

## **Accessible Streets Regulatory Package 2020**

### **Submission by Roger Boulter**

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This outline of my submission on the Accessible Streets Regulatory Package 2020 should be read with the other attachments to this email to which it is attached:

- An outline of my background
- Draft text of my recent book 'Planning for Walking and Cycling in New Zealand'

Regarding the latter, please note that the text is considerably revised, following feedback, from a version some transport agency staff received last year. The text is shorter, tidier, and now includes material on the Accessible Streets package and other more recent developments (e.g. Innovating streets, Covid-19). The book remains at draft stage and I am still inviting further comment.

Regarding the former, I have worked in this field for nearly 4 decades, including at leadership level in New Zealand and elsewhere

#### **Footpath cycling legalisation**

My main concern is over proposals for more users of footpaths, and other issues concerning footpaths and their use.

As you will see from the book, I am not only concerned at the proposal to legalise footpath cycling, but also the process by which this aspect of the current package has been arrived at.

I am particularly concerned that the insights of current lawful footpaths users, notable stakeholder bodies representing walkers (e.g. Living Streets Aotearoa), those with different types of disabilities, and seniors do not seem to have been heard nearly as much as have voices of some parts of the cycling advocacy sector (despite the latter mostly being not currently allowed to ride on footpaths). This issue is detailed in particular in my book draft's chapter 11, and is I suggest is a serious flaw in process (and at least questionable in terms of natural justice). Most of the problems I highlight stem from not having this important input.

In particular, issues arising from any potential deterrent effect on walking seem not to have been considered. There is no coverage of this in the 2016 footpath cycling law reform options study by Abley and Mackie, despite that report's exhaustive coverage of crash, injury and hospital data. The April 2020 footpath cycling Cost Benefit Analysis does not even mention it – a serious omission especially considering that (unlike Abley and Mackie 2016) this is an official justification of the current Accessible Streets package.

For reasons why the potential deterrent effect on walking is important, see my book draft's chapter 4. This chapter relates to the nature of walking, and the issue is very important because of walking's centrality in prosperity of cities.

A key feature of walking is that it thrives when people do not feel under threat. This is why looking at crash, injury and hospital data (as both these studies have done), is focusing on the wrong type of data. Certainly crash, injury and hospital data should be looked at, but not as the main focus. Whether footpath users feel safe (see my chapter 4) should be central to government policy (and legislation) on footpath use, and you seem to have failed to consider this at all.

Some have countered this argument (to me, in context of discussing the footpath cycling legalisation suggestions which now forms part of the Accessible Streets package) by saying the safety risk to cyclists on roadways are far greater than risk to anyone using the footpath.

I find this comparison unhelpful, and likely to lead to flawed outcomes. Basing transport planning around people on foot has benefits in many ways if (as it likely) a corollary is calmer motor traffic and more cycling and walking.

It should also be noted that relying on segregating cyclists from motor traffic was a flawed approach current from the 1930s to 1960s, which was later found to have very disappointing results for cyclists crash and injury records (as well as uptake of cycling). Again, my book draft gives further outline as to why (e.g. chapter 3 and appendix 1).

There are better ways of tackling roadway cycling safety issues, and footpath cycling legalisation will likely lead to increased danger to cyclists (see my book's chapter 11). This line of argument also runs counter to cycling advocates' arguments in past years against official suggestions that roadway cycling was dangerous (see chapters 5, 6 and 11).

There are many other flaws in your proposal, but rather than itemise them all here, I suggest you read my book draft.

#### *2016 Abley Mackie report on footpath cycling law options.*

The 2016 Abley and Mackie report covers some aspects of footpath cycling law change issues at some length, I know and respect both authors, and am surprised a report from people of such professional standing has so many flaws. These are very extensive, I have itemised them briefly in my book draft, as well as covering them more fully in my submission to the early 2017 Parliamentary Select Committee into Jo Clendon's petition (which of course is a public document, or if you wish I can send you this).

### 2020 Cost Benefit Analysis Allowing cyclists on the footpath

The 2020 Cost Benefit Analysis report makes some bald unsubstantiated statements which betray inadequate knowledge of the field.

The report states that ideally cyclists should be separated from motor traffic, when this is not true – see in particular my book's chapters 2 and 3 and appendix 1.

It also states that the main 'cost' to be considered are crashes and injuries, and also covers other matters covered in NZTA's Economic Evaluation Manual (EEM). Again, potential deterrent effects on walking is completely missing – although it is not covered in the EEM, the EEM has steadily broadened over the past 20-30 years as more and more relevant costs have come to be recognised, and this is another one (not yet covered by the EEM). This is likely to be a far greater cost than that of crashes and injuries (which both reports acknowledge to be low, and I agree with them on this).

Relevant here is my book draft's chapter 4, which includes some coverage of the difficulty of integrating costs and benefits of walking in with transport economics (on which the EEM is based). Chapters 5 and 6, together with chapter 4, explain why and how costs and benefits of walking specifically (i.e. not shared with cycling) have over the years been considerably under-developed (a situation which continues today).

Quantification of 'costs' are based on (albeit cautious) assumptions of some current roadway cyclists switching to the footpath; and some current motorists also switching to footpath cycling. In contrast the Cycling Action Network's Patrick Morgan, one of the leading advocates for footpath cycling, has told me – on the basis of your own research suggesting most do not know footpath cycling is illegal – that he does not think there will be any significant increase in footpath cycling. This seems to show confusion, which on its own would tend to mean your footpath cycling proposal should at least be deferred (if not shelved altogether) until you know what information you base the proposals on. If Patrick is right, then the derived benefit cost score would probably fall below 1, and that is without considering the costs of potential deterrence of walking (see above; which of course would depress it even further).

I also outline in my book some telling errors, such as citing a very important 1993 study (Trevelyan and Morgan) as being about 'shared paths' when it had nothing to do with shared paths (it was on pedestrianised shopping centres, not shared paths - I knew the authors and followed that report closely at the time as a representative on a UK national working party, prior to my 1995 migration to NZ), and other errors suggesting scant familiarisation with the subject matter.

A further concern of process, which I feel is very serious, is that this report was not available when submissions were first invited on the Accessible Streets package; and that when it was made available later, your staff sent it (electronically) directly to some cycling advocates, but not to some leading representatives of the 'Footpaths for Feet' constituent bodies, who told me they had only heard of this second-hand. At the very least this seems to show lack of even-handedness between two transport sectors known to be at loggerheads with each

other on this issue, and less consideration of legal footpath users than of prospective but currently illegal footpath users.

I also cannot see how this report ‘informed’ consultation (as it claims to have done) , when it was dated ‘April 2020’ (i.e. some weeks after submissions were invited); and apparently disseminated in an unequal way (as outlined above) – more process concerns.

#### Low-powered vehicles

I am also concerned at the proposals to allow more low-powered vehicles on footpaths, but have not covered this to the same extent as the footpath cycling legalisation issue. I have covered the issue fairly briefly in my book draft, but the rapid and very topical growth of low-powered ‘devices’ requires further consideration of wider issues about use of roadways, cycleways and footpaths (I briefly allude to this issue near the end of chapter 11, and in chapter 12, but far more thought, scoping of possibilities and analysis of wider implications of any possibilities identified is needed). I am also aware than members of the ‘Footpaths for Feet’ Coalition have considered this fairly extensively, including in their recent submission to you, and I would commend that to you (I am not, by the way, a member of ‘Footpaths for Feet’ nor of any of its constituent organisations).

#### Other matters (including your questionnaire questions)

I am also aware of the Accessible Streets Package submission made by ‘Footpaths for Feet’, and they seem to have considered matters of detail, including specific answers to each of your questionnaire questions, and again I would commend this to you. Although I have not considered their submission in detail (so cannot say I agree with each and every detail) my impression is that they have undertaken sound and thorough work which you would find useful.

#### My suggestion for a way forward

##### *Defer any change to legality of footpath use (i.e. cyclists, low-powered vehicles or any other new user types) pending the following suggestions*

Natural justice, and the principle of government by consent, suggests you should defer any change to who may lawfully cycle on footpaths until the representatives of lawful footpath users have been involved in formulation of any proposed legal changes in footpath use.

This is underlined by the current consultation being the ‘Yellow’ stage of your Land Transport Rule formulation process. The ‘Red’ stage, which generally precedes this, tends to involve those affected, yet lawful footpath users do not seem to have been substantially involved.

Also, in accordance with principles of public engagement, this involvement should not preclude outcomes (e.g. should not present draft proposals for discussion or submission) and should be to the satisfaction of those being involved.

##### *Engage in dialogue with lawful footpath users*

Since the main problems arise from your failure to have engaged in substantial dialogue with representatives of lawful footpath users, engaging in dialogue with them should be a first step. In accordance with engagement good practice, this should be without proposals

drafted, and without precluding any (i.e. of a 'blank sheet' nature). The emphasis should be on listening to what these stakeholders have to say. I would suggest at least that this should include Living Streets Aotearoa (the walking advocacy group); representatives of various types of disabilities; and representatives of seniors (e.g. Grey Power).

In my discussions with some (in the cycling advocacy sector) over of the above issues, I have heard some dismissal of these bodies' concerns as 'opinion' or 'anecdote', implying that concerns such as deterrence of walking should be dismissed as insubstantial. This is despite, apparently, no attempt having been made to gather any systematic evidence one way or the other on these concerns.

Even without this, I would suggest that the views of these groups – who can be assumed to be fully conversant with their members' first-hand experiences – is some of the most important data there is; especially in an area like footpath usage where statistical data of any kind is very scarce. As a start, some research should be undertaken (in conjunction with these bodies, whose insights will be invaluable) into the potential problem of deterrence of walking, i.e. how serious the problem is, what form it takes, and how policy could usefully respond to it. You do not seem to have undertaken any research on this to date (at least, I am not aware of any) – another process concern. I also cover the nature of data and 'objectivity' in my book draft (see chapters 2 and 7).

In the first instance I would suggest you invite representatives of 'Footpaths for Feet', and their various constituent bodies, to meet with you, and that you together explore how land transport rule changes could be formulated which would work for everyone, but especially currently lawful footpath users.

#### Wider cycling safety issues (including on the roadway)

A concern covered in my book is how very valid safety concerns of cyclists have narrowed down too precipitously on to a focus on legalising more footpath cycling. Listening to the concerns of lawful footpath users (my suggestion above) will be a good first step, but my book draft outlines other ways of responding to this issue. I would be very happy to explore possibilities with you (i.e. ways other than footpath cycling legalisation to respond to valid cycling safety concerns). In the first instance I suggest you read my book draft (which covers this), and then come back to me if you feel further discussions would be useful.

#### Low powered vehicles

This is not my submission's main focus, partly because I know it has been extensively covered by Footpaths for Feet in their submission. I therefore suggest you engage in dialogue with 'Footpaths for Feet', and their various constituent bodies on their concerns about low-powered vehicles; read my book draft on this; and then, again, engage in dialogue.

Please do not hesitate to contact me if I can help further.