

Submission on the Road User Rule – Yellow Draft

Rule 61001

About CAN

The Cycling Advocates' Network of NZ (CAN) Inc is this country's national network of cycling advocates. It is a voice for all cyclists - recreational, commuter and touring. We work with central government and local authorities, on behalf of cyclists, for a better cycling environment. We have affiliated groups and individual members throughout the country, and links with overseas cycling organisations. In addition, some territorial local authorities, and several consultancies, are supporting organisations.

The national committee of the group has prepared this submission. You can find our committee members' names on the website <http://www.can.org.nz/> under 'contacts -> office holders'.

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General Comments

We are concerned that some of our suggestions or issues previously submitted have not been either addressed or at least responded to. This gives us concern about the worth of making further submissions, particularly now that the Rules in their entirety have been presented. The conversion of the existing Traffic Regulations into new Rules provides a great opportunity to review a number of laws. However, the LTSA appears to be limiting which areas it wants to review, irrespective of submissions made.

We note that some of the more obscure rule sections are not covered at all by the Road Code and driver training, e.g. the purpose and use of "safety zones". This raises the question of how a driver can be reasonably expected to know these rules. This is of particular concern to us when there are rules pertaining to cyclists or drivers interacting with them.

CAN would like to offer the following feedback on issues that have not been incorporated into the yellow draft of the rule:

Definition of Right of Way

Right of way is currently defined for the carriageway only and does not incorporate the whole road corridor. At intersections, the right of way is defined for the area achieved by the prolongation of the kerb lines. This has a direct bearing on the right of way for cycle paths.

As cycle paths are by definition behind the kerb line, cyclists always have to give way to turning motorists at every side street. This is an important difference to European countries and North America, where right of way is defined for the road corridor. Over there, turning motorists have to give way to cyclists, unless a site is signposted otherwise. It should be noted that pedestrians walking across a side street have the right of way over turning motorists in those countries, too.

As a consequence of the legal situation in New Zealand, a cycle path would often not be acceptable to commuter cyclists, due to them having to give way at every side street. This in turn prevents Road Control Authorities (RCA's) providing cycle paths in the first place, as these paths would potentially not offer an acceptable level of service for one of the main user groups (i.e. commuter cyclists). An example of this is Fendalton Road in Christchurch, where the main reason for not allowing for cycle paths (as asked for by the local cycle user group) in the widening currently undertaken was this give way situation at the side streets. The consequence for cyclists in the Fendalton Road case is that they will have to share a carriageway with over 20,000 vehicles a day.

CAN acknowledges that cycle paths do not necessarily result in safer facilities when compared to on-street cycle lanes. Scientific evidence for this is compiled on the following internet site: http://www.lesberries.co.uk/cycling/cy_pathr.htm

On the other hand, on-street cycle lanes are often unsuitable in certain road environments. Then, only segregated cycle facilities (i.e. cycle paths) are suitable for the safe and convenient movement of cyclists. Also, certain groups of cyclists will not be attracted to some road environments, and only cycle paths will overcome this barrier. Without the ability to build cycle paths, which are attractive to all cyclists, it is difficult to achieve the Government policy of promoting cycling.

It is for this reason that the legislation in place needs to accommodate the option of providing cycle paths that are adequate for all groups of cyclists. Only Give Way rules for the whole road corridor, rather than just the carriageway, will achieve this.

We suggest that the definition of 'roadway' could be amended to integrate this issue. Alternatively, an equivalent to our amended Clause 4.3 could be created for side roads.

Cellular phones

CAN notes that:

- The community apparently supports banning the use of hand-held phones while driving (see footnote 56 in the blue draft consultation document).
- It seems likely that a ban of using a hand-held phone while driving would result in social benefits experienced by others than the driver.
- Evidence suggests that hands-free phones are just as distracting as hand-held phones.
- Only cell-phone users themselves experience potential disbenefits (and they can invest into hands-free kits if this is justified).

Applying the precautionary principle, CAN concludes that **the use of both hands-free and hand-held phones while driving should be banned.**

We dispute the final paragraph of the blue draft under "Crash Data". The suggestion is that all misdemeanours will be under-reported; therefore the real proportion of cellphone crashes will be similar to that in the crash database. There is a greater chance of many other misdemeanours being identified through other clues, e.g. breathalyser or blood testing to detect drink-driving, visual inspection to detect unsafe tyres.

Similarly one can debate the argument that existing laws can already be used to prosecute careless use while on the phone. These laws only prosecute if poor/unsafe driving is in evidence, not if the driver 'potentially' could be a risk. This compares with laws restricting speeding or not wearing seatbelts even if the driver is otherwise travelling safely.

Commonsense should prevail on this issue - clearly if the driver's attention is focussed elsewhere, his or her driving will be impaired and the risk of doing something to endanger others is increased. Using a cellphone is not the same as eating an ice cream, say (how often does one make an appointment with an ice cream?), but if that is the issue then activities such as eating ice creams and smoking should be banned also. Text messaging should definitely be included in the ban.

Claiming that it would be hard to bring a prosecution under the law ignores the deterrent effect of having a ban. An education programme is certainly a good idea, but it needs to be backed up by a change in the law. Claiming that a restriction on cellphone users is a cost to be taken into account ignores the fact that many calls are of a purely social nature and need not take place while driving.

Woonerfs

The Road User Rule should be drafted in a way so that the option of implementing Dutch-style Woonerfs (or British 'Home Zones') is kept open.

Specific Comments

CAN would like to offer the following feedback on individual sections of the yellow draft of the rule:

Section 1.5 Interpretation

The list of definitions appears to be incomplete. We suggest that the following definitions be added in this section:

Cycle path means a pathway that is intended for the use of cyclists, but which may be used also by pedestrians.

Explanation: The yellow draft makes reference to 'cycle tracks' in two clauses (i.e. 6.16 and 11.12), but no definition is given in this section. We suggest that a term be included in this section for clarification, but suggest that the more appropriate term 'cycle path' be chosen over 'cycle track'. The term 'cycle path' has been adopted in the Traffic Control Devices Rule and is included in the definitions section of that Rule, but we offer a more inclusive definition here, in so far as it does not limit a 'cycle path' to be part of the road.

It is important to us that the legal status of the various cycle facilities is clarified, and that this clarification is provided in the appropriate legislation, i.e. the Road User Rule, rather than defined in related legislation (e.g. the Local Government Act 1974). Note that the LGAct allows for cycle tracks to be formed on either roads or on other land, which is reflected in our proposed definition.

As the LGAct 1974 defines 'cycle tracks', the Road User Rule interpretation could spell out cycle paths here have the same meaning as 'cycle tracks' in the LGAct 1974.

Relevant Sections of the Local Government Act 1974:

[332 Cycle tracks

(1) The council may on any road, or on any land vested in or under the control of the council, form a public cycle track, and may make bylaws under [section 684 of this Act] regulating and controlling the use of that cycle track.

(2) For the purpose of constructing any cycle track, the council may take, purchase, or otherwise acquire land in accordance with the provisions of this Act.

(3) In this section the term road does not include an access way.]

[684 Subject-matter of bylaws

Roads

(13) Concerning roads and cycle tracks and the use thereof, and the construction of anything upon, over, or under a road or cycle track:

No rules for cycle path usage are established in the Road User Rule. We would appreciate if the RUR could prescribe a code of conduct for the different cycle path users. We note that since the definition of pedestrian has been extended, recreational devices are also covered under the suggested wording above. The CAN executive is available for further discussions on this topic – please contact our secretary.

We offer the following comments to other definitions in this section:

Cycle Lane – amend (a)(ii) to read “the start of which is marked by a cycle symbol and has regularly repeating symbols; and”.

Explanation: We suggest that the symbols be repeated at set distances. Otherwise, it cannot reasonably be expected that motorists recognise the cycle lane as such, and can act in accordance with the rules (e.g. not parking in the cycle lane).

Cycle Lane – we have concerns with subclause (b), as this can be confusing and inconsistent. Consider deleting.

Driveway – amend so that it clearly includes traffic-calmed side-roads with driveway-style entrances.

Explanation: User behaviour is unclear at traffic-calmed side-roads with driveway-style entrances.

Expressway – clarify whether a road divided by a solid median, or a solid or flush median, is required to meet the definition.

Explanation: Avoid ambiguity. It should also be noted that many so-called expressways do not currently meet the given definition (e.g. Opawa Expressway in Christchurch), which may cause legal confusion.

Expressway sign – delete.

Explanation: We note that ‘expressway sign’ is defined here, but no further reference is made to these signs in the body of the rule. It would appear that the RUR is not the appropriate place for defining a traffic control device, but suggest that the inclusion in MOTSAM might be the appropriate way of dealing with these signs.

Intersection – amend (a) to read “... lateral boundary lines of each roadway, and includes a cycle path intersecting with a road; but”,

Explanation: Without incorporating pathways into the definition of intersection, we cannot see how Sections 4.1, 4.2, and 4.4 can cover this situation. It should also be noted that there are examples of pathways in New Zealand, where the pathway has right of way over the intersecting road. This is entirely reasonable, when pathway volumes are higher than traffic volumes on the road. Hence, the situation needs to be covered in the rules.

Pedestrian – amend (a) to read “means a person on foot on a road or path; and”.

Explanation: Presumably, the situation of pedestrians using a pathway needs to be included in the rule, too.

Road – consider amending (d) to read “a place to which ~~the public~~ vehicles have access...”.

Explanation: The definition seems unusually wide to us, with ‘vehicles’ replacing ‘the public’ attempting to narrow it down.

Roadway – amend to read “Means that portion of the road used or reasonably usable for the time being for vehicular traffic ~~in general~~, including cycle paths.”

Explanation: This suggestion has been added to overcome the completely unsatisfactory give-way situation that cyclists face when using cycle paths. See also our discussion under ‘Definition of Right of Way’.

Section 2.1 Keeping left

Subclause (1) – amend to read “A driver must at all times drive as near as practicable and safe to the far left side...”.

Subclause (2) – amend to read “...the driver must, as soon as reasonably practicable and safe, move the vehicle as far as practicable and safe to the far left side...”

Add a new subclause after (2), with the existing subclause (3) consequentially renumbered as (4) – Notwithstanding the provisions of subclauses (1) and (2), a cyclist should keep at least one metre out from parked cars and other obstructions, and ride in as smooth a line as is possible in the situation.

Explanation: The safest place for a cyclist to travel is usually just to the left of the through traffic. The safest way to travel is usually in a straight line, as it makes cyclist behaviour predictable to motorists. Cycle lanes promote this position and behaviour. Where there are no cycle lanes marked, the rule requiring drivers to keep left is often interpreted to mean cyclists should be one metre from the kerb. This results in cyclists swerving around parked cars, which is known to be unsafe. It also means cyclists travel through intersections so far left that they might not be noticed by other drivers.

Section 2.2 Passing bays

We are unsure about the terminology of the section heading. Maybe, the chosen term should be included in the definitions section 1.5 for clarity.

The description of the text refers to what is known as passing **lanes** and slow vehicle bays, which are of course two distinct devices. Passing **bays** occur on long one-lane bridges only.

In addition, we feel that the indication who has the right of way at the end of the passing lane or slow vehicle bay is insufficient.

Section 2.3 Use of lanes

Subclause (1) (c) – delete.

Explanation: As three-lane sections should always be marked with no passing lines, (i) is presumably covered by subclause (1) (d), and (ii) is a repeat of subclause 2.1 (3).

Section 2.4 Intersections marked in lanes

Cyclists must be exempted from the requirement of complying with left turning arrows at laned intersections.

Explanation: The vast majority of laned intersections have been designed without giving cyclists any specific consideration. One of the consequences of this is that most cyclists will proceed straight ahead from a left turning lane when one is marked, rather than from the adjacent through lane. This behaviour increases cyclists' safety, as using narrow through lanes would block the passage of motorists who want to travel significantly faster than most cyclists are capable of travelling at. Left turners, on the other hand, have to slow down for their upcoming turn, and are thus more likely to travel at a speed at which it is safe to share the lane with cyclists. However, this is technically not legal, and CAN had expected that cyclists seeking to increase their safety as described above would be accommodated in the Road User Rule process. We are very disappointed that although we raised this point in our previous submission, this is still not contained in the yellow draft.

The situation is more complex at traffic signals where in some instances left turning traffic can proceed at a green left turn arrow, whilst the through movement is facing a red light and cannot move. Here, straight ahead cyclists may block the passage of motorised left turners, and safety can be compromised, as left turners might fail to understand that cyclists will stop at the limit lines. CAN suggests that where signal programs allow for this case, and no cycle lane can be fitted between the left turn and the through lane, that an advanced cycle stop box be provided ahead of the through lane. This will give cyclists a safe storage area.

Section 2.5 Changing direction

Subclause (4) – clarify.

Explanation: We are not sure whether it is sensible to include cyclists in this clause. It is sometimes more practical for cyclists to turn from the far left. We also wonder why have subclause (4) if subclause (6) applies?

Add a new subclause – A driver who is turning left must not, if turning from the right side of a (kerbside) cycle lane, impede the progress of any cyclists travelling along the same roadway.

Explanation: This suggested subclause is modelled on subclause (2). Cyclists should be given the same rights as trams, and motorists should exercise the same courtesy as is expected when they encounter trams.

Section 2.6 Passing other vehicles

Add a new subclause – We suggest that the regulations be amended specifying a minimum lateral clearance when passing a cyclist.

Explanation: Motorists passing cyclists and not giving them enough lateral clearance is one of the most common complaints by cyclists. CAN would thus suggest that a minimum lateral clearance be defined in legislation. We suggest that 1.0m be chosen for this. We realise that it is going to be difficult to exactly measure 1.0m in any given situation, but there will be many times when that distance has very clearly been breached (e.g. if a cyclist can reach out and thump the top of the passing car). It also gives a clear indication to drivers of what behaviour is expected of them, and presumably would be incorporated into the driving test.

Add a new subclause – "A driver should generally maintain at least 1.0m lateral separation between the edges of their vehicle and any opposing or adjacent vehicle while passing, unless travelling at a sufficiently slow speed to allow a smaller margin."

Explanation: Again, we realise that it is going to be difficult to exactly measure 1.0m in any given situation, but this gives a clear indication to drivers of what behaviour is expected of them, and presumably would be incorporated into the driving test.

Section 2.7 Passing on left

Subclause (3) – amend.

Explanation: When a cyclist keeps left and comes across a queue of vehicles it would appear to be contrary to regulations for a cyclist to ride up the left of the queue, in the absence of a legal lane. This should be permitted with care (e.g. not overtaking a vehicle close to the limit lines signalling a left turn). There should also be obligations on vehicles turning through queues or turning left to take account of cyclists overtaking on the left.

We note that for bicycles, it is legal in Queensland to "overtake another vehicle on the left except when that vehicle is turning left and giving a left change of direction signal" (Transport Operations Regulation 1999, s141).

Subclause (3) (c) – There appears to be a mistake in this subclause. We suggest it should read:

"if the overtaken vehicle is a light rail vehicle moving in the same direction, the light rail vehicle must not be either –

- (i) ~~not~~ signalling an intention to turn left or to stop; or
- (ii) stationary for the purposes of allowing passengers to alight or board."

Explanation: The way the subclause is drafted, it suggests that drivers should overtake a stopped tram on the left hand side, at the same time as passengers are alighting or boarding.

Section 2.8 Passing on right

Subclause (1) – There appears to be a mistake in this subclause. In conjunction with the other subclauses, it appears that a driver is prohibited from passing on the right except near intersections or flush medians!

Add a new subclause (3) (b) (iv) – "is overtaking a cyclist."

Explanation: In order to ensure that motorists can give cyclists enough lateral clearance, the subclause should be amended, making flush medians available for motorists when passing a cyclist. Subclause 3 (a) should ensure that due consideration is given to other road users whilst driving on the flush median. Many flush medians got installed without giving due

considerations to cyclists, as often not enough lane width remains that can be safely shared by cyclists and motorists.

The legislation should consequently be amended, encouraging motorists to straddle the flush median when this is required to give cyclists a wide berm. We note that this matches the current behaviour of responsible motorists, and the outcome is increased road safety for cyclists. We also note that whilst it might not be desirable to have exceptions in the legislation for certain classes of road users, we bring your attention to section 2.9 subclause (2), which contains such an exception concerning overtaking cyclists.

Section 2.9 Passing at no-passing lines

Subclause (2) – amend to ensure that cyclists are only overtaken where this can be done safely.

Explanation: We assume that this clause was contained in the traffic regulations because the overtaking manoeuvre can be completed a lot faster when compared to another motor vehicle. Thus, there is some justification for such a clause. However, as we are aware from own experience, cyclists on roads with no-passing lines are regularly overtaken when this is clearly unsafe.

Section 2.11 Motorways and expressways

Subclause (7) – modify to read “A person must not ride a cycle on a motorway ~~or expressway~~ without the approval of the road controlling authority.”

Explanation: The yellow draft of the Road User Rule proposes for the first time to create a legal meaning for expressways, and to ban cycling from it by default. CAN is opposed to the ban on cycling by default. Many roads would supposedly be affected where at the moment, cycling is legal, and we thus claim existing use rights. Just because expressways are legally defined for the first time, the road environment for cyclists does not change, and at the very best, bans on cycling would have to be done on a case-by-case basis. Although the proposed wording gives RCA's the option of allowing cycling, this is not at all acceptable to CAN, as many RCA's would not want to have to go through the time-consuming process of allowing cyclists, as they might feel that they have 'more important issues to attend to'. This a major concern for CAN.

Section 2.12 Driving on footpaths

Change the section heading to 'Driving on footpaths and cycle paths'

Subclause (2) – supported as it is proposed.

Explanation: Whilst we have no strong opinion concerning the speed restriction on mobility devices and wheeled recreational devices, we submit that cyclists using cycle paths should definitely not have the same constraint imposed on them. We would also like to note that joggers and runners are also capable of exceeding 10 km/h, yet they should also not be restricted.

Section 3.1 Traffic signals in form of disc

Subclause (5) (a) – simplify to read, “a driver facing the signal or signals must not enter the controlled area.”

Explanation: It appears unnecessary to differentiate between motor vehicles and cycles, as both classes have to stop at limit lines. It almost appears as if the Rule was giving advice to designers, which is clearly not its purpose. If anything, it should be considered to include 'controlled area' in the definitions section.

Section 3.6 Cycle signals

Subclause (1) – amend so that all rules of section 3 subclause (2) (b) apply.

Explanation: When turning left or right while a green cycle symbol is illuminated, the normal give way rules apply at the moment. There is no reason why this should change under the proposed RUR.

Section 4 Stopping and giving way

There does not seem to be a clause included in the RUR that applies when drivers want to join a traffic lane from the kerbside (e.g. from a parking lane).

Add a new clause – “Give way to buses indicating to leave a bus stop.”

Explanation: It is common in other countries for buses exiting a bus stop to have the right of way over other traffic. It would appear that given the average occupancy of cars and buses, travel time benefits for bus passengers would exceed the travel time disbenefits of motorists. Hence, a benefit cost analysis is likely to support this proposed change.

Section 4.1 Giving way at Stop / Give Way signs

Section 4.2 Giving way not at Stop / Give Way signs

CAN is in full support of the proposed changes.

Explanation: We expect that the proposed change will be beneficial for all road user groups, as it makes the decision making process easier when having to give way. This in turn is likely to reduce the potential for making mistakes. With the current rules, not many cyclists would have taken the chance of turning right in front of a left turning car without making extremely sure that the left turner was waiting. Thus the rule wasn't that much use to cyclists and created hesitation and hold-ups, while leaving cyclists waiting in the centre of a road exposed to other traffic.

Section 4.3 Giving way when exiting driveway

Change the section heading to 'Giving way at driveways'.

Transform the sentence to **subclause (1)** and amend to read – “A driver exiting a driveway must give way to a road user on a footpath, cycle path or roadway.

Add a subclause (2) – “A driver entering a driveway must give way to a road user on a footpath or cycle path.”

Explanation: Both cases of exiting and entering driveways need to be covered in the rule. Entering driveways has so far been omitted. Cycle paths need also be covered, which requires their inclusion in the definitions (see section 1.5).

Section 4.6 Roundabouts

Subclause (4) – exempt cyclists, unless all roundabouts either provide adjacent cycle paths, or sufficient deflection reduces the speed differential between cyclists and motorists to values acceptable by CROW¹.

Explanation: *It is clearly unrealistic to expect from cyclists to use the right hand approach lane of a fast-flowing multi-lane roundabout, as this puts cyclists in the most hostile position imaginable. Roundabouts must provide for the safe (and efficient) movement of cyclists, too.*

Without specifying the mandatory provision of cycle paths at multi-lane roundabouts, or other suitable provisions for cyclists, CAN strictly opposes Alberta-style markings to be made mandatory.

We note that in Queensland, cyclists are exempt from the requirement of turning right from the right hand lane. When turning right from the left hand lane, cyclists must give way when riding past an exit (Transport Operations Regulation 1999, s111 and s119).

On page 7 of the consultation document (blue draft), the following characteristics of 'successful' traffic laws are listed (excerpts only):

- *Related to a safe outcome.*
- *A reasonable balance between the various road user interests.*
- *Can be readily applied.*

From a cyclist's perspective, all of these characteristics are violated. It can only be concluded that the proposal of Alberta-style markings to be installed is not consistent with successful traffic law.

Adopting the Queensland rule seems reasonable, as many cyclists will simply not comply with what is currently proposed.

On page 22 of the consultation document (blue draft), it is argued "Provided the roundabout design takes account of the mix of traffic likely to be using it, and in particular increasing the amount of deflection above the minimum, thereby slowing down vehicles on the roundabout, cyclists should be accommodated more safely...". This raises two further issues:

- *What happens to the roundabouts that do not display more than the minimum deflection? Are these roundabouts to be rebuilt?*
- *Research undertaken in Great Britain shows that when multi-lane roundabouts are first built, up to 30% of existing commuter cyclists chose a different route, so that they can avoid the roundabout. This suggests that by introducing the roundabout in the first place, the traffic mix changes, and consequently there may not be 'enough cyclists left' to justify special provisions for cyclists (e.g. increasing deflection or providing segregated cycle paths).*

The proposal as it stands will contribute that cyclists are designed out of the roading system.

¹ CROW (1993) Sign up for the bike: Design manual for a cycle-friendly infrastructure. Second Edition. Ae Ede, The Netherlands.

Section 5.1 Speed limits

Add a new subclause that bans the sale, possession and operation of radar detectors.

Explanation: Speed kills. Devices that enable motorists to avoid prosecution when they want to speed would have long ago been made illegal by authorities that took their duties seriously.

Subclause (3) (d) – delete.

Explanation: The exemption sets a bad example. It seems to allow Ministers to speed, whilst the rest of the population is not allowed to do so, and many drivers would in fact like to be able to exceed the speed limit. In the interest of Government showing leadership, this subclause should be deleted.

Section 5.4 (3) Towing a trailer

and

Section 5.6 Truck speed limit

CAN is opposed to the speed limit for some truck classes to be raised from 80 km/h to 90 km/h.

Explanation: Much of NZ's road network is not up to a standard where the raising of truck speed limits should be considered. Many roads are too narrow to be safely shared by trucks and cycles. Even on many state highways, road shoulders are not provided.

To use the poor compliance with the existing speed limit as one of the reasons for justifying the proposed increased is mind-boggling. We hope that this does not set a precedent, as otherwise many other speed limits would need to be increased, too.

Section 5.9 Stopping and following distances

Subclause (3) – amend so that the requirements are spelt out more specifically, e.g. by prescribing the 'two second rule'.

Explanation: Following too closely is one of the many driver behaviours in NZ that contribute to the poor road safety record that this country has. We wonder how effective the enforcement of driving rules can be when the underlying legislation does not prescribe measurable behaviour.

We favour the inclusion of the 'two-second rule' in the Road User Rule, and we anticipate that this will give the Police more powers to enforce safe following distances. Apart from road safety gains for motorists, cyclists might well receive safety improvements, too. When vehicles are driven in a convoy and the leading vehicle moves away from the edge of the road for overtaking a cyclist, following motorists might not be able to see the cyclist in time when following too closely. Being hit from behind at or near open road speed has often very serious or even fatal consequences.

Section 6.5 Parking in breach of bylaws

We note that the heading refers to bylaws, but no further reference to bylaws is made in the text.

Section 6.8 Parking in (cycle) lanes

In the overview part of the consultation document (page 26), it is argued that the proposed rule will allow Road Controlling Authorities to no longer install yellow no stopping lines in kerbside cycle lanes. CAN does not believe that just because of the rule change, driver behaviour will significantly change, partly because this subtlety will not be well known. Hence, in practice, yellow no stopping lines are still likely to be needed. The mentioned risk to cyclists of possibly losing control on slippery paint markings can be overcome by marking these lines in the kerb channel adjacent to the carriageway.

Section 6.10 Parking near bus stop

Subclause (2) - we note that the cross reference should be to section 6.17, and not 6.16 as shown.

Section 6.15 Parking at angle

Subclause (1) - we are unsure as to whether the wording allows for reverse-in angle parking.

Explanation: Cycling past vehicles parked at an angle can be frightening and dangerous. Drivers reversing out of an angle park often do not pay due consideration to the possible presence of cyclists. Overseas jurisdiction have reacted to these concerns by allowing and promoting reverse-in angle parking - drivers reversing into an angle park are much less likely to overlook another road user, and it is easier for drivers to see others when leaving a reverse-in park again. So for improved road safety, CAN wishes to see reverse-in angle parking provided for in the RUR.

Section 6.16 Parking on footpaths or cycle tracks

Change the wording in the title and the text from 'cycle tracks' to 'cycle paths'.

Explanation: See explanation in section 1.5

Change the clause to read: "A driver or person in charge of a **motor** vehicle must not stop, stand or park the **motor** vehicle on a footpath of cycle path..."

Explanation: The clause as it stands bans "vehicles" from stopping, standing or parking on a footpath, footway or cycle track [path] provided under the LGAct 1974. A bike is included in the "vehicle" definition, so this would:

- *ban cyclists from stopping on a cycle path*
- *ban cyclists from parking on a footpath*

We hope that this was not the intention of the clause.

Section 7.4 Noise

Subclause (4) - amend to cover speed limits lower than 50 km/h as well.

Section 7.11 Exceptions to seat belt wearing

Subclause (3) (c) - delete.

Explanation: We dispute that exempting taxi drivers from wearing a seat belt is safety at reasonable cost. We understand that the reason for having taxi drivers exempted is so that they can more quickly leave their vehicle in the case of attack from passengers. We cannot

believe that the gains from avoiding being attacked are anywhere near as high as the gains from reduced injury severity from wearing seatbelts.

Section 7.12 (4) Safety helmets for Sikhs

Subclause (4) – adjust.

Explanation: This clause does not make sense to us. We assume that it relates to the fact that most male adherents to the Sikh religion wear turbans, which would understandably make wearing a helmet difficult. But if that is the case, then the rule should say that rather than applying an exemption to all Sikhs, the exemption should only be granted whilst an adherent to the Sikh religion wears a turban. How many female Sikhs wear turbans?

Section 8.2 Motor vehicle lights

Subclause (4) – amend to include pedestrians and train drivers.

Explanation: Obviously, pedestrians and train drivers need to be included in this subclause. Like any other road user, they would be dazzled by a high beam, resulting in potentially unsafe situations. Pedestrians, for example, would be compromised in their ability to take evasive action if necessary. Train drivers might have problems reacting to railway warning signals when blinded by drivers on a parallel road.

Section 11.9 Cycle helmets

In accordance with the CAN policy statement and the available research, we ask for a review of the mandatory helmet law.

Both the Ministry of Transport and the LTSA have heralded the helmet legislation as a success, claiming around a 20% drop in injuries over the 6 years of the law (i.e. an average reduction in injuries of 3.3% per year).

The latest LTSA *Travel Survey Report* shows a drop of 34% in cycling hours over the 9 years from 1989-1997 (i.e. an average reduction in cycling hours of 3.8% per year). As injuries and cycling hours have reduced in a very similar manner, CAN concludes that the mandatory helmet legislation has failed to meet its objective of increasing cyclists' safety. This view is also supported by the latest research, such as Taylor 2002². More importantly, there is no statistically significant difference between the drop in bicyclist head injuries and those of the general population (Perry 2001³), clearly indicating that other factors are causing the drop not the helmet wearing.

Given the major health benefits of cycling (we make reference to Transfund's inclusion of general health benefits into the Project Evaluation Manual), and lack of environmental impacts, any drop in cycling is a major disbenefit. Overseas evidence suggests that the introduction of compulsory helmet legislation results in a significant proportion of cyclists to

² New Zealand Bicycle Helmet Law – Do The Costs Outweigh The Benefits?, M. Taylor, P. Scuffham, Injury Prevention 2002;8:317-320.

³ The Bicycle Helmet Legislation: Curse or Cure?, N. Perry, Cycling 2001, Christchurch.
<http://www.ccc.govt.nz/recreation/cycling/conference/2001/HeadsandHardSurfacesPresentation_Perry.pdf>

change modes. Given the disbenefits, and the apparent lack of benefits, CAN suggests undertaking a review of the legislation as part of the Road User Rule process.

CAN also argues that expanding the legislation, as is proposed, to cover further categories of people, is inappropriate given the questions over the existing legislation. Such expansion must not take place. For example, research has shown car users would benefit far more from wearing helmets than cyclists and an examination of this discrepancy should be part of the review of the legislation.

In our view, far more important issues than compulsory cycle helmets determine road safety for cyclists. Urban speed management, segregated pathways in rural areas, driver and cyclist education, enforcement of reckless driver behaviour towards cyclists, and 'share the road campaigns' could potentially be far more significant. Trying to meet the cycle helmet wearing targets may get in the way of dealing with these considerably more important road safety issues for cyclists.

It should be noted that there is a wide range of views on helmet wearing within CAN's membership, from strong supporters to strong opponents. However, CAN believes that an investigation into the effect of the mandatory helmet legislation on cyclists and cycling is long overdue.

Sensible conclusions about its effectiveness cannot be made without such research.

Subclause (2) - delete.

Explanation: The logic for extending the compulsion to bike trailers is flawed. Trailers for carrying people (we believe they are always designed for carrying children) are designed so that the trailer stays upright even if the bike falls over (there is a 3-way pivot), so the risk of the people hitting their head on the ground is minimised. And the centre of gravity is obviously much lower than when riding a bike. Also, if a trailer is being used to carry a baby, finding a helmet to fit safely without smothering the young passenger would be pretty much impossible. The proposed legislation is effectively banning people from carrying babies in bike trailers, and that is an unreasonable cost. It would also violate the principle of existing use rights.

Section 11.12 Cycle tracks, footpaths, etc

Change the section heading to 'Footpaths'

Subclause (1) - delete.

Explanation: We believe that the compulsory use of reasonably adequate cycle paths is too vague and that it should be revoked. Different types of cyclists have different requirements. A cycle track may well be adequate for and favoured by a child cyclist, when the same track may be considered inadequate by a commuter cyclist (e.g. due to delays introduced at side street crossings, or due to the inability to reach a right-turning lane), or a road cyclist on a training ride (e.g. due to the quality of the cut downs, or the geometric layout being incompatible with the desired speed). Cyclists will want to use a cycle track when it is suitable to their requirements, and the emphasis should be on Road Controlling Authorities (RCAs) to provide paths of high standard, rather than by legislation making their use compulsory when they are deemed 'reasonably adequate'.

The definition of 'adequate' in itself bears problems. How could Police officers possibly judge whether a particular facility is 'adequate', when they may not have any experience or even training as to what is 'adequate'. As outlined above, the very same facility may be adequate for some cyclists, and inadequate for others. For this reason, CAN wishes the subclause to be removed.

'Shared paths' as supposed to 'exclusive cycle paths' might be problematic to some extent, too. Are 'shared paths' ever considered 'adequate' cycle paths, given that cyclists have to mix with pedestrians? What are the criteria that define a 'shared path' to be 'adequate'? Given the density of users along Hagley Park or Oriental Parade for example, these could hardly qualify. It would also make sense to rule that cyclists should give advance warning to pedestrians on a 'shared path', either by bell or other sound.

If our submission of deleting subclause (1) is not followed, we suggest changing the wording in the title and the text from 'cycle tracks' to 'cycle paths'.

Explanation: See explanation in section 1.5

Section 11.13 Bike lights

Subclause (1) (a) - change to read "the cycle has attached a lamp displaying to the front either a flashing white or amber light or a steady beam of light that is white or amber; and".

Subclause (3) - delete.

Explanation: Cycle lights and their use are regulated here and in Rule 32005 (Vehicle Lighting). We submitted on the red draft of the Vehicle Lighting Rule, pointing out that most cycles of class AA will only ever be operated on streets that are lit during the hours of darkness, with the purpose of the headlamp being that other road users notice the cycle, rather than to illuminate the road ahead of the cyclist. The requirements for cycle headlamps and rear position lamps are therefore similar, which was expressed in our suggestion for an amended wording of the Vehicle Lighting rule and which is repeated above.

We would like to point out that most cyclists operate flashing headlamps at present, which is not allowed under the yellow draft of the RUR (and the red draft of the Vehicle Lighting Rule). We have conducted tests in a poorly lit street, where an observer was positioned approximately 100 m away from a person operating different battery powered cycle front lamps. We chose a poorly lit street as in this type of environment, cyclists are most likely be seen due to the lights fitted to their cycles, rather than by being illuminated by the street lighting.

We concluded that a flashing headlamp could be noticed far easier by an observer than the same lamp emitting a steady beam. It will thus be beneficial to road safety to allow the operation of cycle headlamps emitting a flashing light.

We note that flashing front lights are permitted in Queensland (Transport Operations Regulation 1999, s259).

Subclause (1) - change the wording so that the hours during which lights need to be operated under the old legislation do not change (i.e. from half an hour after sunset, until half an hour before sunrise the following morning).

Explanation: The proposed changes are likely to have a negative impact on cyclists – the proposal should not discourage cycling by requiring having lights when it is currently not necessary. CAN does not believe that it is sensible to require cyclists to have lights on during twilight hours. Motor vehicle headlights are very visible even in the daytime, but most bike lights are not. At those times, reflective gear is much more visible for cyclists.

The rule should refer to the compulsory use of lights for cyclists from half an hour after sunset, until half an hour before sunrise, and maybe the encouraged use of reflective gear for the half hour before and after. If motor vehicles have their lights on during those in-between times, the cyclists' reflective gear will be more effective. CAN prefers an educational approach like in Tauranga (as reported in our membership magazine ChainLinks June/July 2001, pp. 17-18) rather than enforcement.

Making cyclists chew through batteries for little purpose could be an added deterrent to people cycling. Cyclists don't generally have lights that are recharged during travel, so extending the hours of darkness imposes a higher cost on cyclists than on motorists. We also note that the benefit cost analysis was done for motor vehicles only, relating the proposal to different fuel prices. There is no evidence provided whatsoever that extending the hours of having to operate (usually battery-powered) cycle lights is in keeping with safety at reasonable costs.