

**AUSTRALIAN ROAD RULES
8TH AMENDMENT PACKAGE**

DRAFT DISCUSSION PAPER

May 2008



National Transport Commission

**Prepared by
National Transport Commission**

National Transport Commission

Australian Road Rules 8th Amendment Package

Report Prepared by: National Transport Commission

ISBN:

REPORT OUTLINE

Date: May 2008

ISBN:

Title: Australian Road Rules 8th Amendment Package –
Draft Discussion Paper

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Type of report: Discussion paper

Objectives: Improved road safety

NTC Programs: Maintenance and review

Key Milestones: Transport Agencies Chief Executives in July 2008

Abstract: The Australian Road Rules Maintenance Group convened in 2007 to deliberate on matters for inclusion in the 8th amendment package to the Australian Road Rules. The proposed amendments are required to make the Australian Road Rules more succinct and contemporary, thereby contributing to the safety of all road users and the efficient movement of traffic on Australia's roads

Purpose: Public consultation

Key words: Driver, long vehicle, shared zone, turns

Comments by: 4 July 2008

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FOREWORD

The National Transport Commission (the Commission) is an independent statutory body established by the *National Transport Commission Act 2003*. The Commission has on-going responsibilities to develop and maintain uniform or nationally consistent road, rail and intermodal transport reforms to improve safety, productivity and environmental outcomes.

The Australian Road Rules (the Rules) were developed by the Commission's predecessor, the National Road Transport Commission, in consultation with road transport agencies, police, road safety experts, motoring organisations, local government, members of the public and other interested parties. The Rules were approved by the Australian Transport Council in January 1999, along with a maintenance strategy to ensure they reflect the needs of stakeholders and meet community expectations for road safety.

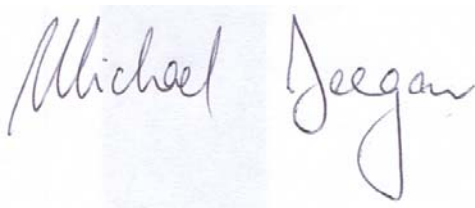
Since the national implementation of the Rules, road agencies have highlighted some aspects that require improvement and updating to ensure clarity and understanding is retained. This is the eighth package of amendments to the Rules that have been developed by the Commission in line with the approved maintenance strategy.

The Commission has undertaken consultation with representatives from Commonwealth, state and territory road transport and enforcement authorities, through the Australian Road Rules Maintenance Group, in order to identify and assess the need for the required changes. The Commission has also consulted with the Australian Mobile Telecommunications Association in relation to mobile phones issues, the Australian Trucking Association in relation to mobile phones and other matters concerning trucks, the Australian Motorcycle Council Inc. in relation to motor bike matters and the Australian Pedestrian Council in relation to giving way to pedestrians.

This discussion paper, together with the proposed draft amendments, is released for public comment. Submissions received by the Commission will inform the Commission in preparing the next iteration of the draft amendments and the discussion paper. Submissions will be summarised and included in a revised discussion paper along with the Commission's responses to the key points raised in the submissions. The revised amendments and discussion paper will then be provided to Transport Agencies Chief Executives for approval under the expedited approval process.

Comments should be forwarded to the National Transport Commission by 4 July 2008.

The Commission acknowledges the advice and assistance of the Australian Road Rules Maintenance Group and the project manager Greg Deimos in preparing this package of amendments.

A handwritten signature in blue ink that reads "Michael Deegan". The signature is written in a cursive style and is positioned over a light blue rectangular background.

Michael Deegan
Chairman

SUMMARY

In its on-going consideration of the currency of the Australian Road Rules (the Rules), the Australian Road Rules Maintenance Group (maintenance group) has identified a small number of issues it considered necessary, for better interpretation of the Rules, to either establish the intent of or clarify certain provisions in the Rules.

Accordingly, the maintenance group has developed this eighth amendment package for consideration of the following issues:

- *Definition of shared zone*: the definition only allows a shared zone to be established where there is a network of roads. However, there are a number of instances where shared zone signs are used on a single length of road or in road-related areas; the rules do not allow either of these practices. The proposal allows a shared zone to be established on a single length of road similar to the way a school zone is established or in a road-related area.
- *Giving way to pedestrians when turning at an intersection*: the Rules generally require a driver, when turning to the left or right at an intersection, to give way to any pedestrian “on” the road the driver is entering. The intent of these provisions was that after a driver has entered the intersection and is making the turn, the driver must give way to any pedestrian crossing the road from the same, or opposite, direction of travel as the driver. However, one interpretation of the current text is that it includes a requirement for a driver to give way to any pedestrian walking along the road and approaching the driver from the right or left as the driver enters the intersection. This is not the intent of the Rules and the proposal seeks to establish the intended position.
- *Giving a change of direction signal when turning at a roundabout*: the Rules require a driver to give a right or left turn signal when the driver is entering a roundabout. As a result other road users receive no advanced warning of the driver’s intent as the driver approaches the roundabout. Similar rules for giving a right or left turn signal when turning right or left at an intersection require a driver to give sufficient warning to other road users of the driver’s intention. The proposal seeks to apply the sufficient warning required at intersections to roundabouts.
- *No overtaking to the left of another vehicle*: the Rules stipulate when a driver may overtake to the left of another vehicle on a multi-lane road; however, a long vehicle (7.5 metres or more in length) is excluded from the rule. This means that a driver cannot overtake a long vehicle on a multi-lane road in a lane to the left of the long vehicle even though it is safe to do so. The proposal seeks to remedy this anomaly.
- *Marked lanes to be used by particular kinds of vehicles*: the Rules make provision for a traffic sign to require a particular type of vehicle to travel in a particular lane (for example, trucks use left lane); however, a driver travelling in such a lane commits an offence if the driver leaves the lane to position the vehicle to make a U-turn or right turn to leave the road. The proposal seeks to remedy this anomaly.
- *Entering blocked crossings*: the Rules prevent a driver entering a children’s crossing, marked foot crossing or pedestrian crossing if the crossing is at an intersection and the road beyond the crossing is blocked. It has been identified that if the crossing was at an intersection without traffic lights the rule would prevent a driver having a proper view in either direction along the road the driver is entering, because the driver is not

permitted to stop on the crossing. The proposal seeks to remedy this anomaly restricting the application, if at an intersection, to intersections with traffic lights.

- *Keeping to the left of the road or a dividing line:* the Rules prevent drivers executing a U- turn across a single continuous dividing line, a single continuous dividing line to the left of a broken line or 2 parallel continuous dividing lines. The proposal seeks to insert three examples (diagrams) to illustrate the proper meaning of rule 132(2A).
- *Exceptions to keeping to the left of a dividing line:* the maintenance group is of the opinion that rule 134(3) is difficult to understand and considers it needs to be clarified. The proposal seeks to clarify the meaning of subrule (3) and also inserts three examples (diagrams) to assist illustrate the meaning.

Rule 133(2) explains when a driver is permitted to cross a dividing line or a broken dividing line to the left of a single continuous dividing line. The rule applies to a single dividing line not 2 parallel continuous dividing lines. The proposal seeks to ensure there is understanding that subrule (2) applies to a single continuous dividing line and a broken dividing line to the left of a single continuous dividing line.

- *Driver to have proper control of a vehicle etc:* the 5th Amendment Package approved in 2006 inserted a provision to prohibit drivers having a person or animal on their lap while driving. Also inserted was a provision to prohibit riders of motor bikes from riding with an animal on the petrol tank of the motor bike as it was considered a safety risk to have an animal between the rider and the handlebars. It has been identified that some motor bikes do not have the petrol tank between the rider and the handlebars, therefore the rule would not apply to them. The proposal seeks to clarify the original intent by omitting the reference to a petrol tank and inserting the words between the driver and the handlebars.
- *Television receivers and visual display units in motor vehicles:* the Rules prohibit a driver viewing the screen of a television or a visual display unit while the driver is driving. However, there is allowance for the driver to view the screen of a visual display unit, if the unit is a driver's aid. The maintenance group expressed concern that many new mobile phones can also be used as a driver's aid as they have global positioning system (GPS) abilities. Although the maintenance group did not wish to change the intent of the rule, they were concerned that such devices could be held in a driver's hand while the driver was driving, yet other rules relating to mobile phones did not allow a driver to have a mobile phone in his/her hand. The proposal seeks to provide consistency within the rules in that a GPS must be an integrated part of the vehicle or secured in a mounting affixed to the vehicle.
- *Use of mobile phones by drivers:* the Rules prohibit a driver using a mobile phone while the vehicle is in motion or stationary but not parked. The Rules apply to a driver holding the phone in the driver's hand. It has been identified that some drivers are now holding the phone between their shoulder and neck. The proposal seeks to clarify the original intent of the Rules as it applies to mobile phone use by drivers.

It is not anticipated the proposed changes will impact on road users as it is likely, in practice, drivers' behaviour already follows what the amendments are seeking to achieve (clarification of existing rules and intent).

It is also believed that the proposed amendments will not have a detrimental effect on road safety, but will support normal driving practices with regulatory intent.

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1. INTRODUCTION

This discussion paper assesses proposals raised by the Australian Road Rules Maintenance Group (maintenance group) for changes to the Australian Road Rules (the Rules). The proposed changes have been developed through the maintenance strategy endorsed by the Australian Transport Council in 1999.

The National Transport Commission has developed this amendment package with assistance of the maintenance group during the latter part of 2007 to early 2008.

The maintenance group comprises representatives from all state and territory road agencies, the Commonwealth and police.

2. PROBLEMS AND OBJECTIVES

While the Rules endeavour to provide a definitive guide to how road users should behave on Australia's roads, difficulty has arisen in the interpretation of some rules, while in other rules the intent has not been properly captured. The maintenance group has identified eleven areas that require attention:

- rule 24 – Definition of a shared zone;
- rules 62, 64, 67, 69, 72 and 73 – Giving way to pedestrians when turning at an intersection;
- rules 112 and 113 – Giving a change of direction signal when entering a roundabout;
- rule 128A – Entering blocked crossings;
- rule 132 – Keeping to the left of a dividing line;
- rule 134 – Exceptions to keeping to the left of a dividing line;
- rule 141 and 143 – No overtaking etc to the left of another vehicle;
- rule 159 – Marked lanes to be used by particular types of vehicles;
- rule 297 – Driver to have proper control of a vehicle etc;
- rule 299 – Televisions and visual display units in motor vehicles; and
- rule 300 – Use of mobile phones by drivers.

Proposed solutions to each of these issues will be discussed separately, along with their respective rationale and impact on road users, if any. The objective these proposals seek to achieve is to ensure that the Rules remain clear, consistent, current and effective in:

- providing uniform regulations throughout Australia for all road users; and
- enhancing mobility and safety.

3. PROPOSALS AND ALTERNATIVES

Each of the proposals discussed below are intended to be given effect by way of legislative amendments to the Rules, to ensure national uniformity and consistency in road rules is maintained.

The preferred approach is to adopt the proposed changes, thus providing an emphasis on compliance and modifying education programmes to reflect the changes.

Alternatives to this approach would be:

- do nothing, therefore maintaining the status quo – this will not address the ambiguities in the legislation that have been identified, and a possible outcome of not making the proposed amendments is a misunderstanding of the desired intent resulting in common confusion; or
- continued education programmes to support the current provisions – as with the previous option, this option will not remove the legislative ambiguities and deficiencies.

The changes are seen as necessary and desirable by representatives from Commonwealth, state and territory road agencies and enforcement authorities. If the changes are not made, jurisdictions may face pressures that could lead to individual modifications being applied, to the detriment of providing a homogeneous set of laws.

3.1 Rule 24 – Definition of a shared zone

Rule 24(1) requires a driver to obey the speed limit displayed on a *shared zone sign* erected on a road into the shared zone.

Rule 24(2) defines a *shared zone* as a network of roads in an area with:

- a *shared zone sign* on each road into the area, indicating the same number; and
- an *end of shared zone sign* on each road out of the area.

Shared zone signs are depicted at the foot of the rule and also in Schedules 2 and 3 of the Rules.

Figure 1. Shared zone sign



Figure 2. End shared zone sign



Figure 3. Shared zone sign



Figure 4. End shared zone sign



Figure 5. Shared zone sign



Figure 6. End shared zone sign



Rule 83 requires a driver in a shared zone to give way to any pedestrian in the shared zone.

Rule 4(3) provides that a definition in the Rules applies to each use of the word or expression in the Rules, unless the contrary intention appears. Shared zone is contained in the dictionary as a signpost definition and therefore, the meaning contained in rule 24(2) applies to both rules 24 and 83.

The maintenance group has identified that it is a common traffic engineering practice to establish shared zones in densely populated pedestrian areas where vehicular passage is also required. In many cases these areas comprise a single length of road and although *shared zone signs* are erected at the beginning of the length of road and *end shared zone signs* at the end, they do not in fact create a shared zone as defined in the Rules, as a length of road is not by itself a “network of roads” in an area.

The pragmatic approach taken by traffic engineers when establishing shared zones on a busy single length of road shared by both pedestrians and vehicles, has merit for pedestrian safety; but neither the speed-limit provided in rule 24 nor give way provisions in rule 83 can be enforced, as shared zones on a single length of road do not meet the requirements of the definition contained at rule 24(2).

The purpose of this proposal is to amend the definition of shared zone in rule 24(2) so that a shared zone may also apply to a single length of road. The proposal will also make rule 24(2) consistent with rule 23 (school zones), which allows a school zone to be established on either a single length of road or a network of roads.

The maintenance group has also been advised that shared zone signs are used in areas that are road-related areas, which are not roads, but have a mix of pedestrians and vehicles. It is apparent these areas are not shared zones under the Rules as they are not roads. Traffic engineers establishing such areas consider the shared zone provisions to be appropriate for the necessary movement of traffic and the safety of pedestrians. The proposal further intends to extend the definition of shared zone so that it can apply to an area that is only a road-related area.

3.2 Rule 62, 64, 67, 69, 72 and 73 – Giving way to pedestrians when turning at an intersection

The Rules were originally developed from a consultative process with state and territory road agencies and were designed to reflect, wherever possible, the existing rules employed by states and territories. Generally, state and territory laws (before the Rules) required a driver, when turning to the left or right at an intersection, to give way to any pedestrian crossing the road the driver was turning into. That is, the pedestrian would need to be walking in the same or opposite direction of travel as the driver; not approaching the driver from the right or left (see Figure 7).

The maintenance group has identified the Rules do not reflect this intent and in fact can be interpreted to apply to a pedestrian walking along the road and approaching the driver from the right or left as the driver entered the intersection (see Figure 8).

Figure 7. Giving way to a pedestrian crossing the road a driver is entering

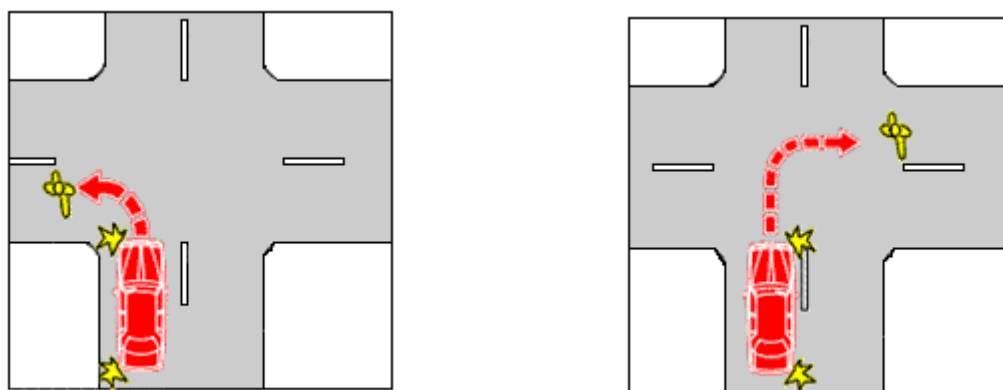
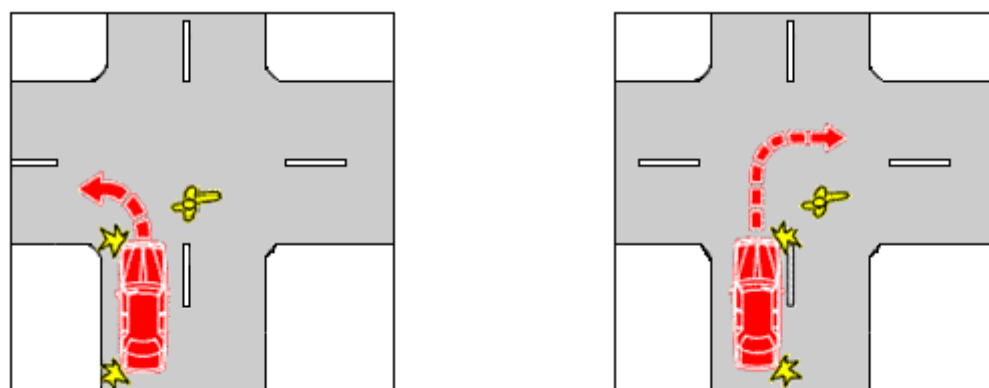


Figure 8. Pedestrian “on” but not crossing road



The rules for giving way to a pedestrian at an intersection are summarised in the following dot points:

- rule 62(1)(a) – a driver turning at an intersection with traffic lights must give way to any pedestrian at or near the intersection who is on the road the driver is entering;
- rule 64(b) – a driver turning in the direction of a flashing yellow traffic arrow at an intersection with traffic lights must give way to any pedestrian at or near the intersection who is on the road the driver is entering;

- rule 67(4) – a driver at an intersection with a stop sign or stop line must stop and give way to, if the driver is turning left or right or making a U-turn, any pedestrian at or near the intersection who is on the road or part of the road the driver is entering;
- rule 69(3) – a driver at an intersection (except a roundabout) with a give way sign or give way line must give way to, if the driver is turning left or right or making a U-turn, any pedestrian at or near the intersection who is on the road or part of the road the driver is entering;
- rule 72(3) and (5) – a driver at an intersection (except a T-intersection or roundabout) without traffic lights or stop or give way signs or lines must give way to, if the driver is turning left or right, any pedestrian at or near the intersection on the road the driver is entering;
- rule 73(2) – a driver at a T-intersection without traffic lights or stop or give way signs or lines must give way to, if the driver is turning left or right from the terminating road into the continuing road, any pedestrian on the continuing road who is at or near the intersection; and
- rule 73(4) and (6) – a driver at a T-intersection without traffic lights or stop or give way signs or lines must give way to, if the driver is turning left or right from a continuing road into a terminating road, any pedestrian on the terminating road who is at or near the intersection.

It is apparent the structure of these rules requires a driver to give way to any pedestrian who is “on the road” the driver is entering and the pedestrian need not be crossing the road; this is contrary to the original intent of the Rules.

For example, rule 67 requires two distinct actions by a driver; the first is that the driver stop and the second is to give way. The rule then explains to whom the driver must give way:

- a vehicle entering or approaching the intersection except:
 - an oncoming vehicle turning right at the intersection if a stop or give way sign or line applies to the driver of the oncoming vehicle;
 - a left turning vehicle in a slip lane; or
 - a vehicle making a U-turn; and
- if turning left or right or making a U-turn any pedestrian at or near the intersection on the road or part of the road the driver is entering.

It is clear that if the driver was travelling straight through the intersection, the driver is not required to give way to any pedestrian on the road at or near the intersection and approaching the driver from the right or left. The requirement to give way to pedestrians only operates when the driver is turning right or left, suggesting the pedestrian the driver is required to give way to is crossing the road (same or opposite direction of travel as the driver’s original direction before turning) and not walking along the road and approaching the driver from the right or left.

For example, if a driver stopped at a *stop sign* at an intersection and a pedestrian was approaching the intersection from a driver’s right or left the driver is not required to give way to the pedestrian if the driver is proceeding straight through the intersection. It would

be anomalous to suggest that in the same circumstance a driver turning right or left would be required to give way to the same pedestrian. It is apparent that rule 67(4) should apply to a pedestrian crossing or on the road the driver is entering when the driver is leaving or about to leave the intersection. Similar arguments apply for the other rules listed in this section.

The proposal seeks to clarify the original intent of the Rules in relation to which pedestrian a driver is required to give way to when turning right or left at an intersection.

3.3 Rules 112 and 113 – Giving a change of direction signal when entering a roundabout

Division 1 of Part 5 of the Rules (rules 44 to 51) provide requirements for giving a change of direction signal. Rule 46(2) states that a driver turning left must give a change of direction signal for long enough to give sufficient warning to other drivers and pedestrians; similarly, rule 48(2) requires sufficient warning for drivers turning right. The Rules clearly imply a driver must give a warning, for a sufficient length of time, as the driver approaches the intersection in order that other drivers and pedestrians know the direction of travel intended by the turning driver.

Rule 44 states that Division 1 of Part 5 does not apply to a driver entering, leaving or in a roundabout.

Roundabouts are dealt with separately in Part 9 of the Rules, rules 112(2) and 113(2) require a driver to give a change of direction signal if turning left or right respectively. However, a driver need only give a change of direction signal when the driver is entering the roundabout. Neither rule 112 nor 113 require a driver to give a change of direction signal for long enough to give sufficient warning to other drivers and pedestrians; this means the direction in which the driver intends to travel is not known by other road users until the driver has entered the roundabout.

The proposal seeks to establish consistency between Part 5 and Part 9 by requiring a driver approaching a roundabout and intending to turn left or right to give a change of direction signal for long enough to give sufficient warning to other road users.

A consequential proposal is also made to rule 113(3) to indicate to a driver giving a right change of direction signal, that the driver may stop giving the signal when the driver is about to leave the roundabout.

3.4 Rule 128A – Entering blocked crossings

Rule 128A prevents a driver entering a children's crossing, marked foot crossing or pedestrian crossing if the road beyond the crossing is blocked. The maintenance group has identified that if the crossing is at an intersection and there is no room between the crossing and the intersection for a driver to position his/her vehicle before entering the intersection, the driver would be required to stop before the crossing. From this position a driver could not see whether it was safe for the driver to enter the intersection as the driver would have limited sight distance along the intersecting road. This was not intended by the rule.

It is proposed to clarify the rule to ensure drivers are permitted to approach an intersection without traffic lights and have proper sight distances along the intersecting road before entering the intersection.

3.5 Rule 132 – Keeping to the left of the road or a dividing line

The Rules prevent drivers executing a U-turn across a single continuous dividing line, a single continuous dividing line to the left of a broken line or 2 parallel continuous dividing lines. The proposal seeks to insert three examples (diagrams) to illustrate the proper meaning of rule 132(2A).

3.6 Rule 134 – Exceptions to keeping to the left of a dividing line

Rule 134(2) explains when a driver is permitted to cross a dividing line or a broken dividing line to the left of a single continuous dividing line. The intent is that the rule applies to a single dividing line, not 2 parallel continuous dividing lines. However, there is argument that this is not the case and that if the road has 2 parallel continuous dividing lines short in length and sequence a driver is permitted to cross them. This was not the intent of the Rules. The proposal seeks to ensure there is understanding that subrule (2) applies to a single continuous dividing line and a broken dividing line to the left of a single continuous dividing line, as subrule (3) applies to 2 parallel continuous dividing lines.

The maintenance group is of the opinion that rule 134(3) is difficult to understand and considers it needs to be clarified. The proposal seeks to clarify the meaning of subrule (3) and also inserts three examples (diagrams) to assist in illustrating the meaning.

3.7 Rule 141 – No overtaking etc to the left of another vehicle (creates an amendment to rule 143 – passing or overtaking a vehicle displaying a *do not overtake turning vehicle sign*)

Rule 141(1) prevents a driver overtaking another vehicle to the left, unless it is safe to overtake the other vehicle and:

- the vehicle being overtaken is in another lane on a multi-lane road to the driver;
- the vehicle being overtaken is making a right turn or a U-turn from the centre of the road; or
- the vehicle being overtaken is stationary.

Rule 141(3) excludes, amongst other things, any vehicle displaying a *do not overtake turning vehicle sign* (long vehicle). Rule 143(1) deals with overtaking a long vehicle and states that a driver cannot overtake or drive past a long vehicle turning left and giving a left change of direction signal.

The maintenance group has identified an anomaly in that rule 141(1) provides instruction for overtaking a vehicle to the left on a multi-lane road, but subrule (3) excludes a long vehicle. This implies that a driver can overtake to the left of a long vehicle at any time without regard for safety, unless the long vehicle is turning left or right and giving an appropriate signal.

The notion of not overtaking a vehicle to the left equally applies to long vehicles as it does to any other vehicle. The Rules did not intend that a driver cannot undertake a manoeuvre in a particular circumstance involving one vehicle type, but in the same circumstance making it lawful for another vehicle type. The recognition of long vehicles as opposed to other vehicles in Division 3 of Part 11 was to cater for turning and driving in single lane rules, because those rules treat long vehicles differently and make allowances for the additional length of the long vehicle and its inability to turn in the same space as any other vehicle.

For example, rule 141(1)(a) states that a driver must not overtake to the left of another vehicle unless the driver is driving on a multi-lane road and the other vehicle can be safely overtaken in a lane to the left of the driver. However, as a long vehicle is excluded from the rule by subrule (3), the requirement placed on a driver to only overtake in a lane to the left of another vehicle if it is safe to do so, does not apply if the vehicle being overtaken is a long vehicle.

Additionally, rule 141(1)(c) allows a driver to overtake another vehicle to the left, but only if it is safe to do so. Again, because of the exclusion in subrule (3) this does not apply if the stationary vehicle is a long vehicle (a similar problem exists with rule 141(1)(b)).

The proposal seeks to remedy this anomaly by ensuring the rules for overtaking to the left of another vehicle also apply to long vehicles unless rule 143 applies.

3.8 Rule 159 – Marked lanes to be used by particular kinds of vehicles

Rule 159 requires a driver driving a particular type of vehicle to drive in a particular marked lane as required by a traffic sign, except if:

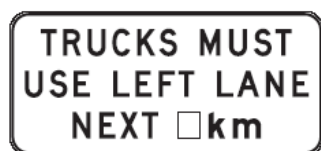
- avoiding an obstruction;
- obeying a traffic control device; or
- permitted to drive in the indicated lane and also another marked lane under another provision of the Rules.

For example, there may be a traffic sign on a multi-lane road displaying the words “trucks use left lane”, this requires the driver of a truck to travel in the left lane unless any of the three exceptions mentioned above apply.

Figure 9. Trucks use left lane sign



Figure 10. End trucks use left lane sign



The third mentioned exception in paragraph (c) of subrule (1) “permitted to drive in the indicated lane and also another marked lane under another provision of the Rules” relates to other provisions in the rules which permit a driver of a vehicle displaying a *do not overtake turning vehicle sign* to make a left or right turn from lanes adjacent to lanes

normally used for left and right turns; because of the inability of the vehicle to turn from the normal position due to its length.

Rule 28 requires a driver turning left at an intersection on a multi-lane road to make the turn from within the left lane, unless the driver's vehicle is displaying a *do not overtake turning vehicle sign* (long vehicle) in which case the driver may make the turn from a lane next to the left lane. It is not clear whether rule 159(1)(c) allows a truck to leave the lane to which the *trucks must use left lane sign* applies to take up an appropriate position to make a turn.

The proposal seeks to remove any doubt that a *trucks must use left lane sign* does not prevent trucks leaving the lane to take up an appropriate position from which the driver can make a turn.

3.9 Rule 297 – Driver to have proper control of vehicle

The Australian Road Rules 5th Amendment Package, approved by the Australian Transport Council in June 2006, inserted a provision that a rider of a motor bike must not have an animal on the petrol tank of the motor bike. The intent of the change was to prohibit the carrying of animals between the rider and the handlebars.

The regulatory impact statement for the Rules 5th Amendment Package (2005) stated, "Rule 297 requires a driver to have proper control of a motor vehicle at all times. However, there are no specific circumstances that identify proper control. Anecdotally, the incidence of drivers and riders having children or animals in their laps while driving is increasing. In such circumstances, it is difficult to demonstrate that the driver did not have proper control of the vehicle, unless the behaviour results in a crash. Even so, it is still difficult to prove that the child or animal was a contributing factor. In reality, the unpredictable conduct of a child or animal on a driver's lap, in a moving motor vehicle, is itself an unacceptable safety risk. It is intended to prohibit a driver from driving a motor vehicle with a child or animal in the driver's lap. This concept is to be extended to riders of motor bikes with animals being carried on the petrol tank of the vehicle. The proposed amendment seeks to introduce a new subrule that will prohibit a driver undertaking unsafe behaviour."

The maintenance group has been advised that there are a number of different makes of motor bikes, which do not have the petrol tank positioned between the rider and the handlebars. The proposal ensures that the original intent of the rule applies to all motor bikes by referring to the area between the rider and the handlebars rather than the petrol tank.

3.10 Rule 299 – Television receivers and visual display units in motor vehicles

During discussions on rule 300 (mobile phones) the maintenance group identified that some new model mobile phones have global positioning system (GPS) technology. It was also recognised that there were several GPS devices on the commercial market which are portable and could be held in a driver's hand.

The maintenance group considered the requirement for mobile phones to be in a fixed mounted cradle and felt a similar requirement should be made for portable GPS devices. It is proposed to amend rule 299 to require that a GPS device must be an integrated part of the vehicle or secured in a fixed mounting.

3.11 Rule 300 – Use of mobile phones

State and territory road agencies have raised concern about the wording of rule 300 of the Rules in that it does not prohibit the use of a mobile phone, by a driver while driving, that is:

- held by the shoulder and neck;
- seated in a cradle and used to send short message service (SMS);
- located on a driver's knee, hand or the front passenger seat and used to send SMS or loud speaker conversation (not near the ear).

Although the rule was modified by the 5th Amendment Package (2005), it is not considered that those changes prohibited these additional behaviours. The original intent of the Rules was that a driver should not to use a mobile phone while driving, except by using a hands-free device. At the time it was not anticipated that some drivers, while driving, would circumvent the rule by:

- holding the phone with the neck and shoulder or propped between the knees;
- holding the phone in the hand, not near the ear, and conducting a conversation on the loud speaker facility;
- sending or reading text messages, video messages or e-mails.

The proposed changes are aimed at clarifying the original intent and explaining when a mobile phone is permitted to be used by a driver while driving.

4. DESCRIPTION OF PROPOSED AMENDMENTS

The following provides a brief summary of amendments to the Rules should the proposals be approved. However, readers should refer to the Model Amendments Regulations (Australian Road Rules – Package No. 8) for a full description of the amendments.

- *Definition of shared zone:*
 - rule 24(2) will be substituted to make allowance for a shared zone to be established on a single length of road or a road-related area;
 - rule 24(3) will be amended to refer to the proposed subrule (2).
- *Giving way to pedestrians when turning at an intersection:* reference in rules 62, 64, 67, 69, 72 and 73 to a pedestrian being “on” a road will be changed to a pedestrian ‘crossing’ a road.
- *Giving a change of direction signal when entering a roundabout:*
 - rule 112(2) will be substituted to require a driver to give a left change of direction signal for long enough to warn other road users when turning left at a roundabout;
 - rule 113(2) will be substituted to require a driver to give a right change of direction signal for long enough to warn other road users when turning right at a roundabout; and

- a new paragraph (c) will be inserted in rule 113(3) to indicate that a driver will stop giving a right change of direction signal if the driver is about to leave the roundabout.
- *Entering blocked crossings*: rule 128A will be modified so that if the crossing is at an intersection it only applies to an intersection with traffic lights.
- *Keeping to the left of the road or dividing line*: three examples (diagrams) will be inserted in rule 132 to better explain the provisions of subrule (2A).
- *Exceptions to keeping left of a dividing line*: rule 134(2) will be modified to clarify that it refers to a single dividing line. Rule 134(3) will be modified to clarify when a driver can cross a dividing line to enter or leave the road and that a driver is not permitted to cross 2 parallel continuous dividing lines.
- *No overtaking to the left of another vehicle*: substitutes rule 143(1) with a new subrule (1) which reflects the requirements of rule 141(1), but for vehicles displaying a *do not overtake turning vehicles sign*.
- *Marked lanes to be used by particular kinds of vehicles*: inserts a new paragraph (d) to rule 159(1) to ensure a driver of a truck driving in a lane with a *trucks use left lane sign* can position the vehicle in the correct position before commencing to turn.
- *Driver to have proper control of a vehicle etc*: rule 297(3) and (4) will be modified to ensure that an animal is not carried on a motor bike between the rider and the handlebars.
- *Television receivers and visual display units in motor vehicles*: rule 299 will be modified to ensure that any GPS device can only be used if it is in a fixed mounting. This amendment will provide consistency with rule 300.
- *Use of mobile phones*: rule 300 will be modified to ensure the original intent of the rule is clarified; a driver is not permitted to use a mobile phone held in any way by the driver, but is permitted to use a phone in a fixed cradle.

5. IMPACT ASSESSMENT

The Rules were implemented nationally from December 1999, and were largely based on state and territory law; nevertheless, some changes to previous practices had to be accepted by all governments. The Rules resulted in the elimination of the vast majority of previous differences, leaving only a small number that provide for local variations. As part of the maintenance strategy, these variations will be reduced as practices in jurisdictions become more uniform. The consideration of these amendments forms an integral part of the maintenance strategy, ensuring operable and consistent model legislation.

The principles of safety, traffic efficiency, stability and reduced administration cost on which the Rules were based, have been taken into account during contemplation of the proposed amendments. No significant adverse impact from adoption of the amendments has been identified during the review process undertaken by the maintenance group.

Developing useable rules means that they will be easier for all road users to understand, resulting in the reinforcement of the desired on-road behaviour. Individual jurisdictions

will determine the extent to which particular changes will need to be publicised and revisions made to information materials and relevant publications. The costs of doing so are considered to be significantly outweighed by the benefits of precise and contemporary law.

The following is a summary of the proposals and how each will affect road user groups:

- *Definition of shared zone*: it is envisaged there will be no adverse impact on road users should this proposal be approved. Shared zones are depicted by the erection of signs and it is believed most road users would abide by the sign and be unaware of the subtle technical omission in the Rules relating to a single length of road. However, providing regulatory effect to common engineering practices may have a beneficial effect on pedestrian safety and compliance by drivers.
- *Giving way to pedestrians when turning at an intersection*: it is envisaged there will be no impact on road users should this proposal be approved. Most road users will already understand that a driver entering an intersection does not give way to pedestrians crossing in front of the driver; this is enforced by rules relating to stop and give way signs and lines. At the same time most road users will expect that a driver must give way to a pedestrian crossing the road the driver is actually turning into; the proposal retains this status quo.
- *Giving a change of direction signal when entering a roundabout*: it is envisaged there will be no impact on road users should this proposal be approved. Drivers are accustomed to giving sufficient warning of an intention to turn as required by the rules for left and right turns at intersections. It is believed this practice already extends to roundabouts and that the proposal would not necessarily cause a change in behaviour, but will support existing practices.
- *Entering blocked crossings*: it is envisaged there will be no detrimental impact on road users should the proposal be approved. The proposal will remove any confusion as to where a driver should actually stop at an intersection at which there is a crossing. The proposal will also enhance safety considerations in relation to sight distances at intersections. It is also considered drivers may inadvertently be breaching this rule at intersections without traffic lights when moving up to the intersection to see if it is safe to enter, the proposal will remedy this problem.
- *Keeping to the left of the road or dividing line*: as this proposal is adding examples (diagrams) only it is envisaged there will be no adverse impact on road users. The proposal will provide clearer direction as to the intent of the rule.
- *Exceptions to keeping to the left of a dividing line*: it is envisaged there will be no adverse impact on road users if this proposal is approved. The Rules currently prohibit drivers crossing 2 continuous parallel dividing lines, which is arguably common knowledge amongst all road users. The proposal enforces the intent by clarifying the exception provisions to crossing dividing lines (including 2 continuous parallel dividing lines).
- *No overtaking to the left of another vehicle*: it is envisaged there will be no impact on road users should this proposal be approved. It is believed that most drivers apply the same rules when overtaking to the left to all types of vehicles and would generally be unaware of the anomaly in the current rules.

- *Marked lanes to be used by particular kinds of vehicles:* it is envisaged there will be no impact on road users should this proposal be approved. The proposal only seeks to provide clarification for vehicles intending to leave a road and recognises current behaviour in this regard is acceptable and does not pose a road safety problem.
- *Driver to have proper control of a vehicle etc:* it is envisaged there will be no adverse impact on motor bike riders should this proposal be approved. As most motor bike riders do not undertake this practice there will be no change. It is thought the limited number of motor bike riders who may consider undertaking this practice would be aware that the intent of the original amendment was to prevent the carriage of animals in the area of the petrol tank on most motor bikes. However, the proposal should produce beneficial results in relation to road safety to all road users.
- *Television receivers and visual display units in motor vehicles:* it is envisaged there will be no adverse impact on drivers should the proposal be approved. It is considered most GPS devices are supplied with car kits, such as mountings, and there would be no additional cost. If, however, a driver needed to purchase such a device they are commercially available at a very minimal cost. The benefit would be increased safety for all road users resulting from lessening driver distractions.
- *Use of mobile phones by a driver:* it is envisaged there will be no adverse impact on drivers should the proposal be approved. It is considered most mobile phones are supplied with car kits, such as mountings, and there would be no additional cost. If, however, a driver needed to purchase such a device they are commercially available at a very minimal cost. The benefit would be increased safety for all road users resulting from lessening driver distractions. The proposal also provides clarity regarding when a driver can/cannot use a mobile phone.

6. COST/BENEFITS

Given the nature of the proposals, a formal benefit cost analysis is inappropriate and in most cases impractical. It is doubtful that there is any data to quantify impacts of each proposal and due to the corrective nature of the proposals, they do not warrant quantitative evaluation.

7. RECOMMENDATION

Subject to further consideration of any matters arising from this public consultation stage, the National Transport Commission recommends that proposals discussed in this discussion paper be adopted.

8. CONSULTATION

Consultation for the development stage of the 8th Amendment Package to the Rules has been with the following:

- Commonwealth, state and territory road agencies via the maintenance group;
- police via the maintenance group;

- the Australian Mobile Telecommunications Association for matters relating to mobile phones by meetings, telephone and e-mail discussion;
- the Australian Trucking Association for matters relating to mobile phones and trucks by a meeting and e-mail discussions;
- the Australian Motorcycle Council Inc. for matters relating specifically to motor bikes by telephone discussion; and
- the Australian Pedestrian Council for matters relating specifically to pedestrians by telephone discussion.

Further comment is now invited through this stage of public consultation.

9. IMPLEMENTATION

Any amendments to be incorporated in the Rules must follow the Australian Transport Council approval processes required by the *National Transport Commission Act 2003*. The amending legislation is scheduled to the *National Transport Commission Act 2003* as a convenient reference point for others to locate; however, this does not put it into effect – this is done through the law of each state or territory. States and territories adopt the Rules published by the National Transport Commission by reference, as a Schedule to regulations or by legislative amendment. Implementation of the proposed amendments is subject to approval, but is expected during 2008/2009 and in accordance with state and territory legislative frameworks.

10. REVIEW

In accordance with the maintenance strategy for the Rules approved by the Australian Transport Council in 1999, members of the maintenance group will continue to monitor the application of the Rules in their individual jurisdictions to ensure their effective operation. Proposals for any future amendments may need to be considered on the basis of experience with the application of particular provisions, or the identification of new provisions that may be required.

11. COMPETITION STATEMENT

The proposed amendments would have no adverse impact on competition or trade.