

**Submission  
No 134**

## **MOBILE SPEED CAMERA ENFORCEMENT PROGRAMS IN NSW**

**Name:** Mr Jonathan White

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I passed a mobile speed camera vehicle this morning at 04:45am, Friday 4 June 2021, heading westbound on Old Bathurst Rd, Blaxland, between Rusden Rd and Wilson Way. The speed limit there is 50kph. Mobile speed cameras have previously been seen operating at this location, although those were always during the day and at higher traffic volumes than at that time.

At that time there were no other vehicles around, and no pedestrians. At the darkest stretch of the road, away from any street lighting, I passed a vehicle parked on the side of the road and observed a visible flash of light from its rear window, right about where I have observed the cameras positioned in other speed camera vehicles. I consulted my speedometer and noticed that it had crept up to 57 or 58 kph. That stretch of Old Bathurst Rd has a downward slope, so it is very easy for a vehicles speed to creep upwards by a few kph. I am fairly certain that I observed the mobile speed camera taking my picture as I passed, and can expect to see a fine in the mail within the next few weeks. Even if I was mistaken in my observation and conclusion, I still have concerns over the mobile speed camera program and the manner in which it has recently been expanded.

There are a number of issues around the operation of the mobile speed camera program, chief of which is that the function has been contracted out to a private company. The enforcement of any law, be it criminal or traffic, is a sovereign function of the state and its right to make said laws. The English Common Law tradition, upon which Australia's judicial system is based, holds laws and the manner of their enforcement must be fair and not oppressive. Lord Robert Peel, the founder of the London Metropolitan Police is famous for his Nine Principles of Policing, one of which is "To recognise always that the power of the police to fulfill their functions and duties is dependent on public approval of their existence, actions and behaviour, and on their ability to secure and maintain public respect.". Outsourcing an enforcement function to a private entity will always be fraught with the danger of becoming unfair and losing the public approval and respect due to commercial realities of needing to meet or exceed performance metrics, and thus justify their contracted rates and fees. For an entity contracted to enforce speed limits, the number of fines issued would be an obvious performance metric, and thus win over fairness in circumstances where a police officer, who faces no such commercial considerations, would use their discretion to issue a warning or take no action as alternatives.

This also raises the issue underwhich the mobile speed camera I observed this morning was operating. It was positioned in the darkest possible section of the road, and was monitoring a stretch of road with a downwards slope, at a time when there was not likely to be any pedestrian traffic, and very little if any vehicle traffic about, and thus very little risk of any collisions. As mentioned above, in those circumstances, a police officer, or even a court applying the Common Law principle of the Reasonable Person Test, would be very unlikely to apply enforcement action where there was no actual risk to public safety.

This then leads to the third issue; the manner in which the mobile speed camera program was expanded. When the expansion was announced, the Minister cited the incident February 2020 incident in Oatlands where drunk driver Samuel Davidson crashed his vehicle and killed four children from the same family. This is a clear cynical attempt to use a tragedy to justify the expansion of an unpopular program on very slim grounds. To start, the direct causal factor was Samuel Davidson's decision to drive after spending a whole day drinking alcohol and consuming drugs. No mobile speed camera program, however expansive, would ever have any influence on the mindset of such a person to drive when so deeply under the influence of drugs and alcohol. Secondly, a mobile speed camera would never have been able to prevent that crash simply due to the location being unsuitable for their operation. Lidar and radar operation guidelines are clear in that they need to be positioned at locations with long, straight stretches of road in order to allow the devices to sufficient

time and travel distances to accurately measure the vehicles speed. Bends and curves are unsuitable because they do not meet these guidelines.

My hope for this review is that it will find not only the recent expansion of the mobile speed camera program to be oppressive and unjustified, but that also the outsourcing of the program to a commercial entity is not in keeping with the above cited principles of fairness and public approval and respect. I would like to see the responsibility for the operation of the program returned to a government entity, either the Roads and Maritime Services or the NSW Police Force, who do not operate for profit and under any conflicting commercial interests.