



Brisbane CBD Bicycle User Group

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

Via email to: transportandmainroads@ministerial.qld.gov.au

Dear Minister Bailey

The solution will never be a louder bell, a stronger helmet or brighter clothing. The solution will always be political will to make real change. Everything else is a distraction and victim blaming.

As foreshadowed during the 2 March 2023 Active Transport Advisory Committee, I write to you on behalf of Brisbane CBD BUG members to call for amendments to the range of Queensland road rules. The rules we are concerned with are hostile to bicycle riders and as such continue to suppress the growth of this healthy, convenient, sustainable and cheap travel mode.

Little progress has been achieved for people wanting to ride bicycles for transport following the November 2013 report of the Queensland Parliamentary Inquiry into Cycling Issues. In fact, it can be argued that subsequent to this inquiry the policy and road environment became even more hostile towards people riding bicycles.

A key change arising from this inquiry was Queensland's introduction of the minimum passing distance (MPD) rule, but this hasn't worked. This is because Queensland Police Service (QPS) officers broadly do not enforce this rule, even when clear and compelling video of incidents is handed to them. This is absurdly clear from infringement data. Between 2013-14 and 2021-22 out of 14.3 million infringement notices, 531 were for "FAIL TO MAINTAIN 1M/1.5M WHEN PASSING A BICYCLE". These represent just over 1% of all infringements involving bicycles. More "RIDE BICYCLE WITH NO BRAKES OR BELL, HORN OR SIMILAR WARNING DEVICE" infringements were issued. Not only is the number of infringements absurdly low, the number issued has declined from a peak of 142 in 2018-19 to just 30 in the last year reported.¹

QPS officers routinely turn a blind eye to the intimidation and threats directed towards bicycle riders by drivers, often blaming the rider for a driver's close pass and even threatening the rider with a traffic fine if they still indicate they want the matter pursued. There are clear parallels here with the routine QPS response to domestic violence complaints revealed Commission of Inquiry into QPS responses to domestic and family violence. The infrequent instances of QPS officers being responsive to MPD complaints by bicycle riders typically only occur where officers are themselves bicycle riders.

¹ https://www.data.qld.gov.au/dataset/traffic-infringements-issued/resource/44223888-84db-468e-8434-f5852184b3d9?inner_span=True

However, what also happened as a political quid pro quo to placate the driving public, was fines for bicycle rider infringements were massively increased across the board - through a spurious “equalisation” rationale that misused one of the inquiry’s recommendations. The further misuse of this equalisation approach has also now seen bicycle riders subject to \$1,078 fines for using a mobile phone while riding (1,333 of which were issued in the 2013-14 to 2021-22 period). In comparison, a mobile phone driving infringement in Victoria attracts a fine of \$555² while the same infringement in New South Wales means a fine of just \$362 (\$481 in a school zone)³.

These increased fines have seen QPS regularly targeting bicycle riders for infringements along principal cycling routes. This pantomime policing has been even more vigorous since similarly draconian fines were introduced in late 2022 for scooter rider infringements. The ludicrousness of this situation is highlighted by police targeting PMD riders traveling in a safe manner across the Victoria Bridge via the CityLink Cycleway. Meanwhile, only metres away and in full view of the same police, drivers run the red light and block the busy pedestrian crossing at the intersection of William St and Queen St.

With Queensland’s penalties for bicycle rider infringements equalling those for driver infringements, this ignores the key legal principle developed over many decades through legislation and common law of Proportionality – that a punishment must be proportionate to the gravity of the offending behaviour.

Along with the MPD rule introduction two other small concessions also made via road rule changes were – 1) allowing riding across pedestrian crossings (after years of bogus TMR objections to cycling advocates’ calls for this change), and 2) removing the highly objectionable requirement for bicycle riders to use bicycle lanes.

The Queensland Government’s cherry picking of the recommendations from the Inquiry into Cycling Issues saw other recommendations for progressive law changes ignored - such as the rolling yield/stop rule (recommendations 18 and 19) - commonly called the “Idaho stop”.

An outcome from the Queensland Government’s failure to act on all the committee’s recommendations, while implementing other changes hostile to bicycle (and now PMD) riders, is that bicycle riding continues to be a very low proportion of total regular commuting trips.

In view of the approaching 10-year anniversary of the report from the Inquiry into Cycling Issues CBD BUG members call for your action to address these patent instances of the Queensland Government’s antipathy towards people riding bicycles (and PMDs). These changes are set out in the attached submission.

We suggest that as a first stage in response to this submission your department produces a discussion paper covering each of these individual rule changes. This should outline the advantages and disadvantages and be circulated for input by stakeholders.

Yours sincerely



Paul French
Co-convenor
Brisbane CBD BUG
29 May 2023

Cc: Bicycle Queensland
Space4Cycling Brisbane

² <https://www.vicroads.vic.gov.au/safety-and-road-rules/road-rules/penalties/fines>

³ <https://roadsafety.transport.nsw.gov.au/stayingsafe/mobilephones/technology.html>

CBD BUG PROPOSED CHANGES TO THE QUEENSLAND ROAD RULES

This document has been prepared by Brisbane Central Business District Bicycle User Group (CBD BUG) members to:

- highlight and detail the large number of bicycle rider hostile provisions that persist in the Queensland Road Rules (QRR), and
- indicate the QRR amendments necessary to create a safer and more friendly road environment for vulnerable road users.

Along with pedestrians, bicycle (and PMD) riders (henceforth in this document considered included under the term bicycle unless there is a need to specifically distinguish them as a separate group of road users) are vulnerable road users and as such require protection from the danger posed to them from drivers, whose vehicles have far greater mass and tend to travel at considerably greater speeds than bicycle riders. This submission focuses on the changes to the QRR necessary to create increased safety for bicycle riders, as well as on amending/removing rules that hinder the wider adoption of bicycle riding across the community.

Current QRR provisions are viewed as hostile towards bicycle riders because they:

- give bicycle riders a status lower than drivers, either because certain provisions actively discriminate against bicycle riders, or because bicycle riders are omitted from some provisions
- create dangerous situations for bicycle riders
- treat bicycle riders as being infantile - unable to make rational decisions in their own interest and safety, and/or
- unnecessarily inconvenience bicycle riders, thereby making bicycle riding less viable as an alternative mode of transport in comparison to the private motor vehicle.

The concern about the dangers to bicycle riders caused by the pro-car/driver bias evident throughout the road rules has also been recognised by academics⁴

There is a wealth of evidence from numerous surveys undertaken in Queensland that clearly indicates the primary reason people choose to not ride a bicycle is their concern about danger from motor vehicles. The CBD BUG views these QRR amendments as essential the risks to bicycle riders from drivers, both real and perceived, are minimised and do not continue to restrict growth in bicycle riding's growth as a healthy and sustainable transport modes. Given that increasing these modes' shares of trips by substantial amounts is a policy goal across governments, the amendment of road rules to foster future uptake of bicycle riding is critical.

The amendments proposed by the CBD BUG would undermine the current "might is right" approach adopted by some drivers. Importantly, bicycle riders and other vulnerable road users would be encouraged by the inherent message that drivers must take every care when driving in proximity to bicycle riders and pedestrians. These amendments are part of the necessary transition for Queensland to successfully change from its excessive car dependence, and deliver the change of "More cycling, more often in Queensland" that is articulated in the *Queensland Cycling Strategy 2017–2027*⁵.

⁴ *It's not just about bike lanes*, Jan Garrard, <https://web.archive.org/web/20111026073331/http://www.abc.net.au/environment/articles/2011/09/08/3312420.htm>

⁵ https://www.publications.qld.gov.au/ckan-publications-attachments-prod/resources/3f0c39d9-1df5-4fd5-a28a-9e3cfd7812f1/qcs-2017_27_sept_2020.pdf?ETag=5e76377e4b61c75d0bc6101fe6403464

While all road users have a responsibility to act safely while using the road, as the operators of potentially lethal machines the primary responsibility for road safety must lie with drivers. The QRR must be amended to improve safety for bicycle riders by placing the onus on drivers to maintain appropriate behaviour and operate their vehicles safely in the proximity of vulnerable road users, who risk death or serious injury caused by drivers' lack of care and/or attentiveness. This is presently the case in Western Europe and must also be here.

The CBD BUG anticipates some objections will be raised to these proposed rules changes. In anticipation, the following comments are made.

OBJECTION

There is a lack of, or no evidence, to support the proposed changes.

RESPONSE

The lack of evidence has not been an issue when rules have been introduced that disadvantaged bicycle riders or other non-drivers that appear to have the intention of suppressing alternatives to driving.

Examples of this approach are:

- the introduction during the late 1990's of mandatory helmets for bicycle riders, and
- from 31 August 2011 banning scooters, skateboards and skates being used on roads after dark.

On the positive side, there is much supporting evidence for our proposals from countries where much greater proportions of people ride bicycles for transport.

OBJECTION

Bicycle and PMD riding needs to be heavily regulated/controlled and even restricted for safety.

RESPONSE

Road crash data, the laws of physics and even common sense indicate drivers are the far greater danger to other road users, and particularly vulnerable users, than are bicycle riders.

In fact, riding a bicycle is marginally more dangerous than walking, as evidenced by the small number of single vehicle cycling fatalities.

It is absurd PMDs and electric bicycles are speed-limited, whereas motor vehicles are not.

OBJECTION

Queensland can't make unilateral road rules changes as the road rules need to be nationally consistent.

RESPONSE

This is a misleading argument as there has long been road rule variations between jurisdictions. One example is the Northern Territory's exemption for bicycle riders needing to wear a helmet under specific circumstances.

Secondly, tying the QRR to the Australian Road Rules and requiring changes to be made nationally guarantees improvements can be stopped by holdout/recalcitrant jurisdictions.

However, as seen with the MPD rule and more recently in relation to allowing use of PMDs, after Queensland introduced these changes, other jurisdictions have gradually fallen into line once it was seen the doomsayers' prophesied carnage and calamities didn't eventuate. And Queenslanders have been cycling on footpaths legally for decades, while this is banned in other states.

Summary of changes to protect and encourage bicycle riders

1. Reinstate 40km/h speed limit in Local Traffic Areas
2. Make signalling a right turn or merging into the right lane optional for bicycle riders
3. Modify the give way rules for shared zones so:
 - a) drivers must give way to bicycle riders and pedestrians, and
 - b) bicycle riders must give way to pedestrians
4. Permit bicycle riders to travel ahead at an intersection from a lane marked "left turn only" that is the furthestmost such lane to the right
5. Modify the rules for a multi-lane roundabout to require exiting drivers to give way to bicycle riders
6. Clarify the rule regarding bicycle riding to confirm a rider may stand up on the pedals
7. Prohibit parking in Bicycle Lanes
8. Remove the requirement for bicycles to be equipped with a warning device additional to the rider's voice
9. Amend Queensland's mandatory helmet law for bicycle riders to exempt people aged >17 years riding in parks and on footpaths and shared/cycle paths
10. Amend the meaning of an approved bicycle helmet to include the following standards: A) European (EN1078) & US (16 CFR Part 1203) Standards for bicycle helmets
11. Realign the various road users' responsibilities regarding not causing a hazard or obstruction
12. Permit bicycle riders to ride on traffic islands
13. Introduce a rolling stop / give way rule for bicycle riders (Idaho Stop)
14. Revise penalties for bicycle rider infringements to reflect their much lower potential danger to other road users compared to drivers

Details of proposed individual rule changes.

1. Reinstate 40km/h speed limit in Local Traffic Areas

Current rule

25 *Speed-limit elsewhere*

(1) If a speed-limit sign does not apply to a length of road and the length of road is not in a speed-limited area, school zone or shared zone, the speed-limit applying to a driver for the length of road is the default speed limit.

(2) The default speed-limit applying to a driver for a length of road in a built-up area is 50 kilometres per hour.

Explanation

Under Queensland's *Traffic Regulation 1962* s50(2), until 1 December 1999 the speed limit applying to a road in a local traffic area was 40 km/h⁶. However, from that date the default speed limit in a built-up area was increased to the less safe speed of 50 km/h.

There is a wealth of reputable research pointing to 30 km/h being the safe speed that should apply in local streets⁷, which has also been acknowledged in Queensland⁸. At speeds up to 30kph adult pedestrians have a chance of avoiding serious injury in a crash. If an adult pedestrian is struck at a speed of 50 km/h, they are eight times more likely to sustain fatal injuries than if struck at a speed of 30 km/h. For child pedestrians, the speed at which they are likely to sustain fatal injuries is lower. Scandinavian countries set school zone speed limits at 25 km/h and have lower child fatality and injury rates.

Sadly, despite the weight of evidence and the claimed "Safe System" approach of the Department of Transport and Main Roads, this state's default urban speed limit continues to be 50km/h. This is also the case despite a reduction in the urban speed limit having only a marginal impact on individual travel times and the large benefits to the community from reduced road trauma and making local streets more people friendly.

Many bicycle riders seek to avoid major roads because of the large volumes of fast-moving motor vehicles that also includes heavy vehicles. However, even in what should be quiet local streets they are exposed to the risks created by drivers because of the high and unsafe default urban speed limit.

Even car-centric Brisbane City Council started reducing speed limits to 40 km/h from 2018. This commenced in the Brisbane CBD and has since been more widely applied in other suburbs.⁹

The CBD BUG's position continues to be that the default speed limit for built up areas should be 30 km/h. However, we recognise the political difficulty of implementing this reduction after decades of state governments of all political stripes pandering to motorists – causing the widespread level of entitlement amongst motorists whose thinking is they should be able to drive everywhere at speed regardless of the conditions and the safety of other road users.

Accordingly, as a step towards the 30km/h default speed limit in built up areas we call for the reinstatement of the 40km/h speed limit in Local Traffic Areas.

⁶ <https://www.legislation.qld.gov.au/view/pdf/1999-03-05/sl-1962-tr>

⁷ https://austroads.com.au/publications/traffic-management/agtm22/media/AGTM08-16_Guide-to-Traffic-Management-Part-8-Local-Area_Traffic_Management.pdf

⁸ Measures to address school transport safety in Queensland, <https://acrs.org.au/files/arsrpe/RS020123.PDF>

⁹ <https://www.brisbane.qld.gov.au/traffic-and-transport/roads-infrastructure-and-bikeways/move-safe-brisbane-consultation>

2. Make signalling a right turn or merging into the right lane optional for bicycle riders

Current rules

48 Giving a right change of direction signal

(1) Before a driver changes direction to the right, the driver must give a right change of direction signal in accordance with section 49 for long enough to comply with—

(a) subsection (2); and

(b) if subsection (3) applies to the driver—subsection (3).

(2) The driver must give the change of direction signal for long enough to give sufficient warning to other drivers and pedestrians.

(3) If the driver is about to change direction by moving from a stationary position at the side of the road or in a median strip parking area, the driver must give the change of direction signal for at least 5 seconds before the driver changes direction.

(3A) Subsection (3) does not apply to the rider of a bicycle or a personal mobility device that is stopped in traffic but not parked.

(4) The driver must stop giving the change of direction signal as soon as the driver completes the change of direction.

(5) This section does not apply to—

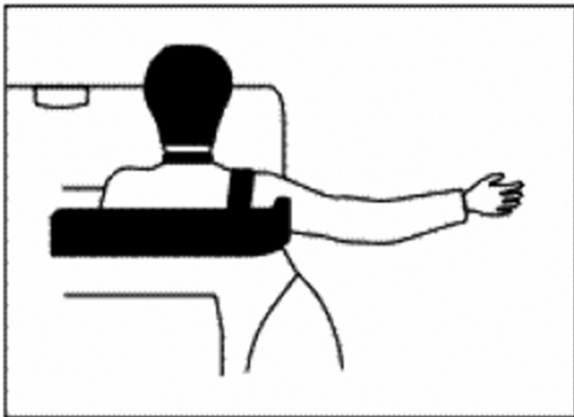
(a) the driver of a tram that is not fitted with direction indicator lights; or

(b) the rider of a bicycle or a personal mobility device making a hook turn.

50 How to give a right change of direction signal by giving a hand signal

To give a hand signal for changing direction to the right, the driver must extend the right arm and hand horizontally and at right angles from the right side of the vehicle, with the hand open and the palm facing the direction of travel.

Example—



Giving a hand signal for changing direction to the right

Explanation

Signalling a right turn or lane merge while riding a bicycle is more difficult than signalling when driving or riding a moto.

This is because taking your right hand off the handlebar and extending your arm directly from the shoulder, as required under the QRR and clearly indicated in the example on s50 above, can easily compromise the rider's stability or ability to steer.

This is particularly the case if the rider is travelling downhill, on a slippery or bumpy surface or there are tram or train tracks nearby.

It is advisable for a bicycle rider to signal when turning to let other road users around them know what they are doing. However, it should not be mandatory, and instead only be optional provided it is safe to give such a signal.

3. Modify the give way rules for shared zones so:

- a) drivers must give way to bicycle riders, PMD riders and pedestrians, and**
- b) bicycle and PMD riders must give way to pedestrians.**

Current rule

83 *Giving way to pedestrians in a shared zone*

A driver driving in a shared zone must give way to any pedestrian in the zone.

Explanation

Like pedestrians, bicycle riders are vulnerable road users and hence the obligation needs be placed on drivers to give way to them in a shared zone.

In turn, it is recognised bicycle riders need to give way to pedestrians in these zones and this should be reflected in the amendment rule of this. For example, the present rule could be amended as follows:

- 1) A motor vehicle driver in a shared zone must give way to any bicycle rider, personal mobility device rider or pedestrian in the zone.
- 2) A rider of a bicycle or personal mobility device riding in a shared zone must give way to any pedestrian in the zone.

The CBD BUG called for this rule change at the time of the Cycling Issues Inquiry. Despite this change being simple, rational and improving safety for vulnerable road users it was not adopted by the Queensland Government, which points again to the hostility of the custodians of the QRR towards bicycle riders.

4. Permit bicycle riders to travel ahead at an intersection from a lane marked “left turn only” that is the furthestmost such lane to the right

88 Left turn signs

- (2) If there is a left lane must turn left sign at an intersection, a driver who is in the left marked lane when entering the intersection must turn left at the intersection.

Explanation

Travelling on the shoulder of the road, and/or in the left hand lane of a multi-lane road, suits bicycle riders who are prepared to ride on-road - as this typically positions them outside the path of faster moving motor vehicles.

However, at some intersections the left lane is signed/marked indicating it is for left turns only; requiring bicycle riders wanting to travel straight ahead through the intersection to merge with the motor vehicles travelling in the right lane.

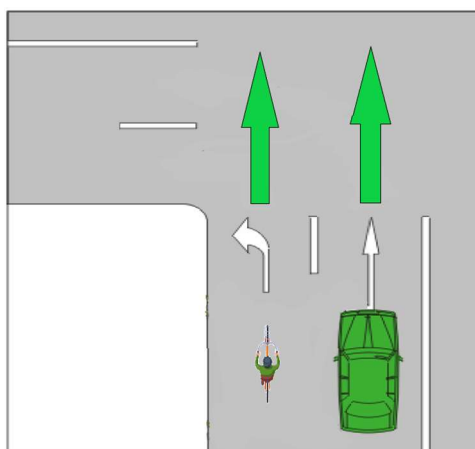
Currently, the situation arises that while a bicycle rider is merging into the right lane to travel straight ahead but has not yet exited the left lane some drivers will overtake to the bicycle rider's left - a dangerous and frightening situation for bicycle riders.

This situation would be made safer for bicycle riders by amending Rule 88 to allow them to travel straight through an intersection in a lane marked "left turn only" - where the "left turn only" lane it is the furthestmost such lane to the right.

At intersections with two "left turn only" lanes the bicycle rider wanting to travel ahead would be required to move from the shoulder/kerbside lane to "left turn only" lane that is the furthestmost such lane to the right. However, this is still preferable to them having to move over three lanes into the lane marked for traffic to travel straight ahead.

Figure 1 below depicts an example of this rule in operation.

Figure 1: Bicycle rider traveling straight through an intersection from a lane marked "left turn only"



5. Modify the rules for a multi-lane roundabout to require exiting drivers to give way to bicycle and PMD riders.

Current rule

119 Giving way by the rider of a bicycle, personal mobility device or animal to a vehicle leaving a roundabout

The rider of a bicycle, a personal mobility device or an animal who is riding in the far left marked lane of a roundabout with 2 or more marked lanes, or the far left line of traffic in a roundabout with room for 2 or more lines of traffic (other than animals, bicycles, personal mobility devices or motorbikes) must give way to any vehicle leaving the roundabout.

Explanation

Rule 119 causes additional and unnecessary risk for bicycle riders when they are travelling through multi-lane roundabouts. This rule appears to be in place purely to prevent slower moving bicycle riders from delaying faster moving drivers.

This rule has impossible inconsistency. First, there is no definition of the point a bicycle rider must reach before being allowed to proceed to the next entry/exit. At what point does the rider's obligation to give way cease? Clearly a rider halfway across the exit cannot give way to a driver exiting the roundabout. Nor can a rider suddenly stop when a driver approaches the exit by veering into the exit lane immediately before the exit, and behind the rider. This rule is therefore impossible to observe.

Secondly, because Rule 119 obliges a rider who is approaching an entry / exit point on a multi-lane roundabout to be looking backwards over their right shoulder for drivers travelling in the inside lane, or about to move into the inside lane, who are expecting the rider to give way to them so they can exit the roundabout. However, at the same time the rider also needs to be looking ahead for other road users entering the roundabout in case they do not give way.

This rule supports dangerous behaviour by drivers travelling in the right lane of a roundabout to 'left-hook' riders who are legitimately travelling in the left lane.

This rule may also foster a perception among drivers that riders are not equal or legitimate users of any roundabout and could contribute to other 'failure-to-give-way' incidents by drivers.

This rule also creates different rules about giving way for riders and drivers on multi-lane roundabouts, increasing uncertainty in a zone where many drivers are already uncertain of their obligations, not to mention the obligations of other road users.

Rule 119 was amended during late 2022 as part of the wider QRR amendments made regarding PMD riders. However, instead of taking this opportunity to remove this absurd and dangerous rule the approach taken was to simply impose on PMD riders the same "give way" requirement as that already endangering bicycle riders.

The rule should be amended to require drivers to give way to bicycle riders the same as drivers (as is currently the case in the Netherlands). Another overseas approach that contrasts completely with Queensland's pro-car attitude is stated in the British Highway Code as "You should give priority to cyclists on the roundabout. They will be travelling more slowly than motorised traffic. Give them plenty of room and do not attempt to overtake them within their lane. Allow them to move across your path as they travel around the roundabout."¹⁰

6. Prohibit parking in bicycle lanes

Current rule

153 Bicycle lanes

(3) A driver may drive for up to 50m in a bicycle lane if the driver is—

(a) driving a bus or taxi; and

(b) dropping off, or picking up, passengers.

(4) A bicycle lane is a marked lane, or the part of a marked lane—

(a) beginning at a bicycle lane sign applying to the lane, or a road marking consisting of a white bicycle symbol and the word 'lane' painted in white; and

(b) ending at the nearest of the following—

¹⁰ Roundabouts (rules 184 to 190), <https://www.gov.uk/guidance/the-highway-code/using-the-road-159-to-203>)

- (i) *an end bicycle lane sign applying to the lane, or a road marking consisting of a white bicycle symbol and the words 'end lane' painted in white;*
- (ii) *an intersection (unless the lane is at the unbroken side of the continuing road at a T-intersection or continued across the intersection by broken lines);*
- (iii) *if the road ends at a dead end—the end of the road.*

Rule 153 allows drivers to park vehicles in bicycle lanes, which creates unnecessary risk to bicycle riders by forcing them to either stop or to merge back into the traffic.

Bicycle lanes should be kept clear as a measure to both improve road safety and encourage everyday cycling. Even where the still-limited Brisbane bicycle network has resulted in the installation of on-road bike lanes, these are commonly rendered unusable by being occupied by parked cars.

Thus, even the parking convenience of motorists is priorities over the safety of bicycle riders. The CBD BUG wants the Queensland Road Rules changed to prohibit vehicle parking in bicycle lanes.

7. Permit PMD riders to use a bus lane

154 Bus lanes

- (1) A driver must not drive in a bus lane, unless the driver is—*
 - (a) driving—*
 - (i) a bus; or*
 - (ii) a bicycle or taxi; or*

Explanation

A PMD rider may need to travel in bus lane

8. Clarify the rule regarding bicycle riding to confirm a cyclist may stand up on the pedals

Current rule

245 Riding a bicycle

The rider of a bicycle must:

- (a) sit astride the rider's seat facing forwards (except if the bicycle is not built to be ridden astride); and*
- (b) ride with at least 1 hand on the handlebars; and*
- (c) if the bicycle is equipped with a seat — not ride the bicycle seated in any other position on the bicycle.*

Explanation

This rule was identified by the NTC in its 2011 road rules review discussion paper as poorly worded and requiring amendment, on the basis that it makes it illegal for a bicycle rider to stand up on the pedals. It's unclear why despite this passage of time Queensland still has not "tidied up" this section of the QRR.

9. Remove the requirement for bicycles to be equipped with a warning device additional to the rider's voice

Current rule

258 Equipment on a bicycle or personal mobility device

(1) A person must not ride a bicycle that does not have—

(a) at least 1 effective brake; and

(b) a bell, horn or similar warning device in working order.

(3) A person must not ride a personal mobility device that is steered by handlebars unless the device has a bell, horn or similar warning device in working order.

Explanation

As observed in the report from the 2013 Inquiry into Cycling Issues the requirement under this rule for bicycle to have a bell, horn or similar “warning device” in working order, lacks relevance to contemporary road conditions and is also commonly misinterpreted as an aggressive warning to get out of the way

Despite these observations this rule was not changed after the inquiry. With the Queensland Government introducing the same requirement for PMDs from November 2022, in what can only be regarded as a punitive measure.

10. Amend Queensland's mandatory helmet law for bicycle riders to exempt people aged >17 years riding in parks and on footpaths and shared/cycle paths

11. Amend the meaning of an approved bicycle helmet to include the following standards: A) European (EN1078) & US (16 CFR Part 1203) Standards for bicycle helmets

Current rule

256 Bicycle helmets

(1) The rider of a bicycle must wear an approved bicycle helmet securely fitted and fastened on the rider's head.

Schedule 5 Dictionary

approved bicycle helmet means a helmet that complies with —

(a) AS 2063; or

(b) AS/NZS 2063; or

(c) another standard the chief executive considers is at least equal to a standard mentioned in paragraph (a) or (b).

Explanation

Riding a bicycle, even for short transport trips, is highly beneficial for the individual and the wider community. These benefits outweigh the risks (in locations without helmet laws) from

anywhere between 20:1 or 77:1 and helmet laws themselves have a negative impact of public health¹¹.

Any intervention that decreases bicycle riding levels, particularly for transport (not sport and recreation), should be rejected. Mandatory bicycle helmet laws discourage cycling and change the demography of cycling¹².

The Northern Territory's *Traffic Regulations 1999* (S86) exempt a person over 17 years of age from wearing a helmet when riding or being carried on a bicycle: a) on a public place, b) on a bicycle path, or c) in an area declared by the Minister, by notice in the Gazette, to be a bicycle helmet exemption area¹³.

It is therefore no surprise the Northern Territory is the Australian capital city with the highest modal share for cycling, the highest female participation rate and a different cycling demographic to the other states and territories - more 'transport/everyday cycling' in normal clothes at slow speeds - and they pay no safety penalty for this approach.¹⁴

This is a sensible approach because the principal risk to cyclists arises from crashes involving motor vehicles, and when cyclists are not on-road they experience an insignificant level of risk of serious injury or death. When riding off road it is suggested cyclists would be safer by wearing a broad brimmed hat to prevent potential skin cancer from sun exposure, than from wearing a helmet.

The CBD BUG understands that Mandatory bicycle helmet laws were accepted by the states twenty years ago as part of a larger package of safety measures to ensure they received black spot road funding from the then Federal Labor Government.

Australia is one of only a few countries with an enforced, all-age mandatory bicycle helmet law. After many years, only a handful of Canadian and US jurisdictions have followed suit and when they have done so the requirement has been largely limited to children. A comprehensive study published in 2013 in the British Medical Journal states that the contribution of helmet legislation throughout Canadian provinces "has been minimal".¹⁵

The mandatory helmet rule suppresses bicycle riding uptake by making this mode:

1. less convenient
2. uncomfortable in warmer weather
3. unattractive by giving a perception bicycle riding is dangerous, and
4. has been linked to overtaking drivers giving riders wearing a helmet less space compared to riders not wearing a helmet¹⁶

¹¹ Rojas-Rueda, D. et al. *The health risks and benefits of cycling in urban environments compared with car use: health impact assessment study*. BMJ 2011;343:d4521

Pucher, J. et al. *Infrastructure, programs, and policies to increase bicycling: An international review*. Preventive Medicine 50 (2010) S106–S125

de Jong, P. *The health impact of mandatory bicycle helmet laws*. Risk Anal. 2012 May; 32(5):782-90

¹² <http://www.cycle-helmets.com/cycling-1985-2011-study.html>

¹³ <https://legislation.nt.gov.au/Legislation/TRAFFIC-REGULATIONS-1999>)

¹⁴ <http://www.cyclehelmets.org/1114.html>

¹⁵ Sources: Dennis, J. et al. *Helmet legislation and admissions to hospital for cycling related head injuries in Canadian provinces and territories: interrupted time series analysis*. BMJ 2013;346:f2674 and Goldacre, B. *Bicycle helmets and the law*. BMJ 2013;346:f3817

¹⁶ <https://www.sciencedaily.com/releases/2006/09/060911102200.htm>

Australia's bicycle helmet laws can be seen as an example of what not to do to improve bicycle rider safety.

Australia's contributions to the discussion have been hindered by confirmation bias and flawed methodology. Many studies observe helmet use after a crash, ignoring the effect of compulsion on cycling rates, and draw inappropriate conclusions from tiny data sets, ignoring confounding factors that are probably more relevant (alcohol use, etc). These include the Queensland Government-sponsored (and apparently heavily edited), non-peer-reviewed CARRS-Q report and a publication from UNSW as a letter to the editor of the Medical Journal of Australia.¹⁷

12. Realign the various road users' responsibilities regarding not causing a hazard or obstruction

Current rule

- 125 *Unreasonably obstructing drivers or pedestrians*
- (1) *A driver must not unreasonably obstruct the path of another driver or a pedestrian.*
 - (2) *For this section, a driver does not unreasonably obstruct the path of another driver or a pedestrian only because—*
 - (a) *the driver is stopped in traffic; or*
 - (b) *the driver is driving more slowly than other vehicles (unless the driver is driving abnormally slowly in the circumstances).*
- 236 *Pedestrians not to cause a traffic hazard or obstruction*
- (1) *A pedestrian must not cause a traffic hazard by moving into the path of a driver.*
 - (2) *A pedestrian must not unreasonably obstruct the path of any driver or another pedestrian.*
 - (3) *For subsection (2), a pedestrian does not unreasonably obstruct the path of another pedestrian only by travelling more slowly than other pedestrians.*
 - (7) *In this section—*
road includes a shoulder of a road, a median strip, a painted island or a traffic island, but does not include another road-related area.
- 253 *Bicycle and personal mobility device riders not to cause a traffic hazard*
The rider of a bicycle or a personal mobility device must not cause a traffic hazard by moving into the path of a driver or pedestrian.

Explanation

From among these three road user groups drivers have the potential to cause the much greater obstruction and danger for vulnerable road users due to their mass and speed. However, these rules imply that drivers are only capable of obstructing the other users. Bicycle riders can apparently cause a traffic hazard - but not an obstruction. Bizarrely, while pedestrians are the

¹⁷ Sources: <https://www.freestylecyclists.org/carrs-q-research-part-one/> and Dinh, M. *The effectiveness of helmets in reducing head injuries and hospital treatment costs: a multicentre study*. MJA 198 (8) 2013) <https://www.mja.com.au/journal/2013/198/8/effectiveness-helmets-reducing-head-injuries-and-hospital-treatment-costs>

most vulnerable of all road users they apparently have the capacity to cause an obstruction or a hazard.

When read together these three rules exemplify the inconsistencies in the QRR and the inherent bias against vulnerable road users. The three rules should be revised to place the onus of greatest responsibility on people driving motor vehicles. They have the greatest potential to cause harm to others, hence they should have the greatest responsibility towards these other road users in terms of not obstructing them or causing a hazard.

13. Permit cyclists to ride on traffic islands

Current rule

290 *Driving on a traffic island*

A driver must not drive on a traffic island (except the central traffic island in a roundabout), unless the traffic island is designed to allow vehicles to be driven on it.

Schedule 5 Dictionary

Traffic island means a structure on a road to direct traffic, but does not include a road marking or painted island.

Explanation

Traffic islands are an important refuge for vulnerable road users from motor vehicles, particularly when crossing roads where there are long distances between designated crossing points.

Accordingly, pedestrians are permitted to walk on traffic islands. However, the combination of s290 and the definition of a traffic island in Schedule 5 currently prohibits bicycle riders from legally riding on a traffic island - such as those separating traffic heading in opposite directions along the same road.

The need to amend the QRR to enable bicycle riders to legally ride on traffic island is also required to combine with the change made in response to the 2013 Inquiry into Cycling Issues that allowed cyclists to legally ride across a road on a crossing. This is because it is common for road crossings at traffic lights and left turn slip lanes to include traffic islands that are not designed to allow vehicles to be driven on them.

While QPS data ¹⁸indicates only 17 riders have been received traffic infringements for riding on a traffic island, this is still too many, especially when it would be safe to assume some of these infringements were given to people for simply crossing a road in a safe manner.

¹⁸ <https://www.data.qld.gov.au/dataset/traffic-infringements-issued/resource/44223888-84db-468e-8434-f5852184b3d9>

14. Introduce a rolling stop / give way rule for bicycle and PMD riders (Idaho Stop)

Explanation

This rule would allow riders travelling on-road to act in the following way when encountering stop signs and red stop lights.

- a) Approaching a stop sign - slow down and, if required for safety, stop before entering the intersection. After giving way to other road users as would be required by a Give Way sign, the rider may cautiously make a turn or proceed through the intersection.
- b) Approaching a red stop light - stop before entering the intersection and give way to all other traffic. After giving way to other road users as would be required by a Stop sign, the rider may cautiously make a turn or proceed through the intersection.

This was yet another of the recommendations from the Inquiry into Cycling Issues in regard to which even though it would benefit bicycle riders, and was to no disadvantage for drivers, the Queensland Government refused to act.

This approach would mirror a law that was first introduced in Idaho, USA over two decades ago that has now been similarly applied in numerous other USA states¹⁹. The rule recognises that bicycle riders are greatly disadvantaged by repeatedly stopping - through losing their momentum. Furthermore, bicycle riders also tend to prefer using quieter residential streets, where there is less traffic but more frequent stops.

Another problem addressed by this rule is that bicycle riders frequently have difficulty activating sensors set below the road surface to change traffic lights and can therefore be obliged to wait until a motor vehicle arrives to set off a signal change if they want to proceed legally through such an intersection. Finally, this rule's introduction simply recognises the widespread practice that is already happening on the road.

The 2014 private consultant's report from the TMR-commissioned study on the safe behaviour of bicycle riders who travelled through intersections without stopping at Stop signs it states - "changing the road rule to allow bicycle riders to roll through stop signs would have negligible safety effects" and "this would have the desirable effect of bringing road rules and behaviours into alignment (p75). A copy of this report is attached. In view of these observations, we question why this road rule change was not made, other than due to bicycle riders not being allowed a road rules advantage because it may offend drivers.

15. Revise penalties for bicycle rider infringements to reflect their much lower potential danger to other road users compared to drivers

It is a simple and patently obvious fact that the potential risk to others posed by people riding a bicycle is far less than driving a motor vehicle – because of the substantial differences in these modes' respective potential velocities and masses. Whereas a very small motor vehicle (Kia Picanto) still has a kerb weight of more than 1,000kg, even a heavy e-bike will commonly only weigh up to just 35kg.

People commuting by bicycle typically travel at between 20 km/h to 25 km/h, and will be riding hard over flat ground to achieve a velocity of 40 km/h. On the other hand, drivers can travel at Queensland's inordinately high default urban speed limit of 50 km/h with ease, with 100 km/h an equally effortless achievement.

¹⁹ https://bikeleague.org/sites/default/files/IdahoStop-DelawareYield_8_2018.pdf

Drivers and their passengers also enjoy a large amount of physical protection - in the form of seat belts, airbags, bull bars, bumper bars, anti-intrusion bars, roll bars, metal panels and glass. By comparison, bicycle riders are fully exposed to the elements with only a helmet and clothing for protection.

Hence, there is a significantly different level of moral hazard experienced by these different road user groups. In the case of drivers, they are aware of the large amount of physical protection provided by their vehicles and thus are able to perform manoeuvres causing great physical risk to other people with almost no physical risk to themselves e.g. overtaking cyclists dangerously close; speeding in school zones; not observing give way rules towards cyclists at intersections; exiting/entering premises without regard for footpath users etc.

On the other hand, bicycle riders not only pose a much lower threat towards other road users, but are strongly motivated by their own personal vulnerability to avoid crashes.

Therefore, it is only appropriate that these different transport modes have different penalties applied for infringements, with significantly lower fines for bicycle rider infringements.

However, since Queensland's penalties for infringements by bicycle riders were equalised with driver penalties, riders have been subject to draconian fines. To highlight the bias against bicycle riders of Queensland's traffic penalties regime the following table compares some of the Northern Territory's fines for bicycle riders to fines for the same infringements in Queensland.

Infringement	Qld²⁰	NT²¹
Use hand-held mobile phone	\$1,078	\$500
Fail to have/use lights / equipment	\$143	\$25
Carrying excess persons on a bicycle	\$143	\$25
Ride more than 2 abreast	\$143	\$0
Fail to obey red traffic light	\$575	\$240
Fail to wear helmet	\$143	\$25
Failing to give way to a pedestrian	\$143	\$25
Minimum fine for exceeding speed limit	\$287	\$150

²⁰ <https://www.qld.gov.au/transport/safety/fines/cycling>

²¹ <https://nt.gov.au/driving/driving-offences-and-penalties>