains complex, doesn’t allow for the next wave of devices and focuses too much on power potential and not enough on weight, possible speed, topography etc, which can affect the safety of the devices
Proposal 2 - allow cycling on footpaths, establish a maximum width limit of 750mm for footpath-using devices (excluding wheelchairs) and set a default footpath speed limit of 15k/h	AT suggests mixing of mode users of varying speeds is a concern, due to possible safety impacts, and that careful monitoring will be needed and possibly different arrangements in some locations
Proposal 3 – set a default speed limit for all shared and cycle paths of 50k/h where they are not adjacent to a road and allow road controlling	AT considers the speed limit proposed for shared paths (50k/h) to be too high given the nature of shared paths implies mixed use by

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Proposed changes	Summarised feedback/amendments
authorities to amend this limit downwards on individual paths and restrict certain devices on certain paths where unsafe	pedestrians and cyclists, and the potential for varying speed limits across the active transport network to require a lot of assessment, signage, monitoring and enforcement which AT is not in a position to provide
Proposal 4 – allow newer transport devices (like e-scooters) to use cycle lanes and paths	No amendments
Proposal 5 – introduce lighting standards for newer transport device types when used on road and paths at night	AT suggests that all devices be subject to these lighting rules and that they be extended to bells and side lighting
Proposal 6 – allow cycles to ‘undertake’ slow traffic to the left except turning traffic, allow cycles to travel straight ahead from a ‘left turn’ lane, give cycles/active modes device users priority over turning traffic when on a separated lane and give pedestrians priority over turning traffic when solid white lines are installed (at a minimum)	AT believes this is the most significant area of change and has the greatest potential to create safety issues without an extensive awareness and enforcement campaign as it changes the behaviour of all road uses at intersections through amended priority. Should awareness and enforcement be unsuccessful, AT would be required to implement a significant infrastructure intervention, which will be very expensive and will take many years to implement
Proposal 7 – mandate a 1m overtaking gap for motor vehicles passing cycles, transport devices, horses, pedestrians and mobility devices on the road where the speed limit is 60k/h or less and 1.5m where the speed limit is over 60k/h	AT believes the 1m buffer is not sufficient as a blanket rule and there should be local context factored in
Proposal 8 – allow road controlling authorities to restrict parking on berms by passing a resolution, without installing signage	AT is keen to have this proposal, but believes there are remaining regulatory hurdles to overcome and definition confusion in the proposal
Proposal 9 – require motor vehicles give way to buses exiting a bus stop back into a traffic lane	No amendments

Detailed comments on these proposals is outlined in the attached submission document.

11. The working group has also suggested that some additional changes be included in the proposal list, including:

- preventing motor vehicles driving on cycle paths and shared paths,

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- taking an enabling approach to future devices which could emerge to legalise them automatically and allow prohibition by exemption,
- changes to definitions of the various active transport facility types for simplification,
- changes to reduce the distance motor vehicles can travel in cycle lanes,
- formalising the NZ Post vehicles into the approved definition, rather than as an exemption

Ngā tūraru matua / Key risks and mitigations

12. The risks associated with these proposals are largely related to the implications of the proposals for which Auckland Transport is suggesting significant amendments are made. In addition, there are some risks generally associated with these proposals overall, which are also articulated below.

Key risk	Mitigation
Safety – some of the proposals, while reducing risk to cyclists from motor vehicles, could increase risk to pedestrians from cyclists.	Part of the safety risk will need to be mitigated by public awareness. Some will require careful monitoring to identify the scale of the risk once implemented and an ability to respond to that, and some will require infrastructure intervention (as outlined below).
Cost – some of the proposals could lead to increased cost to Auckland Transport through the need to implement additional infrastructure, maintain additional infrastructure and increase enforcement of the transport system	Auckland Transport has raised its concerns in the submission with the costs which will result of from of these proposals. Where possible we have suggested changes to the proposals to reduce cost, as well as flagging that additional funding from NZ Transport Agency may be required to implement the needed infrastructure
Education, awareness and consistency – these changes represent a significant change to the way people travel, across all transport modes. There is a risk that the public will not be aware of the changes and this could create safety issues.	Given the safety risks and need to ensure compliance with the changes, Auckland Transport has recommended to NZ Transport Agency that a multi-year, prominent public education campaign is required to generate this required awareness. Auckland Transport has advised NZ Transport Agency that it will need to fund this, rather than relying on road controlling authorities to organise and fund these campaigns.

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Ngā ritenga-ā-pūtea me ngā rauemi / Financial and resource impacts

13. As noted above, should the proposals proceed as currently planned there would be potential for significant financial and resource impacts. AT's response emphasises these to NZ Transport Agency and will be an ongoing key point of discussion.

Ngā whaiwhakaaro o te taiao me te panonitanga o te āhuarangi / Environment and climate change considerations

14. The broad intent of this package is to make the use of active and public transport more convenient, thereby enabling mode shift towards these more sustainable modes and having a net positive impact on greenhouse gas emissions from the transport sector.

Ngā reo o mana whenua rātou ko ngā mema pooti, ko ngā roopu kei raro i te maru o te Kaunihera, ko ngā hāpori katoa / Voice of mana whenua, elected members, Council Controlled Organisations, customer and community

15. The project team has drafted this submission in close collaboration with Auckland Council's Transport Strategy team, who have developed their own, aligned submission.
16. No engagement beyond Auckland Council has been undertaken.

Ngā whaiwhakaaro haumaruru me ngā whaiwhakaaro hauora / Health, safety and wellbeing considerations

17. The safety considerations and risks associated with these proposals have been detailed in the submission for NZ Transport Agency consideration.

Ā muri ake nei / Next steps



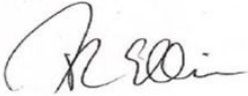
18. Following Board approval, the submission will be sent to NZ Transport Agency, with a request that the project team work with Auckland Transport on the finalisation of the changes.

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Te whakapiringa / Attachment

Attachment number	Description
1	AT Submission on Accessible Streets proposals

Te pou whenua tuhinga / Document ownership

Submitted by	Andrew McGill Head of Integrated Network Planning	
Recommended by	Jenny Chetwynd Executive General Manager, Planning and Investment	
Approved for submission	Shane Ellison Chief Executive	

Submission: Accessible Streets



To: Accessible Streets NZ Transport Agency project team
From: Shane Ellison, Chief Executive Auckland Transport
Date: 11 May 2020
Subject: Submission from Auckland Transport on Accessible Streets proposal

Introduction

This is Auckland Transport's (AT)'s submission in relation to the Accessible Streets Regulatory Package consultation (the Proposals).

AT's address for service is: Auckland Transport, Private Bag 92250, Auckland 1142. Please don't hesitate to direct any queries in relation to this submission to: Andrew McGill, Head of Integrated Network Planning, andrew.mcgill@at.govt.nz.

The submission is structured as follows:

- feedback summary – overview of AT's position and consistent areas of feedback,
- other suggestions – proposed additions to the listed proposals,
- proposal specific comments – feedback in detail on each of the nine proposals,
- comments on rule proposals – detailed feedback on the technical rule terminology changes.

Feedback Summary

In principle AT supports the intentions of the Accessible Streets package. The package includes proposals which will make the transport network safer and will encourage transport choices by improving the operating environment for public and active transport users and services.

AT does have concerns with some aspects of the proposals, however. There are instances where the proposals, while well-intentioned, could have unintended consequences for both AT and for the travelling public. In those instances we would like NZ Transport Agency to consider carefully the impacts of the proposals and work with AT and other road controlling authorities to develop solutions which will achieve the intent of the proposal without creating significant related implications.

AT has general feedback covering a number of the proposals, as follows:

Safety

AT supports the proposed changes to clarify rules and allow more users to use footpaths and other separated facilities so that these users can be fully separated from vehicle traffic. We are concerned, however, at the consequent increase in demand relative to space on these facilities, which could create actual or perceived safety concerns for pedestrians. While in the short term this may result in harm reduction, as any collisions would involve lower speeds and less mass, there is still increased exposure for some users and this does not align with the long-term outcomes sought in Road to Zero and Vision Zero for Tāmaki Makaurau. This will be an ongoing issue and will require a range of solutions to be developed between AT and NZ Transport Agency.



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There is currently a high level of under-reporting of people injured as a pedestrian or cyclist on the network. If no motor vehicle is involved, crashes are unlikely to be recorded in the Crash Analysis System. To ensure the impact of these changes are monitored effectively there will need to be improvements in how this data is collected.

Cost

As they stand, a number of these proposals are likely to require significant investment from road controlling authorities, including AT, to achieve the expected outcomes. The biggest example is the need to put in place supporting infrastructure – in this case speed tables – on all side roads to ensure safe active mode user priority. AT is already under financial pressure related to delivery of new infrastructure, and maintenance and renewal of existing infrastructure 'like-for-like'. AT does not have funds available to retrofit existing infrastructure as required (requiring both capex and opex). Some rule changes could also result in additional enforcement costs for AT. We suggest that the NZ Transport Agency either modifies these rules to reduce the associated costs, or provides a specific funding allocation – along with a higher Financial Assistance Rate – to support implementation.

Inconsistency

A number of proposed rule changes appear to allow road controlling authorities to set a range of rules, including speed limits, across their facilities. While we appreciate the intent of this approach, it appears to risk confusion amongst users and will make education and enforcement more difficult. We suggest the NZ Transport Agency instead applies a consistent approach across consistent facilities wherever possible.

Education

Each of these proposals represent significant changes for some road users. In order to achieve certainty, compliance and, above all, a safe transport environment, it is essential that NZ Transport Agency operates a highly visible, multi-year public education programme around each change. If this does not occur, AT cannot see this set of proposals being successful and cannot see the transport system operating in a safe manner. Given the number of changes required, we would be expecting to see a high level of investment by Government at a national level and there should not be an expectation that local authorities should have to use funding to deliver or support the national education programme.

Other suggestions

There are some suggested changes which AT would like to see in the proposals which are currently not listed:

- We recommend a change to the rule which prevents motor vehicles driving on footpaths to extend this to cycle paths and shared paths. There is no reason why motor vehicles should be allowed to drive on these paths when they are not allowed on footpaths. The amendment to clause 2.13(1) of the Land Transport Road User Rule would read "(1) A driver must not drive a motor vehicle along a footpath, **shared path or cycle path.**" Similar changes would be required in clause 2.13(2).
- We recommend that the definitions be set for what devices are permitted in such a way that enables future and emerging technology, so that they can emerge without impediment (and without the need for urgent rule changes in response) and that instead new devices are prohibited by exception.
- We suggest that the definitions and nomenclature around different facility types (cycle lane, cycleway, cycle path, on-road, off-road) also be tightened to provide clarity.



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- We recommend a change to clarify that the exemption that allows other vehicles the ability to drive in a special vehicle lane for up to 50m as part of a turning movement should not apply to cycle lanes. (Clause 2.3(4) of the Land Transport Road User Rule). For the sake of safety, crossing cycle lanes should be done at the minimum distance; essentially at right angles.
- We recommend that the exemptions that allow NZ Post's Paxster vehicles to be driven on the footpath should be incorporated into the Rule provisions rather than being exemptions from them.

Proposal-specific comments

Our feedback against each proposal is outlined in the comments below. We are keen to meet with the team to discuss the areas where we have concerns as the final package is developed.

Proposal 1 – Change and re-name the types of device that used on footpaths, shared paths, cycle paths and cycle lanes

Overall position:

Auckland Transport supports this proposal, noting some issues with specific aspects.

Specific comments:

- AT supports the proposal to move 'powered wheelchairs' out of the 'mobility devices' category but questions the need for 'powered wheelchairs' to have their own category. We recommend just expanding the definition of pedestrian to include 'powered and unpowered wheelchairs'.
- AT is concerned that these definition expansions lead to an overly complex system, particularly when there remains no national consistency due to individual road controlling authorities being able to set their own rules for specific devices or for specific locations. AT would urge NZ Transport Agency to consider instead having fewer definitions (allowing for future developments) and an arrangement which makes deviations from the rules by individual road controlling authorities more difficult.
- AT would prefer that the definitions surrounding what is a 'powered transport device', as opposed to a 'motor vehicle', should be based on criteria that are included in the regulation. This would ensure that, on introduction, new vehicle types are immediately categorised without the need for the NZ Transport Agency to essentially exempt a new device from the higher set of requirements. Instead, new and novel devices that meet reasonable criteria in the Rule should by default be approved, but with a power for the NZ Transport Agency determine them to actually be motor vehicles and required to comply with those standards if this is assessed as being necessary.
- It is noted that the proposed definitions for transport devices only applies to "wheeled" vehicles, which does not allow for the possibility of new vehicles of a similar nature that is equipped with tracks, or revolving runners instead of wheels. (We are less concerned about the possibility of devices of a similar small size using hovercraft style interaction with the road surface – but this might reflect a lack of



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imagination about possible technological advancement and they should be included too – just as they are in the vehicle definition).

- AT also notes that the distinction between a powered and unpowered transport device may often just be whether the motor is turned on or even just whether the battery is flat. Many powered transport devices can also be propelled by human energy – such as scooters, skateboards and roller blades. This makes it hard to have a clear distinction between the two classes.
- AT would like NZ Transport Agency to consider looking not just at the power potential of the devices, but the consequent speed they can travel at due to weight, size and topography. Grade differentials, for example, can create significant differences in outcomes for two devices with the same potential speed limits, and therefore safety implications.
- Proposal 1C – AT supports the amendment of the cycle definition to make it clear that for cycles the muscular energy of the rider must be supplied through a crank.
- Proposal 1D – AT agrees that mobility devices should give priority to pedestrians (which as noted above should by default include powered and unpowered wheelchairs).
- When reviewing the category of Mobility Devices we suggest the following factors are included: size, stability, speed, training needs and potential licencing of users.
- AT does not support the alternative proposal.

Proposal 2 – Establish a national framework for the use of footpaths

Overall position:

AT supports the intent of this proposal, however has concerns about achievability and unforeseen implications, which will need to be resolved by NZ Transport Agency before it can be implemented.

Specific comments:

- As with Proposal 1, AT has concerns about the continued inconsistency possible across New Zealand from these changes, given individual road controlling authorities can make their own rules.
- Further adding to the risk of confusion is the proposal to have a specific width restriction for vehicles and to potentially allow usage by people of some ages only. We believe these measures will not result in a safer and better used active transport system as they will exclude some users in a somewhat arbitrary manner.
- The Road Policing resources are currently stretched dealing with the existing transport regulations. Police are consequently focussed on offences which are causing the greatest harm, RIDS (restraints, impairment, distractions, speed). Introduction of speed limits and limitations on which users can use which path types will require additional enforcement resource to be successful. Local authorities are not equipped to undertake enforcement and we think there needs to be further work to consider what is practical in light of likely enforcement resources. AT supports



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those aged 16 and under being legally allowed to cycle on footpaths, provided their caregivers are also allowed to do this. This would encourage the most vulnerable riders to cycle for both exercise and provide an additional active transport mode to and from school, without resulting in families needing to ride on separate facilities.

- As with Proposal 1, we have concern about the speed limit proposed, which we believe is too narrow in scope as it does not appear to consider other contributing elements to the safe operation of the vehicles, such as kinetic energy. If this proposal does proceed, we suggest that consideration be given to a monitoring and review period, in case there are real safety consequences which emerge, resulting in a need to amend the speed limit (such as in urban centres and school zones). AT's view is that the most important users of footpaths are pedestrians, and their safety should be the highest priority.
- This proposed change will also need greater enforcement by AT of a 'clear path of travel' for all footpaths and will be a big effort – wheelie bins, street furniture, lighting etc can all be safety risks for cyclists using footpaths.
- AT believes that the power for road controlling authorities to prohibit cycles and different classes of transport devices from footpaths will need to be supported by new signs or markings. Signs would need to be replaced less often but could add unwanted additional clutter to footpaths and may be less obvious to riders of such devices than markings on the footpath. Conversely markings in the middle of the footpath will suffer more wear and tear and need to be replaced. The NZ Transport Agency is asked to find an approach that might minimise this additional maintenance burden.

Proposal 3 – Establish a national framework for the use of shared paths and cycle paths

Overall position:

AT does not support this proposal, due to the significant risks and consequences it would generate.

Specific comments:

- AT supports the idea of allowing road controlling authorities to set the speed limits on paths and to designate who uses them, but is concerned about the implications, as with the other proposals, on consistency, user confusion, safety, enforcement and, ultimately, usage.
- The speed limit is only one component of safe use of the footpath space. In circumstances where the speed limit is too high, the other components should be sufficient to ensure the safety of all users.
- Having changing speed limits on and along different parts of the transport network has great potential to get very confusing, require a lot of signage and/or roadmarking expense and will be very difficult to enforce.
- The proposal to allow speed limits of up to 50km/h for shared paths does not align with a safe systems approach and therefore appears contrary to NZ Transport Agency policy. It is also inconsistent with AT policy. There are significant implications



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for the real and perceived safety of users should speeds be allowed to be set in such a manner. At a minimum AT suggests the default speed be set at 30k/h for shared paths, which are by their nature designed to have a mix of users. AT is satisfied with the proposed speed limit for cycle paths, where pedestrians are not present.

- While the proposal states that speed limits can be set without signage, AT does not see how this can practically be achieved. It would create problems with enforcement and ensuring compliant behaviour.
- This proposal also results in significant work from AT to assess and assign speed limits to every individual path/lane, which comes at a cost and will also require significant time if enabled.
- AT suggests this proposal requires significant re-think, with a particular focus on ensuring the safety of the most vulnerable users of these facilities.
- AT also suggests that a proposal for a national framework for the use of shared paths and cycle paths should go further in completely redefining and repurposing these concepts. There is currently insufficient legal difference between shared paths and cycle paths as they can both be used by the same set of road users. The proposal is not clarifying this.
 - AT would suggest that it be more clearly clarified that shared paths can be used equally by pedestrians, and riders of cycles and transport devices (with pedestrians first amongst equals if there is a need to define priority). However cycle paths should primarily only be used by riders of cycles and transport devices. If there is no other practical alternative for pedestrians (including a suitable berm, a footpath or shared path – even if it is on the other side of the road) then arguably the cycle path should be changed to a shared path rather than being a cycle path that pedestrians can use.
 - AT notes that item R4-9.1 of Schedule 1 to the TCD Rule allows for a ‘Cycles Only’ cycle path sign but that with the current laws and the Proposals this sign cannot be used. Under AT’s alternative proposal this sign would make sense.
 - Pedestrians similarly should not be allowed to use cycle lanes if there is a footpath or shared path.
 - The definitions should also make it clear what role “separation” from the roadway plays in determining what is a cycle path, shared path or cycle lane. Currently there is a move towards providing physical separation between cycle lanes and other traffic lanes but this should not automatically convert cycle lanes into cycle paths.
 - AT believes that there should also be more investigation into allowing a pair of cycle lanes going in both directions to be installed on one side of the road without having to define the facility as a cycle path just to avoid the prohibition of driving on the right-hand side of the road by cyclists heading in the other direction.
 - There are also often times when road geometry or the location of bus stops or other infrastructure require a cycle facility to move from roadway level to footpath level and back along the course of the facility. Currently Traffic Control Device compliance requires the ending of cycle lane, the starting of a



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cycle or shared path and then shortly thereafter the ending of the path and starting a new cycle lane. It would be useful and reduce clutter for such cycle facilities to function as a single entity rather than three.

Proposal 4 – Enable transport devices to use cycle lanes and cycle paths

Overall position:

AT supports this proposal. It matches current user behaviour and will result in increased and safer use of these devices.

Proposal 5 – Introduce lighting and reflector requirements for powered transport devices at night

Overall position:

AT supports this proposal but suggests some minor amendments.

Specific comments:

- AT recommends that all devices, cycles, unpowered devices and powered devices all be subject to these lighting rules.
- AT believes the rule should be extended to side lighting/reflective items, given the risks associated with intersections and side-on conflicts.
- AT recommends that the requirement be expanded to include a bell, as aural communication should complement visual communication to support the needs of people with vision impairments.
- We assume the same standard will remain for unpowered transport devices, to provide stronger consistency and easier enforcement.

Proposal 6 – Remove barriers to walking, transport devices use and cycling through rule changes

Overall position:

AT has significant issues with many components of this proposal, despite supporting the intent and some elements of it.

Specific comments:

- While Proposal 6A is a good concept, there are serious potential implications and the detail is important – for instance who has the priority if the light is red for straight ahead and green for turning and the bike is ahead of the row of cars? AT suggests that as well as a rule change this be an education and design piece. The road layout must be sufficiently intuitive for the person travelling straight ahead to know that they have priority. The person turning must know intuitively from the design of the road that they have to give way.
- Proposal 6B, while welcomed, needs an addition about the cyclist ensuring they are travelling at a safe and appropriate speed in this situation, not just the motor vehicles. There is also the associated risk of ‘dooring’ should passengers exit the vehicles in



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this scenario. If adopted, this proposal would need to include in education package to support the changes and it also be included in driver licensing training and testing.

- AT supports Proposal 6C as this reflects a greater priority for users of active modes and supports a greater use of these modes instead of using the car. However, this proposal requires significant clarification: when do we classify a facility as a 'cycle lane' versus a 'cycle path' - as these facilities have different legal status. AT also believes there are implications at signalised intersections, where cyclists and left turn motorists may share a green phase, or cyclists may not be part of the signal phasing at all. Changing this will require rework by AT of the signal systems, which will require time and money.
- While AT supports the intent of Proposal 6D, we are concerned that the proposed outcome will not work for active mode users. AT does not believe that solid white lines will provide motorists with a clear enough signal that active modes have priority and will not provide sufficient protection for the active mode user in the event this priority is not clear. A significant enforcement and education process would be required to change the behaviour over time. Should this education and awareness process be unsuccessful it would necessitate an infrastructure intervention by AT – specifically the installation of raised tables – at all of the affected intersections. Due to the large cost implications of upgrading all side roads, we favour a staged approach, where the rule only applies to areas with speed management plans and with the associated infrastructure in place or planned for imminent implementation. Should AT be required to change all intersections to have raised crossings simultaneously this would represent an untenable cost, would take many years to implement and could have significant negative implications for general traffic operations on key arterials.
- In addition, there is the issue of the placement of the white lines. These may not align with kerb ramps or tactiles due to geometry or road layout.
- There also needs clarity about what constitutes a 'side road'. This is not part of the formal NZ Transport Agency road classification system – so how are road controlling authorities to determine what roads are 'side roads'? If road controlling authorities will struggle to determine which roads are side roads how much harder will it be for pedestrians and drivers to do this?

Proposal 7 – Mandate a minimum overtaking gap for motor vehicles passing cyclists, transport devices, horses, pedestrians and people using mobility devices on the road

Overall position:

AT supports the intent of this proposal but suggests there are impacts and consequences with the proposal which require additional thought.

General comments:

- We do not think a 1m buffer is sufficient as a blanket rule – the size of the vehicle which is passing has a bearing on the safety of this approach. A high capacity vehicle passing at 1m will produce a very different experience from a small motor vehicle. It



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is also not physically possible for this to be implemented on all roads while ensuring the safety of all road users. This proposal could therefore potentially create a new safety issue while seeking to solve another.

- We also suggest that urban and rural environments are different and should be treated differently, due to the nature of the speed and infrastructure environment.

Proposal 8 – Clarify how road controlling authorities can restrict parking on berms

Overall position:

AT supports the intent of this proposal – to provide a solution that does not require large quantities of signage – but has concerns with the framing of the solution in terms of definitions, delivery method, default positions and continued inconsistency.

General comments:

Comments summary:

- AT believes that, by default, parking on berms should be unlawful (at the very least on berms with kerbs where the berm is a lawn, gardens or otherwise cultivated).
- AT is concerned that there are many inconsistencies with different rules around what is permitted, how it is enforced and what road controlling authorities can and cannot do. This should be investigated thoroughly as we believe more is required than just the proposed change to the Rule. We also believe there should be a nationally consistent approach, to achieve necessary compliance.
- We want to make sure that 'restrict' also includes 'prohibit' - and would prefer that it is explicitly stated as an ability under the proposal for road controlling authorities to prohibit parking on berms.
- The definition of 'berm' also requires clarification – in terms of its relationship with 'road margin' and what type of separation is required to define part of the road as a berm. Improving and clarifying this definition will provide certainty of the scope of area covered by this proposal – reducing the risk of different interpretations and confusion.

Detailed comments:

- The proposed Rule consistently uses the term "restrict" in a way that appears to be intended to also cover complete prohibitions of an action. This is inconsistent with other land transport legislation – such as the bylaw making powers in s22AB of the LTA98. To avoid doubt, AT requests that any solution expressly allows for a road controlling authority to prohibit parking on berms. If this is to be done as currently proposed by way of the use of the word "restrict" it may need additional wording either here and in every other place it is used or in the definitions to make it clear that a restriction can include a prohibition.
- The definition of 'berm' requires greater clarity. A 'berm' is defined as an area of the road margin separated from the roadway, and 'road margin' is any uncultivated part of the road adjacent to, but not forming part of, the footpath or roadway. Putting the two together, a 'berm' is an uncultivated part of the road, adjacent to but not forming



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part of the footpath or roadway, and separated from the roadway. Is a 'berm' intended to be different from a 'road margin' and, if so, does the definition actually provide that? This definition of berm also seems to expressly exclude those parts of the road that are deliberately cultivated and grass verges – which is what most of the public would think of as being the berm. It also excludes any gardens and may exclude deliberately laid out areas of ornamental pebbles or the like.

- Additionally, the berm definition needs clarity with regard to what type of separation is required to define a part of the road as berm – are swales part of this? Is the rough area of wild grass along a rural road “separated” from the sealed roadway by the strip of dirt/gravel? In a township without kerbs where a cultivated and maintained lawn comes right to the sealed roadway is it “separated” just by virtue of not being asphalt.
- Also, what will be the definition of the “area” of berms which can be regulated? How large an area can be covered? For example, can all the berms in a city be regulated as one area?
- It is recommended that the proposed Berm definition be completely rewritten so that it captures all of the types of berms that are expected to be captured by this provision. At the moment it is only capturing the uncultivated areas that you would find in most rural roads and not the cultivated grass berms found in towns. This places the provision in direct conflict with cl6.2 of the Road User Rule which requires people to park on the uncultivated berms where possible.
- AT is aware that there are some views on the interpretations of the current legislation that all of the area of a road that is not roadway or expressly something else (such as a cycle track, garden, memorial or public artwork) is by default available for pedestrians and therefore covered by the definition of footpath – including what we might think of as the grass berm or uncultivated road margin. If it is accepted that all of the rest of the road is footpath then parking on it is already unlawful under cl6.14 of the Road User Rule and this proposal would be reversing the onus of the legislation. Under this interpretation all parking on the berm is unlawful footpath parking, but the proposal would make this lawful unless a RCA expressly excluded a particular berm or area of berms by way of a resolution. For the sake of an easier to understand national consistency and consistency internally in the Road User Rule with cl 2.14 which prohibits driving on the berm all berm parking should be unlawful unless the RCA passes a resolution to allow parking on a particular berm or area of berms.
- Given that parking on the berm damages the berm and infrastructure under it, removes space for active modes and can impair safe sightlines for driveways and vehicle crossings AT believes that by default berm parking should be unlawful or at the very least it should be unlawful on those berms on roads with kerbs where the berm is maintained as lawn, gardens or other cultivations.
- AT believes a nationally consistent approach would assist with compliance in the absence of signage. A national 'default position' would assist road users to know where they can generally park, even if some scope is permitted to road controlling authorities to vary that default.
- Without signage, the proposals do not appear to provide any enforcement mechanism. Currently AT enforces its berm parking prohibitions under r6.4(1) of the



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Land Transport (Road User) Rule 2004, being parking contrary to a sign. That, however, would not be an option if signage was not installed. The proposal appears to lack an offence provision for parking contrary to a resolution made under the proposed new rule.

- It will be important for the new Paths Rule or better yet the Road User Rule and the Offences and Penalties Regulations to be clear that in this case signage is not required and that the enforcement does not rely on the offence of failing to comply with a sign.
- Inconsistency– s22AB(1)(m) & (n) of the LTA98 requires signage for parking restrictions made by bylaw and CI12.1(1) of the TCD Rule expressly requires all parking prohibitions imposed by a road controlling authority on a section of road to be indicated by signs or markings. The proposed amendment to the Land Transport Rule: Traffic Control Devices 2004 does not address this inconsistency which would leave road controlling authorities in the position where one rule required signage to notify road users and another did not. CI12.1(1) must be amended to allow for this lack of signage
- AT is concerned a register may be unable to capture sufficient detail to allow road users to identify which berms they cannot park on. Even a relatively straightforward resolution of AT's Traffic Control Committee involves multiple detailed maps of the area affected.

Proposal 9 – Give buses priority when exiting bus stops

Overall position:

AT strongly supports this proposal. It has proven effective in Australia and elsewhere, and is backed up by past NZ Transport Agency research. It would work well to emphasise the priority of public transport vehicles.

General comments:

- AT recognises that New Zealand Police are very unlikely to make the enforcement of this rule a high priority. Therefore, we suggest it be made clear that this is an offence that can be enforced by way of images obtained from approved vehicle surveillance equipment thereby allowing this enforcement to be carried out in a similar way to special vehicle lane enforcement. This would only be needed if community pressure and education do not lead to an adequate behaviour change. (Accepting that this would need to be by way of a later amendment to the Land Transport Act).
- The proposal mentioned that this will exclude 'non-marked' locations. AT has many non-marked stops, in the sense of no road-marking on the road. Can the proposal ensure that it covers any bus stop as long as it has a bus stop sign?
- AT would like to see written into the proposal that buses would also have priority at the end of bus lanes for the same reasons and rationale used for the current proposal.
- As with other proposals this will rely on a strong and consistent (multi-year) public education campaign as well as signage on buses themselves.



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Technical Comments on specific Rule Proposals

Paths and Road Margins Rule proposals

- 2.2(2) – it is not clear why any new cycle tracks would be created under the LGA74 powers after this new ability to resolve cycle paths under the Rule is created, but if any new ones are created then there is no reason why they should not also be registered under 2.2(3). The register of new cycle facilities should be comprehensive. Ultimately RCAs and councils should be encouraged to register their pre-existing cycle paths and tracks as well.
- 2.2 - It would be good to make it clear that a RCA should not create a cycle path on a road if there is no reasonably available footpath or shared path for pedestrians to use (unless it is there is a strong justification, such as on a motorway).
- 2.3 - The requirement to “consult” with persons or groups affected by a share path or cycle path is somewhat undefined in what sort of elements mean a person is affected and is potentially too restrictive in the method of determining the views of those persons. Wording similar to section 78 of the LGA02 would be more suitable here and this would also be consistent with the decision-making processes required of Councils (who are the majority of RCAs that will be creating paths).
- 2.4 - Should there be a time requirement on when RCAs need to supply the information for the register after the resolution comes into force?
- 3.1(3)(a) - One of the main areas of concern for cycles on footpaths is that even at less than 15km/h they are still faster than pedestrians so may not be seen in time by a driver backing out of a driveway. Therefore, requiring cycles to be on the left of the footpath could increase the risk of them not being seen.
- 3.1(8) - Does not specify that it applies to a particular type of path or other location – should it?
- 3.2 – It would be good to clarify here when pedestrians are allowed to use a cycle path. This should not just be implied from other provisions about footpath use. A provision could be added stating that a pedestrian may only use a cycle path if there is no reasonably available footpath or shared path on that road. (note that this would mean that a pedestrian is not to use a cycle path if there is a footpath or shared path on the other side of the road if the road can safely be crossed).
- 3.3ish - Should there not also be a provision making it clear what the hierarchy of priority is between classes on a cycle path?
- 3.4 - It should be made clear that a rider of a cycle or transport device can ride on a cultivated lawn beside a path if necessary to give room to other path users.
- 4.2 - Shouldn't the path speed limit apply to pedestrians who are in powered wheelchairs? A powered wheelchair travelling at more than 15k/h on the footpath is probably as much a hazard as any other of these devices.
- 4.4(3) - Is it clear enough that the phrase “specified period or periods” can mean both time of day, days of the week or seasonal variations?
- 4.5 - Is a shared path next to a motorway but separated by a fence considered to be immediately adjacent to that motorway? 100k/h on the north-western cycleway shared path seems like a pretty unsafe environment for pedestrians.
- 4.8 - As above for 2.3 re public engagement requirements.



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- 5.1(1)(b) - For clarity this power should expressly allow for both specific parts of the path which “may **or may not**” be used by different classes. Also in 5.(2)(b) and 5.1(3)(b).
- 5.3 - As above for 2.3 re public engagement requirements.
- 5.4 - Seems like it should be set out in the same level of detail as the restriction powers in 5.1.
- 6.1(1) (and other places) – Is it sufficiently clear that the terms “restrict” and “restriction” cover both the concepts of various types of partial limitations and complete prohibitions? The Bylaw-making powers currently in use under s22AB of the LTA98 use a variety of different terms and it can be implied that they have different interpretations. AT want it to be clear that these terms here are intended to give RCAs full power to control their roads as they see fit and not be limited by a narrow interpretation of the term “restrict” as not covering prohibit.
- 6.2 - As above for 2.3 re public engagement requirements.
- 6.4(2) - It would be helpful for this to go further and explicitly state that “A restriction set under 6.1 is valid **and can be enforced** whether or not the road controlling authority installs signs or markings under this clause.”

Part 2 Definitions

- Berm – it is not clear what is meant by “separated”.
- Cycle path, footpath and shared path - should not these definitions be more consistent with each other and provide greater clarity on the distinctions between them:
 - The footpath definition expressly include bridges as part of the path but the others do not,
 - A cycle path refers to being separated from a roadway but the others do not. And, like berms, what counts as separation? How is it clear that a cycle path is not a cycle lane with delineators that separate it from other traffic lanes?
 - The list of users of cycle paths and shared paths is the same but set out differently – how is it clear what the distinction is? Would it not be best to remove “but which may be used by ...” from the cycle path definition and leave this concept to the body of the rule rather than the definition?
- Pedestrian - would it not be clearer to expressly state that both powered and unpowered wheel chair users are pedestrians?
- Powered transport device - should the definition not set out a criteria or link to a clause in a rule that sets out the criteria but allows for the possibility of the NZ Transport Agency declaring a device that meets those criteria to be excluded from this and to be motor vehicles?

TCD Rule proposals

- 2.4 - It is not clear what purpose is being served by the proposal to add 7.12(1A) to the TCD Rule whilst also retaining clause 7.12(2). Are these two provisions in conflict? If not, could they be combined into a single provision?
- 8.9 - The 5m distance here would seem to rely on the definition of “intersection” to define the starting point – that definition should be fixed so that it can work in situations other than just neat and tidy right-angled T or 4-way intersections.



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- 2.13A - Insert a provision that amends cl12.1(1) of the TCD Rule so that a prohibition on parking on the berm imposed by a RCA under the Paths and Road Margins Rule does not need to be indicated by signs or markings.

Road User Rule Proposals

- 1.6 - Definitions – same comments as the Paths and Road Margins Rule definitions as applicable.
- Road margin definition needs to have shared paths and cycle paths added.
- 8 - The proposed (ii) has a very subjective concept of “that would usually be travelling on a footpath”. How is it to be determined on a device-by-device basis if the rider of it “usually” is on the road or a path?
- 9 - The proposal to allow cycles and transport devices to go straight ahead from a marked turning lane should also be extended to allow buses and the other specified vehicles to do this if going into a left-hand edge bus lane on the other side of the intersection.
- 12ish - Insert new provision that amends cl2.13(1) of the RUR to add after “footpath” the words “, shared path or cycle path”. It is clearly wrong that this gap in the legislation exists and this is the ideal time to fix it. Cl2.13(2) would need a similar amendment and should also be amended to reflect the exemptions granted to NZ post for their Paxster vehicles.
- 22 – Additionally, insert a similar clause as 4.4B which provides for drivers of other vehicles to give way to buses that are merging with their lane when a bus lane is ending.
- 25 - In the amendment to 6.2(2)(a) insert the word “from” between the words “vehicles” and “parking” to more closely match the wording of cl6.1(1) of the proposed Paths Rule.
- 32 - Shouldn't these provisions set out the hierarchy that pedestrians and mobility devices should be on footpath or shared paths if available on that road, but that they may be on a cycle path if a footpath or shared path is not available and only if there is also no cycle path available they can be on the roadway?

