



# Petition 2014/59 of Joanne Clendon

Report of the Transport and Industrial Relations Committee

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## Petition 2014/59 of Joanne Clendon

### Recommendation

The Transport and Industrial Relations Committee has considered Petition 2014/59 of Joanne Clendon and recommends that the Government consider a change to the New Zealand Road Rules to:

- allow cycling on the footpath by children up to and including 12 years of age or year 8 (and accompanying adults), seniors over 65, and vulnerable users (such as those with mental or physical disabilities)
  - make bells mandatory for any bicycle used on footpaths or shared use paths
  - allow local authorities to exclude, on a reasonable basis, certain areas of footpath from being used for cycling.
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The Transport and Industrial Relations Committee has considered Petition 2014/59 of Joanne Clendon, requesting:

That the House recommend a change to the New Zealand Road Rules to allow cycling on the footpath by children under 14 years of age (and accompanying adults), seniors over 65, and vulnerable users (such as those with mental or physical disabilities); make bells mandatory for any bicycle used on footpaths or shared use paths; and allow local authorities to exclude, on a reasonable basis, certain areas of footpath from being used for cycling.

The petitioner also requests that the Rules be changed to require that “share with care” bike training programmes be taught and drivers be educated on driveway safety.

### The petitioner’s submission

The petitioner is concerned that the Land Transport (Road User) Rule 2004 prohibits cycling on footpaths or adjacent berms except when delivering newspapers or mail or when riding a small wheeled recreational device that has a wheel diameter of less than 355 millimetres.<sup>1</sup>

The New Zealand Police and the New Zealand Transport Agency (NZTA) recommend that children under the age of 10 cycle on the road only when accompanied by a competent adult rider.

NZTA’s “Cyclist Skills Training Guide” contains a set of core skills designed to prepare cyclists to ride confidently on the road. Grade 2, which provides introductory on-road training in environments with light traffic, is generally given to 11 and 12 year olds. This means that there are about six years between when a child outgrows the wheel diameter for riding on a footpath and when they can safely ride on a road.

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<sup>1</sup> Most children outgrow this wheel diameter by the age of six.

The petitioner told us that children are not developmentally ready to cycle on the road safely. Developmental areas that influence a child's safety while riding a bicycle include:

- motor skills
- coordination and control
- prefrontal cortex
- vision and balance
- the ability to measure speed and distance
- response times
- the ability to multi-task.

To develop these skills, children need a safe place to ride and regular opportunities to practise. The petitioner considers that the footpath is safer than cycling on roads.

Given the amount of practice needed to develop the necessary skills, the petitioner does not think that it is feasible for parents to take bikes in cars to dedicated cycle facilities. Instead, she believes that it is beneficial for cycling to become part of everyday life, rather than having to schedule it as a weekend activity.

#### **Issues with the current law**

Many parents are either unaware that it is illegal for their children to cycle on the footpath or confused about where they should cycle. Many parents encourage their children to cycle on the footpath even though it is illegal.

However, we heard that many parents are reluctant to do this because they want to encourage their children to respect the law. The petitioner does not think that parents should have to choose between their children's safety and teaching them to obey the law.

The petitioner told us that it is generally accepted that the Police will treat children who are cycling on footpaths with discretion unless there is a specific problem or complaint. However, she has heard of examples where the Police have admonished children and families. This has resulted in families and children limiting their cycling.

When children receive formal cycle training, their tutors can inform them only that people must not cycle on the footpath. This means that there is no opportunity for education on how to share the footpath with care. The petitioner believes that legalising cycling on footpaths would allow cycle training programmes to teach children to share the footpath with other users.

#### **Footpath cycling in Australia**

All Australian states and territories allow children under the age of 12 to legally cycle on the footpath. Adult riders supervising children under the age of 12 may also ride on the footpath. Queensland, South Australia, Tasmania, Western Australia, and the Australian Capital Territory also allow people of all ages to cycle on footpaths. Bells on bicycles are mandatory in Australia.

In its Physical Activity Active Transport report card for 2014, Active Healthy Kids Australia reported that 10 to 13 percent of children aged between five and 12 cycle to school on most days. This compares with 4 percent of New Zealand children of the same age.

### **Benefits of footpath cycling**

The petitioner believes that allowing children to cycle on footpaths will minimise some of the risks associated with cycling. Bicycle injuries are the leading cause of injury for children up to the age of 14 years, despite the use of bicycles in New Zealand decreasing since the early 1980s. Between 2003 and 2007, there were 12 bicycle-related fatalities for children. Eight of these involved motor vehicles, and all were boys between the ages of five and 14.

The petitioner believes that encouraging children into active transport modes, such as cycling and walking, will encourage physical activity and result in better health outcomes. In New Zealand, one in five children is overweight and one in nine children is obese.

Ministry of Health guidelines recommend that children and young people should do at least 60 minutes of moderate or vigorous exercise each day. Being able to safely cycle to school could help address rates of obesity and ensure that children meet the ministry's exercise guidelines.

The petitioner suggested that encouraging children to cycle could halve the traffic around schools during peak times. She told us that anecdotal New Zealand-based evidence suggests that between 20 and 40 percent of early morning traffic is children being driven to school. A 2011 research study identified that 52 percent of children driven to school live within four kilometres of their school. Allowing children to cycle on footpaths would improve traffic congestion.

### **Addressing barriers to cycling on footpaths**

The petitioner told us that pedestrian safety and driveway safety are barriers to footpath cycling. Her ways to address these barriers are outlined below.

#### **Pedestrian safety**

In Australia, where children can cycle on footpaths, there have been several studies about pedestrian injuries related to footpath cycling:

- A review of the international evidence on the safety of footpath cycling concluded that there is little evidence that footpath cycling contributes to serious injuries to pedestrians.
- A review of pedestrian — cyclist conflicts between 1989 and 2012 found that the rates of conflict and collision were minimal.

- In 2010 and 2012, a Queensland University of Technology study observed cyclists and pedestrians in six locations in the Brisbane Central Business District. The study considered cyclist characteristics, number of pedestrians within one metre and five metres, and whether the conflict involved nobody, a pedestrian, or a vehicle. Conflict was defined as “where a collision would be imminent unless one or more road users did not undertake an evasive manoeuvre”. There were 1,971 cyclists observed in 2010 and 2,551 in 2012. Only 1.7 percent of cyclists were involved in conflicts with a motor vehicle or pedestrians, and no collisions were observed.
- A 2011 Queensland study that reviewed hospital data found that 61 percent of recorded crashes were on the road, 28 percent were on footpaths, and 11 percent on cycleways.

The petitioner believes that the perception of conflict between cyclists and pedestrians and vehicles on footpaths may not match reality because people often generalise from limited personal experience. This is because a single event may remain clearer in the mind than other uneventful occasions.

In response to concerns that a law change will result in the footpath being overrun by children on bikes, the petitioner said that it is important to distinguish between children on bikes and cyclists. She noted that children on bikes need a safe place to develop skills away from traffic, but cyclists want a smoother, faster, less interrupted route than that found on the footpath.

#### **Driveway safety**

Deaths and serious injuries often occur when vehicles reverse from driveways, children ride out from a driveway, and drivers fail to see a cyclist turning into or leaving a driveway. The petitioner noted that four factors relating to driveways affect the safety of all footpath users:

- The risks from cars entering and exiting driveways to those cycling on footpaths can be mitigated by lower speeds from drivers.
- The safety in numbers effect means that an increase in footpath use can improve the safety of all users. This is because drivers are more likely to notice large numbers of children walking or cycling on the footpath, which will affect their behaviour.
- The New Zealand Road Code requires drivers entering or exiting a driveway to give way to a road user on a footpath, cycle path, or shared path. Better education of this rule for drivers would promote safer behaviours and better awareness of footpath users when entering and exiting driveways.
- An improved focus on better design for driveways would benefit all users. NZTA recommends that driveways crossing a footpath should have a clear line of sight between pedestrians on the footpath and vehicles using the driveway to avoid collisions.

#### **Determining the age limits**

The age limit in most Australian states for cycling on footpaths is 12. However, the petitioner noted that the age in which a child can legally stay home alone in Australia is also

12. In New Zealand, the age at which a child can legally stay home alone is 14. The petitioner told us that there is a campaign in Australia to raise the age to 16 based on adolescent risk and development.

We heard that, although some 13 and 14 year olds may have adult-sized bodies, their brains are still developing. She suggested that a higher age limit will enable parents and older children to choose the safest option based on the child's skill, confidence, and experience.

The petition also requests that people over the age of 65 be allowed to cycle on footpaths. Between 2006 and 2039, people over the age of 65 will increase from 12 percent of the population to 25 percent of the population. The petitioner considers that the ageing population may be less able to cycle safely in traffic.

### **Allowing caregivers to cycle with children on the footpath**

The petitioner considers that allowing caregivers to cycle with children on the footpath is an important safety component and allows an adult to appropriately guide a child. Caregivers cycling on the road would not be practical because they would not have the same view of the footpath.

### **Vulnerable persons**

The petitioner also requests that other vulnerable persons be allowed to cycle on the footpath. She told us that this would allow people with physical or intellectual disabilities and who have a doctor's certificate to cycle on the footpath. This same exemption applies in Victoria, Australia.

### **Bells on bikes**

The petitioner also requests that bells on bikes be made mandatory, as they are in Australia. She considers that bells can warn other path users and avoid surprising them. However, they are only one tool and education is more important.

### **Response from submitters**

We opened this petition to submissions from the public. We received 233 written submissions from individuals and organisations, including disability advocacy groups, cycling groups, child advocacy groups, and government agencies. We heard oral evidence from 22 submitters.

Support among submitters for a rule change was mixed. Most submitters focused on children riding on footpaths, rather than people over 65 and vulnerable users. The common themes from submissions are outlined below.

### **Concerns raised by opponents of a law change**

#### **Concern for vulnerable pedestrians**

Most opponents of a law change focused on concern for vulnerable pedestrians. Submitters were concerned that a law change would be detrimental to the safety of vulnerable pedestrian users, such as those with physical or mental disabilities or the elderly. Several organisations that advocate for the blind and vision-impaired were particularly concerned because this group cannot see approaching hazards.

Some submitters suggested that the petition transfers the problem from one vulnerable group of society to another. It was suggested that, although a change in legislation would allow younger and older people to cycle on the footpath, the hearing and visually impaired are at least as, if not more, vulnerable.

Several submitters noted that cycling is a choice and that children who cannot cycle safely on the road can still choose to walk on a footpath. Walking may be the only mode of transport for many disabled people, who may face barriers to other forms of public transport and be unable to drive or cycle.

Several submitters questioned the accuracy of data about pedestrian safety, particularly for vulnerable users. The Blind Foundation reported that Australian and United Kingdom surveys both indicated that a high proportion of vision-impaired pedestrians have collided with cyclists. It believes that data on injuries to pedestrians and cyclists on shared paths is not easily available and may be under-reported.

### **Driveways**

Many submitters were concerned about the safety of cyclists on footpaths when drivers are backing out of driveways. One submitter suggested that many drivers reverse out of their driveway assuming that pedestrians will give way. This would not work for cyclists, who travel faster than someone walking. Submitters were particularly concerned that, although drivers are meant to give way, young children might not think to check for traffic reversing out of driveways.

One submitter, who opposed a law change, proposed an education campaign to raise awareness that riding on the footpath is illegal. The submitter suggested that the campaign should also raise awareness among motorists and cyclists that pedestrians have right of way on footpaths, particularly when crossing driveways.

### **Better infrastructure is needed**

Submitters suggested that allowing children to cycle on footpaths fails to deal with the main problem—that it is not safe for children to cycle on roads. Suggested solutions to this problem included designing roading so that there is space for all modes and cycle paths parallel to, but separate from footpaths, and separated from road traffic on busy roads.

Some submitters do not believe that the current standard width of New Zealand footpaths allows for pedestrians and cyclists to safely share them. Several submissions noted the Pedestrian Planning and Design Guide and RTS 14, which are guidelines for footpath design, particularly for pedestrians. However, these guidelines are not always followed. We heard that poor design and maintenance affects pedestrians using mobility devices or mobility aids. Widening footpaths would not be possible without significant investment.

### **Concerns about the age limit**

Submitters noted that, although the age of young children could be easily assessed, it would be difficult to determine the age of other cyclists. This would make enforcement difficult and require cyclists to carry some form of proof-of-age document.

Submitters noted that there is a significant difference in development and weight between 10-year-olds and 14-year-olds, particularly for boys. This means that a 10-year-old will normally ride slower than a 14-year-old. The difference between weight and speed means that the kinetic energy involved in a collision with a 10-year-old is much less than for a 14-year-old.

The New Zealand Grey Power Federation, which advocates for the well-being of older people, suggested that there was no evidence its cycling members had any desire to ride on footpaths. Instead, to improve the safety of older and younger cyclists and pedestrians, members wanted to control the speed and volume of vehicles.

### **Other issues raised by opponents**

Opponents of a law change raised the following other matters:

- It should be mandatory to have a bell fitted on a bike, provided that it be used as a courtesy to warn pedestrians and not to imply that a pedestrian needs to give way to a cyclist.
- Allowing local authorities to exclude certain areas of footpath from being used for cycling could create confusion because each local authority might have different rules. This could result in safety concerns for vulnerable users and reduce use and participation.
- Defining a practical test for vulnerability that does not involve asking whether the cyclist has a disability and proof would raise civil rights issues.

### **Concerns raised by supporters of a law change**

#### **Safety**

The main reason for supporting a law change was because submitters consider it unsafe for children to cycle on the road. Several submitters noted their experiences in other countries where cycling on the footpath is legal for certain age groups.

In Germany, children under the age of eight must cycle on the footpath. Children between eight and 10 can choose whether they cycle on the footpath. In Japan, children up to the age of 13 and adults over the age of 70 may ride on footpaths.

Some submitters believe that a law change to allow children to cycle on footpaths should be temporary until dedicated cycleways, separate from footpaths, are around every school.

One submitter recommended that, until more dedicated cycle lanes are created, section 11.11(1) of the Land Transport (Road User) Rule be amended to allow a person to ride on a footpath if there is no clearly marked cycle lane on the roadway at that point.

One submitter suggested a change to section 4.4 of the Land Transport (Road User) Rule (Giving way when entering or exiting a driveway) to add a requirement that a driveway should have 10 to 20 metres of clear visibility of the footpath before crossing it. The submitter also suggested adding a requirement to use a car horn as a warning signal before reversing out.



**Age limit**

Supporters of a law change had mixed views about the appropriate age limit. Some submitters suggested 10 and under, while others suggested 12. This age was mentioned because it aligns with when a person is close to moving to high school.

Several submitters suggested that all people should be allowed to cycle on the footpath without age restriction, provided they use reasonable care and consideration for other footpath users. These submitters also suggested that, if the law is not changed, it could be relaxed to allow for anyone who does not feel safe riding on the road for any reason.

**Speed**

Some submitters consider that footpath cycling should be based on speed, rather than age. Several cycling advocacy groups supported a speed limit of 8 kilometres per hour. This is an approximate jogging pace or twice the walking pace.

**Work of the Road Controlling Authorities Forum (NZ) Inc**

The Road Controlling Authorities Forum (New Zealand) Incorporated (RCA Forum) was established in 1996. It is a closed, non-political, incorporated society of road asset managers and roading professionals from the territorial local authorities, excluding the Chatham Islands; the Department of Conservation, and NZTA.

The RCA Forum aims to help road-controlling authorities make informed decisions. It supports sector-working groups on common issues and meets to exchange information on sector activities, proposed legislation, standards, and strategies relevant to the other member organisations.

The RCA Forum has two working groups considering best practice guidance on facilities for cycling and walking (the Active Modes Infrastructure Group) and the competing demands for shared footpaths (the Shared Footpath Group).

The Active Modes Infrastructure Group's membership consists of the NZTA, representatives from territorial local authorities, and Auckland Transport.

The Shared Footpaths Group was convened in August 2016. It aims to ensure that new pedestrian infrastructure will meet the needs of an ageing population and enable participation by those with mobility, physical, or cognitive impairments. It comprises representatives from:

- Alzheimers New Zealand
- CCS Disability Action Waikato
- Cycling Action Network
- Living Streets Aotearoa
- Ministry of Transport
- NZTA
- the New Zealand Police

- Office for Seniors
- territorial local authorities
- Waikato University.

The Shared Paths Group is leading and supporting research on the effect of shared footpaths on participation rates in different groups. This research, in conjunction with the University of Waikato, includes an analysis of the approaches to valuing a footpath for someone lacking mobility alternatives.

The two groups believe that, until the research has been completed, it is unable to say whether the changes proposed by the petitioner have the potential to offer significant benefit without causing significant social harms. They believe that the effects on the elderly need thorough consideration as vulnerable groups.

### **Footpath Cycling Rule Options Research report**

In 2016, NZTA published the “Footpath Cycling Rule Options Research” report. Its purpose was to consider potential options for possible footpath cycling law changes.

#### **Stakeholder engagement**

The researchers interviewed everyday footpath users, including pedestrians, cyclists, and disabled people. None of the participants were transport professionals or advocates.

The researchers held three forums, two of which were workshops. These engaged a range of stakeholders, including the petitioner, pedestrian advocates, cycling advocacy groups, automobile advocacy groups, vision impairment groups, government departments, and road controlling authorities.

The main points raised in the discussions were:

- Roads should ideally be safe for all cyclists, leaving footpaths for pedestrians.
- Although cyclists are faster than walkers, other pedestrians such as scooter users, skateboarders, mobility scooter users, and some runners can also travel at the same speed as bicycles.
- If all pedestrians were courteous, there would be no issues on footpaths.
- Some children already cycle on footpaths illegally. This sometimes includes their parents cycling on the footpath.
- In some instances, cycling on footpaths could be a good use of space because footpaths are often empty.
- Some footpath widths and conditions are not suitable for cycling.
- Guide dogs often have problems with the speed and proximity of passing cyclists.
- Some people were concerned about the effect of footpath cycling on pedestrians who were older or had mobility impairments.
- Any change in the rules could deter people from walking on the footpath, contributing to social isolation.

### **Analysis of crash data**

The researchers used NZTA's Crash Analysis System (CAS) and hospital discharge data to determine the number of crashes involving footpath cyclists and the associated injury outcomes. The researchers acknowledged that crashes may be under-reported because people do not involve the Police or are reluctant to report accidents because footpath cycling is illegal.

The researchers found:

- Between 2006 and 2015, the CAS identified 19,358 crashes involving a cyclist, pedestrian, skateboarder, in-line skater, or wheeled pedestrian. A cyclist was involved in 9,795 of these crashes and a pedestrian in 9,445 crashes.
- Ten percent (1,055) were coded as cycling on footpath crashes.
- Footpath cycle crashes were most commonly at driveways (nearly 60 percent).
- Thirteen of the crashes where cyclists were riding on footpaths involved a pedestrian.
- Between 2010 and 2014, hospital discharge data identified 431 cyclists who were injured while riding on the footpath (including day patients).
- About half (217 out of 431) were hospitalised overnight.
- Only 1 percent of these were injured in a collision with a pedestrian: 10 percent were injured in collision with a vehicle, 13 percent were injured in collision with a fixed or stationary object, and 68 percent were injured in a non-collision transport accident. The researchers assumed that this was people falling off their bikes.
- Thirty-three pedestrians who were hit by a cyclist riding on the footpath were injured. Of these, 19 were hospitalised overnight. The main injuries were fractures (57 percent).

### **Support for a rule change**

The researchers considered the implications of changes to the rules. They compared no rule change, allowing all ages to cycle on the footpath, and allowing children under the age of 12, with accompanying adults, and mobility trike scooters. The researchers concluded that:

- There is merit to a rule change to allow footpath cycling for those aged 12 and under. This would reflect that children's cognitive processing skills do not mature until about 11 or 12.
- A rule change would allow children to be taught safe footpath cycling, with an emphasis on pedestrians having right of way.
- A rule change might encourage the design of safer footpaths, which would benefit all footpath users.
- Not allowing adults to legally ride on the footpath would hopefully result in a continued focus on fit-for-purpose on-road cycling infrastructure.

## **Our response**

We unanimously agree that the Government should consider the petitioner's request. In listening to the large body of submissions that came to the committee, there needs to be a consideration for the safety of not only children on bicycles on public roads, but also the consideration for the elderly and people with disabilities, who rely on footpaths as a safe medium for movement.

There was considerable discussion with submitters and amongst the committee around where the age demarcation should be. We felt more comfortable with children up to year 8 (intermediate) being able to use footpaths as after that age, motor skills are more developed, children are more experienced in cycling, and we heard from some submitters that older children tend to cycle faster. This is in keeping with all of the states in Australia.

We understand that not every footpath would be suitable for shared use and this would place responsibility on local authorities to identify those footpaths that are not suitable for shared use.

We believe that there needs to be education for children and parents on shared use etiquette. This would enable education around footpath use in relation to etiquette and safety which is currently unable to be taught in cycling skills programmes due to the present illegality of cycling on footpaths.

We therefore recommend that the Government consider a change to the New Zealand Road Rules to:

- allow cycling on the footpath by children up to and including 12 years of age or year 8 (and accompanying adults), seniors over 65, and vulnerable users (such as those with mental or physical disabilities)
- make bells mandatory for any bicycle used on footpaths or shared use paths
- allow local authorities to exclude, on a reasonable basis, certain areas of footpath from being used for cycling.

## **Appendix**

### **Committee procedure**

Petition 2014/59 of Joanne Clendon was referred to the committee on 2 May 2016. We received written evidence and heard oral evidence from the petitioner. We received written submissions from 233 submitters. We heard oral evidence from 22 submitters.

### **Committee members**

Jonathan Young (Chairperson)  
Hon David Bennett  
Kris Faafoi (from 12 April 2017)  
Peeni Henare (until 22 March 2017)  
Raymond Huo (between 22 March and 12 April 2017)  
Iain Lees-Galloway  
Clayton Mitchell  
Sue Moroney  
Dr Parmjeet Parmar  
Denise Roche  
Alastair Scott  
Hon Maurice Williamson  
Dr Jian Yang

Julie Anne Genter took part in the consideration of this item of business.