

Paediatric Society of New Zealand submission on the New Zealand Transport Agency proposed: Land Transport (Road User) Amendment Rule [2011] Rule 61001/6

Executive Summary

1. This Paediatric Society of New Zealand submission is to the New Zealand Transport Agency (NZTA) Land Transport (Road User) Amendment Rule [2011] (Rule 61001/6).
2. The Paediatric Society of New Zealand (PSNZ) is a multidisciplinary organisation with a membership of more than 480 child health professionals with wide ranging expertise in clinical practice and research.
3. The PSNZ notes that road traffic crashes remain a leading cause of child mortality and morbidity in New Zealand. Each year 16 children younger than fifteen years of age are killed while travelling as passengers and each year 18 children are killed while walking or riding their bikes (2000-2004 average). Road traffic crashes injure many more children. For every child death, a further seven child passengers, cyclists and pedestrians are injured severely enough to be hospitalised overnight or longer.^{1, 2}
4. This submission addresses clauses of the proposed Road Rules that will impact on the safety of children as passengers, pedestrians and cyclists. The Society supports clauses that will provide increased safety for children, requests alternatives where there is opportunity for safety improvement, rejects and urges caution and more information where the safety implications of the proposed Rule change are adverse and unclear.
5. The PSNZ supports Proposal 7 to introduce a time limit for medical exemption certificates for child restraints and requests the time limit be set at six months.
6. The PSNZ rejects Proposal 10 to amend the existing Rule so drivers approaching a pedestrian crossing controlled by a school patrol do not have to stop if children are waiting to cross and a school patrol sign is not extended. The PSNZ argues that the status quo should remain and that NZTA have not adequately demonstrated the proposed change is required to maintain or improve public safety.
7. The PSNZ supports Proposal 2 requirement for all vehicles exiting driveways to give way to all road users and requests cyclists and child pedestrians using the footpath are named in the amended Rule to alert drivers to the danger of their possible presence on the basis that this will begin to provide these road users with a principle of protected right of way.
8. The PSNZ supports Proposal 4 to require vehicles to slow to 20km an hour when school bus signs are flashing. The PSNZ notes that international best practice is for traffic travelling either way to be required to stop when children are boarding or leaving school buses.
9. The PSNZ does not support Proposal 8 to exempt bus drivers from ensuring children are placed in correctly fitting child restraints on the basis that NZTA have not explained the objective of the Rule change (what it intends to achieve), how it would maintain and improve safety and how it is consistent with Government commitment to reducing road death and injury.
10. The PSNZ does not support Proposal 12 to change the definition of a school bus in order to enable buses to travel at speeds exceeding 80km per hour on the open road on the basis that NZTA have not explained the objective of the Rule change (what it intends to achieve), how it would maintain and improve safety and how it is consistent with Government commitment to reducing road death and injury.

1 Craig E, Jackson C, Han DY, NZCYES Steering Committee. *Monitoring the Health of New Zealand Children and Young People: Indicator Handbook 2007*. Auckland: Paediatric Society of New Zealand, New Zealand Child and Youth Epidemiology Service.

² 'Alatini Moses *Analysis of unintentional child injury data in New Zealand: Mortality (2001-2005) and morbidity (2003-2007)* Auckland Safekids 2009

Child Car Restraints

11. **The PSNZ supports Proposal 7 to introduce a time limit for medical exemption certificates for child restraints and requests the time limit be set at six months.**
12. Child passenger injury a leading cause of unintentional child mortality for children aged 0 to 14 in New Zealand.³ The rate of correctly used child restraints remains low.⁴ (Safer Journeys).
13. Proposal 7 revokes existing clause 7.11 (2) replacing it with a clause that imposes a time limit. It is noted this time limit is the same as the two year time limit provided for cycle helmet exemption (clause 7.14 Road User Rule 2004).
14. The PSNZ supports Proposal 7 as an improvement on the existing provision of an undetermined time limit for medical certificates, and requests that the exemption certificate time for child passengers is reduced to six months.
15. An enquiry of PSNZ members indicated that exemption certificates are only very rarely written by Paediatric Society members. When certificates have been provided for families, it has been in circumstances that do not require two years for resolution. These include acute behavioural situations and interventions requiring plaster casts.
16. The PSNZ requests this change to the proposed Rule to more closely align regulatory measures with actual practice and provide greater Rule integrity in regard to the use of child restraints.
17. This request to reduce the time to six months also takes into account the substantial growth and developmental changes of a child during a two year period.
18. PSNZ suggested change is underlined:
 16. **Exceptions to application of requirements relating to use of child restraints and ~~seat belts~~**
 - (1) Clause 7.11(2) is revoked and the following subclause substituted:
 - “(2) A driver or passenger who is required to produce a certificate to an enforcement officer under subclause (1)—
 - “(a) need only produce a certificate to an enforcement officer within 7 days after being required to do so; and
 - “(b) must produce a certificate that is dated, and that was issued, within 2 years six months before the day on which it is produced to the enforcement officer.”

Removing the requirement for drivers to stop at school crossings

19. **The PSNZ rejects Proposal 10 to amend the existing Rule so drivers approaching a pedestrian crossing controlled by a school patrol do not have to stop if children are waiting to cross and a school patrol sign is not extended. The PSNZ argues that the status quo should remain and that NZTA have not adequately demonstrated the proposed change is required to maintain or improve public safety.**
20. The current Rule (10.1 (a)) requires drivers to stop for pedestrians waiting at a crossing. This amendment recommends removing this requirement for children at school crossings.
21. The PSNZ rejects Proposal 10 as a measure that does not protect and promote public health and safety and urges it not be adopted.

³ Craig E, Jackson C, Han DY, NZCYES Steering Committee. *Monitoring the Health of New Zealand Children and Young People: Indicator Handbook*. 2007. Auckland: Paediatric Society of New Zealand, New Zealand Child and Youth Epidemiology Service.

⁴ Safer Journeys New Zealand's Road Safety Strategy Wellington 2010-2020

22. The PSNZ strongly urges this situation needs to be examined much more carefully, and that any resultant decision to change the Rule must reflect that the child's safety was considered paramount.
23. An anecdotal comment in the consultation document states “the requirement for a driver to stop if there are children waiting to cross is unnecessary and confusing”. No evidence is presented by NZTA that driver confusion presents a problem for driver or child pedestrian safety, especially when the option exists for the driver to stop if they are confused.
24. The PSNZ suggests to NZTA that the onus should be on the driver to slow and stop, rather than for relying on children to be held back by a school patrol until there is a break in the traffic.
25. The safe systems approach to road safety states the safe vehicle speed, when vehicles could potentially collide with pedestrians, to be 30km/hour. Removing the requirement to for traffic to stop for children may make the implementation of reduced speeds more problematic.
26. This proposed Rule change contravenes vulnerable road user principles. The vulnerable road user principle assigns responsibility in proportion to risk-producing propensity. It gives the ‘right’ to vehicles over pedestrians. In a car versus child crash on a road patrol pedestrian crossing (a child might run out despite the road patrol); the vulnerable child is more than likely to receive injuries whilst the injury-producing vehicle driver would be exonerated.
27. Victim blame: This concept is similar to the vulnerable road user principle, with this proposed change, in a car versus pedestrian crash it could potentially be interpreted that the child is at fault.
28. This suggested amendment is not justified on any congestion reduction, or economic basis. Vehicle congestion around school drop-off and pick-up time is related to the numbers of vehicles and that is inversely proportional to the use of public transport and walking and cycling, rather than vehicle speed.

Giving way at driveways and identifying children and cyclists

29. **The PSNZ supports Proposal 2 requirement for all vehicles exiting driveways to give way to all road users and requests cyclists and child pedestrians using the footpath are named in the amended Rule to alert drivers to their possible presence and on the basis that this will provide these road users with a principle of protected right of way.**
30. The Paediatric Society supports the Proposal to amend existing Road Rule Clause 4.4 because it will increase the expectation of drivers to come to a stop before entering the road from a driveway. It would be preferable for all drivers to be required to stop before proceeding onto a footpath or shared space; however the introduction of an absolute requirement to give way when entering a road may provide an adequate proxy.
31. New Zealand’s internationally poor child injury statistics warrant additional emphasis on safety for child pedestrians and cyclists.⁵ The Society requests NZTA take this opportunity to adopt the concept of protected right of way in the Rules to begin to address an existing Rule bias against protection for child pedestrians and cyclists on the road, footpaths, on driveway crossings and in shared space.

⁵ OECD, 2009 - *Doing Better for Children*

32. PSNZ Suggestion underlined

“11. Giving way when entering or exiting driveway

(1) A driver entering or exiting a driveway must give way at all times to child pedestrians and child cyclists and all other road users ~~to road users~~ on a footpath.

(2) A driver exiting a driveway must give way to a vehicle on a roadway, including a vehicle turning or about to turn right into a driveway.”

33. The need for stronger protection for children in the Road Rules is demonstrated in Part 10 of the existing Rules. This part covers road user behaviour in shared space. Clause 10.2 seeks to create a ‘regulatory balance’ of right of way between vehicles and pedestrians using a ‘shared zone’. A shared zone is defined as a length of roadway intended to be used by pedestrians and vehicles. This includes footpaths designated as cycle ways, and the part of a driveway that crosses a footpath. This section states:

“10.2 Shared Zone

(1) A driver of a vehicle entering or proceeding along or through a shared zone must give way to a pedestrian who is in the shared zone.

(2) A pedestrian in a shared zone must not unduly impede the passage of any vehicle in the shared zone.

34. This clause implies equivalent power exists between vehicles and child pedestrians and cyclists who are together on shared space. The Society questions this assumption and suggests a concept of protected right of way for child pedestrians and cyclists that specially identify the presence of children as road users. The Society suggests this approach will result in improved safety outcomes for children and cyclists.

35. Turning right across traffic is a hazardous manoeuvre for vehicle drivers⁶. Crash Analysis System (CAS) data shows that right hand turning manoeuvres across traffic into driveways are also the cause of a disproportionate number of child footpath/driveway injury incidents.

36. Stronger protection for child pedestrians and cyclists is needed because requiring all traffic exiting driveways to give way to all vehicles (including those turning right into the driveway) will increase the perception that traffic turning right have immediate right of way (over an exiting vehicle) to enter a driveway. This applies where there is space to do so. The Society is concerned this perception may result in increased speed and less careful scrutiny of the footpath for child pedestrians and cyclists.

37. Stronger protection for child pedestrians and cyclists is needed because requiring all traffic exiting driveways to give way increases the likelihood vehicles will be more frequently stopped on footpaths. The likelihood child pedestrians will be waiting on the footpath to the right of the vehicle is increased. This location is where small children are at increased risk of being hit by a right hand turning vehicle entering the driveway alongside the right hand side of a vehicle stopped to exit.

School Buses – Traffic to stop at flashing lights

38. The PSNZ supports Proposal 4 to require vehicles to slow to 20km an hour when school bus signs are flashing. The PSNZ notes that international best practice is for traffic travelling either way to be required to stop when children are boarding or leaving school buses.

39. International best practice stops all vehicles on either side of the road from passing a school bus when children are boarding or leaving.⁷ In these jurisdictions the loss of the life of a child is considered of greater consequence than a delay in traffic.

⁶ NZTA Consultation Overview 2011 Page 12

⁷ New Zealand Transport Agency *School bus related safety: A literature review prepared for the school bus overview group.* New Zealand Government; Wellington 2002

40. The PSNZ notes that in New Zealand buses transporting children are frequently not dedicated vehicles and carry out a range of activities that might require them to stop for many different reasons on the same journey. In these circumstances, while not ideal, the use of flashing lights for when children are boarding and leaving the bus is a considerable improvement on the existing situation.

School Buses – exemption for child restraint use

41. The PSNZ **does not support Proposal 8 to exempt bus drivers from ensuring children are placed in correctly fitting child restraints on the basis that NZTA have not explained the objective of the Rule change (what it intends to achieve), how it would maintain and improve safety and how it is consistent with Government commitment to reducing road death and injury.**
42. The PSNZ considers the safety implications for proposal 8 have not been provided in the explanatory notes; urges a bias for caution and requests more information.

School Buses – Change in definition to allow increased speed

43. The PSNZ **does not support Proposal 12 to change the definition of a school bus in order to enable buses to travel at speeds exceeding 80km per hour on the open road on the basis that NZTA have not explained the objective of the Rule change (what it intends to achieve), how it would maintain and improve safety and how it is consistent with Government commitment to reducing road death and injury.**
44. The Paediatric Society considers the safety implications for proposal 12 have not been provided in the explanatory notes; urges a bias for caution and requests more information.

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Prepared by the Paediatric Society of New Zealand Injury Special Interest Group (SIG)

Acknowledgment:

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