

**Submission to the
Transport and Infrastructure Select Committee
Regarding the Footpaths4Feet Petition Concerning Footpath Use**

Introduction

1. The petition from Footpaths4Feet that is the subject of this submission reads:

'Petition request: That the House of Representatives pass legislation prohibiting e-scooters and new forms of motorised vehicles or devices from being used on footpaths in order to ensure pedestrians and mobility device users are safe and feel safe on footpaths.'

2. The reason for the petition was stated as:

'Petition reason: People walking or using mobility devices on footpaths, as well as people using personal transport devices such as e-scooters, deserve to feel safe and be safe as they go about their lives and engage with their communities. We feel that footpaths should be for people on foot or using mobility devices, while safe and appropriate facilities should be provided on-road for people using personal transport devices. We think allowing these two groups to mix will result in more injuries and less walking.'

3. This petition was presented to the Hon. Tracey Martin, Minister for Seniors and Minister for Children, on 12/12/2019 and presented to the House on 16/12/2019 where it was referred to the Select Committee.

Footpaths4Feet - Who We Are

4. Footpaths4Feet is a coalition of 13 groups¹ representing pedestrians, people with various disabilities and older people, with membership and people we serve in the hundreds of thousands.
5. Individual member groups have served on various working parties and reference groups over the years, most recently on the Road Controlling Authorities Forum's Shared Footpaths Working Group and on several of the Ministry of Transport's 2020-2030 Road Safety Strategy reference groups.
6. We support all road users being safe and feeling safe. We, like the Associate Minister and Ministry of Transport, recognise that feeling safe is a strong determinant of the mode of transport people are willing to use.

1 Footpaths4Feet is a coalition of 13 member organisations, including Living Streets Aotearoa, Grey Power, Disabled Persons Assembly, CCS Disability Action, Alzheimers NZ, Blind and Low Vision NZ, Deaf Action NZ, Association of Blind Citizens NZ, Health Action Trust, Age Concern, Dunedin Pedestrian Network, Retina NZ, Visual Impairment Charitable Trust Aotearoa NZ.

7. We also support increasing cycling that will help New Zealand decrease traffic congestion in our major cities, decrease its greenhouse gas emissions, and reap the benefits of people being more physically active. We support adopting new forms of lightweight, individual transport (alternatively called micromobility) if they decrease greenhouse gas emissions or traffic congestion. However, we note that most of them have no health benefit – they are not active transport. There is a place for these forms of transport, but that place should not be on footpaths because of the negative effects their use there has on pedestrians, especially elderly and disabled ones.

The Accessible Streets Package of Proposed Changes to the Road User Rules

8. Since the petition was referred to your Select Committee, the Government has, on 9/3/2020, released its Accessible Streets package of proposed changes to the Land Transport Rules with a closing date of 22/4/2020. On 17/4/2020, after multiple requests, the consultation period was extended until 20/5/2020. On 23/4/2020 a Benefit-Cost analysis of the proposals was added to the website and distributed to some people, but not directly to us. This was after some people had sent in their submissions, unaware of the extension to the deadline.
9. The Accessible Streets package of proposed changes has turned out to be much worse than we feared. We had no idea that the government was going to propose that anybody of any age would be allowed to ride bicycles, e-bicycles, e-scooters or any other powered transport device of a similar nature (i.e. small, lightweight, and low-powered) on footpaths.
10. Had we known the detail of what was going to be proposed our petition would likely have said:

‘That the House of Representatives pass legislation to ensure pedestrians and mobility device users are safe and feel safe on footpaths by prohibiting bicycles, e-bicycles, e-scooters and new forms of motorised vehicles or devices from being ridden on footpaths.’
11. The first three of the nine proposals in the Accessible Streets package of proposals will actually make our footpaths, shared paths and communities less safe and accessible for us than they are today, contrary to the stated intention of the package.
12. The Associate Minister of Transport and the Ministry of Transport have repeatedly said that **‘everyone** should be and **feel** safe when using our transport system’. It seems as though we – pedestrians including children, disabled people and older people – do not count as part of ‘everyone’. It is clear that having more people riding on footpaths will inevitably increase actual risk of injury to pedestrians and decrease our feeling of safety. We know from personal experience and people expressing their views to us that having riders pass close to us, at even 10km/h, can be startling. For some of us it is enough to cause us to trip or fall as our attention is

suddenly distracted. It results in us always having to be especially alert and negates the pleasure and mental well-being benefits of walking.

13. In effect, the proposals will turn footpaths into shared paths, despite the fact that they do not meet the design recommendations for shared paths. The New Zealand Pedestrian Planning and Design Guide (NZTA 2009, table 14-13) says that even when the purpose of a shared path is local access (as opposed to commuting) it should be 2.5m wide and absolutely no less than 2m. It also points out that the benefits of shared paths are reaped mostly by riders not pedestrians and that:

'the different speeds of pedestrians and cyclists lead to inevitable conflicts.

...

More space is required than for a footpath due to the need for cyclists to pass pedestrians travelling in the same direction.

...'

14. The vast majority of footpaths in New Zealand are 1.5m or less wide. They may be wider in areas where there are very high numbers of pedestrians such as near shops but, there, the useable space is often decreased by advertising signs and furniture or displays associated with the shops. Generally, we manage with this when use is restricted to pedestrians, as has always been the intended purpose of footpaths. The Pedestrian Planning and Design Guide defines footpaths as

'The part of road or other public place built and laid out for pedestrian use.'

15. The Accessible Streets package of proposals includes rules that will require riders to be 'careful and considerate', to not create a hazard to other users of footpaths and to give way to pedestrians. These requirements already exist for shared paths under the Road User Rule 2004 for wheeled recreational devices, yet they do not prevent the considerable amount of conflict that arises on them^{2,3}. So there is little prospect of them being observed on footpaths.
16. The package also proposes imposing a 15 km/h speed limit on footpaths. Such a speed limit is not likely to be enforced due to constraints on Police resources⁴, both time and equipment. Also, without having some form of identification plate on the transport devices, Police would have to stop offenders at the time of the offence making the process very inefficient.

2 See https://www.nzherald.co.nz/nz/news/article.cfm?c_id=1&objectid=12206003 for an example of such conflict.

3 See Appendix 1 for the shocking account of one disabled person.

4 Lieswyn et al (2017:p118) noted 'NZ Police representatives consulted for this research indicated enforcement of path speed limits would probably not be a high priority or commonplace occurrence.'
(<https://www.nzta.govt.nz/assets/resources/research/reports/621/621-regulations-and-safety-for-electric-bicycles-and-other-low-powered-vehicles.pdf>)

Furthermore, few light, individual transport devices have speedometers so users won't know whether or not they are complying with the limit.

17. Even if a speed limit were readily enforceable, 15km/h is absurdly high for the footpath. It is not a safe and appropriate speed (to use NZTA's terminology) at all. To give you some idea of that speed, Zane Robertson holds the New Zealand men's marathon record by averaging 19.4 km/h. That is fast. The typical jogger runs at under 10km/h. Faster runners typically run on roads, fields or tracks to lessen the risk of injury caused by uneven surfaces and by vehicles leaving adjacent properties, both of which are commonly encountered on footpaths. Walking speed for most people ranges from 2km/h for young children and older folks to 5 km/h for fit adults so 15km/h is 3-7x ordinary walking speed.
18. One of the golden rules of safe transport is to separate modes travelling at such different speeds. Just as many people riding bicycles want to have lanes separated from faster moving motor vehicles so that they feel safe, and are safer, pedestrians want a space where they too can be and feel safe.
19. Until now, we have all understood that space has been on the footpath, but if all ages cycling and riding of powered transport devices is allowed, footpaths will no longer serve the needs of pedestrians adequately. That is simply not fair. It is not fair on vulnerable individuals whose sole transport option is walking. It is not fair on people who to walk to do their bit for decreasing congestion, greenhouse gas emissions and their own health. And it isn't fair on people who want to ride cycles and powered transport devices. We all deserve a safe, comfortable space in which to move.

Why Footpaths are Important and the Nature of Walking

20. Footpaths are not simply transport corridors. They serve many functions, including being a place where neighbours and strangers meet and socialise, where people get exercise (never better demonstrated than during recent weeks while we have been under COVID-19 response restrictions), where children often take their first steps outside of the home and where they later play and explore. Shops advertise and provide their wares and services on them. Rubbish bins are collected from them.
21. For many people, footpaths are critical although unconscious parts of their well-being. Many older people, but also people who are sick, frail or disabled, as well as younger, well people, invest in their physical and mental well-being by going for walks on their local footpaths. The social connection and exercise this affords them contributes greatly to their well-being.
22. We also use footpaths to get to destinations such as work or school, the shops or friends' homes, to public transport and even to our cars. Many disabled and older people as well as children have no other affordable, convenient, independent option open to them. Maintaining this safe access is a requirement of New Zealand's international obligations (refer paras 29-36 below concerning the UN Convention on the Rights of

Persons with Disabilities). To add to the danger they face in moving about, and decrease their feeling of safety, is a breach of their rights and those international obligations.

23. Pedestrians do not move in a linear or predictable way, especially if we are very young or unable to see or balance well. We tend to change direction suddenly. Sometimes we stop abruptly to look at something. Sometimes we stop to talk to someone else. Some of us have dogs or guide dogs with us. How they react to fast moving vehicles coming close by them is difficult to predict.
24. Allowing people to ride vehicles on footpaths is incompatible with these multiple functions of footpaths and at odds with the nature of walking and ordinary pedestrian behaviour. No consideration appears to have been given to these matters in allowing e-scooters to be used on footpaths and in proposing to allowing a range of other vehicles to be ridden on them. The unique characteristic of pedestrians is a major reason that we require spaces dedicated for our use.

Safety and Perceptions of it

25. It is widely recognised in transport planning and management that people's perception of their safety in using a particular mode or route is a very important determinant of what mode and route people will actually use. This is amply demonstrated by the most commonly cited reason that people don't cycle or allow their children to cycle being that they perceive it to be too dangerous.
26. We have heard many people say that they are now scared to go out on footpaths, or are at least anxious and less relaxed, due to e-scooters, for example, being ridden on the footpaths. This is, at the least, detracting from their enjoyment and well-being and at worst putting them completely off walking. Here are some examples:

"In the last two weeks, I have had four near misses from e-scooters walking from Upper Willis St to Wellington railway station between 5.30 and 6.00 pm. I did not hear them, and on one occasion was crossing the busy Boulcott St intersection (with the green pedestrian light) and an electric scooter came sailing through the intersection against the lights and I was utterly freaked. I am now slightly nervous on my walk to the railway station – it should not be this way."

and

"I no longer use the shared Hamilton river walkways as adults on mountain bikes use them as race tracks."

and

"Imagine taking a child along a walkway. You want the child to be able to run forward, see a bird, stop and watch it for a while, then run to the other side of the track to look down at the stream, and then spot another bird and follow it to the other side of the track, and then be distracted by an interesting fern, and so on. That behaviour is not possible if there is a risk that a fast cyclist will come around the corner."

and

“What I am finding as a pedestrian is that heavy large cyclists have taken their attitudes from their motoring practices and are now aggressively riding on footpaths and tracks.

A child or vulnerable adult (old lady with vision and hearing impairment) are the new victims of these aggressive cyclists. They are just skittled by these individuals and groups of cyclists.

[Recently, during level 4 lockdown] I was kicked by a cyclist and abused after he came up behind me in advance of his wife and 2 children. Two meters, for him, meant I should jump sideways onto the road or scramble up a bank. He gashed and bruised my other leg with his peddle [sic]. His wife took a photo with her phone and promised I would be in trouble. They fed off their righteous anger and went on their way. I was left with 2 severely bruised and gouged legs. At the age of 64 I don't think Julianne Genter [sic] or any other cyclists' advocate should speak for pedestrians.”

27. The Accessible Streets package proposal to allow all ages to ride wheeled devices on footpaths will only exacerbate the feelings expressed above and increase the conflicts between walkers and riders.
28. The perception of safety aspect is why we do not oppose children 10 years old and younger riding unpowered cycles on footpaths. In a sense, because most are not mentally developed enough until then to be able to interact safely with traffic on the road, they are also ‘disabled’ by our transport system and particular provision should be made for them. This is despite the actual evidence on the safety of riding on footpaths being inconsistent, with most studies concluding it is more dangerous than on the road. This was also the conclusion of a recent research report conducted for the NZTA.⁵

The United Nations Convention on the Rights of Persons with Disabilities

29. New Zealand was instrumental in getting this Convention adopted by the UN and became a party to it in 2008. In regard to transport, the essence of it is that barriers to disabled people being able to move about independently in their communities must be removed so that they can enjoy all the human rights and freedoms enjoyed by people who are not disabled, including access to places of work, learning, play, socialising, shopping etc. Article 9(1) of the Convention states

*To enable persons with disabilities to live independently and participate fully in all aspects of life, States Parties shall take appropriate measures to ensure to persons with disabilities access, on an equal basis with others, to the physical environment, to **transportation**, ... These measures, which shall include the identification and elimination of obstacles and barriers to accessibility, shall apply to, inter alia:*

*a) Buildings, **roads, transportation** and other indoor and outdoor facilities, including schools, housing, medical facilities and workplaces;*

5 Ward, J. And Mackie, H. (2016) Footpath Cycling Rule Options Research. <https://www.nzta.govt.nz/assets/Walking-Cycling-and-Public-Transport/docs/Footpath-Cycling-Research-FINAL.pdf>

(emphasis added).

30. The Accessible Streets package proposals not only do not fulfil this obligation but actually go in the opposite direction, increasing the barriers disabled people will face in moving about their towns and cities.
31. We alerted the Associate Minister of Transport to NZ's obligations under the Convention on 21/7/2019 and she responded on 4/10/2019 as follows

'I share your concerns that disabled people are particularly vulnerable footpaths (sic) users and this is being given careful consideration in the development of proposals for change. Officials have already engaged with some disability representative groups and I can assure you that further engagement with representatives of disability groups is being planned as an essential part of consultation. **Any proposed legislative challenges (sic) will reflect New Zealand's obligations to the UN Convention of the Rights of Persons with Disabilities** and more broadly support the Government's goal to support those with limited mobility and disabilities to engage in society in a full and meaningful way.' (emphasis added)

and

'Finally, you have requested an explanation of how proposals to reallocate footpath space for use by riders of e-scooters, other non-active motorised devices, and cyclists comply with the UN Convention on the Rights of Persons with Disabilities. **I anticipate receiving advice from officials on this matter as part of the ongoing development of the Accessible Streets package. I anticipate making this advice proactively available once Cabinet has considered detailed policy proposals, and to inform public consultation.**' (emphasis added)

32. It was, at first, reassuring to know that the proposed rule changes in the Accessible Streets package would comply with New Zealand's obligations. However, the advice referred to in the second quotation above was not made publicly available prior to the consultation and has not been made available to date. We have, therefore, become much less confident that New Zealand will meet its international obligations.
33. On account of this, on 8/4/2020, we specifically requested the above-mentioned advice. To that request, we received the following response from the Associate Minister:

'I recognise that some of the proposed rule changes may disproportionately impact people with disabilities, whose reliance on the footpath is higher than other parts of the population. In particular, I recognise that these proposals may affect people with limited visibility or hearing, who may feel at greater risk if people are allowed to cycle on the footpath. They may also affect current users of mobility devices, whose use may be constrained compared to under current legislation.'

and

'I have also asked transport officials to prepare a disability impact assessment following consultation. I expect to receive advice on matters relevant to the UN Convention on the Rights of Persons with Disabilities once consultation has been completed.'

34. From this, it appears that the Minister has not so far received advice on to what extent and how the proposals do or do not comply with our obligations under the Convention. It seems very strange that this should be the case when she was reminded of those obligations last July and had clearly indicated that she was expecting advice.

35. The only reference to the Convention in the Accessible Streets package is on the very last page (82) where it states
- ‘There’s a possibility that allowing people to use footpaths could be considered inconsistent with New Zealand’s obligations under the UN Convention on the Rights of People (sic) with Disabilities, if it were to result in restricted accessibility. We’ll consider this as part of the consultation.’
36. It seems highly inappropriate to us that any proposals should be put out for consultation without the Ministry and NZTA providing advice to the Minister on whether or not they do meet our international obligations and without the Minister having given the matter explicit consideration informed by such advice.

Other Jurisdictions and Best Practice

37. Most governments have been scrambling to accommodate e-scooters and other new transport technologies. There is a range of approaches, with some having taken quite permissive approaches allowing e-scooters everywhere (e.g. some cities in the US and New Zealand) while others have prohibited their use in public places (e.g. the UK and some states of Australia).
38. Some started out being quite permissive but have subsequently reined in the use of e-scooters and similar devices because of the problems their use on footpaths has caused (e.g. France, Spain, Singapore).
39. The International Federation of Pedestrians recently issued a report ‘Safe Micromobility’⁶ in which it made 10 recommendations to improve safety for pedestrians and micromobility device users including:
- ‘Where pedestrians do not feel safe on sidewalks, the number of people walking will decline. The use of micro-vehicles on sidewalks should be banned or subject to a low, enforced speed limit. Authorities should create a protected and connected network for micromobility, either by calming traffic or by redistributing space to physically protected lanes for micro-vehicles. This network should be more attractive than sidewalks; design guidelines for wide and protected cycling infrastructure should be developed. For its rapid, low-cost development, light separation on busy streets and traffic filtering on residential streets are proven techniques. Speed limits for all motor vehicles should be no higher than 30km/h where motorised vehicles and vulnerable road users share the same space.’
40. Finally, Lime is still trying to obtain permission to operate in various Australian states and in recent correspondence⁷ with Victoria Walks said
- ‘E-scooters should be banned from footpaths and only ridden by adults to ensure safety and maximise pedestrian amenity.’
41. It is good to see Lime learning from its mistakes. New Zealand needs to do the same as these new and disruptive technologies are developed and adopted.

6 Safe Micromobility is available at https://www.itf-oecd.org/sites/default/files/docs/safe-micromobility_1.pdf

7 See [https://www.victoriawalks.com.au/Assets/Files/The%20future%20of%20e-scooters%20in%20Victoria%202020%20\(1\).pdf](https://www.victoriawalks.com.au/Assets/Files/The%20future%20of%20e-scooters%20in%20Victoria%202020%20(1).pdf)

Innovating Streets and a Better Way

42. The Accessible Streets proposal to allow e-scooters and other light, individual transport devices to be ridden on footpaths is already an outdated and inappropriate approach to keeping vulnerable road users safe and feeling safe. Rather than marginalising riders, on-road facilities should be marked or built for their use.
43. The recently-announced Innovating Streets programme (<https://www.nzta.govt.nz/roads-and-rail/innovating-streets/about/pilot-fund>), involving temporary widening and provision of dedicated space for pedestrians and separately for riders, among other things, is a good example of what can be done. Many measures are well-proven, cheap and effective. It needs to be expanded, funded adequately and local councils strongly encouraged to implement such measures. The UK has announced a similar programme that provides plenty of guidance and ideas (<https://www.gov.uk/government/publications/reallocating-road-space-in-response-to-covid-19-statutory-guidance-for-local-authorities/traffic-management-act-2004-network-management-in-response-to-covid-19>).

Remedy Sought

44. In the immediate term in relation to footpaths, we quite simply seek that the only people allowed to use footpaths are:
 - a) pedestrians
 - b) people using wheelchairs
 - c) people using mobility devices because of incapacity
 - d) people using unpowered transport devices (such as skateboards and skates that are propelled purely by their users' own efforts and gravity not by any motor)
 - e) children 10 years old and younger riding unpowered bicycles
 - f) qualified cycling instructors giving children 10 years old and younger instruction on how to ride
 - g) people delivering mail, newspapers or notices.
45. In relation to other riders of cycles and users of powered transport devices such as e-scooters, hoverboards, e-skateboards, Segways and Yike Bikes, that they be required to be used on cycle paths or in cycle lanes if they exist or on the roadway if they do not. And the speed limit should be lowered to a safe level for all these road users in urban areas.
46. In the short to medium term, we request that a full rebalancing of the transport system be undertaken, giving much more attention to providing for the needs of pedestrians and riders of light, individual transport devices in recognition of their health, social, environmental and economic benefits. This means in most cases, allocating dedicated space in the urban road corridor for different modes capable of such different speeds and, where

space is so constrained, to provide for these modes ahead of providing for the parking of motor vehicles.

47. We have kept this document brief and as a result have covered only the major issues. If there is anything that is unclear or you would like supporting evidence for, or elaboration on, please do not hesitate to contact us via email: footpaths4feet@livingstreets.org.nz
48. We would welcome the opportunity to speak with the Select Committee in person about our petition.

Thank you.

Dr Chris Teo-Sherrell
Convener
Footpaths4Feet
(19/5/2020)

Appendix 1

Account of recent experience of a disabled person.

May 2020

Hello,

I'm Carl and I'm Deafblind.

Imagine you are walking down the footpath, you can't see and you can't hear, and your Guide dog has recently retired, so while you wait for a new dog, you are using your white cane.

You have been taught how to get to a variety of destinations, but usually you're taught the only safe route to each place, where you can cross roads using controlled intersections.

Many of these walks include shared walk / cycle paths.

On most trips I get bumped into, pushed aside, on really bad days I get knocked over and even punched.

I remember before lockdown, 1 bad week.

On the Monday I decided to walk to the local Mall using the shared walkway. First a person on an e-scooter crashed into me, lucky for me it was him who flew off the scooter but I was left feeling upset and sore.

I kept walking, but about 20 steps later I was pushed into the fence by a fast person on a bike. There was grass on one side of me, but they wanted to stay on the path, after they hit me with their bike and push me onto the fence, they punched me, then rode off. I was really shaken after that, but I can't see well enough to know who it was or hear if they spoke to me.

On the Wednesday, I had a hospital appointment which meant another shared path. The cyclists and e-scooter people go so fast. I could feel the wind as they brushed past me. I don't hear them coming and when the brush past, touching me, I don't have time to brace myself so I lose my balance. When I fall over, the people who push me or crash into me rarely stop to see if I'm OK.

To finish off the bad week, on the Friday, I was meeting friends. As I walked along the footpath, something hit me in the legs and I fell over. I got up and kept walking, thinking it was low branches on an overhanging bush. I was wrong, it was a small child on a small bike. The mother was very angry, grab my arm and shake me. I was very scared, until my friends arrived and helped me.

By the end of the week I was battered, bruised and feeling insecure.

I would like to say being hit by bikes, scooters, pushchair and people using their phones was unusual, but unfortunately that's not true.

Whether I am walking with my guide dog or using my white cane, other footpath or shared path users crash into me, push me out the way.

It's scary, but going out is the only way I can be independent, to do that cost effectively I have to walk.

The footpath needs to be safe for people like me.

Thanks for listening

Carl.