

Mr Simon Corbell, Attorney-General and Minister for Police and Emergency Services
Mr Alistair Coe, Shadow Minister for Transport
Mr Shane Rattenbury, Minister for Urban Services
Mr Jeremy Hanson, Shadow Minister for Police and Shadow Attorney-General

Proposed Motorcycle Lane Filtering Trial

Dear Messrs Corbell, Coe, Rattenbury and Hanson

Before changing our laws to facilitate the proposed Motorcycle Lane Filtering Trial, please ensure that the following issues are adequately addressed:

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More details are provided on the following pages.

I will be pleased to further discuss any of these issues with you.

Yours Faithfully



Leon Arundell, B. Sc. Hons., M. Env. St., Grad. Dipl. Appl. Econ.
Chair, Living Streets Canberra
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ATTACHMENTS

1. Transport for NSW's Deputy Director of Policy and Regulation recommendation on maximum speed for lane filtering etc., 12 January 2014.
2. Letter from Joy Burch re giving way to pedestrians etc., 12 January 2012.
3. Letter from Simon Corbell re giving way to pedestrians etc., 7 June 2013.
4. NSW Police email re lane filtering, 10 April 2014.

SAFETY ISSUES

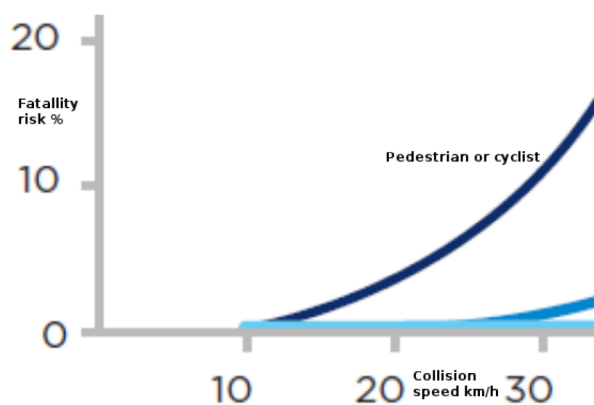
Safe maximum speed for lane filtering

The California Highway Patrol [no longer recommends lane splitting](#). It previously recommended against lane splitting at a speed differential of more than 16 km/h.

A 10 km/h collision with half a tonne of lane filtering motorcycle and rider can injure a road-crossing pedestrian. A collision with a pedestrian can cause the motorcycle to crash into another vehicle, injuring the motorcyclist.

Average lane filtering speeds measured in the 2013 NSW trial were between 9 km/h and 13 km/h.

On 14 January 2014, Transport for NSW's Deputy Director of Policy and Regulation recommended (Attachment 1) that the maximum speed for lane filtering be no more than 20 km/h. At that speed, according to the [NSW Lane Filtering Trial Summary Report](#) (extract at left), one pedestrian would be killed for every twenty-five collisions. Similar proportions of pedestrians and motorcyclists could also be expected to be injured.



At 30 km/h, one pedestrian would be killed for every ten collisions, and similar proportions of pedestrians and motorcyclists could be expected to be injured.

Sight-lines between motorcyclists and pedestrians

Will lane filtering be permitted past vans, SUVs and people movers that can obstruct sight-lines between road-crossing pedestrians and lane-filtering motorcyclists?

LEGAL ISSUES

Will lane filtering above a certain speed be made illegal?

Lane filtering/splitting is currently legal, as confirmed in [Williams v Ede \[2011\] QMC 30 \(26 August 2011\)](#).

If lane filtering is to be restricted to a particular maximum speed, then it will be necessary to make it illegal above that speed.

Must lane-filtering motorcyclists give way to road-crossing pedestrians?

The lane filtering trial offers the Government an opportunity to commence implementation of its repeated claims that drivers (which include motorcycle riders)

must give way to pedestrians, by legislating to require lane filtering motorcyclists to give way to pedestrians.

Those claims have been contradicted by Acting ACT Supreme Court Justice Linda Ashford, in [Kim v Weliwatte \[2014\] ACTSC 184 \(24 July 2014\)](#).

The Government's claims in this respect include an answer in the Road Ready Test (see below), statements by Acting Attorney General Joy Burch on 12 January 2012 (Attachment 2) that in the situation described in that Road Ready Test question “*the driver is required to give way to the pedestrian*” and that when “*approaching a pedestrian who is attempting to cross a road and is unaware of, or has misjudged the speed of, approaching vehicles ... drivers must give way to the pedestrian to avoid a collision,*” and Mr Corbell's similar statement of 7 June 2013 (Attachment 3) that “*the correct answer is that a driver must give way to the pedestrian if there is a danger of a collision.*”

Q Which of the following statements is correct?

- You must give way to pedestrians if there is a danger of a collision.
- Pedestrians must cross the road only at marked crossings and intersections.
- You do not have to give way to adults crossing at school crossings.

A You must give way to pedestrians if there is a danger of a collision.

Correct 34 Attempts 36 Remain 306

Next Restart

Will lane filtering be prohibited in high pedestrian 40 km/h shopping centre zones?

The current proposal prohibits lane filtering only in school zones.

Will three-wheeled motorcycles be permitted to lane filter?

Some [three-wheeled motorcycles](#) are as wide as a small car.

ENFORCEMENT ISSUES

Are existing lane filtering laws enforced?

A search of the [Australasian Legal Information Institute's](#) case law databases failed to find any evidence of a successful prosecution for a motorcycle lane filtering or lane splitting offence.

Is the proposed lane filtering speed limit enforceable?

- This issue was raised by NSW Police on 10 April 2014 (Attachment 4).
- Can ACT Police's car-mounted speed measuring devices distinguish the speed of a motorcycle from the speeds of two cars that are travelling on either side of the motorcycle, a metre apart?
- Do ACT Police have any speed measuring devices that can simultaneously:
 - (a) distinguish the speed of a motorcycle from the speeds of two cars that are travelling on either side of the motorcycle;
 - (b) confirm that the motorcycle is overtaking the cars, rather than vice versa; and
 - (c) confirm that the motorcycle was not sharing a lane with a car simply because the car had moved from an adjacent lane into the motorcycle's lane.

Will Police enforce lane filtering laws?

The following two examples demonstrate that enforcement of laws depends very much on whether or not they are included in the ACT Policing Purchasing Agreement.

The ACT Policing Purchase Agreement does require police to report on exceeding the speed limit. In July and August 2014, ACT Police issued an average of more than five hundred Traffic Infringement Notices per month for exceeding the speed limit.

The most common cause of road crashes is driving too closely behind other vehicles to stop safely. Failing to comply with this rule causes more than three hundred crashes per month.

The ACT Policing Purchase Agreement does not require police to report on driving too closely behind other vehicles to stop safely.

From July 2011 to June 2012, ACT Police gave out an average of less than ten Traffic Infringement Notices per month for driving too closely behind other vehicles to stop safely.

EVALUATION ISSUES

What will the trial evaluate?

What road safety impacts and benefits of motorcycle lane filtering will the trial evaluate?

What parameters will be measured during the trial?

For example, changes in:

- the proportion of motorcyclists who lane-filter.
- the proportion of motorcyclists who understand the applicable road rules.
- how many motorcyclists are charged and/or convicted of lane filtering offences in a given period.
- the number and severity of lane filtering crashes.

What are the baseline data for the parameters that will be measured during the trial?

- what proportion of motorcyclists currently lane-filter?
- what proportion of motorcyclists understand the relevant road rules?
- how many motorcyclists were charged and/or convicted of lane filtering offences, in the latest period for which statistics are available?
- How many lane filtering crashes occur in a given period, and how serious are those crashes?