

Land Transport Rule

Paths and Road Margins 2020

Draft for consultation

Land Transport Rules are law produced by the NZ Transport Agency for the Minister of Transport. This is the public consultation (yellow) draft of **Land Transport Rule: Paths and Road Margins 2020**.

If you wish to comment on this draft Rule, please see the information about making a submission in the accompanying explanatory material. The deadline for submissions is **5pm Wednesday 22 April 2020**.

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Paths and Road Margins 2020

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Part 1

Rule requirements

Section 1 Preliminary provisions

1.1 Title

This Rule is *Land Transport Rule: Paths and Road Margins 2020*.

1.2 Commencement

This Rule comes into force on [date to come].

1.3 Purpose

The purpose of this Rule is to—

- (a) define the users of footpaths, shared paths, and cycle paths, and outline the requirements for those users in those spaces; and
- (b) give effect to a national framework to govern which vehicles can be used on footpaths under which conditions; and
- (c) empower road controlling authorities to—
 - (i) vary the speed limit on footpaths, shared paths, and cycle paths in their jurisdiction; and
 - (ii) restrict the use of footpaths, shared paths, and cycle paths in their jurisdiction; and
 - (iii) declare a path in their jurisdiction to be a shared path or a cycle path; and
 - (iv) impose parking restrictions on berms in their jurisdiction.

Section 2 Creation of shared paths and cycle paths

2.1 Road controlling authority may declare path to be shared path

2.1(1) Without limiting any other power, a road controlling authority may make a resolution that declares a path to be a shared path.

2.1(2) A road controlling authority must register with the Agency in accordance with *clause 2.3(2)*—

- (a) a shared path created under this clause; and
- (b) a shared path created under any other enactment after [date of commencement].

2.2 Road controlling authority may declare path to be cycle path

2.2(1) Without limiting any other power, a road controlling authority may make a resolution that declares a path to be a cycle path.

2.2(2) Every cycle track made under the Local Government Act 1974 or the Land Transport Act 1998 is a cycle path for the purposes of land transport rules, except that the road controlling authority is not required to comply with *clause 2.2(3)*.

2.2(3) A road controlling authority must register with the Agency in accordance with *clause 2.4(2)*—

- (a) a cycle path created under this clause; and
- (b) a cycle path created under any other enactment after [date of commencement].

2.3 Consultation requirements for creating shared paths and cycle paths

Before creating a shared path or a cycle path under this section, a road controlling authority must—

- (a) consult with any persons or groups who the road controlling authority considers to be affected by the proposal; and
- (b) allow those persons or groups a reasonable time to make submissions on the proposal; and
- (c) take account of submissions received during consultation on the proposal.

2.4 Agency must establish and maintain register of shared paths and cycle paths

2.4(1) The Agency must—

- (a) establish and maintain a register of shared paths and cycle paths that contains all information provided to it under *clauses 2.1(2)* and *2.2(3)*; and
- (b) make the register of shared paths and cycle paths publicly available at all reasonable times.

2.4(2) When registering a shared path or cycle path with the Agency, a road controlling authority must include—

- (a) a full description of the shared path or cycle path, including references to details of maps or other documents as appropriate; and
- (b) the date on which the shared path or cycle path begins operation.

Section 3 Requirements for cyclists, riders of transport devices and mobility devices, and pedestrians

3.1 Use of footpaths

- 3.1(1) A person may ride a cycle or transport device or drive a mobility device on a footpath if they comply with this clause.
- 3.1(2) A cycle, transport device, or mobility device must have a width no greater than 750 mm, including any accessories or auxiliary equipment.
- 3.1(3) A person riding a cycle or transport device on a footpath must—
 - (a) keep to the left of the footpath unless it is impracticable or unsafe to do so; and
 - (b) give way to pedestrians and drivers of mobility devices.
- 3.1(4) A person riding a cycle or transport device or driving a mobility device on a footpath must ride or drive in a manner that is—
 - (a) careful and considerate; and
 - (b) not hazardous to other users of the footpath.
- 3.1(5) A person riding a cycle or transport device or driving a mobility device on a footpath must not ride or drive the cycle or device at a speed that exceeds—
 - (a) the default speed limit; and
 - (b) if a speed limit has been set under *clause 4.11(1)*, that speed limit.
- 3.1(6) If there is a restriction on the use of a footpath, the class or classes of users to whom that restriction applies must not use the footpath contrary to the restriction.
- 3.1(7) If there is a sign or marking that indicates a restriction on the use of a footpath, the class or classes of users to whom that restriction applies must not use the footpath contrary to the sign or marking.
- 3.1(8) A pedestrian must not unduly impede the passage of—

- (a) a rider of a cycle or transport device; or
- (b) a driver of a mobility device; or
- (c) a rider of a moped or motorcycle permitted to use the footpath to deliver printed material to letterboxes by *clause 2.13(2) of the Land Transport (Road User) Rule 2004*.

3.1(9) The requirements for mobility devices in this clause do not apply to powered wheelchairs (*see the definition of pedestrian*).

Compare: SR 2004/427 r 11.1(4), (5), (6)

3.2 Use of shared path and cycle paths

3.2(1) A person using a shared path or a cycle path—

- (a) must use it in a careful and considerate manner; and
- (b) must not use it in a manner that constitutes a hazard to other persons using it.

3.2(2) A rider of a cycle or transport device or driver of a mobility device on the path must not ride or drive the cycle or device at a speed that constitutes a hazard to other persons using the path.

3.2(3) A user of a path must not unduly impede the passage of any other user of the path.

3.2(4) A person riding a cycle or transport device or driving a mobility device on a shared path or cycle path must not ride or drive the cycle or device at a speed that exceeds—

- (a) the default speed limit; and
- (b) if a speed limit has been set under *clause 4.11(1)*, that speed limit.

3.3 Priority on shared paths

3.3(1) On a shared path,—

- (a) cyclists and riders of transport devices must give way to drivers of mobility devices and pedestrians; and
- (b) driver of mobility devices must give way to pedestrians.

3.3(2) Despite *clause 3.3(1)*, if a sign or marking on the shared path gives priority to a class or classes of user on the path or part of that path, all other users on the path must give priority to that class or classes of users.

3.3(3) If a sign or marking on the shared path specifies the part or parts of a path which may be used by a class or classes of user (for

example, a lane reserved for pedestrians), a user of a path must not use any part of the path contrary to that sign or marking.

Compare: SR 2004/427 r 11.1A

3.4 Prohibition on riding cycles and transport devices on gardens etc

A person must not ride a cycle or transport device or drive a mobility device on a garden or other cultivation forming part of a road.

Compare: SR 2004/427 r 11.11

Section 4 Speed limits on paths

4.1 Road controlling authority must comply with Rule

A road controlling authority must comply with this Rule when setting a speed limit for vehicles using a footpath, shared path, or cycle path, or an area of footpaths, shared paths, or cycle paths.

4.2 Application of speed limits on footpaths, shared paths, and cycle paths

A speed limit on a footpath, shared path, or cycle path does not apply to a pedestrian.

Speed limits on footpaths

4.3 Default speed limit on footpaths

The default speed limit on a footpath is 15 km/h.

4.4 Variations from default speed limit on footpath

4.4(1) A speed limit on a footpath or an area of footpaths that is set in accordance with this section must be one of the following:

- (a) 5 km/h:
- (b) 10 km/h:
- (c) 15 km/h.

4.4(2) A road controlling authority may make a resolution to set a speed limit on a footpath or an area of footpaths in its jurisdiction.

4.4(3) A speed limit set under *clause 4.4(2)* may apply for a specified period or periods.

Speed limits on shared paths and cycle paths

4.5 Default speed limit on shared paths and cycle paths

The default speed limit on a shared path or a cycle path is,—

- (a) if there is a roadway immediately adjacent to the shared path or cycle path, the speed limit on that roadway set under *Land Transport Rule: Setting of Speed Limits 2017*; or
- (b) if there is no roadway immediately adjacent to the shared path or cycle path, 50km/h.

4.6 Variations from default speed limit on shared paths and cycle paths

4.6(1) A speed limit on a shared path or cycle path or an area of shared paths or cycle paths that is set in accordance with this section must be—

- (a) no lower than 10km/h; and
- (b) no higher than the speed limit on the immediately adjacent roadway or, if there is no immediately adjacent roadway, 50km/h.

4.6(2) A road controlling authority may make a resolution to set a speed limit on a shared path or cycle path or an area of shared paths or cycle paths.

4.6(3) A speed limit set under *clause 4.6(2)* may apply for a specified period or periods.

Setting speed limits on paths

4.7 Criteria for setting speed limits on paths

A road controlling authority may set a speed limit on a path after considering—

- (a) any relevant guidance developed by the Agency; and
- (b) any other matter relevant to public safety.

4.8 Consultation requirements for speed limits on paths

Before setting a speed limit for a path, a road controlling authority must—

- (a) consult with any persons or groups who the road controlling authority considers to be affected by the proposed speed limit; and

- (b) allow those persons or groups a reasonable time to make submissions on the proposal; and
- (c) take account of submissions received during consultation on the proposed speed limit.

4.9 Setting speed limits on paths

- 4.9(1) A road controlling authority that sets a speed limit on a path must register the speed limit on the National Speed Limit Register maintained by the Agency under *clause 2.8(6) of Land Transport Rule: Setting of Speed Limits 2017*.
- 4.9(2) *Subclause (1)* does not apply to a default speed limit set under *clause 4.3 or 4.5*.

4.10 Markings for speed limits on paths

- 4.10(1) A road controlling authority may install a speed limit marking within an area covered by a speed limit set under *clause 4.9* to inform path users of the speed limit.
- 4.10(2) A speed limit set under *clause 4.9* is valid whether or not the road controlling authority installs speed limit markings under this clause.
- 4.10(3) The design, format, shape, colour, and size of a speed limit marking must comply with the applicable requirements for speed limit markings in *Land Transport Rule: Traffic Control Devices 2004*.

Section 5 Restrictions on use of footpath, shared path, or cycle path

5.1 Road controlling authority may restrict use of footpath or other pedestrian facility

- 5.1(1) A road controlling authority may make a resolution to restrict the use of a footpath or an area of footpaths in its jurisdiction in the following ways:
- (a) by specifying the class or classes of user (other than pedestrians and drivers of mobility devices) that may not use the footpath or area of footpaths:
 - (b) by specifying the part or parts of a footpath or an area of footpaths which may be used by a class or classes of users:

- (c) by specifying the periods in which a class or classes of user (other than pedestrians and drivers of mobility devices) may not use the footpath or the area of footpaths.

5.1(2)

A road controlling authority may make a resolution to restrict the use of a shared path or an area of shared paths in its jurisdiction in the following ways:

- (a) by specifying the part or parts of a shared path which may be used by a class or classes of users:
- (b) by specifying the times at which a class or classes of user may not use the shared path.

5.1(3)

A road controlling authority may make a resolution to restrict the use of a cycle path or an area of cycle paths in its jurisdiction in the following ways:

- (a) by specifying the class or classes of user (other than riders of cycles) that may not use the cycle path:
- (b) by specifying the part or parts of a cycle path which may be used by a class or classes of user:
- (c) by specifying the times at which a class or classes of user (other than riders of cycles) may not use the cycle path.

5.2

Criteria for restricting use of footpath, shared path, or cycle path

A road controlling authority may propose a restriction under *clause 5.1* after considering—

- (a) any relevant guidance developed by the Agency; and
- (b) any alternative routes or facilities that will be available to the class or classes of user that are the subject of the proposed restriction; and
- (c) any other matter relevant to public safety.

5.3

Consultation requirements for restricting the use of footpaths, shared paths, and cycle paths

Before restricting the use of a footpath, shared path, or cycle path, a road controlling authority must—

- (a) consult with any persons or groups who the road controlling authority considers to be affected by the proposed restriction; and
- (b) allow those persons or groups a reasonable time to make submissions on the proposal; and

- (c) take account of submissions received during consultation on the proposed restriction.

5.4 Restricting the use of a footpath, shared path, or cycle path

A road controlling authority that restricts the use of a footpath, shared path, or cycle path must register the restriction on the National Speed Limit Register maintained by the Agency under *clause 2.8(6) of Land Transport Rule: Setting of Speed Limits 2017*.

5.5 Marking restrictions on the use of footpaths, shared paths, and cycle paths

- 5.5(1) A road controlling authority may install signs or markings within an area covered by a restriction created under *clause 5.4* to inform path users of the restriction.
- 5.5(2) A restriction set under *clause 5.4* is valid whether or not the road controlling authority installs signs or markings under this clause.
- 5.5(3) Any signs or markings installed under this clause must comply with any applicable requirements of *Land Transport Rule: Traffic Control Devices 2004*.

Section 6 Restrictions on motor vehicle parking on berms

6.1 Road controlling authority may restrict motor vehicle parking on berms

- 6.1(1) Without limiting any other power, a road controlling authority may make a resolution to restrict motor vehicles from parking on a berm or an area of berms in its jurisdiction.
- 6.1(2) A road controlling authority must register with the Agency in accordance with *clause 6.3(2)*—
 - (a) a berm parking restriction created under this clause; and
 - (b) a berm parking restriction created under any other enactment after [date of commencement].

6.2 Consultation requirements for berm parking restrictions

Before restricting motor vehicles from parking on a berm or an area of berms under *clause 6.1*, a road controlling authority must—

- (a) consult with any persons or groups who the road controlling authority considers to be affected by the proposed restriction; and

- (b) allow those persons or groups a reasonable time to make submissions on the proposal; and
- (c) take account of submissions received during consultation on the proposal.

6.3 Agency must establish and maintain register of berm parking restrictions

- 6.3(1) The Agency must—
- (a) establish and maintain a berm parking restriction register that contains all information provided to it under *clause 6.1*; and
 - (b) make the berm parking restriction register publicly available at all reasonable times.
- 6.3(2) When registering a berm parking restriction with the Agency, a road controlling authority must include—
- (a) a full description of the roads or area to which it applies, including references to details of maps or other documents as appropriate; and
 - (b) the date on which the berm parking restriction comes into force.

6.4 Signs and markings relating to berm parking restrictions

- 6.4(1) A road controlling authority may install signs or markings within an area covered by a restriction created under *clause 6.1* to inform path users of the restriction.
- 6.4(2) A restriction set under *clause 6.1* is valid whether or not the road controlling authority installs signs or markings under this clause.
- 6.4(3) Any signs or markings installed under this clause must comply with any applicable requirements of *Land Transport Rule: Traffic Control Devices 2004*.

Section 7 Agency's powers regarding road controlling authority decisions under this Rule

7.1 Agency's powers to investigate and direct road controlling authority

- 7.1(1) The Agency may investigate road controlling authorities for compliance with this Rule.

- 7.1(2) The Agency must notify a road controlling authority in writing if it considers that the road controlling authority has not complied with this Rule, and give the road controlling authority a reasonable opportunity to respond to the notification.
- 7.1(3) If the Agency is not satisfied by a road controlling authority's response under *clause 7.1(2)*, the Agency may issue directions to the road controlling authority regarding matters to be addressed.
- 7.1(4) A road controlling authority must comply with directions given by the Agency under *clause 7.1(1)*, 7.2, 7.3, 7.4, or 7.5.

7.2 Agency may direct road controlling authority to review speed limits or procedures relating to speed limits

If the Agency considers that a road controlling authority has not complied with this Rule in reviewing or setting a speed limit, or that a speed limit set by a road controlling authority does not comply with this Rule, the Agency may direct the road controlling authority to—

- (a) review, change, or modify the application of the speed limit:
- (b) review or change, in accordance with this Rule, the procedures used by the road controlling authority to set speed limits:
- (c) carry out the instructions under *paragraph (a)* or *(b)* within a stated period.

7.3 Agency may direct road controlling authority to review restrictions on use of paths or procedures relating to restrictions on use of paths

If the Agency considers that a road controlling authority has not complied with this Rule in reviewing or creating a restriction on the use of a footpath, shared path, or cycle path, or that a restriction on the use of a footpath, shared path, or cycle path does not comply with this Rule, the Agency may direct the road controlling authority to—

- (a) review, change, or modify the restriction on the use of the footpath, shared path, or cycle path:
- (b) review or change, in accordance with this Rule, the procedures used by the road controlling authority to create restrictions on the use of footpaths, shared paths, and cycle paths:

- (c) carry out the instructions under *paragraph (a) or (b)* within a stated period.

7.4 Agency may direct road controlling authority to review restrictions on motor vehicle parking on berms

If the Agency considers that a road controlling authority has not complied with this Rule in reviewing or creating a restriction on the parking of motor vehicles on berms, or that a restriction on the parking of motor vehicles on berms does not comply with this Rule, the Agency may direct the road controlling authority to—

- (a) review, change, or modify the restriction on the parking of motor vehicles on berms:
- (b) review or change, in accordance with this Rule, the procedures used by the road controlling authority to create restrictions on the parking of motor vehicles on berms:
- (c) carry out the instructions under *paragraph (a) or (b)* within a stated period.

7.5 Agency may direct road controlling authority to install, modify, or remove signage or markings

7.5(1) The Agency may direct a road controlling authority to install, modify, or remove a footpath, shared path, or cycle path use restriction sign or marking to comply with this Rule.

7.5(2) The Agency may direct a road controlling authority to install, modify, or remove a speed limit sign or marking to comply with this Rule.

7.6 Agency may exercise powers of road controlling authority in certain circumstances

7.6(1) If a road controlling authority does not comply with directions given under *clause 7.1(1), 7.2, 7.3, 7.4, or 7.5*, the Agency may, by notice in the *Gazette*, exercise the appropriate responsibilities of a road controlling authority under this Rule and—

- (a) change or modify the application of a speed limit; or
- (b) change or modify the application of a restriction on the use of a footpath, shared path, or cycle path; or
- (c) change or modify the application of a restriction on the parking of motor vehicles on
- (d) register the change.

- 7.6(2) A road controlling authority is liable for the reasonable expenses incurred by the Agency under *clause 7.6(1)*.

Part 2

Definitions

(1) In this Rule,—

Act means the *Land Transport Act 1998*

Agency means the New Zealand Transport Agency established under *section 93* of the *Land Transport Management Act 2003*

berm means an area of road margin separated from the roadway

Commissioner means the Commissioner of Police

cycle path—

- (a) means part of the road that is physically separated from the roadway that is intended for the use of cyclists and riders of transport devices, but which may be used also by pedestrians, drivers of mobility devices; and
- (b) includes a cycle track formed under *section 332* of the *Local Government Act 1974*

footpath—

- (a) means a path or way principally designed for, and used by, pedestrians; and
- (b) includes a footbridge; but
- (c) does not include a shared path

pedestrian means—

- (a) a person on foot on a road; or
- (b) a person in or on a contrivance equipped with wheels or revolving runners that is not a vehicle; or
- (c) a person operating—
 - (i) a powered wheelchair;
 - (ii) a contrivance listed in *paragraph (c)* of the definition of vehicle in *section 2(1)* of the Act

powered transport device means a wheeled vehicle (other than a cycle or a mobility device) powered by 1 or more propulsion motors, that the Agency has declared, under *section 168A(2)* or *(3)* of the Act, is not a motor vehicle

powered wheelchair—

- (a) means a mobility device that is a wheelchair propelled by mechanical power and operated by a joystick or other specialist interface; but
- (b) does not include a mobility device steered by a tiller or handlebar

road controlling authority, in relation to a path,—

- (a) means the authority, body, or person having control of the path; and
- (b) includes a person acting under and within the terms of a delegation or authorisation given by the controlling authority

road margin has the same meaning as in *clause 1.6 of the Land Transport (Road User) Rule 2004*

roadway has the same meaning as in *clause 1.6 of the Land Transport (Road User) Rule 2004*

(to) set a speed limit means to establish or change a speed limit in accordance with this Rule

shared path means a path that is intended to be used as a path by some or all of the following persons at the same time:

- (a) pedestrians:
- (b) cyclists:
- (c) drivers of mobility devices:
- (d) riders of transport devices

speed limit—

- (a) means the maximum speed at which a vehicle may legally be operated on a particular path; but
- (b) does not mean the maximum permitted operating speed for classes or types of vehicle specified in any Act, regulation, or rule

transport device means a powered transport device or an unpowered transport device

unpowered transport device means a wheeled vehicle, other than a cycle, that is propelled by human power or gravity

- (2) A term that is used in this Rule and defined in the Act but not defined in this Rule has the meaning given in the Act.