



20 May, 2020

NZ Automobile Association submission on:

Accessible Streets Regulatory Package



SUBMISSION TO: NZ Transport Agency

REGARDING: Accessible Streets Regulatory Package

DATE: 20 May 2020

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Executive Summary

The New Zealand Automobile Association (NZAA) welcomes the opportunity to provide comment on the Accessible Streets Regulatory Package.

This is a comprehensive package, much of which focusses on 'vulnerable' road users: cyclists and micro-mobility device users, and seeks to update the Land Transport Rules to recognise the various new forms of micro-mobility devices.

The NZAA cautiously supports these proposals (1-4) as it provides clarity on where these various transport devices can be used. By permitting them to travel on paths or cycle lanes, it takes these more vulnerable modes off the road, thereby reducing conflict with cars and risk. We also support the requirement that powered transport devices be fitted with front and rear lights, and a reflector (Proposal 5).

The NZAA also supports proposals to permit cyclists to ride straight ahead from a left-turn lane, to 'undertake' slow-moving vehicles (where it is safe to do so), and requiring turning vehicles to give way to users travelling through an intersection from a separated lane (Proposal 6A, 6B and 6C), because these rule amendments codify what is common behaviour, and what is promoted as safe practice, thereby increasing certainty for all road users. Similarly, the NZAA also endorses the introduction of a minimum gap when passing cyclists (Proposal 7), although it is essential this and the other rule changes are subject to a comprehensive public education campaign.

However, the NZAA does not support the proposal (6D) to require turning vehicles to give way to pedestrians crossing a side road, if it has minimum markings. In short, we think this could be confusing for road users to assess, and the markings may not always be visible or the pedestrians may be in vehicle blind spots and thus this proposal could increase risks for pedestrians.

The NZAA also does not support the introduction of a new rule amendment permitting Road Controlling Authorities to prohibit parking on berms without the use of warning signs (Proposal 8). If adopted by RCAs, this could lead to widespread fining of motorists who were unaware of the ban. We think this issue requires further clarification before such an amendment can be proposed.

Finally, the NZAA is unsure of the merits of proposing a new rule requiring road users to give way to urban buses exiting a bus stop (Proposal 9). As drafted, the Rule clause may be confusing for road users to interpret, and such a rule may also have unintended safety consequences.

The NZAA circulated the Accessible Streets Regulatory Package for comment to our 17 District Councils. We respond to specific questions from the consultation document (in *italics*) for which we have comments in our submission below.

Where relevant, our submission also includes a short summary of NZAA Member survey results on some of these proposals. These surveys include:

- a 2016 survey on the use of footpaths by non-pedestrians, with 1,063 responses
- a 2015 survey on the 'bus first' rule (published in 2016), with 2,255 responses and a margin of error of +/- 2.1%.

Proposal 1: Change and re-name the types of devices that used on footpath, shared paths, cycle paths and cycle lanes

1. Do you agree that powered wheelchairs should be treated as pedestrians? Why/why not?

Feedback from AA Districts supports the principle that wheelchair users should be regarded as the same as pedestrians.

2. Do you agree with the proposal to replace wheeled recreational devices with new categories for unpowered and powered transport devices? Why/why not?

3. What steps should the Transport Agency take before declaring a vehicle not to be a motor vehicle?

One consideration to determine whether a powered device is a motor vehicle, is its power output and maximum possible speed (including if modified, rather than a factory-set speed limiter, hence the need to also consider the power output). A device that is *capable* of travelling at a speed faster than a human-powered device under normal operation (e.g. a bicycle) should likely be considered to be a motor vehicle.

4. If the Transport Agency declares a vehicle to not be a motor vehicle, do you think it should be able to impose conditions? If yes, should such conditions be able to be applied regardless of the power output of the device?

5. We propose to clarify that:

a. low powered vehicles that have not been declared not to be motor vehicles by the Transport Agency (e.g. hover boards, e-skateboards and other emerging devices) are not allowed on the footpath

b. these vehicles are also not allowed on the road under current rules, because they do not meet motor vehicle standards

c. if the Transport Agency declares any of these vehicles not to be motor vehicles in the future, they will be classified as powered transport devices and will be permitted on the footpath and the road (along with other paths and cycle lanes).

Do you agree with this proposed clarification? Why/why not?

We support this clarification. We do not consider that such devices should be permitted on the road because they do not meet motor vehicle standards and don't have basic safety equipment like lights, indicators or reflectors. We consider they are too vulnerable to share the roads with cars and heavy motor vehicles. They are more akin to the new definitions of powered transport devices and thus should be treated the same way, i.e. permitted to use footpaths and shared paths.

6. Do you agree with the proposal that:

- Small-wheeled cycles that are propelled by cranks be defined as cycles, and
- Small-wheeled cycles that are not propelled by cranks, such as balance bikes, be defined as transport devices?

Why/why not?

7. Mobility devices have the same level of access as pedestrians but will have to give way to pedestrians and powered wheelchairs under the proposed changes. Do you agree? Why/why not?

We agree with the principal that on footpaths and shared paths, pedestrians have right of way, but there will need to be a comprehensive education campaign to encourage this behaviour amongst all users.

8. Do you think there will be any safety or access-related problems with mobility devices operating in different spaces? Please explain.

We do think there will be safety concerns, particularly for pedestrians. Whilst these proposals clarify where other mobility devices can be used, and in some cases take these vulnerable users off the road, thereby improving their safety, these proposals are likely to compromise safety for pedestrians and thus can be seen to be a retrograde step for pedestrians compared to the status quo. Safety is likely to be a greater risk particularly for older, frail or mobility-impaired pedestrians, and deaf or visually-impaired pedestrians who may not be aware of an approaching path user travelling on a mobility device at a higher speed. Due to their age, elderly pedestrians are at greater risk of injury in the event of a collision, and take longer to recover from injuries. To an extent, these proposals may result in restricting access for elderly or impaired pedestrians, in that they may fear using paths due to these risks and thus choose to reduce their mobility.

In addition, mobility device users (and cyclists) on footpaths are at greater risk of colliding with vehicles reversing from driveways or at other conflict points, due to their higher travel speed, whereas pedestrians are more able to assess this risk. Consequently, the publicity campaigns should reinforce this risk to mobility device users and encourage them to slow down when passing driveways, particularly those with limited visibility due to fences or hedges. We do not think the responsibility should fall solely on drivers.

10. We have outlined an option to not change vehicle definitions. This means we would make changes at a later date instead. Do you prefer this option to our proposal to change vehicle definitions now (see proposals 1A, 1B, 1C, 1D for more details)? Why/why not?

We agree it is timely to review the vehicle definitions and amend the Land Transport Rules to recognise the increased popularity and common usage of modern transport devices like e-scooters, and also to accommodate emerging technology. If this is not done through the Accessible Streets Regulatory Package, then these vehicle definitions will still need to be reviewed, but will delay any changes to road rules providing clarity to road users on the permitted operation of some transport devices.

However, even after this package, it will still be necessary to review vehicle definitions for some transport devices, such as e-skateboards.

We note in the discussion document that a future review of vehicle definitions would include clarifying the definition of vehicles like the Renault Twizy, a 'quadricycle'. We agree it would be useful to provide clarity on quadricycles, as there is growing interest in these types of vehicles, particularly electric versions. However, the NZAA does not support a review of vehicle definitions that would permit quadricycles to freely operate on public roads, particularly motorways and open

roads, due to their poor safety design and lack of safety features (in some other jurisdictions, their use is restricted). We would appreciate the opportunity to discuss the clarification of quadricycles in any future review of vehicle definitions with the Transport Agency.

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

11. Our proposed changes will allow mobility devices, transport devices, and cycles on the footpath - provided users meet speed, width and behavioural requirements. Do you support this? Why/why not? Should there be any other requirements?

The proposal to allow a wider range of mobility devices to use footpaths, particularly bicycles and e-bikes, is a major shift in the common usage of footpaths over many decades. This may not be popular with many members of the public.

NZAA Member survey results:

An NZAA Member survey in 2016 on the use of footpaths by non-pedestrians identified that Members did not support adults cycling on the footpath (54% opposed vs. 31% support) but were generally supportive (54% vs. 28% opposed) of allowing a primary school child to ride there (although Members aged over 65 were twice as likely to oppose this which may suggest concern around vulnerability). On the other hand, there was wider acceptance of skateboards, scooters, and powered recreational devices using footpaths.

We can see some merit in permitting other transport devices onto footpaths, particularly scooters and e-scooters, which will be safer for the users than the road, but as noted above, these changes will reduce the current level of safety for pedestrians.

Transport devices should also be required to travel on adjacent shared paths or cycle paths, instead of footpaths, if these are available.

12. We have outlined two alternative options to address cycling on the footpath. These are:

- a. allow cyclists up to 16 years of age to use the footpath; or*
- b. Continue the status quo, where most cyclists are not allowed to use the footpath.*

Do you prefer either of these options instead of allowing cyclists on the footpath?

As an alternative, feedback from the AA District Councils is more supportive of only allowing children to cycle on footpaths. Indeed, this would be a preferable option to the status quo. This recognises that children, younger children in particular, are at greater risk on the road, due to factors like being more impulsive, less able to make judgements and being and less familiar with the road rules. Further, the current rules relating to bicycle wheel diameter are not well known and seem arbitrary.

13. Would you support an age limit for cycling on the footpath? What age would you prefer?

We consider that 12 years would be an acceptable age limit, i.e. covering children who road users would identify as primary children up to high school age.

14. Our proposal allows road controlling authorities to restrict cycle or device use on certain footpaths or areas of footpaths to suit local communities and conditions. Do you agree with this proposal? Why/why not? Do you have any comments on the proposed process?

We agree that it is appropriate for RCAs to identify those footpaths where permitting the use of other transport devices would not be suitable. We consider that some guidance criteria should be developed by the NZTA. This could include things such as a minimum footpath width, central city and shopping precincts with high pedestrian counts, neighbourhoods in areas with retirement or care homes, or suburbs where the roads are very wide and traffic volumes and speeds so low that cyclists and other transport devices using the roads is a practical and safe option.

15. We envisage that local authorities will make decisions to regulate the use of paths by resolution, rather than by making a bylaw. Should this be specified in the Land Transport Rule: Paths and Road Margins 2020 to provide certainty? Why/why not?

16. We're proposing that road controlling authorities consider and follow criteria in addition to their usual resolution processes if they want to restrict devices from using the footpath. Do you agree with this proposal and the proposed criteria? Why/why not?

17. We have also outlined an option to maintain current footpath rules. Would you prefer this option instead of the proposed framework with speed and width requirements? Why/why not?

We agree it is necessary to modernise the rule framework to recognise the common usage of footpaths and to accommodate the different types of transport devices and emerging technology. However, we consider permitting cycles and e-bikes is a significant change in use and not common behaviour except for young children, and will be a confronting change for many New Zealanders. Hence we support the alternative proposal in Q12 above of limiting the use of bicycles on footpaths to children.

18. We propose that pedestrians should always have right of way on the footpath. Do you agree with this proposal? Why/why not?

We endorse the proposal that, in all cases, pedestrians have priority over all other path users.

19. This proposal sets out three behavioural requirements; that footpath users will:

- operate vehicles in a courteous and considerate manner,*
- travel in a way that isn't dangerous, and*
- give right of way to pedestrians.*

Do you agree with these three requirements? Are there any others we should consider?

We support these requirements, but suggest additional behavioural requirements should be that bicycles, e-bikes and e-scooters should be required to keep right, or at least pass on the right, and have bells to signal when approaching a pedestrian from behind. The fitment of bells could be encouraged for cyclists who intend to use footpaths – as the discussion document notes, it is envisaged that many cyclists will continue to use the road.

20. Do you agree with the proposed default speed limit of 15km/h for footpaths? Why/why not? Do you think the proposed speed limit should be higher/lower?

Whilst we have some reservations about the proposed 15km/h speed limit, in that this is difficult (if not impossible) for the users of wheeled devices to estimate their speed, and will also be challenging to enforce, we recognise that the limit is more about providing guidance for transport device users.

21. Do you agree with the proposal that road controlling authorities will be able to lower the default speed limit for a footpath or areas of footpaths? Why/why not?

We do support the ability for RCAs to set lower default limits. It is generally understood by road users that *legal* speed limits end in a '0' whereas *advisory* limits end in a '5', although the introduction of shared zones has begun to dilute this standard. But a lower speed limit of 10km/h may therefore make more sense to users as a legal limit and not advisory, and thus may be more likely to be complied with.

22. Are there other ways, that you can think of, to improve footpath safety? Please explain.

We support RCAs having the option of marking the speed limit on the footpath surface. Some criteria may need to be developed by NZTA to encourage this application, such as on footpaths that exceed a minimum number of transport device users, or footpaths that bridge cycle path routes (to reinforce a different speed limit from that on the cycle path).

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

27. Do you agree that road controlling authorities should be able to declare a path a shared path or a cycle path? What factors should be considered when making this decision?

Yes, but it's important the guidance developed by the NZTA are applied by all RCAs. These will need to include a clear set of minimum criteria for a shared path or cycle path, such as width, estimated mode use volumes (e.g. excluding narrow footpaths or those with high pedestrian volumes), and proximity to other existing shared or cycle paths.

28. Do you agree with the behavioural requirements we are proposing? Should there be other requirements or rules to use a shared path or cycle path?

As noted in our answer to Q19 above, we support these requirements, but suggest additional behavioural requirements should be that bicycles, e-bikes and e-scooters should be required to keep right, or at least pass on the right. Consideration should also be given to marking a white vertical white line on shared paths, to demark that pedestrians travel to the left of the line whilst mobility devices pass on the right of the line (where safe to do so).

Additionally, consideration should be given to requiring bicycles, e-bikes and e-scooters to fit bells to signal when approaching a pedestrian from behind.

29. Do you agree that all users be required to give way to pedestrians when using a shared path? Why/why not?

As with Q7 above, we agree with the principal that on shared paths, pedestrians have the greatest priority.

30. Do you agree with the proposed speed limits for shared paths and cycle paths and the ability of road controlling authorities to change these limits? Please explain.

In regards to speed limits on shared paths and cycle paths, we do not think the default speed limit should be the same as any adjacent road, or 50km/h as proposed if it is not adjacent to a road, as the safety standards of a shared path or cycle path are not directly related to the speed limit of any adjacent vehicle roadway.

We think the speed limit should be set separately, appropriate to the type of use and based on the local environment and path alignment. For shared paths in particular, for consistency and simplicity it may be appropriate to set the same limit as proposed for footpaths – 15km/h. In addition, we suggest that the speed limit should be signposted at either end of the path, and marked on the surface at intervals.

31. Do you think that the Transport Agency should be able to investigate and direct road controlling authorities to comply with the required criteria? Why/why not?

The NZAA supports the Transport Agency having these powers in order to ensure a nationally consistent approach.

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

32. Do you agree that devices other than cycles should be allowed to use cycle lanes and/or cycle paths? Why/why not?

We support permitting other transport devices like scooters and e-scooters onto cycle lanes or cycles paths, as it will be safer for those users than sharing the road with larger, faster-moving motor vehicles. This should particularly be encouraged instead of these transport devices using an adjacent footpath (or road).

33. Do you agree that road controlling authorities should be able to exclude powered transport devices or unpowered transport devices from cycle lanes and/or cycle paths? Why/why not?

We support RCAs having the discretion to restrict what transport devices can use cycle lanes or paths, using the guidance to be developed by the NZTA. We further agree that RCAs should not be able to exclude other transport devices if no footpath is available; our preference is that other transport devices use these paths instead of mixing with faster and heavier motor vehicles on the road wherever possible.

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

34. Do you agree with the proposal that powered transport devices must be fitted with a headlamp, rear facing position light, and be fitted with a reflector (unless the user is wearing reflective material) if they are used at night? Why/why not?

We fully support these proposals which are designed to improve safety for the users of these devices by making them more visible at night.

35. Do you think these requirements are practical? For example, if you own a powered transport device, will you be able to purchase and attach a reflector or lights to your device or yourself?

We agree with the discussion document that, while it these requirements be impractical or expensive for some and could discourage them from using their transport device at night, the safety benefits of the proposed change outweigh this.

36. Do you think unpowered transport device users should be required to meet the same lighting and reflector requirements as powered transport device users at night time? Why/why not?

This criteria should also apply to bicycles using footpaths or shared paths at night, just as they would if they were also using the road, although it may not be practically feasible to impose this on the owners of foot-powered scooters.

However, there is a broader concern about the use of cycles on footpaths at night that needs to be addressed. Concerns have been raised about the bright LED lights used on bicycles, particularly the spotlights used on the helmets of cyclists. Because the spotlight shines where the cyclist is looking, if the cyclist looks at a driver, they are temporarily blinded by the high strength of the LED beam. This will be the same on footpaths when the cyclist looks into the face of a pedestrian at close range, which could cause the cyclist to stagger into the path of bicycle. Consideration should be given for greater controls on the standards of lighting used on bicycles to mitigate this.

Proposal 6: Remove barriers to walking, transport device use and cycling

37. Do you agree that cyclists and transport device users should be able to ride straight ahead from a left turn lane at an intersection, when it is safe to do so? Why/why not?

The NZAA cautiously supports this proposal as it codifies what is common behaviour, and what is promoted as safe practice in the cyclists Road Code, into the Rule, thereby increasing certainty for motorists and other road users.

NZAA Member survey results:

A 2016 NZAA Member survey showed almost 50% of respondents opposed this suggestion while only 21% supported it.

However, we are concerned about cyclists waiting to proceed straight ahead impeding left-turning traffic on a green arrow. Cyclists and other transport device riders may either need to wait behind traffic already in front, or wait on the right-hand side of the left-turning lane so as not to impede turning traffic behind, that was not there when the rider arrived at the intersection. Thus, how cyclists proceeding straight ahead from a left-turn lane are required to indicate their intentions to both turning traffic behind and on the opposite approach will need to be clearly spelled out in the Road Code.

Moreover, we are also concerned about possible risks to cyclists if they 'undertake' vehicles in the left-turning lane to get to the head of the queue, particularly trucks with blind spots. Feedback from AA Districts cites instances where cyclists have been seriously injured or killed due to being unseen by left-turning vehicles, particularly truck and trailer units, after the cyclist rode past on the left just as a vehicle was initiating a left turn. In addition, there is a further risk to cyclists and other transport devices users if they stop ahead of a truck in a left-turn lane. Trucks also have blind spots at the front and may not see a cyclist immediately in front. If the left lane signal turns green first, and the cyclist does not move off, they can be caught under the truck.

Therefore, we support the proviso that travelling straight ahead from a left-turn lane is only permitted if it is safe to do so – the public education campaign should discourage riders from passing *moving* vehicles on the left on the approach to the intersection (see also our comments to Q38 below), and recommend they stop on the far right of the left-turn lane. This will mean they don't impede left-turning traffic from behind, nor stop directly in the path of a large vehicle.

38. Do you agree that cyclists and transport devices should be allowed to carefully 'undertake' slow-moving traffic? Why/why not?

The NZAA cautiously supports modernising the Rule to reflect common behaviour and safe practice.

NZAA Member survey results:

A 2016 NZAA Member survey showed 60% of respondents support this proposal compared to 18% opposed.

However, we are concerned about the risks to cyclists when 'undertaking' large vehicles with blind spots (e.g. trucks and buses), particularly when they are turning left. For that reason, we agree with the Rule proposal that cyclists and transport devices can pass on the left – unless a motor vehicle is indicating a left turn. But to minimise risk, this proviso should clarify that cyclists and transport devices cannot pass *moving* vehicles on the left when approaching an intersection – whether vehicles are indicating or not. This will also reduce risks to cyclists from approaching traffic turning across an intersection, who may not see moving cyclists or transport devices hidden by the stationary traffic.

Rule reference:

Clauses in proposed Land Transport (Road User) Amendment Rule (No 2) 2020: Section 11 (Passing on left).

Reading the proposed Rule amendment (replacing clause 2.8(2)), it is unclear if this is also intended to replace clause 2.8(3), as revised clause 2.8(2)(a) repeats most of clause 2.8(3).

39. Do you agree that turning traffic should give way to users travelling straight through at an intersection from a separated lane? Why/why not?

The NZAA supports this proposal as it legitimises common practice and will provide certainty for all road users.

NZAA Member survey results:

A 2016 NZAA Member survey showed respondents were equally split in supporting or opposing this.

40. Our proposed change will introduce a list of traffic control devices used to separate lanes from the roadway to help you understand what a separated lane is and if the user has right of way at an intersection. Is such a list necessary? Why/why not?

41. Should the definition of a separated lane include the distance between the lane and the road? Why/why not?

We agree that both a list of traffic control devices, and a minimum distance between a separated lane and road would be helpful to clarify when this rule would apply. The list of traffic control devices must be such that it is easy for road users to distinguish when a separated lane is still part of the main road, and when it is physically disconnected so that they do not need to observe the rule.

42. Do you agree that turning traffic should give way to path users crossing a side road with the proposed markings? Why/why not?

The NZAA is generally not in favour of this proposal.

NZAA Member survey results:

A 2016 NZAA Member survey showed that 68.5% of respondents oppose (vs. 21% support) a proposal to require turning traffic to give way to pedestrians crossing a side road (nb. without specific markings).

We are concerned that this proposal could be confusing to all road users (including pedestrians). Path users will have right of way on side roads provided it is marked with 2 white lines, but otherwise not. All road users will have to be alert to the presence of these lines to decide who has right of way. Turning traffic will have the added distraction of looking to see whether or not there are white lines on the side road, and then checking for the presence of pedestrians who may or may not be about to cross.

We also concur with the risk identified in the discussion document, that vehicles with blind spots, such as trucks, may not be able to see pedestrians when turning. However this risk may also apply to modern cars and SUVs which also have thicker A-pillars.

We are also concerned about the efficient movement of traffic, if vehicles are held up by sporadic pedestrians crossing the road, rather than groups of pedestrians crossing at the same time at a controlled crossing. Additionally, traffic volumes (such as at peak times), may result in traffic bunching on the main through road due to left-turning vehicles giving way, or right-turning vehicles stopping in the middle of the intersection, which may result in collisions.

If it is to proceed, there will need to be a comprehensive public education campaign to educate all road users – drivers, pedestrians, and cyclists alike – what the white lines signify. This will need to include amending the Road Code to explain that pedestrians (or cyclists) should not attempt to cross if approaching vehicles may not be able to stop in time. As the proposal also confers right-of-way to cyclists using footpaths, due to the higher speeds cyclists are likely to be travelling at, the potential for conflict will be higher.

43. Do you think that the proposed minimum markings are appropriate?

We are concerned that the white lines may not be readily visible on the approach to some side streets, due to obstructions like shrubs or fencing. They will also be harder to observe at night or in wet weather.

44. We are proposing future guidance for additional treatments. Is there any guidance that you would like to see or recommend?

We suggest that NZTA develop a clear set of criteria for the Traffic Control Devices manual for the types of side road where the minimum markings can apply. This should take into account the visibility on the approach, the traffic volumes (at different times of the day), average traffic speeds, the type of traffic (such as is it a key route for heavy traffic), also the pedestrian or cyclist volumes. Different criteria may need to be applied, such as white lines only on side roads on low-volume and low-speed routes, but cross-hatchings or raised platforms on side roads off busier routes or with higher pedestrian volumes, and no option for pedestrian right of way on roads with poor visibility on the approach from the main road.

If this proposal is to proceed, we recommend that:

- there are clear guidelines about the criteria that must be met for eligible side streets. This could include site visibility, traffic volumes, pedestrian volumes, average traffic speeds;
- there is a hierarchy of engineering treatment depending on average traffic speeds and traffic and pedestrian volumes, with the minimum 2 white lines only applying on roads with lower average speeds and traffic volumes; other roads will require additional treatment like raised platforms;
- this proposal be limited to urbanised zones with speed limits of 60km/h or less, where the side roads have speed limits of 50km/h or less;
- compliance with the NZTA criteria is audited;
- there is a comprehensive public education campaign to advertise the new rule.

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

45. Do you agree with the proposal for a mandatory minimum overtaking gap for motor vehicles of 1 metre (when the speed limit is 60km/h or less), and 1.5 metres (when the speed limit is over 60km/h) when passing pedestrians, cyclists, horse riders, and users of other devices? Why/why not?

The NZAA supports this policy. A minimum 1.5m passing gap was already recommended in the Road Code. Whilst these new rules can be enforced, there may be practical challenges in doing so, but we recognise that these proposals are as much about providing clear guidance for road users.

On some busy roads the shoulder and lane width may not be wide enough to pass a cyclist with the relevant 1 or 1.5 metre gap, which may result in frustration or unsafe behaviour. It may be necessary to identify some of these routes that have regular cyclist traffic and narrow lanes e.g. SH2 in Wellington northbound from Ngauranga to Petone, and undertake engineering works to increase the shoulder width so that vehicles can safely pass cyclists without holding up other traffic or causing accidents by swerving into the outer lane.

The NZAAs support is conditional upon the Transport Agency carrying out a substantial public education campaign promoting the new rules, and offering clear advice to motorists and cyclists about expected implementation and behaviour. This should include cyclists needing to ride as far left as practical, and in single file on narrower roads, and informing motorists that the Road User Rule permits them to legally cross a solid yellow centreline or a flush median in order to pass a cyclist (where it is safe to do so), which is not universally understood.

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

46. Do you agree with the proposal that road controlling authorities should be able to restrict berm parking without the use of signs and instead rely on an online register? Why/why not?

The NZAA opposes this proposal, for reasons that we will detail more fully below.

However, it seems to us from reading the discussion document that first there are two questions that need to be answered before introducing a new Land Transport Rule to enable this:

- i. whether the correct process to restrict berm parking is through a bylaw made under the Land Transport Act, in which case signage is required as Auckland Council contends; or whether instead berm parking can be restricted via a bylaw under the Road User Rule, in which case signage is not required, as Christchurch City Council believes.
- ii. what constitutes a berm (it is not even defined in legislation)? Is a berm part of a footpath, or part of a road margin? That is, is it a plot of grass, dirt or garden that is raised above the road by kerbing and adjoined by a footpath (as in suburban streets); or is it plot of grass, dirt or garden between a road and a property boundary that is not raised above the road level or separated by gutters, and where they may be no footpath (as is common in rural areas)?

Surely the correct process for introducing a bylaw restricting parking on berms under the current regulations needs to be clarified before proposing a clause in a new Land Transport Rule? (is it even needed?). Further, if a berm is more strictly defined as part of a footpath and raised above the level of the road, then the NZAA's concerns about enforcement in rural areas would disappear.

We suggest therefore, that before proceeding with this new clause, that the opinion of Crown Law should be sought to provide a definitive analysis on the correct interpretation of the current regulations, and definition of 'berm' before making any sweeping changes.

Further, we are also concerned that this is mostly an Auckland issue (if Auckland Council's interpretation is correct) and that this proposal would be akin to a sledgehammer cracking a nut. We can appreciate Auckland Council's dilemma, especially given their large population and density, but we do not support the solution being applied across the country where – if enacted by other RCAs – it would have negative consequences. But we would be open to an Auckland-specific solution being developed which would only need to be applied in that city, without introducing a new clause.

NZAA's concerns with this proposal:

Parking on berms is quite commonplace around NZ:

- outside sports grounds or schools;
- in rural communities where there is no on-street parking provision;
- in narrow suburban streets or where there is limited off-street parking, it is common for residents to courteously park their cars or trailers partly or wholly off the road to improve access for traffic.

Indeed, this proposal also risks creating safety issues. Vehicles, trailers or boats parked fully on the road obstructs traffic and reduces visibility for road users. Owners should be encouraged to park them on grass berms where practical to keep the roadway clear for moving traffic.

Residents are also often responsible for maintaining the grass berms outside their homes, and so not unreasonably infer property rights over them even if they are not legally part of their property.

The NZAA does not support a change to give RCAs the ability to prohibit parking on grass verges by making a blanket bylaw with the use of signs only being optional as proposed – with the only way the public are notified being through reading gazette notices or checking a clunky online register. We suggest that if a general prohibition were introduced, without requiring the use of signs or other markings to notify the public at the location of the restriction, then this risks the potential for a large number of vehicle owners to be issued with infringements without being aware of the prohibition (as the discussion document acknowledges). Such a bylaw would need to be heavily advertised and even then it is doubtful locals or visitors (consider tourists) would think to check an online register, or visit an i-SITE, library or council office as is being proposed.

This does not mean the NZAA opposes restricting parking on berms under certain circumstances, such as damaging underground services or restricting visibility or access to pedestrians. While these may be legitimate reasons for a prohibition on parking on grass verges, they won't apply to all berms in every suburb in every city or town in NZ. If there is reason to prohibit parking, then this should be clearly signposted.

To summarise: clarification of the existing regulations to pass a bylaw prohibiting parking on berms needs to be explored before a new clause should be considered. The national default belief is that parking on berms is permitted – any exception needs to be signposted.

Rule reference:

Clauses in proposed Land Transport Rule: Paths and Road Margins 2020: Section 6 (Restrictions on motor vehicles parking on berms), clause 7.4 (Agency may direct road controlling authority to review restrictions on motor vehicles parking on berms) and Part 2 (Definitions)

The NZAA opposes the inclusion of Section 6 in the new Rule, and consequently clause 7.4. But if it is to proceed, at the very least, subclause 6.4(1) should replace the word 'may' with 'must', which will address the enforcement concerns raised above, and subclause 6.4(2) should be removed.

47. Would it be helpful if information on berm parking restrictions was available in other places, like at a local library, i-SITE, or a local council?

We do not think this would be very helpful. Although it could be helpful for this information to be searchable on council websites, in all likelihood few people would think to check for these restrictions – except after the fact if they have received an infringement. Whilst they do need to be well publicised, including to residents in the affected area, in reality people have visitors from out of the area or change address, and so making the information available in this way will never capture all users. The most effective means to communicate restrictions to users – as argued above – is through the use of signage at the location.

Proposal 9: Give buses priority when exiting bus stops

48. Do you agree that traffic should give way to indicating buses leaving a bus stop on a road with a speed limit of 60km/h or less? Why/why not?

As a principle the NZAA can see some merit in the proposal, although as it is not a road safety matter, we would not want to see non-compliance be subject to a heavy fine. However, we do think proposal raises a number of issues that, taken together, question whether the benefits are worth the possible risks:

- if there is slow peak-time traffic, it is easy for the bus to push in, and other road users will let it in, but if traffic is flowing at any sort of speed it may be dangerous to give a vehicle the right to pull out (more so commercial vehicles where the driver may be under pressure to keep a schedule);
- although the bus driver should signal for 3 seconds (although this is not expressly specified in the Rule amendment), vehicles travelling at reasonable speed may be too close to stop safely, without risking a nose-to-tail, and so may choose to pass the bus and hope the bus driver will see them before attempting to pull out; whereas under the status quo, bus drivers are more likely to wait until the traffic is clear. This might also force road users to move further over the white line (rather than stay in the lane) in case they think the indicating bus will move out;
- there is also the risk that other road users will loop around stopped cars if they don't realise the car in front has stopped because it has to give way to a bus (this very scenario occurs with rule requiring road users to give way to a stopped school bus);
- there is potential risk for confusion in the drafting of the Rule amendment (clause 4.4A(3)), insofar as road users assessing whether the 'closest lane' to which the Rule applies, has an obstruction ahead, meaning the bus needs to enter the 'next lane';

- whilst the rule would only apply in urban zones with speeds of 60km/h or less, there is the risk that other road users may incorrectly apply the rule when the buses are travelling on higher speed arterial roads or between urban centres, if they stop along the way;
- by giving buses priority, the new Rule may reduce bus drivers carefully checking around them when pulling out. Vulnerable road users like cyclists are particularly at risk.

NZAA Member survey results:

A recent generic NZAA Member survey showed high levels of support for improving public transport, and this proposal can be seen as one small initiative to improve public transport journey time reliability.

In addition, the results of a 2015 Member survey on this very topic showed that 51% of respondents supported such a rule, with a 21% opposed (the rest were neutral). Support was strongest amongst AA Members who were bus users, whilst vulnerable road users such as cyclists and motorcyclists disagreed that it was safe. Respondents also strongly favoured such a rule being supported by a 'give way to buses'-type sign on the back of the bus.

The proposal also has the potential to cause some confusion, particularly in relation to the differentiation between scheduled services and unscheduled services or school buses, especially where some bus operators run both types of services in the same or similar looking vehicles. The fitment of a 'give way to buses'-type sign may be one way to provide clarity for road users, and make it easier to comply with the Rule.

Therefore, as a condition to support this rule, the NZAA would want it to be a requirement for urban buses to install specific signage on the rear; that the rule only applies when signage is displayed.

It is noted the fitment of a sign was recommended in the RIS to help assist the successful implementation of the Rule. We are concerned that the estimated cost of signage to bus operators and potential loss of advertising revenue on the back may be reasons that this was not put forward as a condition of the Rule in the discussion document. The AA's view concurs with the RIS: bus signage is a critical part of the successful implementation of this Rule amendment.

Such a rule change will also need to be supported by a comprehensive education campaign, as proposed, which should make clear to bus drivers that they must not put the indicator on until they are ready to pull out, and must signal for 3 seconds before doing so.

49. Should traffic give way to buses in other situations? For example, when a bus is exiting a bus lane and merging back into traffic lanes? Why/why not?

If this Rule amendment were to be introduced, in terms of promoting a clear rule that is easy for other road users to understand and observe, it may make more sense for the Rule to apply whenever an urban bus is signalling to re-enter the traffic lane – whether from a bus stop, or bus lane.

About the New Zealand Automobile Association

The NZAA is an incorporated society with over 1.7 million members, representing a large proportion of New Zealand road users. The NZAA was founded in 1903 as an automobile users' advocacy group, but today our work reflects the wide range of interests of our large membership, many of whom are cyclists and public transport users as well as private motorists.

Across New Zealand, the motoring public regularly come into contact with the NZAA through our breakdown officers, 37 NZAA Centres and other NZAA businesses. Seventeen volunteer NZAA District Councils around New Zealand meet each month to discuss local transport issues. Based in Wellington and Auckland our professional policy and research team regularly surveys our Members on transport issues and Members frequently contact us unsolicited to share their views. Via the AA Research Foundation, we commission original research into current issues in transport and mobility. Collectively, these networks, combined with our professional resource, help to guide our advocacy work and enable the NZAA to develop a comprehensive view on mobility issues.

Motorists pay over \$4 billion in taxes each year through fuel excise, road user charges, registration fees, ACC levies, and GST. Much of this money is reinvested by the Government in our transport system, funding road building and maintenance, public transport services, road safety work including advertising, and Police enforcement activity. On behalf of NZAA Members, we advocate for sound and transparent use of this money in ways that improve transport networks, enhance safety and keep costs fair and reasonable.

Our advocacy takes the form of meetings with local and central government politicians and officials, publication of research and policy papers, contributing to media on topical issues, and submissions to select committees and local government hearings.

Total Membership

1.7+ million members

Just over 1 million are personal members

0.7 million are business-based memberships

% of licenced drivers

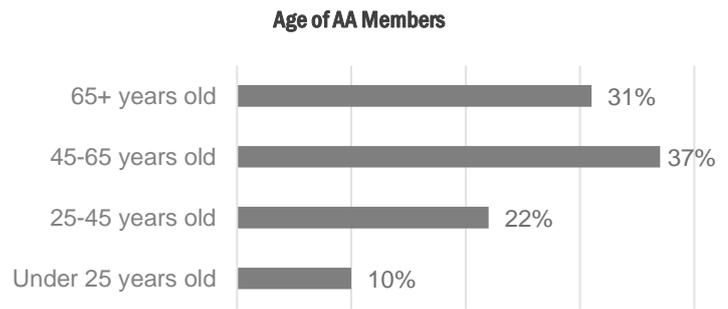
Half of licenced drivers are NZAA Members

Gender split

54% Female

46% Male

Age range & Membership retention



Half of NZAA Members have been with us for 10 years or more.
