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## Brisbane Central Business District Bicycle User Group

### CBD BUG

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The Honourable Mark Bailey MP  
Minister for Transport and Main Roads  
GPO Box 2644  
BRISBANE QLD 4001

Dear Minister Bailey

This letter seeks your response on the interpretation of s129 of the Queensland Road Rules. The TMR website contains misleading information, and police are failing to interpret this section correctly.

Section 129 of the Transport Operations (Road Use Management - Road Rules) Regulation 2009 states "A driver on a road, other than a multi-lane road, must drive as near **as practicable** to the far left side of the road".<sup>1</sup> This is based on the Australian Road Rules. In contrast, the TMR web site<sup>2</sup> states, incorrectly:

*When you ride, you must:*

- *ride as close as possible to the left side (or on the road shoulder) on a single lane road. Or, you may take up any position within the lane on a multi-lane road*

The TMR web site should read "**as practicable**" since there are many reasons a cyclist should not ride as close as physically possible to the left hand side. For instance, because of debris in the lane or shoulder, a poor surface, or to avoid riding in the "door zone" where a driver opening their car door would hit the cyclist. The UQ Sustainability Office has placed signs around their campuses stating that cyclists should ride out from parked cars allowing "the width of the door and a little more" and the New York City Bike Smart page<sup>3</sup> states "When possible, leave room between yourself and parked cars (3 feet is generally recommended) so that you can avoid a door that opens unexpectedly."

The judge in the case Clark v Bellert & Anor [2008] QSC 276<sup>4</sup> found, even for the case of a car driver, that driving next to a parking lane (away from parked cars) is reasonable. Martin J stated "The evidence which I accept disclosed that Mrs Bellert could have moved some 75 centimetres to the left without leaving the lane. She was in the centre of her lane. She was not too close to the centre of the road. Her course of travel was, given the existence of a parking lane, not unreasonable." This interpretation of s129 would apply even more strongly for the case of a vulnerable road user.

The TMR website contains many references to the concept of the "door zone". Most recently, the Active Transport Infrastructure Investment Technical Requirements, dated 21 August 2018<sup>5</sup> refers to only accepting projects where the on-road bike lane adjacent to car parking is not in the "door zone".

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<sup>1</sup> <https://www.legislation.qld.gov.au/view/pdf/2017-08-25/sl-2009-0194>

<sup>2</sup> <https://www.qld.gov.au/transport/safety/rules/wheeled-devices/bicycle>

<sup>3</sup> <http://nyc.gov/bikesmart>

<sup>4</sup> <http://www.austlii.edu.au/cgi-bin/viewdoc/au/cases/qld/QSC/2008/276.html>

<sup>5</sup> <https://www.tmr.qld.gov.au/Travel-and-transport/Cycling/Cycling-infrastructure-grants>

The ATIP will only accept projects proposing on-street kerbside car parking adjacent to a bicycle lane when the minimum dimensions set out *Table 3* are achieved. Typically, this can only be achieved with pavement marking of the parking bays as well as marking of the bicycle lane and the door zone. In some cases, this may require the narrowing of existing parking bays and adjacent traffic lanes.

**Table 3 – Bicycle lanes and on-street parking dimensions**

Parking bay width	Door zone buffer	Bicycle lane width
2.1m minimum	0.6m minimum	Refer Table 2 (above)

Thus, for consistency and educational purposes, the TMR website should now update its (mis)interpretation of s129.

The BUG has repeatedly informed you in a series of letters and in person that Queensland Police are systematically failing to enforce s144a of the Queensland Road Rules concerning “keeping a safe distance when overtaking”. I have raised this issue with you in person and another member of the BUG in a personal meeting with you has shown you video of the unsafe overtaking by a Road Policing Command car at Mt Nebo in 2016. You asked that police investigate that again, but the complaint to Ethical Standards Command was dismissed.<sup>6</sup> Because of incidents like this, and years of useless “boilerplate” replies from police to letters concerning lack of enforcement, we have little faith that police will investigate incidents or complaints concerning s144a of the QRR.

You were addressed in Cameron Frewer’s public letter<sup>7</sup> listing 18 different incidents where police dismissed his complaints based on victim blaming, prejudice, laziness, and ignoring owner onus. Since his untimely death, we have not heard any response from the government other than more of the “Join the Drive” program, which seems to consist of token social media posts on Facebook which are then responded to with reams of inflammatory uninformed comments which remain unmoderated. Given the response to the above letters and complaints, we also have little faith that Ethical Standards Command will conduct any sort of objective or timely investigation of the issues in the letter.

Recently we became aware of another incident where police dismissed an unequivocal breach by a driver of s144a, with video evidence,<sup>8</sup> as follows.



April 27 at 4:42 PM · 📍

So I got a call back from Sgt Glenn Mason at Stafford Police today.

He’s looked at the video and the record of the driver and he intends to approach him tomorrow and give him a caution.

The decision to do this was based on his record which is good, and that I had also committed an offence.

Clearly I was somewhat surprised. He said I had broken..

- S129 Failure to keep left.
- S253 Ride in a fashion that causes a hazard to other road users

He said he knew that he was saying that I should be riding in the door zone and that what he was asking me to do was dangerous “but that’s the law and if a motorist doors you we will book him”.

Clearly we weren’t in agreement on this and I argued that it was up to my discretion to ride further to the right. I explained that even if I hugged the white line in the door zone if you worked out the widths a BMW SUV would still have to cross the centre line to pass. None the less I was causing “more danger” than necessary to motorists he said.

Police are using their misinterpretation of s129 to refuse to enforce s144a, as s144a refers to s129, and this is not an isolated incident. Due to the systematic failure of police to deal with or properly investigate these issues in so many ways, we ask you to clarify these issues around the

<sup>6</sup> <https://youtu.be/dsyZTuZhYzs>

<sup>7</sup> <https://www.amygillett.org.au/cameron-frewers-open-letter>

<sup>8</sup> <https://www.youtube.com/watch?v=WDCAUU23rKg>

interpretation of s129 by letter and on the TMR website. We would like a statement that riding in the “door zone” is not safe, required or recommended practice.

We are very tired of campaigns around slogans like “share the road” and “mutual respect”<sup>9</sup> when the capacity for harm is entirely on the side of the driver. Recent Australian road safety statistics indicate the rate of hospitalization for cyclists is increasing while for other road users it is decreasing.<sup>10</sup> TMR will fail to meet the “reduce fatalities to 200 or fewer by 2020” road safety target. It is long past time for objective enforcement by QPS and clear statements from TMR.

It is time to stop the victim-blaming which is so clear in the post shared above. We are also sick of years of “boilerplate” replies from state government on the issue of s144a non-enforcement. We ask for nothing less than an unequivocal and clear response from you on the correct s129 interpretation, and a corrected statement on the TMR website about this section. We ask that this be statement then be referred to police for educational purposes.

Yours faithfully

Dr Richard Bean  
Co-convenor  
Brisbane CBD BUG  
17 May 2019

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<sup>9</sup> <http://www.cambridgecyclist.co.uk/2012/11/quit-it-with-this-mutual-respect-rubbish.html>

<sup>10</sup> <https://theconversation.com/3-charts-on-the-rise-in-cycling-injuries-and-deaths-in-australia-116660>