

## **MOTORCYCLE SAFETY IN NSW**

**Organisation:** Pedestrian Council of Australia Ltd  
**Name:** Mr Harold Scruby  
**Position:** Chairman / CEO  
**Date Received:** 17/09/2015

16 September 2015

Mr Greg Aplin MP  
Committee Chair  
NSW STAYSAFE Committee

Dear Mr Aplin (Greg)

**NSW STAYSAFE Committee - Inquiry into Motorcycle Safety in NSW**

Our primary concern about Motorcycle Safety in NSW pertains to the introduction of the "lane filtering" legislation.

In our view, the legislation was conceived in haste, included very few of the major stakeholders and the so-called trial had absolutely no relation to the final legislation.

On 1 March 2014, the SMH published our letter (quote):

***Motorcycle lane filtering would lift death toll - it must not go ahead***

***The NSW government must reconsider its proposed motorcycle lane filtering law( Letters, February 28).***

***Apart from the fact that there was no consultation, this proposal will see a significant increase in road trauma.***

***Pedestrians can cross any road, any time (except motorways and freeways) providing it's not within 20 metres of a pedestrian crossing.***

***Often in busy CBDs and shopping centres this involves walking between stationary vehicles. Pedestrians have no line of sight, nor do they expect vehicles to be driven between these stationary vehicles.***

***The new law allows motor-cyclists to travel at up to 30 km/h between these stationary vehicles, meaning the potential for harm increases dramatically. Additionally, it is not clear who would be at fault if there were a collision.***

***If you watch the behaviour of motor cyclists when they (now) illegally travel between stationary (and moving) vehicles to be first at the traffic lights, they invariably cross the white line where all motorists are expected to stop. They then cross onto and illegally block the pedestrian crossings. It's so that the adjacent motorists can see them, particularly if they are truck drivers or drivers of large 4WDs. While it's rarely enforced, it's dangerous and illegal and has not been considered in this decision, clearly made in haste to appease the motorcycle lobby.***

***It will also create an extra lane in a state where the lanes are already too narrow. It's virtually impossible to see motor cyclists when they are riding between cars. By making this legal, it will place the responsibility and liability on the motorcar driver, not on the motorcyclists, as is now the law.***

***Preliminary results from a study in the United Kingdom, conducted by the University of Nottingham for the Department For Transport, show that filtering is responsible for around 5 per cent of motorcycle killed or seriously injured incidents.***

***By banning lane filtering in school zones, the government already concedes that the behaviour is dangerous.***

***No other jurisdictions have embraced this law. It must not go ahead.***

***Harold Scruby***

***Chairman/CEO***

***Pedestrian Council of Australia Ltd (END QUOTE):***

Following the publication of this letter, the PCA sought a GIPA. Upon receipt of the results, we issued the following Media Release on Wednesday 25 June 2014

Here's a copy of the GIPA (and attached)

<http://www.walk.com.au/pedestriancouncil/images/elements/contentpics/2014/TfNSW-GIPA-Fol-Lane-Filtering-Notice-of-Decision-140623.pdf>

***(QUOTE): Fol Reveals NSW Police Adamantly Opposed to New Motorcycle Lane Filtering Law***

***Insurance Council Also Opposed - ARRB Report Warns of Dangers to Pedestrians***

***Background: In February this year, NSW Roads Minister Duncan Gay announced that motorcycle lane filtering would become legal from 1 July 2014. The PCA is extremely concerned about this new law and published a letter (copy below) in the Sydney Morning Herald on 1 March 2014. It is self-explanatory.***

***Since then, the PCA has obtained two GIPAs (Fols) from Transport for NSW. The first was a copy of the ARRB Report on the motorcycle lane filtering trial. The second was correspondence from various stakeholders.***

***Full copies of both Fols can be found on our web-site at [www.walk.com.au](http://www.walk.com.au)***

***The Chairman of the PCA, Harold Scruby, said: "The evidence below is irrefutable. NSW Police are categorically opposed to lane filtering in its proposed form. Like the majority of stakeholders, the Insurance Council was not consulted and believes: "these laws could result in increased risk to the motorcyclist, other vehicle users and pedestrians. The ARRB report found: 'motorcycles can appear without warning, creating an increased risk to safety for pedestrians' and 'may adversely impact on pedestrian safety by reducing the available space for pedestrians to cross at traffic signals'. "Pedestrian deaths are up 61% on the same period last year. We implore Roads Minister Duncan Gay to delay the implementation of this law until there is a major review, including all stakeholders."***

***Contact: Harold Scruby – [REDACTED]***

***Here are the excerpts from the ARRB Report obtained under Fol - Page 5/140, paragraphs 5 & 6***

*With regard to safety, survey respondents generally did not believe that lane filtering would present an increased safety risk to motorcyclists, drivers or cyclists. However, it was generally agreed across road user groups that lane filtering could pose an increased risk to the safety of pedestrians. Survey participants tended to hold concerns for the lack of familiarity with lane filtering, motorcyclists not giving way to pedestrians and a lack of predictability, i.e. there was a sense amongst some respondents that allowing motorcycle lane filtering and wriggling will mean motorcycles can appear without warning, creating an increased risk to safety for pedestrians.*

*Of those who did lane filter or wriggle to the front of the traffic queue, video data indicated there was an increased occurrence of stopping in advance of the marked stop line at traffic signals, thereby infringing into the pedestrian crossing space. The reasons may include a lack of lane space at the stop line, a means of improving their safety by being more prominently positioned in the view of drivers and/or gaining a head-start to facilitate merging back into the traffic lane. Although addressing motorcycle safety issues, stopping in advance of the marked stop line may adversely impact on pedestrian safety by reducing the available space for pedestrians to cross at traffic signals.*

*Here are the excerpts from the correspondence obtained under FoI from NSW Police (QUOTE):*

Of equal concern is that the paper In no way raises enforcement concerns raised by police as to enforceability of the proposed 30 km/h speed restriction.

AND

*Additional problems emerge where the paper becomes contradictory in reference to lane filtering and lane splitting. Lane splitting is described as manoeuvring a motor cycle between moving vehicles and would be considered an offence under this proposal. It then defines lane filtering as moving between slow moving vehicles (page 5/8) This has never been supported by police and contradicts the definitions for lane filtering as proposed by NSWPF and, as understood, was agreed upon by TfNSW and NSWPF.*

***The rule for lane filtering as outlined in this proposal here in no way reflects what was proposed by NSWPF and was subject of the discussion and consultation that is referenced in the paper***

***Police have already indicated support for the concept but certainly not as it is outlined here. The paper does not present a balanced view of the issues and misrepresents the position of the NSWPF on this matter.***

***Given that it is proposed to expand a jurisdictional provision into the national model it should reflect the broader issues expressed by all involved agencies don't better facilitate discussion of those issues The NSWPF can not in any way support the proposal in this paper as it is currently worded. If it is intended to submit the proposal without change it needs to be clearly articulated that the NSWPF were not consulted on this proposal in this form and all references to consultation should be removed***

*Here is a statement from the Insurance Council of Australia (ICA) 25 June 2014. This can be attributed to an ICA spokesperson. Please note I am not a spokesperson for the ICA.*

\*\*\*\*\*



**(QUOTE): The Insurance Council of Australia (ICA) was not consulted about the introduction of lane filtering laws for motorbike riders in New South Wales.**

**Insurers are concerned these laws could result in increased risk to the motorcyclist, other vehicle users and pedestrians.**

**From a liability perspective, the new laws may create increased complexity in apportioning costs for personal injury claims under Compulsory Third Party insurance, and for vehicle and property damage under motor vehicle insurance policies.**

\*\*\*\*\* (END QUOTE)

It should be noted that IAG was the only member of the ICA which voted against the above formal position and the ICA's concerns about increased risks to vulnerable roads users and the apportioning blame.

On 4 March 2014, I received this unsolicited email from [REDACTED] (Quote):

**From:** [REDACTED] [[mailto:\[REDACTED\]](#)]  
**Sent:** Tuesday, 4 March 2014 6:00 PM  
**To:** [REDACTED]  
**Subject:** Re: Motorcycle lane filtering would lift death toll - it must not go ahead

[REDACTED]  
**You are completely wrong and misguided on this. It is a sensible move by the state government and one that has been a long time coming.**

[REDACTED]

**Sent from my iPad (END QUOTE):**

As a result, I made a formal complaint to the CEO of [REDACTED].

Quite strangely, I did not receive a reply from [REDACTED], but from [REDACTED].

Then we discovered this correspondence in the attached GIPA (see pages 5 to 7/13).

On 31 March 2014, [REDACTED] sent copies of my correspondence with [REDACTED], without my knowledge or authority, to [REDACTED] at TFNSW with copies to:

[REDACTED] of the [REDACTED] and [REDACTED] of the [REDACTED]

[REDACTED]

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From: [REDACTED]  
Sent: Monday, 31 March 2014 4:06 PM  
To: [REDACTED]  
Cc: [REDACTED]  
Subject: FW: RE: Motorcycle lane filtering would lift death toll - it must not go ahead

Hi [REDACTED]

FYI re correspondence with the Pedestrian Council and lane filtering.

Regards,

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

We will be writing to [REDACTED] asking him to explain their behaviour, which seems to suggest some extraordinary relationship between [REDACTED] and the motorcycle advocacy groups.

This is a vitally important road safety issue, especially in the CBD, as pedestrians can legally cross any road provided they are not within 20 metres of a pedestrian crossing.

THE GIPA and attached documents reveal that the trial was designed for motorcyclists "lane filter" between stationary traffic at up to 10 km/h.

The legalisation, based on the so-called "trial", now allows motorists to "lane split" between slow moving (up to 30 km/h) traffic.

We believe this is incredibly dangerous.

The Sydney CBD is the largest in Australia, with 92% of the road-user movements being pedestrians. Motorcyclists represent fewer than 2%.

Millions of pedestrians cross roads every day, often legally mid-block, between stationary vehicles, where there is little if any line-of-sight, with no expectation that there may be a motorcyclist travelling legally at up to 30 km/h between these vehicles, often large trucks and buses.

We are not alone in our concerns as you can see from our attached MR.

1 It was vigorously opposed by NSW Police (until they were forced into an embarrassing back flip – see Telegraph 26 June 14 attached)

2 It was categorically opposed by the Insurance Council

3 The ARRB report (attached) stated it would create an increased risk for pedestrians. They also stated the speed should not exceed 20 km/h in their report. Please read it, especially the highlighted sections.

The Project Working Group to review the “lane filtering trial” included the following stakeholders.

### 1.3 Project Working Group

A project working group was established with the primary purpose of providing stakeholder input into the research method and a forum for discussing the ongoing monitoring and evaluation of the trial. The group included representatives from the following organisations:

- Transport for NSW
  - Centre for Road Safety
  - Transport Management Centre
- Roads and Maritime Services
- NSW Police Force, Motorcycle Response Team
- City of Sydney
- Motorcycle Council of NSW
- NSW Motorcycle Alliance.

There were no representatives (stakeholders) from the following Major Stakeholders involved in the so-called “trial” or their deliberations.

NRMA

Bicycle NSW

Pedestrian Council

Insurance Council

Motor Accidents Authority



Transport  
for NSW

Objective reference: PR13/00080

To: Minister for Roads and Ports

FROM:

DATE: 23/1/13

PRIORITY: URGENT

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#### MINISTERIAL DECLARATION (MOTOR BIKE LANE FILTERING TRIAL) ORDER 2013

##### PURPOSE:

To seek the Minister for Roads and Ports' approval of the attached Ministerial Declaration (Motor Bike Lane Filtering Trial) Order 2013 to allow motorcyclists to lane filter in a selected area of the Sydney CBD from 1 March 2013 until 30 April 2013 as part of a lane filtering trial.

##### BACKGROUND:

In NSW, the number of motorcycle registrations has grown by 40 per cent from 133,555 in June 2007 to 187,464 in June 2012. In the City of Sydney area, registrations have grown by 54 per cent over the same period.

On 18 October 2012 the Minister announced the commencement of a lane filtering trial for three months commencing 1 February 2013. The trial will be confined to an area of the Sydney CBD bound by Sussex Street, Market Street, St James Road, Macquarie Street, Alfred Street and Hickson Road.

The motorcycle community has been advocating for lane filtering to be legal for some time to help ease traffic congestion and the proposed trial has been developed in consultation with the NSW Police Force, City of Sydney Council, Motorcycle Council of NSW, and Roads and Maritime Services.

From 1 February 2013, traffic monitoring at selected trial intersections will commence for before and after data analysis, which will be used to inform the final report due to be completed later this year.

From 1 March 2013 until 30 April 2013, motorcyclists will be allowed to lane filter in the Sydney CBD trial area, providing Transport for NSW a two month period to monitor lane filtering manoeuvres to assess the impact on traffic movement and safety for all road users.

Following the legislation, we asked questions of the City of Sydney regarding their involvement in this "trial".

We only recently received their reply (attached) which states (quote):

*"The City was contacted in late 2012 about the motorcycle lane-sharing trial by ARRB, which included investigating motorcycle filtering. The City attended some meetings relating to this trial and expressed concern about the risks of filtering to people walking and cycling. We also provided assistance as is standard practice*

***for the installation of devices to monitor traffic. We did not receive any of the data for these devices and they were removed after the project was completed."***

If you look at the ARRB Report, you will note it was entitled "Motorcycle Lane Filtering Trial Evaluation Report". There was no mention of it being a "Lane Splitting" trial.

There are vitally important differences with potentially lethal consequences.

The definitions are provided in the ARRB Report:

## **2.2 Motorcyclist Lane Filtering and Lane Splitting**

**Lane filtering involves motorcycles moving past stationary vehicles in the same travel lane.**

**Lane splitting differs from lane filtering as it involves motorcycles travelling past moving vehicles in the same travel lane.**

If you look at the final Regulation (attached), it refers mainly to Lane Splitting.

But no one was allowed to see the final Regulation until it came into law.

In fact the letter from the Deputy Director General, Policy and regulation to the Minister for Roads and Ports states (copy attached):

URGENT

MOTORCYCLE LANE FILTERING TRIAL

Obj Ref: PR13/24011

1. Update the Minister on the findings of the 2013 Motorcycle Lane Filtering Trial in the Sydney CBD.
2. Seek the Minister's approval to permit 'lane filtering' for motorcycle riders in NSW and **introduce a new offence to target the motorcycle riding behaviour generally known as 'lane splitting'.**

In simple terms, the trial which was conducted to test whether motor-cyclists should be permitted to "filter" between stationary traffic at a maximum speed of 10 km/h, became a regulation which now permits motor-cyclists to ride between "slow moving" traffic (whatever that means as it's not defined) at a maximum speed of 30 km/h.

We subsequently asked ARRB to comment on the legislation which was based on the so-called trial. A copy of the letter from [REDACTED] is attached.

His responses are, to put it mildly, dynamite, and demand a moratorium on the legislation and a completely new trial (QUOTE):

**From:** [REDACTED] [[mailto:\[REDACTED\]](#)]

**Sent:** Tuesday, 24 March 2015 9:13 PM

**To:** [REDACTED]

**Cc:** [REDACTED]

**Subject:** RE: Motorcycle Lane Filtering – Trial

**Dear** [REDACTED]

***Firstly, my apologies for not responding to your enquiry sooner. Your e-mail correspondence was neglected due to other work priorities and I had not picked up the issue again until your call today.***

*As discussed with you, I am happy to assist where I am able, however, there are certain limitations with regard to providing unfettered information about the project. As you would appreciate, ARRB delivered this research to the NSW Centre for Road Safety under contract and the terms of this contract stipulate that the Centre retains the intellectual property rights for research done for it.*

*Having said that, I am happy to assist the Council by clarifying issues where I am able. I trust the following is satisfactory to your needs in this matter.*

*I have taken the liberty of extracting your questions from your e-mail and then preparing responses accordingly, below:*

*1 Please describe the trial. Was its primary purpose to evaluate motorcyclists filtering between stationary traffic at up to 10 km/h.*

*The method for trial that ARRB was engaged to conduct is fully described in the project report and I*

*do not intend to run through this in any great details. Suffice to say the project sought, through a structured trial, to understand the effect/impact of allowing powered two-wheeler riders (i.e. motorcycles and scooters) to filter through traffic.*

*The trial was conducted within a defined area of the Sydney CBD, only and legislation was introduced*

*to permit this to occur for the trial area and period only.*

*The purpose of the study was to investigate what improvement (if any) might occur in traffic congestion by permitting motorcyclists to filter and the impact this may have on road safety for all road users - riders, drivers, pedestrians and cyclists.*

*There were defined operating parameters for the conduct of the trial, with respect to when, where and how lane filtering would be permitted within the trial area. A key definition adopted for the trial*

*was what constituted lane filtering and what would be considered lane splitting.*

*For reasons of safety, it was considered that lane filtering would be limited to manoeuvres at 10 km/h or slower. Above this, the manoeuvre would be considered lane splitting.*

*2 The legalisation, based on the trial, now allows motorists to "lane split" at up to 30 km/h between slow moving traffic. Did you conduct any trials of motorcyclists travelling at up to 30 km/h in "slow moving traffic".*

*No. The conduct of the trial had strict protocols that defined lane filtering and lane splitting manoeuvres. As outlined in the report and the research method, lane filtering was considered to occur at speeds up to and including 10 km/h. Above this, the manoeuvre was considered lane splitting, which was not permitted under the legislation established for the trial.*

*3 Did you conduct any trials of motorcyclists "lane splitting".*

*ARRB did not conduct trials of motorcyclists 'lane splitting' as part of this trial. However, where lane splitting was observed to occur, then this behaviour was coded as lane splitting and formed a part of the analysis and discussion in the research report.*

*4 Do you believe that it is reasonable and safe to base the new legislation upon the "lane filtering" trial and evaluation.*

*The current legislation which defines the lane filtering behaviour now permitted in NSW is outside the parameters of the trial that ARRB conducted for the Centre for Road Safety.*

*ARRB identified the type of issues that it considered would impact on road safety for road users if motorcycle lane filtering were to be permitted. The speed at which a lane filtering manoeuvre occurred is considered one key component of the degree of safety, not only to motorcyclists, but to other road users, including drivers, pedestrians and cyclists.*

*5 Do you have any concerns, particularly pertaining to pedestrians and cyclists (vulnerable road users) about the new legislation?*

*The current road safety paradigm establishes what are considered 'safe speeds'. These are based on crash analysis and testing and seek to reduce the risk of death and serious injury resulting from certain types of impacts. For vulnerable road users such as pedestrians and cyclists, the value of the 'safe speed' (i.e. impact speed) that reduces the risk of death and serious injury to a 10% level is considered to be 30 km/h.*

*ARRB identified that lane filtering would represent a degree of risk to pedestrians, particularly those who crossed at midblock locations and failed to see, or be seen by, motorcyclists filtering through stationary (or slow moving) traffic.*

*It is perhaps self-evident, that a pedestrian struck at a slower speed will likely suffer less severe injury than one struck at a higher speed. So, a pedestrian struck at 10 km/h has a much lower risk of death and serious injury than one struck at 50, 40 or 30 km/h. This has been the basis to the move to reducing speed limits in areas where pedestrians are the dominate road user group, such as shared zones, shopping precincts and residential areas.*

*I hope my responses are of assistance. The project research report has all the information about the project and sets out ARRB's conclusions about the trial and I refer you to the report for more detailed answers to your queries.*

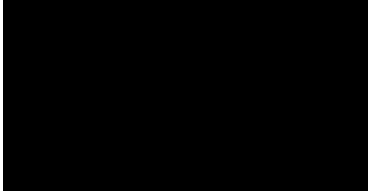
*Best of luck in your efforts to improve pedestrian safety.  
Regards,*

*Team Leader  
Research and Consulting (END QUOTE)*

In discussing the new legislation with Police, they have told me that it is impossible to determine whether trauma has increased or decreased as a result, because it's virtually impossible to enforce and to determine blame.

There are no boxes to tick.

As stated, we ask STAYSAFE to recommend a moratorium on the legislation until a proper trial has been completed which includes ALL relevant stakeholders.



  
**Chairman/CEO**



**Pedestrian Council of Australia Limited**

*The Walking Class*

Telephone: (02) 9968-4555 - Facsimile: (02) 9909-8277 - Mobile: (0418) 110-011

Email: [mail@walk.com.au](mailto:mail@walk.com.au) - Internet: [www.walk.com.au](http://www.walk.com.au)

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## PEDESTRIAN COUNCIL OF AUSTRALIA

Safety – Amenity – Access – Health

*The Walking Class Heroes*

Patrons: Dame Leonie Kramer AC DBE & The Hon Sir Laurence Street AC KCMG

### **MEDIA RELEASE**

Embargoed to Midnight - Wednesday 25 June 2014

## **FoI Reveals NSW Police Adamantly Opposed to New Motorcycle Lane Filtering Law**

### **Insurance Council Also Opposed - ARRB Report Warns of Dangers to Pedestrians**

**Background:** In February this year, NSW Roads Minister Duncan Gay announced that motorcycle lane filtering would become legal from 1 July 2014. The PCA is extremely concerned about this new law and published a letter (copy below) in the Sydney Morning Herald on 1 March 2014. It is self-explanatory.

Since then, the PCA has obtained two GIPAs (Fols) from Transport for NSW. The first was a copy of the ARRB Report on the motorcycle lane filtering trial. The second was correspondence from various stakeholders.

Full copies of both Fols can be found on our web-site at [www.walk.com.au](http://www.walk.com.au)

The Chairman of the PCA, Harold Scruby, said: "The evidence below is irrefutable. NSW Police are categorically opposed to lane filtering in its proposed form. Like the majority of stakeholders, the Insurance Council was not consulted and believes: "these laws could result in increased risk to the motorcyclist, other vehicle users and pedestrians. The ARRB report found: 'motorcycles can appear without warning, creating an increased risk to safety for pedestrians' and 'may adversely impact on pedestrian safety by reducing the available space for pedestrians to cross at traffic signals'.

"Pedestrian deaths are up 61% on the same period last year. We implore Roads Minister Duncan Gay to delay the implementation of this law until there is a major review, including all stakeholders."

Contact: [REDACTED]

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Here are the excerpts from the ARRB Report obtained under FoI - Page 5/140, paragraphs 5 & 6

*With regard to safety, survey respondents generally did not believe that lane filtering would present an increased safety risk to motorcyclists, drivers or cyclists. However, it was generally agreed across road user groups that lane filtering could pose an increased risk to the safety of pedestrians. Survey participants tended to hold concerns for the lack of familiarity with lane filtering, motorcyclists not giving way to pedestrians and a lack of predictability, i.e. there was a sense amongst some respondents that allowing motorcycle lane filtering and wriggling will mean **motorcycles can appear without warning, creating an increased risk to safety for pedestrians.***

*Of those who did lane filter or wriggle to the front of the traffic queue, video data indicated there was an increased occurrence of stopping in advance of the marked stop line at traffic signals, thereby infringing into the pedestrian crossing space. The reasons may include a lack of lane space at the stop line, a means of improving their safety by being more prominently positioned in the view of drivers and/or gaining a head-start to facilitate merging back into the traffic lane. Although addressing motorcycle safety issues, stopping in advance of the marked stop line may **adversely impact on pedestrian safety by reducing the available space for pedestrians to cross at traffic signals.***

Here are the excerpts from the correspondence obtained under FoI from NSW Police (QUOTE):

**Of equal concern is that the paper in no way raises enforcement concerns raised by police as to enforceability of the proposed 30 km/h speed restriction.**

AND

**Additional problems emerge where the paper becomes contradictory in reference to lane filtering and lane splitting. Lane splitting is described as manoeuvring a motor cycle between moving vehicles and would be considered an offence under this proposal. It then defines lane filtering as moving between slow moving vehicles (page 5/8) This has never been supported by police and contradicts the definitions for lane filtering as proposed by NSWPF and, as understood, was agreed upon by TfNSW and NSWPF.**

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**(QUOTE): The Insurance Council of Australia (ICA) was not consulted about the introduction of lane filtering laws for motorbike riders in New South Wales.**

**Insurers are concerned these laws could result in increased risk to the motorcyclist, other vehicle users and pedestrians.**

**From a liability perspective, the new laws may create increased complexity in apportioning costs for personal injury claims under Compulsory Third Party insurance, and for vehicle and property damage under motor vehicle insurance policies.**

+++++

Kind regards, [REDACTED]

[REDACTED]  
Insurance Council of Australia

Level 4, 56 Pitt Street, Sydney NSW 2000 | [REDACTED]

[www.insurancecouncil.com.au](http://www.insurancecouncil.com.au) | [www.understandinsurance.com.au](http://www.understandinsurance.com.au)



## Motorcycle lane filtering would lift death toll – it must not go ahead

The NSW government must reconsider its proposed motorcycle lane filtering law (Letters, February 28). Apart from the fact that there was no consultation, this proposal will see a significant increase in road trauma.

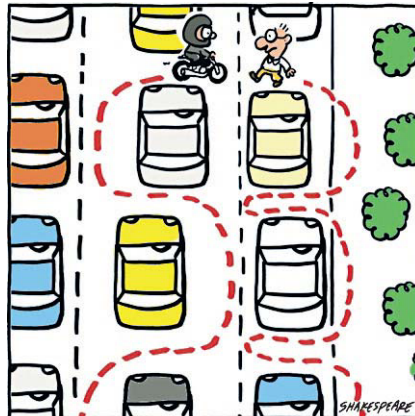
Pedestrians can cross any road, any time (except motorways and freeways) providing it's not within 20 metres of a pedestrian crossing.

Often in busy CBDs and shopping centres this involves walking between stationary vehicles. Pedestrians have no line of sight, nor do they expect vehicles to be driven between these stationary vehicles.

The new law allows motor-cyclists to travel at up to 30 km/h between these stationary vehicles, meaning the potential for harm increases dramatically. Additionally, it is not clear who would be at fault if there were a collision.

If you watch the behaviour of motorcyclists when they (now) illegally travel between stationary (and moving) vehicles to be first at the traffic lights, they invariably cross the white line where all motorists are expected to stop. They then cross onto and illegally block the pedestrian crossings. It's so that the adjacent motorists can see them, particularly if they are truck drivers or drivers of large 4WDs. While it's rarely enforced, it's dangerous and illegal and has not been considered in this decision, clearly made in haste to appease the motorcycle lobby.

It will also create an extra lane in a state where the lanes are already too narrow. It's virtually impossible to see motorcyclists when they are riding between cars. By making this legal, it will place the responsibility and liability on the motorcar driver, not on the motorcyclists, as is now the law.



Preliminary results from a study in the United Kingdom, conducted by the University of Nottingham for the Department for Transport, show that filtering is responsible for around 5 per cent of motorcycle killed or seriously injured incidents.

By banning lane filtering in school zones, the government already concedes that the behaviour is dangerous. No other jurisdictions have embraced this law. It must not go ahead.

**Harold Scruby** Chairman/CEO,  
Pedestrian Council of Australia Ltd



Transport  
for NSW

Date: 23 June 2014

Enquiries: [REDACTED]

Tel: [REDACTED]

Our Ref: [REDACTED]

Harold Scruby  
Pedestrian Council of Australia Ltd  
PO Box 500  
NEUTRAL BAY NSW 2089  
mail@walk.com.au

Dear Mr Scruby

**Decision on your application under the *Government Information (Public Access) Act 2009*  
(GIPA Act)**

On 10 June 2014 you have agreed to amend the terms of your application to the following:

*Correspondence from the following organizations received by TfNSW since the media release in February 2014 expressing an opinion about motorcycle lane filtering being allowed in stationary and slow moving traffic:*

- Insurance Council of Australia;
- City of Sydney Council;
- NSW Police Force;
- Motorcycle Council of NSW;
- NSW Motorcycle Alliance;
- Roads and Maritime Services; and
- NRMA.

I have decided to release all the information that you have applied for.

My reasons for this decision are outlined in the attached Notice of Decision.

If you disagree with my decisions, you may apply for this decision to be reviewed. Details on your review rights are in the Notice of Decision attached.

Please do not hesitate to contact [REDACTED] if you have any questions.

Yours sincerely

[REDACTED]  
Ja [REDACTED]  
[REDACTED]  
[REDACTED]





**Notice of decision on your access application under the *Government Information (Public Access) Act 2009* (GIPA Act)**

**Applicant:** Mr Harold Scruby

**File reference:** 1314-102

**Decision maker:** [REDACTED]

**Date of decision:** 23 June 2014

**1. Your access application**

On **14 May 2014** we received your application and \$30 application fee for the following information:

1. *Copies of all correspondence relating to lane filtering since 1 Jan 2013 to and from:*
  - NSW Police Force
  - City of Sydney Council
  - Motorcycle Council of NSW
  - NSW Motorcycle Alliance
  - Roads and Maritime Services; and
  - Relevant ministers
2. *Copy of the draft legislation*
3. *Copies of any correspondence since the original ministerial announcement pertaining to motorcycle lane filtering which relates to changes to the original proposed legislation (i.e. that motorcyclists can lane filter in slow moving traffic)*
4. *Copies of any correspondence, notes, emails, memos, transcripts from telephone conversations, SMSs or otherwise from persons or agencies concerned about the safety of this proposed legislation.*

In the letter sent to you on 9 May 2014 (incorrectly dated) we advised that your application would be decided by 12 June 2014.

Following our discussions on 3, 6 and 10 June, you have agreed to amend the terms of his application to the following:

*Correspondence from the following organizations received by TfNSW since the media release in February 2014 expressing an opinion about motorcycle lane filtering being allowed in stationary and slow moving traffic:*

- *Insurance Council of Australia;*

- *City of Sydney Council;*
- *NSW Police Force;*
- *Motorcycle Council of NSW;*
- *NSW Motorcycle Alliance;*
- *Roads and Maritime Services; and*
- *NRMA.*

In processing your application I have identified business information about other persons so we were required to consult third parties. As permitted by the GIPA Act and communicated to you on a letter dated 12 June 2014, we have extended the timeframe for deciding your application to 26 June 2014.

## **2. Searches for information**

- 2.1 Under the GIPA Act, we must conduct reasonable searches to locate the government information you have applied for.

Searches were conducted by the Centre for Road Safety. I am informed that the searches included the internal records system, document management database called Objective and email system called Outlook.

- 2.3 A total of 5 emails were identified as falling within the scope of your application. I have listed these documents in the attached Schedule.

## **3. Decision**

- 3.1 I am authorised by the Principal Officer, for the purposes of section 9(3) of the GIPA Act, to decide your access application.
- 3.2 I have decided, under section 58(1)(a) of the GIPA Act, to release all documents contained in the attached Schedule of documents. I have outlined the reasons for my decision in paragraph 4 of this Notice of Decision.
- 3.3 In accordance with section 74 of the GIPA Act, I have deleted information from the records that I am releasing as it is not relevant to the information that you have applied for. The deleted information concerns amendments to the Australian Road Rules generally and do not provide any comment which is related to the terms of your request.

## **4. Reasons for Decision**

Under section 9(1) of the GIPA Act, you have a legally enforceable right to access the information you asked for, unless there is an overriding public interest against its disclosure.

Under section 5 of the GIPA Act, there is a presumption in favour of disclosing government information unless there is an overriding public interest against its disclosure.

To decide whether or not there is an overriding public interest against disclosure of the information you asked for, I applied the public interest test, which is set out in section 13 of the GIPA Act.

I applied the public interest test by:

- identifying any public interest considerations in favour of disclosure
- identifying any relevant public interest considerations against disclosure, and



- c. deciding where the balance between them lies.

#### 4.1 **Public interest considerations in favour of disclosure**

Under section 12(1) of the GIPA Act, there is a general public interest in favour of disclosing government information. Section 12(2) of the GIPA Act sets out some examples of other public interest considerations in favour of disclosure. However, I am not limited to those considerations in deciding your application.

I find the following considerations in favour of disclosure are relevant to your application:

- disclosure of the information could reasonably be expected to promote open discussion of public affairs, enhance Government accountability or contribute to positive and informed debate on issues of public importance; and
- disclosure of the information could reasonably be expected to inform the public about the operations of agencies and, in particular, their policies and practices for dealing with members of the public.

#### 4.2 **Public interest considerations against disclosure**

When applying the public interest test, the only public interest considerations against disclosure that I can take into account are those set out in the table to section 14 of the GIPA Act.

As such, I have taken into account the following consideration from Table to section 14 of the GIPA Act as being relevant to your application:

**4**      *Business interests of agencies and other persons*

*There is a public interest consideration against disclosure of information if disclosure of the information could reasonably be expected to have one or more of the following effects:*

*(a) ...*

*(d) prejudice any person's legitimate business, commercial, professional or financial interests...*

#### 4.3 **Consultation**

As the information that you asked for concerns the business affairs of individuals I was required to consult with these persons before releasing the information (under section 54 of the GIPA Act).

Under section 54 (1)(c) and (2)(b) of the GIPA Act:

- (1) An agency must take such steps (if any) as are reasonably practicable to consult with a person before providing access to information relating to the person in response to an access application if it appears that:*

*(a) ...*

*(b) ...*

(c) *those concerns may reasonably be expected to be relevant to the question of whether there is a public interest consideration against disclosure of the information.*

(2) *Information relating to a person is of a kind that requires consultation under this section if the information:*

(a) ...

(b) *Concerns the person's business, commercial, professional or financial interest*

There were no objections to the release of the information.

#### 4.4 **Balancing the public interest considerations**

Whilst I have identified possible public interest considerations against disclosure of some of these documents, the persons whom I consulted with in respect of your application indicated that they did not wish to raise any objection in respect of the disclosure.

As such, I have attributed no weight to these considerations against disclosure.

Accordingly, after balancing the relevant public interest considerations for and against disclosure, I have decided to release the information in these documents to you in full.

### 5 **Access**

5.1 According to section 72 (1)(b) of the Act we are providing a copy of the record containing the information requested.

### 6 **Processing Charges**

Under sections 64(1) and (2) of the GIPA Act, we may require you to pay processing charges, at a rate of \$30 per hour, for the time spent dealing with your access application. The application fee of \$30 counts as payment of one hour of the processing charges.

I have decided not to require processing fees for your access application.

### 7 **Disclosure Log**

Under sections 25 and 26 of the GIPA Act, if information that would be of interest to other members of the public is released in response to an access application, an agency must record certain details about the application in its 'disclosure log'.

I have decided not to include details of this application on TfNSW's disclosure log.

### 8 **Review rights**

If you disagree with my decision, you may apply for this decision to be reviewed by seeking:

- an internal review by another officer of this agency, who is no less senior than me;
- an external review by the NSW Information Commissioner; or



- an external review by the NSW Civil and Administrative Tribunal (NCAT).

You have 20 working days from the date of this letter (21 July) to apply for an internal review and 40 working days (18 August) to apply for an external review by NCAT.

If you wish to apply for an internal review, please write to us and send a cheque or money order (made out to Transport for NSW) for the \$40 application fee to:

**Manager, Information & Privacy  
Transport for NSW  
PO Box K659  
Haymarket NSW 1240**

## **9 Further information**

For your information and assistance, I have enclosed a fact sheet explaining your rights to have our decision reviewed.

Further information about the GIPA Act is also available by contacting the NSW Information and Privacy Commission on 1800 472 679 or via [www.ipc.nsw.gov.au](http://www.ipc.nsw.gov.au).

Please do not hesitate to contact [REDACTED] if you have any questions about this letter.

Yours sincerely

[REDACTED]

## Schedule of Documents

No.	Description of record that contains the information	Format of record	Location of record in agency	Released or Refused	Relevant sections of the GIPA Act	Page numbers
1.	Email from [REDACTED] to [REDACTED] on 27 February 2014, Subject: RE: MCC of NSW on News re Lane Filtering	Electronic PDF	Centre Road and Safety	Released		1
2.	Email from Pedestrian Council Australia on 5 March 2014, Subject: SMH – Letters – Lane Filtering – 140301.pdf	Electronic PDF	Centre Road and Safety	Released		3
3.	Email from [REDACTED] to [REDACTED] on 31 March 2014, Subject: FW: RE: Motorcycle lane filtering would lift death toll – it must not go ahead	Electronic PDF	Centre Road and Safety	Released		5
4.	Email from [REDACTED] to [REDACTED] on 10 April 2014, Subject: Re: FW: Australian Road Rules – 11 <sup>th</sup> Amendment Package – NSW Papers	Electronic PDF	Centre Road and Safety	Released		8

5.	Email from [REDACTED] to [REDACTED] on 29 April 2014, Subject: ARRMG Lane Filtering NSWPF position	Electronic PDF	Centre Road and Safety	Released		12
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[REDACTED]

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**From:** [REDACTED]  
**Sent:** Thursday, 27 February 2014 6:10 PM  
**To:** [REDACTED]  
**Subject:** RE: MCC of NSW on News re Lane Filtering

And the ABC story below has been tweeted out by [REDACTED]  
<http://mobile.abc.net.au/news/2014-02-27/motorcycle-lane-filtering-to-be-legal-in-nsw/5287440>

Gone international ☺  
[REDACTED]

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Out of Scope

On 27/02/2014, at 5:47 PM, [REDACTED] wrote:

[REDACTED]  
We have kicked this out of the park Our Facebook stat's currently sit at  
<image002.png>  
in less than 24hours  
So far we have had;

- Channel Nine News <http://youtu.be/8oWmulSXP2w>
- Sydney Morning Herald page 9 attached
- News.com on line <http://www.news.com.au/national/new-laws-make-nsw-first-to-give-motorcyclists-approval-to-move-past-stalled-slow-cars/story-fncynjr2-1226838504353>
- Herald on line <http://smh.drive.com.au/motor-news/motorcycles-to-filter-through-traffic-from-july-20140226-33i3t.html>
- WSFM Jonesy gave it heaps, posted him the press releases last night and swapped comments
- ABC 702 Robbie Buck, good interview
- 2UE John and Garry anti filtering but I did OK <http://www.2ue.com.au/blogs/2ue-blog/bike-riders-allowed-to-lane-filter/20140227-33j5k.html>
- 3AW for comment
- 5AA interview went well and Raph backed us up.

And [REDACTED] has lined up AMCN for a story as well.

cheers,  
[REDACTED]  
[REDACTED]  
[REDACTED]

MCCofNSW Dirt Bike Committee  
[www.mccofnsw.org.au](http://www.mccofnsw.org.au)

[REDACTED]  
[REDACTED]

<Herald Lane filtering 27 Feb 14.pdf>

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Version: 2014.0.4335 / Virus Database: 3705/7127 - Release Date: 02/26/14



From: Pedestrian Council of Australia [REDACTED]  
 Sent: Wednesday, 5 March 2014 9:39 AM  
 To: Pedestrian Council of Australia  
 Subject: Motorcycle lane filtering would lift death toll - it must not go ahead  
 Attachments: SMH - Letters - Lane Filtering - 140301.pdf

## Sydney Morning Herald – Letters – Saturday 1 March 2014

### Motorcycle lane filtering would lift death toll – it must not go ahead

The NSW government must reconsider its proposed motorcycle lane filtering law (Letters, February 28). Apart from the fact that there was no consultation, this proposal will see a significant increase in road trauma.

Pedestrians can cross any road, any time (except motorways and freeways) providing it's not within 20 metres of a pedestrian crossing.

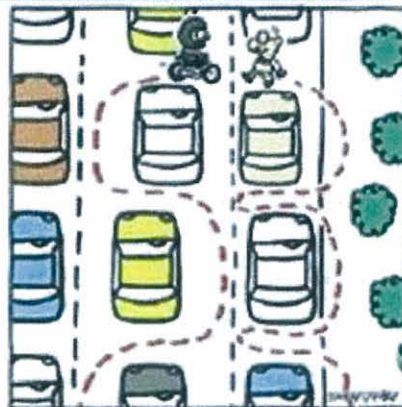
Often in busy CBDs and shopping centres this involves walking between stationary vehicles. Pedestrians have no line of sight, nor do they expect vehicles to be driven between these stationary vehicles.

The new law allows motor-cyclists to travel at up to 30 km/h between these stationary vehicles, meaning the potential for harm increases dramatically. Additionally, it is not clear who would be at fault if there were a collision.

If you watch the behaviour of motorcyclists when they (now) illegally travel between stationary (and moving) vehicles to be first at the traffic lights, they invariably cross the white line where all motorists are expected to stop. They then cross onto and illegally block the pedestrian crossings. It's so that the adjacent motorists can see them, particularly if they are truck drivers or drivers of large 4WDs. While it's rarely enforced, it's dangerous and illegal and has not been considered in this decision, clearly made in haste to appease the motorcycle lobby.

It will also create an extra lane in a state where the lanes are already too narrow. It's virtually impossible to see motorcyclists when they are riding between cars. By making this legal, it will place the responsibility and liability on the motorcar driver, not on the motorcyclists, as is now the law.

10/06/2014



Preliminary results from a study in the United Kingdom, conducted by the University of Nottingham for the Department for Transport, show that filtering is responsible for around 5 per cent of motorcycle killed or seriously injured incidents.

By banning lane filtering in school zones, the government already concedes that the behaviour is dangerous. No other jurisdictions have embraced this law. It must not go ahead.

Harold Scruby Chairman/CEO,  
 Pedestrian Council of Australia Ltd

### Nothing fair in Morrison's treatment of refugees

Describing asylum seekers as devious and having "pushed in", as Margaret Johnson does (Letters, February 28), is a tired old fiction intended to ease our consciences. To claim that Scott Morrison is "restoring the old fair go" by holding men, women (some pregnant) and children in brutal conditions with no hope is to pervert the moral argument yet again.

What a contrast with the enlightened article by Richard Ackland

SMH – Saturday 1 March 2014

## Motorcycle lane filtering would lift death toll – it must not go ahead

The NSW government must reconsider its proposed motorcycle lane filtering law (Letters, February 28).

Apart from the fact that there was no consultation, this proposal will see a significant increase in road trauma.

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Often in busy CBDs and shopping centres this involves walking between stationary vehicles. Pedestrians have no line of sight, nor do they expect vehicles to be driven between these stationary vehicles.

The new law allows motor-cyclists to travel at up to 30 km/h between these stationary vehicles, meaning the potential for harm increases dramatically. Additionally, it is not clear who would be at fault if there were a collision.

If you watch the behaviour of motor cyclists when they (now) illegally travel between stationary (and moving) vehicles to be first at the traffic lights, they invariably cross the white line where all motorists are expected to stop. They then cross onto and illegally block the pedestrian crossings. It's so that the adjacent motorists can see them, particularly if they are truck drivers or drivers of large 4WDs. While it's rarely enforced, it's dangerous and illegal and has not been considered in this decision, clearly made in haste to appease the motorcycle lobby.

It will also create an extra lane in a state where the lanes are already too narrow. It's virtually impossible to see motor cyclists when they are riding between cars. By making this legal, it will place the responsibility and liability on the motorcar driver, not on the motorcyclists, as is now the law.

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By banning lane filtering in school zones, the government already concedes that the behaviour is dangerous.

No other jurisdictions have embraced this law. It must not go ahead.

Harold Scruby  
Chairman/CEO  
Pedestrian Council of Australia Ltd



**Pedestrian Council of Australia Limited**

*The Walking Class*

Telephone: (02) 9968-4555 - Facsimile: [REDACTED]

Email: [REDACTED]

[REDACTED] 500 - NEUTRAL BAY NSW 2089 - AUSTRALIA - ABN 18 075 106 286



[REDACTED]

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**From:** [REDACTED]  
**Sent:** Monday, 31 March 2014 4:06 PM  
**To:** [REDACTED]  
**Cc:** [REDACTED]  
**Subject:** FW: RE: Motorcycle lane filtering would lift death toll - it must not go ahead

Hi [REDACTED]

FYI re correspondence with the Pedestrian Council and lane filtering.

Regards,

[REDACTED]

---

**From:** [REDACTED]  
**Sent:** Monday, 31 March 2014 11:35 AM  
**To:** [REDACTED]  
**Subject:** RE: Motorcycle lane filtering would lift death toll - it must not go ahead

[REDACTED],

I note your recent correspondence with [REDACTED] regarding the issue of motorcycle lane filtering and I would like to respond on his behalf.

The abruptness you refer to in your email was unfortunately due to me being overseas on holiday, in transit and having to use my mobile phone. I fully intended to respond more properly when back in the country, but became caught up in a number of pressing issues that arose immediately upon my return.

As a fellow member of the NSW Road's Minister's Advisory Council, I fully support the Government's move to legalise lane filtering. This topic was discussed extensively in the Minister's meetings and follows considerable research by the NSW Centre for Road Safety and a trial that resulted in no significant change. Speaking as a driver and motorcyclist with 40 years experience, being involved in road safety for 25 years and as one who is a keen observer of driver and rider behaviour, I would like to make a number of points.

Despite being technically illegal, lane filtering has been widely practiced by Sydney motorcyclists for many years. I support the view of the Motorcycle Alliance and Motorcycle Council of NSW, that filtering not only has traffic and environmental advantages, but reduces injury risk to riders by not putting them in the situation of being "sandwiched" between cars in the most common nose to tail collision (I say this as one who has been a victim of such a collision in the past). On any given commuting day, it is rare to see a motorcycle or scooter travelling in line with cars in slow moving or stationary traffic.

Out of the 300,000 -odd collision claims that NRMA Insurance receives in NSW in any given year, it would appear that less than 100 involve lane filtering where a car comes into contact with a motorcycle. These are not always the fault of the rider and are usually at very low speed.

In 20 plus years of regular commuting to the CBD as a car driver, motorcyclist, bicyclist and yes, even as a



pedestrian, I have never once observed a lane filtering "incident" involving a motorcyclist. I travel the City West Link route from Strathfield to the CBD at least three times per week in both peaks and park at our head office building for meetings. My exit though the city involves King, Castlereagh and Market streets, roads also frequented by many motorcycles and scooters. I am not suggesting that incidents haven't occurred, but the only ones I have observed that fit the category were two collisions in the CBD between bicycle riders (both couriers) and pedestrians and in both cases the pedestrians were crossing the road illegally.

Based on the above, I do not expect the legalisation of the practice to result in any significant increase in collisions between cars and motorcyclists. I can assure you that motorcyclists go out of their way to avoid contact with cars as a matter of survival. That said, as in all road user groups there are occasional outliers who do travel at a speed over the 30km/h recommended maximum that are putting mainly their own safety at risk. The police should deal with these as they deal with any other road users that put themselves and others at risk. At our Research Centre, we are currently planning a video production on safe lane filtering that we will make available through the websites of NRMA Insurance and Swann, the county's largest motorcycle insurer.

IAG and the IAG Research Centre is committed to the safety of all road users, including pedestrians.

I hope the above clarifies the situation.

Regards,

[REDACTED]

**From:** Pedestrian Council of Australia [mailto:[REDACTED]]

**Sent:** Sunday, 23 March 2014 7:15 PM

**To:** [REDACTED]

**Cc:** [REDACTED]

**Subject:** Motorcycle lane filtering would lift death toll - it must not go ahead

Dear [REDACTED]

A couple of weeks ago, I had a letter published regarding the SMH regarding the NSW Government decision to legalise lane filtering (a copy is below).

I sent a copy around to all members of the ACRS and the NSW Road Safety Ministerial Advisory Committee.

I received many responses from experts in road safety, mostly against the idea. There's a lot of evidence proving it's dangerous and deadly.

[http://speedcamerareport.co.uk/dft\\_motorcycle\\_accidents.pdf](http://speedcamerareport.co.uk/dft_motorcycle_accidents.pdf)

I also received a reply from [REDACTED] (copy below) which I thought was rather intemperate, especially as it contained no reasons for such a black and white reply.

From the evidence I have to date, it would appear that this so-called trial did not include you, the NRMA or the Insurance Council – or most of the organisations and people involved in road safety in NSW.

According to the NRMA web-site, there are many members extremely opposed to the idea.

<http://www.mynrmacommunity.com/motoring/2013/01/24/should-motorbikes-be-allowed-ride-through-stationary-traffic/#comments>

█████ stated: No not many riders have the judgement to pass between cars without ever causing damage I'm sure the insurance companies will be opposing this or raising premiums.

Wikipedia reports the position in Australia as thus: ***In Australia a furore erupted when the transport authorities decided to consolidate and clarify the disparate set of laws that collectively made lane splitting illegal. Because of the very opacity of the laws they were attempting to clarify, many Australians had actually believed that lane splitting was legal, and they had been practicing it as long as they had been riding. They interpreted the action as a move to change the law to make lane splitting illegal. Because of the volume of public comment opposed to this, the authorities decided to take no further action and so the situation remained as it was.***

Would it be possible for IAG to look at the legal implications, especially the issues I've mentioned in my letter to the SMH. Who will be in the wrong if a motor-cyclist is travelling at up to 30 km/h in between stationary vehicles and he/she hits a pedestrian or another vehicle. Or motorists move off unaware that a motor-cyclist is between them and cause death or injury. Who will be in the wrong?

What are the insurance implications – both property and CTP?

None of the other jurisdictions has indicated any willingness to follow this initiative, making an even greater mockery of our "Australian Road Rules" (8 railway gauges).

And perhaps you could ask █████ to be a bit more considerate in his responses. You don't justify and formally support a major move like this by simply telling someone with another point of view that they are "wrong" and "misguided".

Apart from my position in the PCA, I've been a shareholder for over 20 years and very loyal policyholder for over 40 years. I've been a member of the NRMA for nearly 50 years.

I expect better.

Regards

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Out of Scope

Out of Scope

**From:** [REDACTED]  
**Sent:** Thursday, 10 April 2014 3:15 PM  
**To:** [REDACTED]  
**Cc:** [REDACTED]  
**Subject:** Re: Fw: Australian Road Rules - 11th Amendment Package - NSW Papers

Out of Scope

[REDACTED] and I have reviewed the motor cycle lane filtering proposal.

What is set out in the document in relation to the new rule and offence provision in no way matches the issues raised by police and further proposes exemptions to two rules (rules 147 and 144) that have never been supported by NSWPF.

Of equal concern is that the paper in no way raises enforcement concerns raised by police as to enforceability of the proposed 30 km/h speed restriction.

The survey results at the commencement of the paper are also problematic, in particular

o Lane filtering was reported to be a common manoeuvre for motorcyclists as a means of moving through traffic, with 63% of those surveyed online indicating they 'always' or 'mostly' lane filter. However, video data found a lower frequency of lane filtering than perceived by online survey respondents, with around 20 - 30% of riders observed filtering across all sites in the trial.

There is no information provided to indicate the demographics of the survey respondents which certainly gives context to the disparate survey results and the observations.

Additional problems emerge where the paper becomes contradictory in reference to lane filtering and lane splitting. Lane splitting is described as manoeuvring a motor cycle between moving vehicles and would be considered an offence under this proposal. It then defines lane filtering as moving between slow moving vehicles. (page 5/8). This has never been supported by police and contradicts the definitions for lane filtering as proposed by NSWPF and, as understood, was agreed upon by TfNSW and NSWPF.

The rule for lane filtering as outlined in this proposal here in no way reflects what was proposed by NSWPF and was subject of the discussion and consultation that is referenced in the paper.

Police have already indicated support for the concept but certainly not as it is outlined here. The paper does not present a balanced view of the issues and misrepresents the position of the NSWPF on this matter.

Given that it is proposed to expand a jurisdictional provision into the national model it should reflect the broader issues expressed by all involved agencies don't better facilitate discussion of those issues. The NSWPF can not in any way support the proposal in this paper as it is currently worded. If it is intended to submit the proposal without change it needs to be clearly articulated that the NSWPF were not consulted on this proposal in this form and all references to consultation should be removed.

Regards  
 [REDACTED]

Traffic Policy  
8882 1241

Out of Scope

Out of Scope

Out of Scope

Out of Scope

Out of Scope

Out of Scope

(2)

Out of Scope

From: [REDACTED]  
 Sent: Tuesday, 29 April 2014 3:28 PM  
 To: [REDACTED]  
 Cc: [REDACTED]  
 Subject: ARRMG Lane Filtering NSWPF position

Out of  
Scope

In respect of the previous advice sent on 10 April 2014 in regards to ARRMG submission relating to lane filtering. The below articulates the position of police and replaces the memo of that date.

1. The NSWPF maintains a position that lane filtering is a dangerous operation.
2. The NSWPF supports, in principle lane filtering, as set out by the Minister for Roads and concurs with CRS on the following aspects of the lane filtering:  
 An offence provision is created where lane filtering is not undertaken in the following manner

- Only allowed when safe to do so
- Not allowed at a speed of more than 30km/h
- Only allowed by fully licensed rider
- Not allowed in active school zones.

Where a rider is lane filtering under the above conditions they will be exempt from the requirement to keep wholly within a lane (Rule 146)

It should be noted that the preferred speed for lane filtering activities is 10 km/h, however acknowledge the position set out in the Ministers policy paper articulating 30 km/h

3. The NSWPF prefers that the activity be allowed only through stationary traffic. However NSWPF, acknowledge the position of Transport for NSW and the view in respect of congestion in respect of Goal 7 under the NSW State Plan.

4. The NSWPF holds the position that any communications strategy must caution against lane filtering between heavy vehicles, including buses and would recommend that such provision is included in any draft rule as an example for the purpose of that rule.

5. The preferred position of the NSWPF is that the following requirements are added to lane filtering requirements

- Lane filtering is prohibited unless it is between two lanes of traffic divided by broken separation lines

It is, however acknowledged that, this remains at the discretion of the responsible Minister.

6. The NSWPF holds the position that, there is an positive onus upon a rider in respect of collisions and that any rule in respect of lane filtering must be governed by the condition that *the motor cycle is ridden at a speed and in manner at which the rider could stop safely to avoid a collision with a motor vehicle, vehicle or pedestrian*

7. The NSWPF has reservations, based solely upon road safety implications, in regards to exemptions from Rules 144 and 147 and do not endorse such an exemption.

Regards

[REDACTED]  
[REDACTED]  
[REDACTED]

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information  
and privacy  
commission  
new south wales



## Your review rights under the GIPA Act

fact sheet

May 2013

The right to information system in New South Wales aims to foster responsible and representative government that is open, accountable, fair and effective.

You have the right to request a review of certain decisions made by government agencies about the release of information under the *Government Information (Public Access) Act 2009* (GIPA Act):

- a) a decision that an application is not a valid access application
- b) a decision to transfer an access application to another agency, as an agency-initiated transfer
- c) a decision to refuse to deal with an access application (including such a decision that is deemed to have been made)
- d) a decision to provide access or to refuse to provide access to information in response to an access application
- e) a decision that government information is not held by the agency
- f) a decision that information applied for is already available to the applicant
- g) a decision to refuse to confirm or deny that information is held by the agency
- h) a decision to defer the provision of access to information in response to an access application
- i) a decision to provide access to information in a particular way in response to an access application (or a decision not to provide access in the way requested by the applicant)
- j) a decision to impose a processing charge or to require an advance deposit,
- k) a decision to refuse a reduction in a processing charge
- l) a decision to refuse to deal further with an access application because an applicant has failed to pay an advance deposit within the time required for payment

- m) a decision to include information in a disclosure log despite an objection by the authorised objector (or a decision that the authorised objector was not entitled to object).

You generally have three review options.

### 1. Internal review

You have **20 working days** after the notice of a decision has been posted to you to ask for an internal review by the agency that made the decision.

If a Minister or their personal staff, or the principal officer of an agency made the decision, you cannot ask for an internal review, but you can ask for an external review (see below).

The review must be carried out by an officer who is no less senior than the person who made the original decision. The review decision must be made as if it was a fresh application.

There is a \$40 fee for an internal review application. No fee applies for an internal review if the decision is a 'deemed refusal' because the agency did not process your application in time or the internal review is conducted because the Information Commissioner has recommended the agency reconsider its decision under section 93 of the GIPA Act. In this case, you cannot be charged any review fee.

The agency must acknowledge your application within **five** working days of receiving it. The agency must decide the internal review within **15** working days (this can be extended by **10** working days if the agency has to consult with a third party, or by agreement with you).

### 2. External review by the Information Commissioner

If you disagree with any of the decisions listed above, you can ask for a review by the Information Commissioner.

If you are the person applying for access to information, you do **not** have to have an internal review of the decision before asking the Information Commissioner to review it.

If you are not the access applicant, you must seek an internal review before applying for review by the Information Commissioner. However, if an internal review cannot be sought (if a Minister or their personal staff, or

the principal officer of an agency made the decision), you can seek a review by the Information Commissioner.

You have **40 working days** from being notified of the decision to ask for a review by the Information Commissioner.

On reviewing the decision, the Information Commissioner can make recommendations about the decision to the agency.

**Note:** You cannot ask the Information Commissioner to review a decision that has already been reviewed by the NSW Civil and Administrative Tribunal (NCAT).

### 3. External review by the NSW Civil and Administrative Tribunal

If you disagree with any of the decisions listed above, you can ask for a review by the NSW Civil and Administrative Tribunal (NCAT). You do not have to have the decision reviewed internally, or by the Information Commissioner before applying for review by the NCAT.

You have **40 working days** from being notified of the decision to apply to the NCAT for review. However, if you have applied for review by the Information Commissioner, you have **20 working days** from being notified of the Information Commission's review outcome to apply to the NCAT.

#### For more information

Contact the Information and Privacy Commission:

freecall: 1800 472 679

email: [ipcinfo@ipc.nsw.gov.au](mailto:ipcinfo@ipc.nsw.gov.au)

website: [www.ipc.nsw.gov.au](http://www.ipc.nsw.gov.au)



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28 July 2015

Our Ref: 2015/363055

Mr Harold Scruby  
Chairman/CEO  
Pedestrian Council of Australia  
By email [REDACTED]

Dear Mr Scruby,

### Motorcycle Lane Filtering Trial

I write about your ongoing requests for information about the City of Sydney's involvement in the NSW Government's Motorcycle Lane Filtering Trial.

[REDACTED], the City's Manager – Cycling Strategy, informed you in her email of 18 September 2014 that:

"The City of Sydney was contacted in late 2012 about a motorcycle lane-sharing trial by the ARRB Group (originally the Australian Road Research Board). The trial included changes investigating motorcycle filtering. The City attended stakeholder meetings at the time relating to the trials and expressed concern about the proposed changes being a potential safety risk for people walking and riding bicycles. We also provided assistance as is standard practice for the installation of devices to monitor traffic. We did not receive any of the data for these devices and they were removed after the project was completed."

[REDACTED] Transport Planner, told you in his email of 5 December 2014 that:

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[REDACTED], Transport Planning Manager, repeated in her email of 6 July 2015:

"The City was contacted in late 2012 about the motorcycle lane-sharing trial by ARRB, which included investigating motorcycle filtering. The City attended some meetings relating to this trial and expressed concern about the risks of filtering to people walking and cycling. We also provided assistance as is standard practice for the installation of devices to monitor traffic. We did not receive any of the data for these devices and they were removed after the project was completed."

*city of villages*

I understand you've continued to contact [REDACTED] about this issue in a further email on 6 July 2015, insisting that the above information is not correct.

We consider the City has given you all the information we have on the trial and the City's involvement in it. We can take no further action on any further calls or correspondence received from you about this issue. Any future correspondence on the matter will be noted, but may not be responded to.

Yours sincerely

[REDACTED]

Chief Executive Officer

# New motorbike laws condemned as dangerous and risky

- by: *EXCLUSIVE Richard Noone*
- From: *The Daily Telegraph*
- June 26, 2014 12:10PM



**A motorbike ducks between lanes in heavy traffic. Source: News Limited**

**POLICE have publicly backflipped on their opposition to motorbike lane filtering laws saying they are fully endorsed by NSW Police.**

Acting assistant commissioner Stuart Smith said the Highway Patrol and Traffic Command was involved in the evaluation and wider debate concerning this issue for some time.

“This has resulted in it being fully endorsed by NSW Police,” he said.

“Police will focus on motorcyclist compliance to lane filtering to ensure road safety across NSW.”

Transport for NSW general manager Marg Prendergast said lane filtering was seeking to improve the safety of something already occurring.

“The development of the policy fully considered safety aspects and identified potential risks,” she said.

“A range of conditions have been included in the policy to mitigate the potential risks, for example motorcyclists cannot lane filter next to the kerb, parked vehicles or in school zones.”

Pedestrian Council CEO Harold Scruby said the proposed lane filtering laws were “so full of holes they would make Swiss cheese blush”.

He said not only would police be unable to enforce the 30km/h limit “among moving traffic” and pedestrians be at risk, it would create a “grey area” for motorists.





**Motorcycles can now legally share lanes with motorists. Filtering. Motorcyclists. Motorbikes. Source: News Limited**

NSW Motorcycle Council spokesman Guy Stanford said the new laws simply “regulated” what riders had done for years.

“The government has taken quite a reasonable, sensible approach,” he said.

The new laws which come into effect next week are opposed by insurers as dangerous and risky, while a state government-commissioned report warned the changes could be a threat to pedestrians and would not ease traffic congestion, as has been claimed.

But the government has ignored the police and insurers’ worries, and the independent report and will allow motorcyclists to travel in the spaces between lanes of slow moving traffic from next Tuesday.

Documents and emails obtained by the Pedestrian Council of Australia under freedom of information laws reveal NSW Police initially outright rejected legalising “lane filtering” by fully licensed riders travelling under 30km/h.

Police later watered down their opposition but still told Transport NSW it “maintains a position that lane filtering is a dangerous operation”.

The FOI documents revealed police preferred lane filtering be only allowed through stationary traffic ... but “acknowledge the position of Transport NSW and the view in respect to congestion”.

However, a report commissioned by the state government found the new laws would do nothing to ease traffic congestion.

The report by consultants ARRB Group found motorbike riders were the only ones who benefited from the changes, and that pedestrians faced “an increased risk”.

“The advantages of lane filtering would appear to only be available to motorcyclists but there are issues to manage for other road user groups, particularly for pedestrians,” the report said.

Motorbikes make up only 3.6 per cent of vehicles registered in NSW.

Emails from the NSW Police Force Traffic Policy Unit to Transport for NSW showed police were angry their concerns were ignored and they “never supported” motorcycles lane filtering between slow moving cars.

“Of equal concern is that the (report) in no way raises enforcement concerns raised by police as to the enforceability of the proposed 30km/h speed restriction,” an email reads.

“The (final government report) does not present a balanced view of the issues and misrepresents the position of the NSWPF on this matter.”

A spokesperson for the Insurance Council of Australia said the peak industry body was not consulted: “Insurers are concerned these laws could result in increased risk to the motorcyclist, other vehicle users and pedestrians.”

Historically bikes clipping cars while lane filtering were fined for negligent driving but the insurance council fears the new laws will make determining fault a legal quagmire.

“From a liability perspective, the new laws may create increased complexity in apportioning costs for personal injury claims under Compulsory Third Party insurance, and for vehicle and property damage under motor vehicle insurance policies,” the ICA spokesperson said.

**From:** [REDACTED] [mailto:[REDACTED]]  
**Sent:** Tuesday, 24 March 2015 9:13 PM  
**To:** [REDACTED]  
**Cc:** [REDACTED]  
**Subject:** RE: Motorcycle Lane Filtering - Trial

Dear [REDACTED]

Firstly, my apologies for not responding to your enquiry sooner. Your e-mail correspondence was neglected due to other work priorities and I had not picked up the issue again until your call today.

As discussed with you, I am happy to assist where I am able, however, there are certain limitations with regard to providing unfettered information about the project. As you would appreciate, ARRB delivered this research to the NSW Centre for Road Safety under contract and the terms of this contract stipulate that the Centre retains the intellectual property rights for research done for it.

Having said that, I am happy to assist the Council by clarifying issues where I am able. I trust the following is satisfactory to your needs in this matter.

I have taken the liberty of extracting your questions from your e-mail and then preparing responses accordingly, below:

**1 Please describe the trial. Was its primary purpose to evaluate motorcyclists filtering between stationary traffic at up to 10 km/h.**

*The method for trial that ARRB was engaged to conduct is fully described in the project report and I do not intend to run through this in any great details. Suffice to say the project sought, through a structured trial, to understand the effect/impact of allowing powered two-wheeler riders (i.e. motorcycles and scooters) to filter through traffic.*

*The trial was conducted within a defined area of the Sydney CBD, only and legislation was introduced to permit this to occur for the trial area and period only.*

*The purpose of the study was to investigate what improvement (if any) might occur in traffic congestion by permitting motorcyclists to filter and the impact this may have on road safety for all road users - riders, drivers, pedestrians and cyclists.*

*There were defined operating parameters for the conduct of the trial, with respect to when, where and how lane filtering would be permitted within the trial area. A key definition adopted for the trial was what constituted lane filtering and what would be considered lane splitting.*

*For reasons of safety, it was considered that lane filtering would be limited to manoeuvres at 10 km/h or slower. Above this, the manoeuvre would be considered lane splitting.*

**2 The legalisation, based on the trial, now allows motorists to "lane split" at up to 30 km/h between slow moving traffic. Did you conduct any trials of motorcyclists travelling at up to 30 km/h in "slow moving traffic".**

*No. The conduct of the trial had strict protocols that defined lane filtering and lane splitting manoeuvres. As outlined in the report and the research method, lane filtering was considered to occur at speeds up to and including 10 km/h. Above this, the manoeuvre was considered lane splitting, which was not permitted under the legislation established for the trial.*

**3 Did you conduct any trials of motorcyclists "lane splitting".**

*ARRB did not conduct trials of motorcyclists 'lane splitting' as part of this trial. However, where lane splitting was observed to occur, then this behaviour was coded as lane splitting and formed a part of the analysis and discussion in the research report.*



**4 Do you believe that it is reasonable and safe to base the new legislation upon the “lane filtering” trial and evaluation.**

*The current legislation which defines the lane filtering behaviour now permitted in NSW is outside the parameters of the trial that ARRB conducted for the Centre for Road Safety.*

*ARRB identified the type of issues that it considered would impact on road safety for road users if motorcycle lane filtering were to be permitted. The speed at which a lane filtering manoeuvre occurred is considered one key component of the degree of safety, not only to motorcyclists, but to other road users, including drivers, pedestrians and cyclists.*

**5 Do you have any concerns, particularly pertaining to pedestrians and cyclists (vulnerable road users) about the new legislation?**

*The current road safety paradigm establishes what are considered ‘safe speeds’. These are based on crash analysis and testing and seek to reduce the risk of death and serious injury resulting from certain types of impacts. For vulnerable road users such as pedestrians and cyclists, the value of the ‘safe speed’ (i.e. impact speed) that reduces the risk of death and serious injury to a 10% level is considered to be 30 km/h.*

*ARRB identified that lane filtering would represent a degree of risk to pedestrians, particularly those who crossed at midblock locations and failed to see, or be seen by, motorcyclists filtering through stationary (or slow moving) traffic.*

*It is perhaps self-evident, that a pedestrian struck at a slower speed will likely suffer less severe injury than one struck at a higher speed. So, a pedestrian struck at 10 km/h has a much lower risk of death and serious injury than one struck at 50, 40 or 30 km/h. This has been the basis to the move to reducing speed limits in areas where pedestrians are the dominate road user group, such as shared zones, shopping precincts and residential areas.*

I hope my responses are of assistance. The project research report has all the information about the project and sets out ARRB’s conclusions about the trial and I refer you to the report for more detailed answers to your queries.

Best of luck in your efforts to improve pedestrian safety.

Regards,

---

Team Leader  
Research and Consulting

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28 July 2015

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Pedestrian Council of Australia  
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[REDACTED]  
[REDACTED]  
Chief Executive Officer

Please note the attachment *Road Transport Legislation Amendment (Lane Use by Motor Bikes) Regulation 2014* was not able to be attached due to needing a password.

It can be viewed at: <http://www.legislation.nsw.gov.au/sessionalview/sessional/sr/2014-38>