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Attention: Senior Sergeant Christopher Hayes.

Review of Road Rule 79A, Stopped Emergency Vehicle 40km/h Speed Limit

Victorian Motorcycle Council Submission
April 2022

About this submission:

The Victorian Motorcycle Council welcomes the opportunity to present a submission to Victoria Police regarding the review of Road Rule 79A, Stopped Emergency Response Vehicle 40km/h Speed Limit Road Rule.

The Victorian Motorcycle Council was created to represent the interests of all motorcyclists, motorcycling organisations and relevant stakeholders in Victoria. The Victorian Motorcycle Council is represented on the Australian Motorcycle Council, the peak motorcycle body in Australia.

This submission takes into account the extensive knowledge and considered views of a diverse group of motorcyclists, both from within VMC ranks and the wider community.

The information included in this submission is for all intents and purposes, factual, correct, accurate and relevant. The VMC and/or its associates, are available to expand on any of the points contained within this submission, or available to consult further on related matters not covered in this submission.

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DEFINITIONS:

ERV	“Emergency Response Vehicle” covering all vehicle types as defined in Road Rule 79A(2), which are stopped and displaying flashing lights.
Motorcycle	All road legal powered single track, two and three wheeler motorbikes and scooters
RR	Road Rule
VMC	Victorian Motorcycle Council

Introduction/Summary

This submission provides motorcycle and powered two/three wheeler specific feedback regarding Road Rule 79A¹ (RR79A), particularly subsection 3 which requires vehicles to pass stationary emergency response vehicles (ERV's) at a maximum of 40km/h.

The submission is in two parts:

- Part A: VMC submission
- Part B: Consultation Questions

In general, riders were not supportive of RR79A in its current form due to the inherent danger of slowing suddenly or especially substantially if done so from highway and/or freeway speeds. It has been observed that traffic was generally poor at complying with RR79A therefore elevating the risk of collision when a motorcyclist attempts to comply with the law.

Drivers in middle and outer lanes, in medium to dense traffic, would typically have little to no view of an ERV stopped ahead in the left hand emergency lane or shoulder, and is even more likely the case when the ERV is a low profile State Highway Patrol police vehicle. This means that drivers were typically late in responding to a stopped ERV and the drivers behind them were responding to the sudden and unexpected slowdown of the vehicle ahead. This sends a "traffic shock wave" back along the traffic column, with its potential for nose to tail box car type collisions.

The intent of RR79A is supported by the VMC and by riders in general, but we strongly recommend that on multi-lane 80km/h or faster roads, the lane closest to the stopped emergency vehicle carry the legal obligation to slow and/or create the required buffer space to ensure the safety of stopped ERV's and their personnel. This is consistent with our preferred option of adopting NSW's version of the same rule, RR78-1². Alternatively, we also support the wholesale revision of RR79A along the lines of the performance based rule proposed by Queensland³.

Either of the above changes would make highways and freeways safer for motorcyclists and other road users while also maintaining the safety of the stopped ERV and related personnel.

¹ http://classic.austlii.edu.au/au/legis/vic/consol_reg/rsrr2017208/s79a.html

² classic.austlii.edu.au/cgi-bin/sinodisp/au/legis/nsw/consol_reg/rr2014104/s78.1.html

³ <https://statements.qld.gov.au/statements/94293>

PART A: VMC Submission

Visibility – Stopped ERVs Are Not Easy to See in Traffic

When viewed from the perspective of a driver in the middle to outer lanes of a multi-lane road, a driver in medium to dense traffic often has no view of the emergency lane or shoulder (see figure 1). Their view is obscured by traffic which typically includes trucks / truck trailers, vans, SUV's, tradie utes, buses, etc. When their view is obscured, there is no ability for drivers to comply in a timely manner to RR79A as it currently stands.



Figure1 – Dash Cam at eye level, Medium to High Density Traffic, Westgate Fwy.

As can be seen in figure 2 below, when a stopped vehicle in the emergency lane does reveal itself to the driver, the reveal may be fleeting and it may also not offer a lot of time and space for the driver to gradually and safely reduce their speed in order to comply with R79A. If they were to suddenly brake, they would be reliant on the driver behind to be sufficiently alert to respond in a timely manner.



Figure2 – Dash Cam at eye level, Medium Density Traffic, Car in Emergency lane, Westgate Fwy.

The visibility problem is exacerbated by low profile State Highway Patrol Police vehicles with streamlined emergency lights (or indeed fully internal windscreen mounted emergency lights). They are very likely to be obscured by traffic since the roofline of a BMW M5 police vehicle is approximately 1.5m high, i.e., typically lower than the height profile of general road traffic.

The probability of seeing taller ERV's such as ambulances, fire trucks and tow trucks, is higher given their vehicle heights of between 3m - 4.5m high (vehicle dependent), but still unlikely in the scenarios of figure 1 and 2.

The difference in heights of the primary ERV's is demonstrated in figure 3 below.



Figure3: Emergency Vehicle profile comparison, approx.heights:1.5m vs 3m vs 4.5m

The Adjacent Lane Presents the Hazard

The lane adjacent to a stopped ERV should have good forward visibility of the emergency lane or shoulder and by extension, the ERV. This is the lane with the closest proximity and highest probability of creating a safety concern to emergency responders. This is the lane then that should have the obligation to manage the hazard that its vehicles represent.

It is not logical for traffic two, three or more lanes away, with the lowest opportunity to see stopped ERV's and the least risk of interacting with them, to also have an obligation to slow down to 40km/h. All this does is create a traffic hazard for road users in those lanes. These concerns are accounted for in NSW RR 78-1(2) and the performance based proposal by Queensland.

The VMC recommends that RR79A be changed to either adopt NSW RR 78-1, or be completely revised to match Queensland's proposal.

Unexpected Slowdowns are a Hazard Even in Light Traffic

Unexpected slowdowns are a hazard, even in light traffic with good visibility. This hazard is well demonstrated in the Channel 7 News footage of traffic behaviour around stopped ERV's that is linked below. Note however, that the hazard is to the vehicular traffic and not the ERV as shown by figure 4, a still image taken from the footage.

<https://www.youtube.com/watch?v=8cLCYU3O62k>



Figure4: Still image from the Channel 7 footage showing a vehicle collision.

Little to No Visual Cues of a Motorcycle Slowing Down

A slowing vehicle or car offers the driver behind the chance to recognise a rapidly changing visual perspective as the distance begins to close, in terms of both the clearly closing gap and apparently increasing size of the vehicle. An alert driver, observing these changes and the vehicle's brake lights, should respond in a timely manner to avoid a potential collision.

Unfortunately, there is very little change in visual perspective or apparent size offered to the driver that is suddenly closing in on a slowing motorcycle. This lack of perspective change is the same visual cognitive error recognised as "Time to arrival illusion"⁴ where the narrow profile of a motorcycle offers little change in visual perspective until it is quite close. This places motorcyclists at significant risk when they slow down suddenly in response to a vehicle ahead or in an attempt to comply with RR79A.

For some motorcycles, particularly those with large capacity V-twin engine configurations, rapid deceleration is possible simply by closing the throttle. Where a rider does this without triggering the brake at the same time, the only visual cue the driver behind will have is the rapidly closing distance and late perspective change. This increases the risk of a motorcyclist being rear ended.

Again, when a stopped ERV faces little to no risk from vehicles more than a lane away, these vehicles should not have an obligation to comply with RR79A.

RECOMMENDATION: The risk to stopped ERV's is from the immediately adjacent lane. RR79A should therefore be revised, either by adopting NSW RR 78-1 or given a wholesale revision to match Queensland's proposed road rule.

A Selection of Rider's Views

The motorcycle community was asked to give their views on RR79A. Many riders expressed their views in a variety of social media settings, however Appendix I contains only the views that were expressed directly to the VMC.

While a couple of comments were supportive, overwhelmingly, riders did not support the rule in its current form and largely gave their reason(s) why.

We are aware that some riders made their own submissions, as did several clubs on behalf of their members, and we applaud them for doing so.

⁴ https://www.researchgate.net/publication/7634184_Motorcycle_Accident_Risk_Could_Be_Inflated_by_a_Time_to_Arrival_Illusion

PART B: Consultation Questions

Q1: The VMC advocates on behalf of all Victorian motorcyclists. It has a register inclusive of some 600 individual riders and 10 motorcycle clubs. The vast majority of bike types are road registered bikes across a variety of market segments and vehicle ages.

Q2: The VMC is aware of one rider who was seriously injured on the Westgate Bridge approximately 3 - 4 years ago, but was unable to locate the rider for further comment. On social media and direct correspondence, multiple riders reported near misses and/or that their safety had been compromised when complying with RR79A. Typically these experiences related to stopped Police vehicles.

Q3: Contrary to the contention contained in question 3, RR79A has **not** improved the road safety of motorcyclists, as detailed in Part A.

Q4: The VMC has provided its qualitative analysis on the safety implications of RR79A in Part A, supported by constructed argument and community feedback. We'd be happy to assist further upon request.

Q5: The VMC has NOT collated near miss statistics related to RR79A, nor was it asked to when RR79A was introduced. Anecdotal reports are included in Appendix I. We'd be happy to assist further upon request.

Q6: The consequences of the application of RR79A as it currently stands, has been well explained in Part A, largely applying to main roads, highways and freeways.

Q7: Neither the VMC, nor the then Minister for Road's "Motorcycle Expert Advisory Panel" were consulted when RR79A was being framed. To the best of the VMC's knowledge, the road rule was devised, developed, legislated and communicated without any motorcycle stakeholder input or involvement of any kind.

Q8: It is the VMC's considered view that while RR79A serves to improve the road safety of ERV workers, it has **not** improved the road safety of Victorian road users.

Q9: Contrary to the contention of question 9, the purpose of RR79A is **not** to improve the road safety of all road users, but to improve the road safety of stopped ERV's and associated ERV workers. To reduce the inherent risks to other road users, particularly motorcyclists, the VMC recommended in Part A the adoption of NSW RR 78-1 or a wholesale revision to a performance based rule such as proposed by Queensland.

Q10: Refer to Part A of this submission.



APPENDIX I

Written Rider Views Given Directly To The VMC:

Anthony: It's dangerous on the highway as half the motorists do not slow at all. I think in USA, they just require the lane next to the police stopped to be vacated so no way is driving pass them so closely.

Jeffro: The coppers in Tassie laughed at this rule a few years ago when we asked them about it

Ian: Try standing on the edge of the road at an emergency and having cars and trucks barrelling past at 100k and then see if you agree with the rule. I'm all for it.

Terence: About as safe as grabbing a handful of breaks coming up to a car tailing a cyclist on a bend

Stu: Should be slow to as close to 40 as safe

Jimmy: Slowing to 40 in a 100/110 zone is downright dangerous bordering on insane. In the other speed zones it's ok but should copy NSW by not requiring it in 100/110

Gareth: It must be the most short sighted ridiculous rule implemented. It can be terrifying on a bike should you try and obey this and slow down when no other traffic around you does. I would suggest it makes it no safer for the police or emergency workers either

Reade: The roadside is a worksite for many people, tradies, council workers, police, local laws officers. So just like any other workers, these people need to be safe at their worksite. I believe the 40kph rule should be applied to make the worksite safer for more Roadside workers many of whom currently risk their lives working beside roads without flashing lights or signs to protect them while many drivers are breaking the speed limit and looking at their phones...I'm happy to leave home 30 seconds earlier to do my bit in respect of another workers OHS.

Robin: Nowhere in Australia will you see speed zones change from 110 km/h to 40 km/h and there's a reason for it. Cars, bikes and trucks slow at different rates. I agree with the principle of slowing down but the blanket rule to slow to 40 was an ill considered knee jerk reaction. It's not big deal for me on a bike to slow or speed up but most cars don't and if I do I'm suddenly surrounded by cars and trucks whizzing past me. I have no doubt that this law has caused more grief than it's prevented.

John: Queensland are introducing a 'Move over, Slow down' Road Rule later this year, but with no specified speed limit. It will apply to non emergency vehicles as well, such as RACQ and tow trucks. <https://statements.qld.gov.au/statements/94293>

Jack: Seems to be OK and the logical thing to do. Obviously you slow to 40 when its safe to do so. Not when someone is barreling up your a..... or whatever

Chris: Personally, I stab the rear brake about 10 times to flash my brake light to those behind me that I'm slowing down.

I understand the need and safety for those operating on the roadside. Personally, I believe they should have operation guideline updates to pull people over off the freeway rather than on it. This should be communicated to the public, that where practicable to do so, they take the next exit. This not only reduces the risk to the police & the driver being pulled over, but reduces congestion and rubber necking.and 40kmh incidents.

I currently don't mind the slow to 40. I have good situational awareness and see the lights a long time before most car drivers so I can prepare to slow in a safe manner. I do believe that for the

majority of public who just follow the car in front and watch their rear bumper, slowing to 40 in a 100-110 zone is not ideal.. should be more 60-80 region.

Ross: Riding a bike means feeling very vulnerable to a rear end collision, with possibly fatal consequences. When I have to slow by up to 60kmh less than the traffic behind me I'm very concerned about whether the vehicles travelling behind me are also slowing down. Because of this I am spending much more time watching my rear view mirrors and doing head checks, and less time taking in the road ahead. I believe this puts emergency workers and I at much greater risk of me colliding with them compared to if I was in a car or travelling at a more psychologically comfortable speed where my attention remains on the road ahead.

Anon: I've not really had many occasions where I've passed an emergency vehicle in the circumstances required. Of the times it has happened, what's stood out is that even though I and some others slowed to around 40km/h, many other road users didn't. As a rider I felt vulnerable and forced to increase my speed to remain safe. Not that the rule was being enforced any way...

Mungo: Like wise, I've only ridden past a couple of 'flashing lights' events and have slowed to the required speed limit but felt vulnerable given other road users disregard for the law... Perhaps more public education is required, roadside billboards maybe?..

Shane: I understand the thinking behind the rule and support the idea of taking care when passing. Its main flaw is that very few motorists follow it which puts everyone who does at risk. I've not encountered an EV pulled up, lights on, when out on my bike, but quite a few times in the car. While I attempt to slow down, if the surrounding traffic is not reacting, then it would be foolish of me to attempt to.

Sam: In principal the 40kph limit under these circumstances makes sense. In practice I find that many cars, vans and trucks rarely stick to the 40kph limit. For me personally while riding a motorcycle this has proven to be dangerous on numerous occasions.. These other vehicles who exceed the 40 limit don't like being held up and see an easy opportunity to go around a motorcycle at close proximity.

Steve: This rule has seriously endangered me, several times (on bike & in a car) for no beneficial effect. It should be scrapped forthwith.

Mike: I get the purpose of the rule completely, but note the additional dangers due to other road users not slowing down. Maybe if it was 60 km/hr, people would be more likely to stick to the limit

D.Hughes: A dangerous law, particularly on 100/110kmh roads. When traffic is heavy, visibility is lower, as is space, and to require speed to drop by 60 or 70 kmh almost immediately is madness. I have been genuinely endangered twice by this law. Requirement should be to slow where reasonable, and move to outside lane where reasonable. Police talking to pulled-over drivers should do so through passenger window, not driver window. All this works fine in the US.

Rachelle: I feel the biggest problem isn't the speed, it is the close proximity in which car/truck drivers pass the 'party lights' at. Since 2016, Victorian motorcyclists have been taught to 'buffer' from hazards and leave a 3 second crash avoidance space, but car drivers don't seem to comprehend the idea of space, both laterally or in front. It's law to pass cyclists 1.5m from any speed, wouldn't this be a better option for the average pull over?

M Down: I understand the intent behind this road rule. However, from my observations it is almost never observed by drivers. Drivers will simply adjust their speed to match the traffic flow. A more realistic speed of, say, 70 kph. would work better. I have wondered if the road rule contributed in part to the tragic accident on Melbourne's Eastern Freeway where 4 police officers died. Is it possible the truck driver was caught out at the last second by this rule ?

Ad: It is so dangerous. I cannot safely comply with this law without risking my safety.

MikeB: As a motorcyclist, this rule is too dangerous to comply with when there is a car behind you. Dropping suddenly to a speed of 40km/h is an invitation to be rear-ended by an inattentive driver. I will not take that chance.

Usman: I have not encountered a situation where I have had to pass an emergency vehicle but yes at low visibility areas or turns etc it can be hazardous. Changing the lane to give space is still safer but sudden reductions in speed are not something I would like to do especially if there is traffic behind me.

Corey: The majority of times I encountered flashing lights emergency vehicles, surrounding traffic did not slow down and I felt extremely unsafe as people drive right up your backside and/or overtake aggressively. This happened in instances where sight lines were good, just other road users compliance was lacking. I also agree that large speed reductions (say 100km/h or 80km/h down to 40km/h) in a very short distance are extremely unsafe. Is this supported by design/road safety standards?

Titus: I have also encountered at least one significant risk to my life by attempting to comply, when a passing articulated transport disregarded the rule. Clearly there is a need for greater safety for emergency services workers. However it seems that a lot of roadside interactions for non-critical purposes could be removed to a safer area. I suggest that the current law may place enforcement officers at greater risk from adjacent collisions than errant vehicles.

