

**Submission
No 9**

INQUIRY INTO VULNERABLE ROAD USERS

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SUBMISSION BY ROBERT STUTSEL

My full name is Robert STUTSEL, I am the Deputy Mayor of Bourke Shire Council and the Treasurer/Project Officer of the Bourke Men's Shed Inc.

I am a retired Police Officer having spent approx. 37 years as a police officer in the Bourke area and 32 years stationed in Bourke. I held various "portfolios" at Bourke including that of "Traffic Sergeant"

Disobedience of the bicycle laws and regulations is endemic in Bourke and in fact throughout the State. Just last week I saw an adult female riding a bicycle on the footpath in the main street of Bourke, without a helmet and holding on with one hand whilst talking on a mobile phone. The main street, Oxley Street is under 24 hour CCTV monitored at the Bourke Police Station.

A person riding a bicycle and wearing a helmet in Bourke is a novelty that certainly attracts my attention and that of many others.

Pedestrians walking on the front verandah of the Bourke Police Station take their lives in their hands with the number of bicycle riders who turn the corner of the verandah without caution, not wearing helmets, no bell and more likely than not without effective brakes.

Council frequently receives complaints about offenders riding straight off footpaths and across pedestrian crossings on the highway leaving laden trucks little chance of stopping in time. Complaints about the majority of bike riders not having any lighting at night and also riding "zig zag" across the highway and streets causing apprehension in motorists that a collision may occur and of course, the offenders are never wearing the required helmets.

From the Bourke Men's Shed, I regularly see two or three young people riding at speed on a single mini bike along the levee bank past the Wharf, no doubt damaging the lawns, putting tourists at risk of injury and injury to themselves.

Several years ago, I submitted a Freedom of Information application to the State Debt Recovery Office and the figures that were revealed indicate that Police take very little action in issuing fines to bicycle offenders, particularly in comparison to the prevalence of offences.

I particularly noted that there were no "fines outstanding" in relation to the TINs issued – a cynic might think that the TINs are recorded at the State Debt Recovery Office and then immediately shredded. It was thought at one time that offenders would have to pay their outstanding fines three and four years later when they sought "L" plates but the FOI Information suggested that the fines were not pursued, thus there was, and I assume still is, no deterrent whatsoever.

I have been "in their shoes" {the Police} – there is very little effect in issuing fines, warnings etc because they have no effect and there is no satisfaction – just frustration. Generally speaking the people who commit the offences do not have the capacity to pay fines and vice versa, they commit offences because there is no reason not to. No wonder the Police show little enthusiasm towards issuing fines etc. and thereby educating riders. Caring parents cannot get their children to wear helmets because it is not the "norm"

By law, a child under 10 years cannot commit an offence but unfortunately there is no law to stop them getting injured or killed. Between 10 and 14 years, offenders are in “fairy land” where for some obscure reason they cannot be given Infringement Notices but they can still injure and kill, or be injured or killed.

As a Police Officer, I conducted several “operations” including extensive newspaper and radio promotion plus the issuing of rewards to riders wearing helmets and the children would ride up and down in front of the Police Station to get noticed for a reward. When the “free hamburgers” stopped, the helmet wearing stopped. A futile exercise.

We ran operations in conjunction with the RTA where kids were given “free” helmets but again a futile exercise without some form of deterrence.

In the seven years or so that I have been a Councillor we have been trying to make traction with Government ministers but on every occasion they have buck passed any action, blaming other Ministers and passing it on without a result. We get buck passed between the Police, Transport and Local Government ministers with no one taking responsibility. It is quite apparent that there are no votes in saving the lives of pedestrians and cyclists.

The majority of pushbike offences would be eliminated almost overnight if the Police had the authority to impound bicycles (and motor bikes) being used in the commission of an offence. *Is it draconian to take the bike off a five year old riding all over the Mitchell Highway in Bourke without a helmet and save that child's life?*

At Bourke, almost every Police vehicle has a ‘roo bar and has the ability to either place impounded bikes in the rear of the vehicle, or affix them to the ‘roo bar for conveyance to the Bourke Police Station. The Police Station has a large secure courtyard where impounded bikes can be stored. The Bourke Shire Council has portable bike racks that can be moved to the Police Station to store the bikes. In any event under the State Governments well established “cost shifting” regime, where Police do not have facilities to impound bikes, the local Council could be required to store them, bearing in mind the number will be small.

How I envisage an action plan would be for the RTA to be required to produce a booklet exclusively for push bike (and mini bike) riders setting out the road rules as they pertain to bikes, the necessary equipment required on bikes including helmets and how to wear them correctly, plus a section on the likely injuries. Also a section setting out the sanctions for not complying including the sliding scale of measures from an Official Warning to destruction of the bike.

After the action plan is implemented, on the “first occasion”, an offender would be given a verbal warning, their particulars recorded on the COPS system and given a copy of the Bicycle Safety Booklet. – for a child under 10 years the booklet would be given to the parent/carer etc.

On the “second occasion” that an offence is detected, the bike would be impounded and the offender be required to attend at an RTA office, or Police Station to undertake and pass a written test in relation to Bicycle Safety before the bike is returned (in relation to children under 10 years, the parent/guardian would undertake the test). The length of impounding will depend upon the availability of appropriate personnel to administer the test. Children under 16 would be required to attend the test with a parent/carer to re-enforce the importance of the matter and give parents ownership of their child's safety. Upon successful completion of the test, the bike would be returned. If no action is taken to undergo the test within a set period, the Police would apply to the Children's Court/Local Court for an order to destroy the bike etc.

On the third occasion that an offence is detected, the bike would be impounded and the Police required to seek an order from the Children's Court/Local Court for the bike to be destroyed. At this

junction, the child and/or parent can make representations as to why the bike should not be destroyed. Offenders should be given the opportunity to be present when the bike is destroyed.

On any subsequent occasions that an offence is detected, "the third occasion" suggestion would apply.

Mini motor cycles would be treated similarly but with an added condition that some culpability be attached to the bike, that is, the particulars of the bike also be recorded so that "third occasion" action can be taken against the bike. This "rule" is suggested because there is abundant evidence that a single motor bike is often used by multiple offenders so that "third occasion" action will prevent ongoing offences and protect other children from death and injury.

There are a few "red herring" type scenarios that will arise that can be thought through and implemented in the plan such as "borrowed bikes", stolen bikes, back packers on bikes etc.

A matter that the Committee should address is that any legislation needs to be all encompassing. A push bike (or mini bike) offence should be an offence wherever it occurs eg. footpath, road, park, cycleway, beach, shopping centre etc.

The beauty of the suggested Plan is that there are no fines imposed and an eventual huge saving in administrative and policing costs, and particularly because it would be effective – something that is not happening now.

Street Drinking Legislation was in existence in other Australian States before a "trial" was introduced in Bourke many years ago. It has spread virtually state wide because of the need.

If the Staysafe Committee cannot for some unforeseen reason come to the conclusion that the Plan should be introduced state wide, perhaps they would consider a trial in Bourke and some other select places to "iron out" any problems and to judge the likely state wide effect if it were introduced.

Yours sincerely,

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