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TO: National Transport Commission

How to improve the Australian Road Rules

We support the following Draft Recommendations:

- 2: That the Australian Road Rules and the Australian Vehicle Standards Rules include the (former) Australian Transport Council's national transport vision, policy objectives and principles.
- 3: Update the objectives of the Australian Road Rules to:
 - o introduce uniform rules throughout Australia for all road users
 - o specify behaviour that supports the safe and efficient use of the road system.
- 7: The NTC to improve planning processes for updating the rules.

We also recommend, in relation to Draft Recommendation 7, that:

- A) each proposed change to the Road Rules be assessed according to its likely contribution to the Objects of the Road Rules, taking into account the Three Cs' of Compliance, Complexity and Consistency and the 'Five Es' of Education, Encouragement, Engineering and Enforcement and Evaluation; and
- B) each existing Road Rule be assessed according to its contribution to the Objects of the Road Rules, taking into account the 'Three Cs' of Compliance, Complexity and Consistency and the 'Five Es' of Education, Encouragement, Engineering, Enforcement and Evaluation.

Background

Draft Recommendation 2: That the Australian Road Rules and the Australian Vehicle Standards Rules include the (former) Australian Transport Council's national transport vision, policy objectives and principles.

We strongly support this recommendation.

Section 3 of the Australian Road Rules (*Object of the Australian Road Rules*) currently states in its entirety that "*The object of the Australian Road Rules is to provide road rules in this jurisdiction that are uniform with road rules elsewhere in Australia.*"

If all States and Territories were, for example, to uniformly adopt Road Rules that did NOT require any road users to give way at intersections, those Rules would completely satisfy the

Object of the Australian Road Rules, as it is currently stated. The current Object of the Australian Road Rules would provide no basis for rejecting such changes.

If the Objects were to include the national transport policy objectives (Attachment 1), then proposed Rule changes could be assessed, and either accepted or rejected, on the basis of whether or not they advance the Objects of the Australian Road Rules.

Draft recommendation 3: Update the objectives of the Australian Road Rules to:

- * introduce uniform rules throughout Australia for all road users*
- * specify behaviour that supports the safe and efficient use of the road system.*

We support to this recommendation, noting that:

1. the objective of uniform rules already exists in Rule 3: *Object of the Australian Road Rules*; and
2. the object of *specifying behaviour that supports the safe and efficient use of the road system* can be met by Draft Recommendation 2.

Draft recommendation 7: The NTC to improve planning processes for updating the rules.

Living Streets Canberra Recommendation A: each proposed change to the Road Rules be assessed according to its likely contribution to the Objects of the Road Rules, taking into account the "Three Cs" of Compliance, Complexity and Consistency and the 'Five Es' of Education, Encouragement, Engineering and Enforcement and Evaluation

The current 350-plus Road Rules are too numerous for a person of average intelligence to remember. Almost half of road users, including drivers, are of below average intelligence.

A road user who does not know the Road Rules is a dangerous road user.

Any proposal for a change to the Road Rules should, as a minimum, address the following questions:

- To what extent would it advance the Objects of the Road Rules?
- How would the change affect the *consistency* and *complexity* of the Rules?
- What would be a satisfactory *compliance* rate for the Rule?
- Taking into account implementation plans, is the expected *compliance* rate as high as the satisfactory compliance rate?
- What plans are proposed, to *educate* road users about the changes to the Road Rules?
- What plans are proposed, to *encourage* road users to comply with the new Rule?

- How will existing *engineering* affect the compliance rate for the Rule?
- Will the proposed Rule require *engineering* changes? If so, what plans are proposed, to implement those changes?
- Will Police or other authorities *enforce* the proposed Rule (e.g. will the new Rule be included in the performance criteria for agreements such as the ACT Policing Purchase Agreement)?
- How will the effectiveness (or otherwise) of the proposed Rule be measured and *evaluated*?

EXAMPLE:: Proposed change to Rule 238 – pedestrian travelling along a road (except in or on a wheeled recreational device or toy): to clarify that this rule does not apply to a shared zone.

Existing Rule 238: Pedestrians travelling along a road (except in or on a wheeled recreational device or toy)

(1) A pedestrian must not travel along a road if there is a footpath or nature strip adjacent to the road, unless it is impracticable to travel on the footpath or nature strip.

(2) A pedestrian travelling along a road:

*(a) must keep as far to the left or right side of the road as is practicable; and
(ab) must, when moving forward, face approaching traffic that is moving in the direction opposite to which the pedestrian is travelling, unless it is impracticable to do so; and*

(b) must not travel on the road alongside more than 1 other pedestrian or vehicle travelling on the road in the same direction as the pedestrian, unless the pedestrian is overtaking other pedestrians.

Proposed change: After rule 238(2) insert - "*(2A) This rule does not apply to a pedestrian in a shared zone.*"

How would the change affect the consistency of the Rules?

- It would introduce an inconsistency in that, in a Shared Zone, pedestrians walking in a given direction may walk anywhere on the road, whereas on other roads, when walking in a particular direction, they may only walk on the side facing oncoming approaching pedestrian or vehicular traffic.

What would be a satisfactory compliance rate for the Rule?

- ~80%

Taking into account implementation plans, is the expected compliance rate at least as high as the satisfactory compliance rate?

- This will depend on implementation plans. The compliance rate for the existing Rule is approximately 50%.

What plans are proposed, to educate road users about the changes to the Road Rules?

- To be advised.

What plans are proposed, to encourage road users to comply with the new Rule?

- To be advised

How will engineering affect the compliance rate for the Rule?

- Measures such as directional signage could affect compliance. There would be a risk of confusion between directional signage for drivers and directional signage for pedestrians.

Will the proposed Rule require engineering changes? If so, what plans are proposed, to implement those changes?

- *The proposed Rule is unlikely to require additional engineering changes.*

Will Police or other authorities enforce the proposed Rule (e.g. will the new Rule be included in the performance criteria for agreements such as the ACT Policing Purchase Agreement)?

- As this Rule is an exemption, it will not require enforcement.

How will the effectiveness (or otherwise) of the proposed Rule be measured and evaluated?

- Measuring and comparing the number of pedestrian casualties in Shared zones in which the pedestrians is travelling (a) in the same direction as the vehicle and (b) in the direction facing the vehicle.

Living Streets Canberra Recommendation B: *each existing Road Rule be assessed according to its contribution to the Objects of the Road Rules, taking into account the 'Three Cs' of Compliance, Complexity, Consistency and the 'Five Es' of Education, Encouragement, Engineering and Enforcement and Evaluation.*

The current 350-plus Road Rules are too numerous for even a person of average intelligence to remember. Almost half of road users, including drivers, are of below average intelligence.

A road user who does not know the Road Rules is a dangerous road user.

If a Road Rule is to be retained, it should satisfactorily address the following questions:

- To what extent does it advance the Objects of the Road Rules?
- How does it affect the *consistency* and *complexity* of the Rules?
- What is a satisfactory *compliance* rate for the Rule?
- What is a the *actual compliance* rate for the Rule?
- Are road users adequately and effectively *educated* about this Rule?
- Are road users adequately and effectively *encouraged* to comply with this Rule?
- How does existing *engineering* affect the compliance rate for this Rule?
- Do Police or other authorities adequately *enforce* the Rule?
- How is the effectiveness (or otherwise) of this Rule measured and *evaluated*?

High priority for assessment should be given to Rules such as:

- Rule 238: *pedestrian travelling along a road*: (see EXAMPLE below)
- Rule 126 - Keeping a safe distance behind vehicles:
 - More than 40% of all crashes involved breaches of this Rule
 - The ACT has almost 4,000 rear-end crashes per year
 - ACT Police issue only around two hundred Traffic Infringement Notices per year, for breaches of this Rule.
- Rules 67, 69, 72 and 73: giving way to pedestrians at intersections: Only four in ten road users know these Rules. This results in uncertainty, unnecessary delays and increased risk-taking resulting from those delays. It limits access and mobility, especially for people whose depend for access to goods and services on walking

A related anomaly, that particularly affects large numbers of child cyclists, is that people cycling on footpaths must give way to all traffic at every intersection. Turning drivers must give way to other drivers, to pedestrians and to on-road cyclists, but NOT to children who are cycling across a road, between footpaths.

- Rule 197: Stopping on a nature strip: This Rule is routinely ignored in residential suburbs. Some parked cars obstruct nature strips, forcing pedestrians onto the road.
- Rule 219: Lights not to be used to dazzle other road users: Many drivers apparently fail to realise that pedestrians are road users.
- Rules 231 and 232: Crossing a road at pedestrian/traffic lights: Pedestrians routinely cross against red signals, when gaps in the vehicular traffic make it safe to do so. Engineering is part of the problem. Many staged crossings of dual carriageways are straight-across. This makes it difficult to program green pedestrian signals during phases when it is safe to cross one carriageway but not safe to cross the other.
- Rule 248: No riding across a road on a crossing: Up to 95% of cyclists ride across zebra crossings. Engineering plays a part, where zebra crossings are inappropriately built on cycling routes. Amending the Road Rules, to permit combined pedestrian/bicycle crossings, would offer an alternative engineering solution.

EXAMPLE: Rule 238: *pedestrian travelling along a road*:

“(1) A pedestrian must not travel along a road if there is a footpath or nature strip adjacent to the road, unless it is impracticable to travel on the footpath or nature strip.

“(2) A pedestrian travelling along a road:

“(a) must keep as far to the left or right side of the road as is practicable; and

“(ab) must, when moving forward, face approaching traffic that is moving in the direction opposite to which the pedestrian is travelling, unless it is impracticable to do so; and

“(b) must not travel on the road alongside more than 1 other pedestrian or vehicle travelling on the road in the same direction as the pedestrian, unless the pedestrian is overtaking other pedestrians.”

This Rule is so rarely enforced that a search of the Australasian Legal Information Institute case law databases, for “must not travel along a road if there is a footpath,” yields no results. A similar search for “Rule 238” yields no results relating to the Road Rules.

Rule 238 (1) is contradicted by Queensland Supreme Court Judge McMeekin in [Perfect v MacDonald & Anor](#) [2012] QSC 11 (10 February 2012). Recent Google Earth photographs show the street in question with no footpaths but with unobstructed nature strips. The Judgement makes no reference to evidence that at the time in question it was impractical to walk on the nature strip. Nevertheless Judge McMeekin said, “*Mr Perfect had every right to walk on the road surface if he wished.*”

Rule 238 (2) (ab) requires every car driver to walk towards the rear of the car when they walk to or from the driver's door, whenever the car is parallel parked on a two-way street

Casual observations indicate that the level of compliance with Rule 238 (2) (ab) is close to the level of compliance that would be expected if people were to decide on which side of the road to walk by flipping a coin.

- To what extent does it advance the Objects of the Road Rules?

Rule 238 (1) improves safety by separating pedestrian and vehicular traffic.

- How does it affect the *consistency* and *complexity* of the Rules?

The requirement to walk on the side facing oncoming traffic (literally including pedestrian traffic) is inconsistent with the Rules that apply to all other road users.

- What is a satisfactory *compliance* rate for the Rule?

Rule 238 (1): ~90%

Rule 238 (2) (a): ~90%

Rule 238 (2) (ab): ~70%

Rule 238 (b): ~80%

- What is a the *actual compliance* rate for the Rule?

Rule 238 (1): ~60%

Rule 238 (2) (a): ~90%

Rule 238 (2) (ab): ~70%

Rule 238 (b): ~90%

- Are road users adequately and effectively *educated* about this Rule?

The NSW Road Users Handbook, for example, does not appear to mention Rule 238.

- Are road users adequately and effectively *encouraged* to comply with this Rule?

Apparently not, if judged by the low levels of compliance and education.

- How does existing *engineering* affect the compliance rate for this Rule?

Footpaths along more streets would increase compliance, as would greater enforcement of legislation that prohibits obstructing nature strips. [Living Streets Canberra estimates that, even in the nation's capital, three in ten streets have no footpaths on either side.](#)

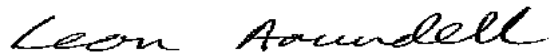
- Do Police or other authorities adequately *enforce* the Rule?

See the above comments about lack of enforcement.

- How is the effectiveness (or otherwise) of this Rule measured and evaluated?

The effectiveness of this Rule does not currently appear to be measured. Therefore, its effectiveness is difficult to evaluate.

Yours faithfully



Leon Arundell, B. Sc. Hons., M. Env. St., Grad. Dipl. Appl. Econ.
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2 September 2013

Attachment: (former) Australian Transport Council's national transport policy objectives

Reference: NATIONAL TRANSPORT POLICY FRAMEWORK - A NEW BEGINNING, February 2008.

Page 11: Australian governments have the following transport policy objectives:

ECONOMIC

To promote the efficient movement of people and goods in order to support sustainable economic development and prosperity

Getting the right operating asset (e.g. cars, trucks, trains, planes, ships) on the right infrastructure to meet the task of moving people and freight in the least cost manner with the greatest reliability and quality

SAFETY

To provide a safe transport system that meets Australia's mobility, social and economic objectives without killing or maiming its users

SOCIAL

To promote social inclusion by connecting remote and disadvantaged communities and increasing accessibility to the transport network to allow equitable access to community resources

ENVIRONMENTAL

Protect our environment and improve health by building and investing in the efficient movement of goods and people which minimises emission and consumption of resources and energy

INTEGRATION

Promote effective and efficient integration and linkage of Australia's transport system with urban and regional planning at every level of government and with international transport systems

TRANSPARENCY

Transparency in funding and charging

Where full cost recovery is not applied, equitable access to the transport system will be provided through clearly identified means.

ATTACHMENT 2: Giving Way to Pedestrians at intersections

These rules are so rarely enforced that they have never been contested in court. A search of the Australasian Legal Information Institute case law database found only one reference to giving way to pedestrians at intersections. That was a February 2013 civil case ([POPOVIC -v- ROBINSON](#)) which determined that a turning driver had not been negligent in failing to ensure that there were no pedestrians crossing the road the driver was entering.

In a telling example of failing to understand the rules for giving way to pedestrians, a **police constable, driving a police van, collided with a pedestrian** in Canberra's CBD on 24 August 2012. We received a police report on this incident, in response to a freedom of information request. The report says:

“Police were travelling east bound on London Circuit, Canberra City. As they passed Verity Lane they noticed a group of persons gathering down the lane. The driver of the Police vehicle, Constable [redacted], stopped the vehicle and reversed to enable a left hand turn into Verity Lane.

“ A group of 3 to 4 males were standing in the entrance to the lane. Constable [redacted] stopped the vehicle and sounded the horn and gestured to the males to move out of the way.

The males have looked at the Police vehicle and made eye contact with Police. The group stepped backward, except for one male who was still standing still. Two members of the group grabbed hold of the male on the upper and lower arm and started to pull him backwards out of the way.

As the male stepped backwards, he stumbled and lost balance, at the same time Constable [redacted] started to move forward. The male fell over and a small bump was felt in the vehicle. Constable [redacted] stopped and reversed back about one metre.

On exiting the vehicle Police observed the male person had a small graze to the back of his head to which they applied a bandage ...”

That report indicates that the police constable **breached Rule 73: Giving way at a T–intersection**, which states that *“If the driver is turning left (except if the driver is using a slip lane) from the continuing road [i.e. London Circuit] into the terminating road [i.e. Verity Lane], the driver must give way to any pedestrian on the terminating road at or near the intersection.”*

The police report on this incident made **no mention of Rule 73**.