



**UNITING RIDERS**

## **MOTORCYCLE RIDERS ASSOCIATION OF QUEENSLAND**

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6<sup>th</sup> June 2014

The Honourable Scott Emerson MP  
Minister for Transport and Main Roads  
Parliament House  
George St.  
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### **Road Rule 271**

As part of the recently announced process of review of issues relating to various motorcycle specific road rules the MRAQ offers the following in relation to Road Rule 271.

#### **Introduction**

The requirements of Road Rule 271 cannot be met. As written it requires motorcyclists to keep both feet on the footrests at all times when the bike is moving other than when walking beside the motorcycle. This includes coming to a halt, moving off from a stationary position or when “paddling” the bike to reverse park it, among others.

It also contravenes the safe riding practices promoted by road authorities and other training institutions. Police have been issuing infringement notices to riders for what is being promoted by authorities as safe riding practices, but which are illegal under Road Rule 271.

Most of the anomalies and inconsistencies contained in RR 271 are the result of two failures:

- Lack of a clear Statement of Intent and Purpose for the road rule.
- Lack of early consultation with rider groups which would have identified many of the anomalies

Lack of a clear Statement of Intent has meant Road Rule 271 attempts to cover two different situations where the rider is “in control” of a motorcycle – (a) when the motorcycle is moving under its own power, and (b) when it is either stationary, parked or being moved by the rider. The criteria for being in proper control of the motorcycle are entirely different for these two situations, but this is not recognised within Road Rule 271. Unlike most other vehicles, motorcycles fall over when they are stationary unless the rider takes appropriate action. Currently, undertaking this action breaches the requirements of RR 271.

Amendments to date of Road Rule 271 have failed to resolve problems and current proposals in the 10th Amendment Package fail to address fundamental problems. We believe that a major cause of poor construction of Road Rule 271 is a lack of early consultation with riders during the proposal stage at a State level.

The purpose of this submission is to:

- facilitate the immediate revision of RR 271
- ensure early State level consultation with riders when revisions of road rules affecting motorcyclists are contemplated.

Firstly, we will discuss the background to Road Rule 271. We follow with a discussion of some of the issues with Road Rule 271 then a conclusion that includes a summary of the submission in a format required by the National Transport Commission (NTC) when considering amendments to road rules.

### **Background and Context to RR 271**

Prior to adoption of the National Australian Road Rules in 1999, each jurisdiction had their own regulations in respect of carriage of passengers by motorcycle and specific requirements for motorcycle riders. Prior to 1999, we find that in general, a motorcycle is referred to as a motor vehicle and the rider of a motorcycle is bound by the same requirements as all other motor vehicle operators. Very few provisions were or are now specific to motorcycle riders.

The current informal consolidation of the ARRs on the National Transport Commission (NTC) website contains several provisions in relation to motorcycles that are relevant to development of RR 271: <http://www.ntc.gov.au/filemedia/Reports/ARRFeb12.pdf>

Australian Road Rules 14-19 show that any reference to “driver” means “rider”, but not in reverse, i.e. a reference to a “rider” does not mean “driver”. All are a “road user”, as are pedestrians and those in charge of animals. These Rules are adopted in Queensland.

Road Rule 17 defines a rider as:

- (1) A *rider* is the person who is riding a motor bike, bicycle, animal or animal-drawn vehicle.
- (2) A *rider* does not include:
  - (a) a passenger, or
  - (b) a person walking beside and pushing a bicycle.

<https://www.legislation.qld.gov.au/LEGISLTN/CURRENT/T/TrantOpRURR09.pdf>

Please note that *rider* includes a person “in control” of a motorcycle; that is, walking beside and pushing it, but not a person walking beside a bicycle. The definition of RR 17 equates a motorcycle with a sentient animal, or a vehicle that for motive force, requires a sentient animal, thus requiring a person to be “in control of” a motorcycle, even when it is parked. This has ramifications when interpreting Road Rule 271.

Part 16 of the current national Australian Road Rules published by the NTC; “*Rules for persons travelling in or on vehicles*” includes Rule 266(1) and Rule 268(5)(b) which clearly separate motorcycle riders and motorcycle passengers from other road users. Road Rules 264 or 265 do not exempt motorcycle riders from wearing seatbelts.

However, Road Rules 267(1A)(a) and 267(1A)(b) exempt a person from wearing a seatbelt if there is no requirement for a seatbelt to be fitted.

While passengers of motorcycles under 16 years of age are specifically exempt from wearing seat belts, riders or older passengers are not.

The Queensland *Transport Operations (Road Use Management—Road Rules) Regulation 2009* adopts these provisions.

Seatbelts are not required for motorcycles under Australian Design Rules or Qld Vehicle Standards (*Transport Operations (Road Use Management—Vehicle Standards and Safety) Regulation 2010*).

However, there is no specific exemption from seatbelt fitment to motorcycles, nor an exemption from wearing a seatbelt on a motorcycle.

May we anticipate Qld Police enforcing the wearing of seatbelts by motorcycle riders (but not passengers under 16 years of age) in the absence of a specific exemption?

Road Rules are enforceable provisions and must be written to avoid ambiguity or usage for purposes other than intended.

RR 270 requires that if a motorcycle is **moving**, whether being pushed, or under its own power, the **rider** must wear a helmet. The person pushing a motorcycle is “in control” of the motorcycle, hence is the “**rider**”.

It is apparent that enforcement action may be taken against a person wheeling a motorcycle along a road, or within a parking area or service station (or any other “road related area”) if they are not wearing a helmet.

Please note the “Reader’s Guide” to the Australian Road Rules. At Paragraph 2 “Application of the Rules and some key concepts” under the heading “Drivers and riders” we find the following:-

*A driver is the person driving or otherwise in control of a vehicle. For example, a person steering and pushing a stalled motor vehicle would be in control of the vehicle and be the ‘driver’.*

The person defined as the driver is required by Rule 264(1) to wear a seatbelt when pushing a stalled motor vehicle.

Issuing an Infringement Notice may be seen as either “following the law” or just mean spirited.

Part 16 of the ARR includes Road Rule 271, which we will discuss in some detail.

### **Issues with RR 271**

Our main concern is with Part 1 of RR 271. It is reproduced below. We will then briefly discuss each of sub-parts (a), (b) & (c) of part (1). Similar related provisions in 271(2) are also of concern.

## **271 Riding on motor bikes**

*(1) The rider of a motor bike that is moving (other than a rider who is walking beside and pushing a motor bike), or the rider of a motor bike that is stationary but not parked, must:*

*(a) sit astride the rider's seat facing forwards; and*

*(b) ride with at least 1 hand on the handlebars; and*

*(c) if the motor bike is moving -- keep both feet on the footrests designed for use by the rider of the motor bike.*

February 2012 version <http://www.ntc.gov.au/filemedia/Reports/ARRFeb12.pdf>

Note that the Queensland version of RR 271 is identical to the ARR.

We contend that the current version of Road Rule 271 fails to address any specific "intent" or "purpose" and is simply a poor attempt at micro management. Road Rule 271 may appear to make sense to a non-motorcyclist. It may be more useful to place in Rule 271 the requirement for a rider to wear a helmet when riding. It may be useful to address the intent and purpose of Rule 271.

A problem arises with enforcement of complex provisions. Road Rules are enforceable provisions. Ambiguity or the impractical nature of an enforcement provision is no barrier to issuing a fine. Hence, we must seek clarity and appropriateness.

It appears that Rule 271 has been drafted with the assumption that vehicles will only be operated for short periods on sealed, smooth and level roads. This is deeply problematic for motorcyclists. Many public roads are still gravel or sand based.

*We contend that Rule 271 is poorly constructed, without regard for normal operation of the vehicle.*

Many issues could be avoided if there was a clear statement of intent and purpose for Road Rule 271. Currently, this appears to be lacking.

### **271(1)**

Rule 271(1) as published by the NTC and adopted by Qld in 1999, includes provisions without historical derivation from prior jurisdictional regulations.

There is evidence to suggest that Amendments to Rule 271 are an attempt to micro-manage issues that have been identified over time. Inaccurate identification of issues appears to have led to amendments with unintended consequences that then require further amendment to be micro-managed in turn. Unwieldy and complex Rules in Part 16 appear to be the result of attempts to micro-manage.

The qualifications of 271(1) are complex and onerous.

As noted above, it is not necessary for a motorcycle rider to be riding the motorcycle in order to be bound by Rule 271. A person when pushing a motorcycle is defined as a rider by Rule 17 and Rule 271(1), thus requiring them to wear an approved motor bike helmet.

We draw your attention to the 2005 Amendment to Rule 271 to add the words in brackets. Without this Amendment, a person pushing a motorcycle was not only required to wear a motorcycle helmet, but was also required to keep both feet upon the footrests. Some may view this requirement as ridiculous or at least, comical.

With the 2005 Amendment, the person pushing a motorcycle is now only required to wear a helmet, for example when wheeling a motorcycle from near a petrol bowser to a parking space within the service station or wheeling a motorcycle from a workshop driveway to a street parking area.

Wheeling may be accomplished by pushing or by “paddling”; that is, standing and /or sitting astride and using one foot on either side for propulsion. In all these cases, the engine is switched off. Paddling is common when re-positioning a motorcycle within a parking space.

This is an example of attempting to micro-manage through Road Rules without regard to the intent or purpose of the regulation. Early consultation with riders would have identified some of the problems associated with the amendment.

### **271(1)(a)**

Rule 271 (1)(a) requires a motorcycle rider to “sit”, or remain seated, at all times. The Dictionary to the Road Rules do not define *sit*. The Oxford English Dictionary defines *sit* as:

*“To be or remain in that posture in which the weight of the body rests upon the posteriors”*

This requirement to *sit* is not consistent with road authority endorsed motorcycle rider training<sup>1</sup> which advises riders to lift their weight off the seat and transfer their weight to the footrests over bumpy surfaces.

### ***Bumpy roads and potholes<sup>2</sup>***

*On rough roads, keep your speed down. That does three things -- it gives you time to avoid the worst bumps or holes, reduces road shocks and gives your bike's suspension time to work. Remember that bumps can affect your steering as well as well as the suspension, so take it easy. To give yourself as much control as possible, raise yourself a little on the footpegs so you can absorb road shocks with your knees and elbows.*



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<sup>1</sup> See Victorian Rider Handbook

<http://www.vicroads.vic.gov.au/Home/Licences/Handbooks/Motorcyclists/>

<sup>2</sup> *ibid* p 55 of Part 2

Separating the riders' weight from that of the motorcycle enables greater control over stability when traversing rough or uneven surfaces. Applying the riders' weight at the lowest point available at the footrests aids stability. Remaining seated, the rider's weight cannot be shifted sideways or longitudinally to any useful degree and may allow the motorcycle to destabilise over bumpy surfaces.

In the particular case illustrated to the right, placing the riders' weight onto the front wheel ensures it does not exhibit excess "loft" when transitioning from climb to descent, to maintain proper steering control. This posture also enables extended vision over a crest.



This photograph shows a NSW Police rider demonstrating correct posture for maintaining precise control when riding on variable surface geometry.



In the case illustrated to the right, multiple large and deep potholes on a ferry departure road are sufficient to destabilise a motorcycle. However, the rider is able to maintain control by shifting weight to their feet.

Remaining seated would be likely to destabilise a lightweight motorcycle such as a scooter.



A rider obeying Rule 271(a) is prevented from maintaining proper control of their motorcycle.

A “washboard” or rippled surface is familiar to those who travel unsealed roads and may also be regularly seen on a bitumen road incline with high truck usage. When traversing such sections of road, separating the riders’ weight allows steering stability control, stability in turning and balanced suspension movement.

Stability is aided by application of weight at the lowest point of the motorcycle, the footrests.

The rider’s weight is separated from that of the motorcycle and allows it to “float” over surface imperfections with balanced front to rear suspension movement instead of “pitching” the rider to the side or forwards. Such pitching movements create steering and imbalance inputs that may or may not be controllable with the rider destabilised in this manner.

A rider being pitched about may also cause them to inadvertently apply a control input, such as throttle, steering, front or rear brake application and result in loss of control of the motorcycle. This is particularly relevant over a broken surface.

Washboard surface is particularly concerning when in curves on bitumen, where it may cause a crash through loss of traction by either wheel. Applying the riders’ weight through the footrests instead of through the seat can significantly assist in stabilising the motorcycle in such situations. This requires the rider to slightly lift themselves from the seat of the motorcycle and move their weight to the inside of the turn.

Rule 271(1)(a) denies a motorcycle rider proper control of the motorcycle.

Adventure Touring bikes (“dual sport”), such as the BMW models shown in the second and third photographs above, are becoming increasingly popular. All advanced riding courses for such bikes advocate standing on the footrests when negotiating uneven, gravel or sand surfaces as encountered on many Australian roads. Not doing so could easily lead to serious injury or death. Persisting with the requirement in the Road Rule to sit at all times may lead to a seriously injured rider, or family of a deceased rider, seeking compensation.

It should be noted that on unsealed roads where sand covers a hard packed surface, a conventional 2wd passenger vehicle may be able to negotiate the surface with ease. However, this can be problematic for a motorcycle and in many cases is likely to cause capsize without allowing the rider to maintain proper control through standing on the footrests and applying rearward weight shift.

*We contend that Rule 271 is poorly constructed, without regard for normal operation of the vehicle.*

There is no dispute with the second part of Rule 271(1)(a) that requires the rider to face forwards.

This second part also has historical precedent from pre-1999 jurisdictional regulations.

RR 271(1)(a) could easily be rectified by changing the wording of the Rule to:

*When riding a motorcycle that is moving under its own power, the rider must:  
(a) remain astride the rider’s seat and face forwards; and*

This would remove the dangerous requirement to remain seated at all times and give recognition to proven safe riding practices.

## **271(1)(b)**

Rule 271(1)(b) has historical precedence and it is not in dispute that keeping at least one hand on the handlebars when the motorcycle is moving is desirable for proper control of the motorcycle.

For example, from the pre-ARR Western Australia *Road Traffic Code 1975*:-

### ***1607A. Riding motor cycles "No hands"***

*A person shall not drive a motor cycle without having at least one hand on the handle-bars.*

Rule 271(1)(b) is vastly more restrictive than this historical WA regulation. In accordance with Rule 17, the "rider" is a person "in control of" a motorcycle, whether the motorcycle is moving, parked or being wheeled with the engine off.

A rider when stopped but not parked, may on occasion remove both hands from the handlebars, such as when:-

- adjusting rear-vision mirrors or a control cable, adjusting a lever span or the like, or
- using one hand to shade the instruments to aid readability in bright sunshine such as while resetting a trip meter, or checking distance travelled on a secondary meter display or
- to put on or remove sunglasses to a pocket, or change helmet visor, or
- remove, clean, and replace spectacles, or
- to adjust clothing such as jacket neck closure, gloves, air-vents in jacket or pants, etc.

Any of the above and others not contemplated here, may be performed by a motorcycle rider in a road-related area. Such areas may be a temporary roadside stop, in a service station or in a parking area. In these cases, the rider may remain astride a motorcycle, one or both feet off the footrests, the parking stand retracted and the engine running, but not be parked.

*We contend that Rule 271 is poorly constructed, without regard for normal operation of the vehicle.*

## **271(1)(c) - Part 1**

Road Rule 271(1)(c) is a requirement for the rider of a moving motorbike to not remove their feet from the footrest at any time. Clearly this is nonsensical when stopping in traffic, at intersections or when parking.

To slavishly obey RR 271(1)(c) would have motorcycle riders falling over and receiving an automatic Negligent Driving charge for failing to maintain proper control of their vehicle. Such a proposition for public roads is laughably ridiculous and brings the entire body of law into disregard.

A motorcycle rider will generally lift their feet onto the footrests as soon as they can after starting from a stationary position or take their feet off as late as possible when coming to a stop. The speed at which they do so will vary, depending upon the terrain, the particular motorcycle and the physical proportions of the rider. In many cases, when starting off, the rider may leave their leg out to one side as an "outrigger" to balance, until stability is

achieved. In most cases, this is achieved by around 30km/hr, with most riders achieving balance by 20km/hr.

The proposed 10<sup>th</sup> Package Amendment proposes an exemption from 271(1)(c) below a speed of 10km/hr. This is overly restrictive and does not reflect normal riding practice.

The proposed limiting speed is relevant only on flat surfaces by experienced riders with relatively long legs on heavier motorcycles. Lightweight motorcycles are often subject to pitching over broken or rippled surface when starting off. Where the motorcycle has been stopped on a cross-slope, the problem of initial balance when starting off may be significant. This is particularly so if the rider has insufficient leg length to hold the motorcycle perfectly upright on the cross-slope. In some locations, all riders will suffer this problem.

While it is agreed that it is good riding practice to lift the feet to the footrests as soon as possible to achieve a stable riding position, it is not always possible to do this immediately. The prime consideration is to achieve a stable motorcycle, then assume a stable and relaxed riding position.

While "feet up" at the slower speed proposed may be able to be demonstrated by highly trained individuals on level surfaces, this is not representative of roads in general or the general population.

*We contend that Rule 271 is poorly constructed, without regard for normal operation of the vehicle.*

## **271(1)(c) - Part 2**

A further and very significant problem with Rule 271(1)(c) is fatigue management.

All vehicle passengers and drivers experience various effects from travelling long distances.

These effects can include muscle fatigue, muscle stiffness and similar related problems that result from a person's body being in a stationary position for relatively long periods of time. In general, a fixed position over time results in stagnant circulation. From a medical standpoint, the condition is known as ischemia, a restriction in blood supply, or inadequate flow of blood to a part of the body, caused by the constriction or blockage of blood vessels. Relatively long periods of stationary positioning can cause ischemia to occur in various parts of the body. In response, a person naturally tends to change positions, even if only by a slight movement, impacting the person's circulation and restoring adequate blood flow to the affected area.

Fatigue and stiffness experienced by different muscle groups and the effects felt as a result of ischemia can be problematic for a vehicle user. Many travellers often find themselves adjusting their body in the vehicle seat or adjusting various seat position adjustment actuators or therapeutic controls individually, attempting to achieve greater travelling comfort.

Discomfort from stiffness or mild cramps can be distracting for a driver of a vehicle. This is equally true for the rider (or passenger) of a motorcycle. Fatigue is known to reduce alertness and many publications from road authorities address this issue.

*Whilst not all people respond to fatigue in the same way, fatigue can cause reduced concentration, impaired co-ordination, compromised judgement and slower reaction times; ultimately increasing the risk of incidents and injuries.<sup>3</sup>*

*Working in harsh and uncomfortable conditions can contribute to fatigue, for example, exposure to heat, cold, vibration or noisy workplaces can make workers tire quicker and impair performance.<sup>4</sup>*

Riding a motorcycle may be considered as a harsh environment.

Organisations such as Worksafe Victoria provide advice to employers and workers in an office environment to take some form of break from sitting in the one position every 20-30 minutes, that even simple movements will provide some relief and stave off fatigue<sup>5</sup>.

However, under Road Rule 271(1)(c), it is an offence to manage fatigue by the simple expedient of lifting one's feet to allow blood flow, or removing a leg to stretch a hip, knee or ankle joint.

Contraction of muscles is an important factor in helping to keep blood flowing through the veins, particularly in the legs. Prolonged immobility can lead to pooling of blood in the legs, which in turn may cause swelling, stiffness, discomfort and fatigue.

The rider of a motorcycle is essentially sitting in one position, with various degrees of bend at their hips, knees or ankles depending upon their personal stature and/or motorcycle type. Sitting in one position contributes to pooling of blood in the legs which can be managed by simple movements such as standing on the footrests, or removing a leg from the footrest to stretch the knee, or to flex the ankle or hip joints.

As with car drivers, this could be distracting, but good drivers and riders use their judgement as to when such movements are appropriate. Straight stretches of road with no intersections, good visibility and low traffic density are ideal choices.

The following narrative illustrates that Rule 271(1)(c) is being enforced by NSW Police:-

A group of four riders were followed by Police for 32km southbound on the F1 from Mount White to Wahroonga. In the 80km/hr section that commences just north of the Wahroonga off-ramp, one rider has momentarily removed his foot from the foot rest to stretch his leg to relieve a mild leg discomfort and was fined for this infraction of Road Rule 271(1)(c).

Motorcycle riders are also being given Infringement Notices in Queensland for the same offence, placing many road rules into disregard.

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<sup>3</sup> Fatigue Management Policy, NSW Roads and Maritime Service, page 1  
<http://www.rms.nsw.gov.au/gipa/downloads/corp/pn149.pdf>

<sup>4</sup> Safework Australia, Guide for Managing the Risk of Fatigue at Work, page 9  
<http://www.safeworkaustralia.gov.au/sites/swa/about/publications/pages/guide-fatigue-at-work>

<sup>5</sup> Worksafe Victoria, Officewise - a guide to health & safety in the office, Appendix B  
[https://www.worksafe.vic.gov.au/\\_data/assets/pdf\\_file/0016/3634/Officewise\\_web.pdf](https://www.worksafe.vic.gov.au/_data/assets/pdf_file/0016/3634/Officewise_web.pdf)

We note that the three points of contact that has been suggested is not feasible. There are many situations where a rider will have more than one limb removed from the bike, such as when reverse parking, where one hand may be removed from the handlebars and both feet from the foot pegs.

Similarly Rule 271(2)(b) requires a pillion passenger to simply wriggle or squirm in their seat to try and relieve fatigue-inducing sedentary discomfort. Should the pillion passenger seek to stretch their leg or lift their backside off the seat, they cause the rider to become guilty of a Level 5 fine offence for breach of RR 271(3).

A squirming or wriggling pillion passenger is far more likely to cause the rider problems of control than one who simply lifts themselves in alignment with the rider. A squirming pillion is a greater control issue with lighter weight motorcycles, where the pillion mass may represent a significant proportion of the weight of the motorcycle.

Failing to remain in a sitting position will result in a fine of 1 1/3<sup>rd</sup> penalty units , as will stretching a leg or putting a foot down to stop at traffic lights. It is unlikely any rider would bother trying to mount a defence in court; the Road Rule is very clear that these are offences, despite their arrant nonsense.

Requiring motorcyclists to have both feet on the footrests is akin to requiring drivers of cars to have their feet remain on the control pedals at all times. The proposed Amendment to Rule 271 attempts to micro-manage foot position. Similar micro-management is presumably required for car drivers of manual vehicles with three pedals, while micro-management of foot position of drivers of automatic transmission vehicles could consider fixed clips as used by bicycle riders.

What is the intent of the requirements of Rule 271, and where is the evidence to support it?

There appears no constructive merit in persisting with 271(1)(c). We recommend it be deleted.

*We contend that Rule 271 is poorly constructed, without regard for normal operation of the vehicle.*

We look forward to your consideration of this information and suggestions and await your response

Yours faithfully



Chris Mearns  
President

***The Motorcycle Rider's Association of Queensland is the representative body for  
Motorcycle & Scooter riders in Queensland***

**Background**

Road Rule 271 suffers from a lack of documented intent and purpose. This has resulted in unintentional consequences through legislative deficiencies and confusing complexity. Road Rule 271 imposes requirements that prevent riders maintaining proper control of their vehicle. These requirements are in direct conflict with recommendations contained within road authority endorsed motorcycle riding training publications of safe riding practices.

**Objective**

To recognise proven safe rider practices and modify Road Rules to regulate them.

**Merits**

Remove ambiguity from RR 271. Remove possibility of road authority being sued for recompense in the event of a rider injured whilst attempting to comply with RR 271.

**Proposed Action**

Development of a Statement of Intent and Purpose for RR 271, then modification of Road Rule 271 to reflect that Intent whilst remaining cognizant of normal and safe riding practices. The Road Rule should separate the requirements for when a motorcycle is being ridden (or driven) under its own power, from when it is stationary, parked or being pushed.

As a suggestion, RR 271 (1) could be restricted to a motorcycle that is being ridden and read:

*When riding a motorcycle that is moving under its own power, the rider must:*  
*(a) remain astride the rider's seat facing forwards; and*  
*(b) have at least one hand on the handlebars*

It is argued that Part (c) should be omitted. It has no historical precedence prior to adoption of ARRs in 1999. There are too many exceptions to be accommodated in a precise road rule.

Note that under the above recommendation, riders "in control" of a motorcycle would still need to wear a helmet in accordance with RR 17 and RR 270. We recommend an Amendment to Road Rule 270 to add a specific exemption from wearing a helmet while moving a motorcycle that is not moving under its own power.

**Supportive information**

See attached Submission

**Likely Impact**

Enforcement of the intent of the Road Rule, rather than enforcement of the letter of the law regardless of how dangerous that law is.

**Consultation**

Early consultation with rider groups such as the Motorcycle Riders Association of Queensland (MRAQ), and the Australian Motorcycle Council (AMC) at pre-drafting stage of the review is highly recommended