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Submission

Inquiry into Cycling Issues

A Submission from an administrator of the "*Townsville Bunch Rides - Cycling in the North*" Facebook Group.

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Background

Townsville is a regional centre that has a population of approximately 150,000 people in city and surrounding areas. As it is a regional area and does not have a high population density nor does it have extensive cycling infrastructure enjoyed by Brisbane and the Gold Coast. The majority of cycle lanes in Townsville comprise painted bicycle lanes of varying width. Some major roads have sufficiently wide shoulders with smooth asphalt surfaces whilst on others (even major roads) the shoulder is basically non-existent.¹ There are some separated bicycle paths, but these are generally in poor condition, cleaned infrequently and often used by pedestrians, small children and animals. For this reason these types of paths are avoided by cyclists that average speeds over 25kph.

In recent years as the popularity of cycling has grown, so too has the number of cyclists on the roads around Townsville. This is likely due to a combination of factors, but Townsville's flat landscape and climate is extremely suitable to Cycling. Increases in technology in cycling have resulted in much lighter and faster bicycles. There are groups in Townsville that average speeds ranging from 25kpm to 45kph and over short distances these speeds may be as high as 60kph.

I personally am 40 years of age and have been riding in Townsville since 2009. I would describe myself as a casual road cyclist who rides with groups as I battle with type II diabetes. To me cycling is an essential part of the management of my illness as it is low impact and good for burning blood sugar. As I am a road cyclist who participates in bunch rides I submit from that perspective.

Introduction:

On the 28 January 2012 I started a facebook group called the Townsville Bunch Rides. The objects of this group was to encourage those interested in all aspects of cycling in the greater Townsville area. The group caters for all levels and types of rider of all skill levels and experience. Since its formation the group has grown and now has over 560 members (which is further evidence of the surge in popularity of the sport) In recent times there has been a notable increase in expressions of concern about the actions of drivers and other road users. It would

¹ Cf, Charters Towers Rd, Hermit Park; Dalrymple Rd, Heatley (Between Duckworth Street and Banfield Drive)

be accurate to say that a large number of riders in Townsville do not feel safe nor do they feel that the laws in their current form adequately protect them from the risks associated with riding on our roads. Subsequently, I wish to provide submissions to the public inquiry into cycling issues in relation to the terms of reference.

Terms of Reference to be addressed:

1. Short and long term trends in bicycle injuries and fatalities involving motor vehicles.
2. Effectiveness, enforceability and impacts on other road users of existing and any other alternative road rules such as the 1m rule which govern interaction between cyclists and other road users.
3. Current penalties and sanctions, including where there are different fine rates for cyclists compared to other road users.
4. The potential benefits and impacts of cycle registration.

1. Short and long term trends in bicycle injuries and fatalities involving motor vehicles.

With the increase in cyclist numbers, there appears to have been an increase in incidents involving cyclists. There is ample evidence to suggest that when a motor vehicle (particularly a heavy vehicle) and cyclists collides, overwhelmingly the result is serious injury or fatality to the bicycle rider.

The most recent incident involving a fatality was the tragedy involving Sue Bell on the 22 June 2013. This was a case where a cyclist was travelling in a group in single file on the road shoulder and whilst crossing a narrow bridge she and three other riders were struck whilst being overtaken by a heavy vehicle with an oversize load. This resulted in Sue sustaining fatal injuries and three other riders being hospitalised. Whilst this incident is one which resulted in tragedy, there have also been plenty of near misses.

With the emergence of video technology, footage is available of a number of near misses involving cyclists and heavy vehicles. These images and videos are posted

in the Townsville Bunch Rides group. Fig. 1 and 2 are screenshots taken from bicycle mounted cameras by cyclists on the roads of Townsville recently.

Fig. 1.



Fig. 1 is date stamped 29/6/2013. The full video footage of the incident is available on request. The relevant factors associated with this incident are that the heavy vehicle involved passed the cyclist in close proximity at significant speed differential, whilst going through roadworks, at night. Whilst the still image does not clearly show it, the video does show that the cyclist has a flashing rear tail light that was operating at the time.

Fig. 2.



Fig. 2 is not date stamped, but the footage was taken on the 26/3/2012. The video footage associated with this incident has been published on youtube and can be found at <http://www.youtube.com/watch?v=LIqDr7NRjc4&feature=youtu.be>.

It should be noted that the members on this ride are sponsored riders and members of the Giant racing team in Townsville. As a sponsored racing team they are required (as all professional and semi-professional riders) to ride long distances on open roads and highways. It should be noted that the only open roads of any distance in the Townsville area are Herveys Range Road (a long road with virtually no shoulder for extended periods) the Bruce highway (North and South) and the Flinders Highway (West). All these roads are frequented by significant heavy vehicle traffic.

The incident in fig. 2 occurred on the Flinders Highway West of Townsville. The speed limit at that point is 100kph and from the video it can be seen that the truck is travelling at high speed in very close proximity to the cyclists. It should also be noted that the vehicle involved in this instance was a heavy vehicle towing an additional trailer. It is well known by any heavy vehicle driver that driving with trailers carries with it additional risk. Trailers frequently sway and move whilst being towed and this can result in considerable variance in their track. They are highly susceptible to irregularities on the road surface and also crosswind and gusts, particularly at high speed or if the road surface is not completely smooth.

These incidents (fig 1 and 2) are not the only close calls that have occurred. These are only two of many incidents that have been reported/recorded or experienced by cyclists in the Townsville area. I personally have had my share of near misses with heavy vehicles and from my experience it would not be uncommon if riding on a highway to experience a close call with a heavy vehicle almost every time you ride. For this reason I avoid the major highways where heavy vehicle traffic is high.

The most recent incident involving a cyclist occurred yesterday 2 July 2013 when Brad Soblusky was struck by a heavy vehicle on a training ride in Cairns. A link to a copy of the newspaper article reporting this latest incident is can be found here. http://www.cairns.com.au/article/2013/07/03/244744_local-news.html.

It is my submission that it is clearly the case that cyclists, particularly on the open roads are increasingly falling victim to drivers, particularly to drivers of heavy

vehicles. In those cases the risk of an injury resulting in a fatality in any collision is extreme. As the number of cyclists on our major roads continues to increase (as desired by government policy)² It flows that incidents between cyclists and heavy vehicles are going to increase and so too will the serious injuries and fatalities to the bicycle riders.

2. Effectiveness, enforceability and impacts on other road users of existing and any other alternative road rules such as the 1m rule which govern interaction between cyclists and other road users.

Overtaking and Passing

The current laws that protect cyclists, particularly with respect to overtaking and passing are in my submission manifestly inadequate. It should be noted that after the footage in fig 1 was viewed by police a decision was made that under current Queensland law there was insufficient evidence to proceed against the driver for any criminal offence. This in my view demonstrates a clear deficiency in the current state of the law in Queensland particularly when considering all the relevant factors outlined above and weighing up the clear potential of such actions to lead to serious injury or death. It would be a reasonable state that the risk to life associated in such circumstances (particularly a heavy vehicle) passing a cyclist in close proximity with a high speed differential would be higher than talking on a mobile telephone or exceeding the speed limit for which penalties clearly apply.

It is my submission that the vulnerability of the cyclist is the key factor here. The life of the rider depends entirely on the actions of the driver. When being overtaken there is nothing that the rider can do other than sit helplessly and hope that the overtaking driver does the right thing. The evidence above clearly indicates that it is frequently the case that the drivers are putting cyclists lives recklessly at risk in their manner of overtaking.

There is only one thing that will protect a cyclist in such circumstances and that is that an offence needs to be created that carries such condign punishment that no driver would consider passing a cyclist in close proximity. For this reason I strongly support the imposition of the one metre rule, but such law should carry

² See, Generally, State of Queensland (Department of Transport and Main Roads) (2011) *Queensland Cycle Strategy 2011–2021*.

with it a penalty that reflects the true danger of the manoeuvre. It is also my submission any such offence should carry with it a significant number of demerit points if not a mandatory period of licence disqualification.

It is also my submission that it should be a circumstance of aggravation if the driver is the driver of a heavy vehicle at the time and the penalty should further increase if additional trailers are being towed. These drivers are professional drivers and should be held accountable to the highest standards. They are also the ones that historically have posed the greatest threat to cyclists and indeed present the greatest risk of death or injury.

Causing Death or Grievous Bodily Harm

If it occurs that drivers do kill a cyclist whilst overtaking it appears that the justice system is incapable of holding drivers to account. An example on point is the recent and very public failure that led to the establishment of this inquiry, namely when Luke Stevens, the driver of a cement truck was found not guilty over the death of cyclist Richard Pollett. The reason for the failure of the crown case was that Stevens was indicted for "Dangerous Operation of a Motor Vehicle Causing Death". This charge requires the prosecution to prove as part of the indictment that the operation of the vehicle was objectively dangerous.³

It is my respectful submission that an offence of "Manslaughter or Grievous Bodily Harm by Motor Vehicle" be created. I would suggest that elements of this charge would require proof that the driver of a motor vehicle caused the death or grievous bodily harm of another person. This would relieve the crown of the need to establish any element that the driving was objectively dangerous to support a conviction. The maximum penalty in my view should be cognate of that of Dangerous Operation of a Motor Vehicle Causing Death namely 10 years imprisonment.⁴ The prosecution would still have to prove a causal connection and negate any possible defence of accident.

³ See, State of Queensland (Queensland Courts) *Supreme and District Courts Benchbook*, 103 *Dangerous Operation of a motor vehicle*.
<http://www.courts.qld.gov.au/_data/assets/pdf_file/0019/86131/sd-bb-103-dangerous-operation-of-a-motor-vehicle-s-328a.pdf>.

⁴ See *Criminal Code 1899* (Qld) s328A(4).

3. Current penalties and sanctions, including where there are different fine rates for cyclists compared to other road users.

It is my submission that the current penalties applicable to cyclists are adequate. Many of the penalties currently for cyclists are less than those applicable for drivers of motor vehicles and in my submission this is appropriate. Such penalties should be related to the potential risk of death or injury. Ultimately if a cyclist disobeys a red light and has a collision with a motor vehicle it is highly likely that the injuries the cyclist sustains would prove a far greater penalty (and subsequently a deterrent) than any fine imposed. The opposite cannot be said for the drivers of a motor vehicle who disobeys a red light and collides with a cyclist.

4. The potential benefits and impacts of cycle registration.

I oppose the imposition of any form of cycle registration. It is currently recognised that increasing the number of cyclists is in the public interest. This is expressly stated government policy and is a clearly established objective of the Queensland Cycle Strategy to "*get more people to cycle more often for school, work, recreation, shopping and social trips*".⁵ The policy also states that one of the benefits of cycling is that it is free of any registration fees.⁶ The imposition of a registration fee on cyclists would in my view be a significant discouragement for members of the public to take up the activity. This would be contrary to current government policy. It would deter interstate cyclists from travelling to Queensland. It would be a significant reason to deter the holding of major events such as cycling tours, charity rides and other cycling based activities. These events bring significant revenue to the State, but also promote the sport which is aligned with current government policy.

The only positive benefit that may be derived from bringing in such a system is that it may increase the apprehension of cyclists through the use of red light cameras, however there are a relatively small number of collisions at intersections

⁵See, State of Queensland (Department of Transport and Main Roads) (2011) *Queensland Cycle Strategy 2011–2021*, 6.

⁶ *ibid.*

caused by cyclists running red lights. However it would be my submission that if a cyclist is going to disobey a red light it is highly likely they are also going to disobey any requirement to register their bicycle and attach a registration plate to it.

Conclusion

Whilst I concede that not all cyclists do abide by the road rules, it is my submission based on my experience that the majority of bunch riders do. I also suggest that the potential consequences (in the form of injury and death) for cyclists are far higher than that of motorists and as a result they are, out of a sense of self preservation vigilant for potential safety hazards and risks. Therefore in my view, they have a greater incentive to comply. As it is currently the public policy of the government to encourage the expansion of the use of cycling as a mode of transportation and a lifestyle choice there is a need to ensure that this cause is coupled with ample protection.

Cyclists need enhanced laws to adequately protect them in their unique position of vulnerability on our roads. Such protection needs to be in the form of clear legislation, the establishment of clear and distinct guidelines for drivers and severe penalties to deter drivers who through wanton acts or carelessness place the lives of cyclists at risk.

The imposition of greater penalties on cyclists or requiring them to register their bicycles would in my view yield no further enhancement in safety, but would rather be counterproductive in achieving the governments goals to continue to grow and expand cycling as an activity and a lifestyle choice.

I forward this submission for your information and consideration.

Richard Scholl