



# **LIGHT-VEHICLE BRAKES**

## Summary of Submissions

JULY 2019

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# INTRODUCTION

Safe vehicles are a core component to the safe system approach to road safety, and are a key pillar in *Safer Journeys*, New Zealand's Road Safety Strategy 2010-2020. In particular, the focus of making motorcycling safer, specifically through the investigation of requiring anti-lock braking systems (ABS) on higher powered motorcycles.

The Government Policy Statement on Land Transport 2018/19-2027/28, released in June 2018, also included a strategic priority to improve safety, and particularly the safety of vulnerable road users, which includes motorcyclists.

The *Land Transport Rule: Light-vehicle Brakes 2002* (the current Rule) specifies the types of brakes that must be fitted to light vehicles, and the requirements for those brakes.

The proposed *Land Transport Rule: Light-vehicle Brakes Amendment 2019* (the amendment Rule) will seek to amend the braking requirements for most high-powered motorcycles with regards to ABS and will also seek to introduce a requirement for either ABS or a combined braking system (CBS) on lower powered motorcycles. This will align with the *Vehicle Standard (Australian Design Rule 33/01 – Brake Systems for Motorcycles and Mopeds) 2017*.

Crashes involving motorcyclists are a disproportionate contributor to deaths and injuries on New Zealand roads. In 2017, 46 motorcyclists died and a further 1,318 were injured in road crashes. This was 12 percent of all deaths and 9 percent of all reported injuries, however motorcyclists make up less than 4 percent of the vehicle fleet.

Excessive wheel skidding under brake application is known to destabilise a motorcycle and increase stopping distances. Stopping distances are also negatively impacted in instances where a motorcyclist without ABS may hesitate to brake sufficiently to avoid skidding. ABS will also allow a rider to steer the motorcycle under heavy braking, which can assist with avoiding objects and reduce the severity of a collision. International evidence, as shown by the 2018 *Vehicle Technologies and Standards* report prepared by the New Zealand Institute of Economic Research Inc., shows a marked decrease in crash related injuries following the introduction of ABS in other jurisdictions such as Australia, Sweden and Italy.

The Amendment Rule will cover the following changes:

- Requiring ABS to be fitted on motorcycles over 125cc; and
- Requiring either ABS or CBS to be fitted on motorcycles over 50cc up to and including 125cc.

Motorcycles with an equivalent electrical power supply will also be required to meet the relevant braking requirements for the engine size.

It was proposed to have two separate implementation dates to allow importers adequate time to react to the proposed changes. The following timetable was suggested:

- All new-model new motorcycles<sup>1</sup> over 50cc entering the fleet from 1 November 2019
- All existing-model new<sup>2</sup> and used<sup>3</sup> motorcycles over 50cc entering the fleet from 1 November 2021.

It was also proposed that a separate exception could be created to allow for circumstances where motorcycles were ordered prior to the Minister signing the Rule. This would allow for instances

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<sup>1</sup> New-model new motorcycles are models of motorcycles that are not currently available in New Zealand and have not previously been registered in other jurisdictions prior to importation.

<sup>2</sup> Existing-model new motorcycles are models of motorcycles that are currently available in New Zealand and have not previously been registered in any other jurisdiction prior to importation.

<sup>3</sup> Used motorcycles are those that have previously been registered in New Zealand or in any other jurisdictions prior to importation.

where an importer is unable to amend their order. It would require documentation to be provided to the NZ Transport Agency (Transport Agency) prior to an exception being granted.

Further exceptions were proposed:

- An exception for used motorcycles that were manufactured prior to one of three proposed dates
  - 1 January 1970
  - 1 January 1980
  - 1 January 1990
- An exception to allow New Zealand citizens or residents immigrating to New Zealand to import one non-compliant ('immigrant's') motorcycle;
- Allowing for motorcycles manufactured with an 'off' switch that enables temporary deactivation of the ABS;
- An exception for Trial and Enduro motorcycles which are used primarily for motorsport events;
- A new Special Interest Motorcycle permit to allow a limited number of motorcycles without ABS or CBS to be imported, if certain criteria is met; and
- An exception to the park brake requirement for twinned-wheeled motor tricycles that tilt-over when stationary.

It is not intended that any motorcycles will need to be retrofitted, as this will only affect motorcycles being imported into the country, not those that may already be in New Zealand or those that are currently de-registered.

Consultation on the yellow draft of the proposed Rule commenced on 21 March 2019 and closed on 26 April 2019.

A total of 49 submissions were received:

<b>Submitter type</b>	<b>Number of submitters</b>
Individuals	38
Businesses and special interest groups	3
Industry Associations	8

See **Appendix 1** for a full list of submitters.

Please note that all submissions received were recorded, read, and analysed by a review team comprising policy, legal and subject matter experts from the Transport Agency and the Ministry of Transport. This document is a summary of that work. Any views contained in this document, other than a submitter's, are the review team's.

# THE PROPOSED 2019 RULE

This section summarises the main changes proposed in the yellow draft of the amendment Rule put to stakeholders and the public during consultation. It should be noted that the amendment Rule will amend the current Rule.

## **Proposal 1: To require motorcycles of engine capacity over 125cc, or an electrically powered equivalent, to be fitted with ABS.**

The amendment Rule would require motorcycles (both new and used) of engine capacities over 125cc, or the electrically powered equivalent, entering the fleet to have ABS fitted to operate on New Zealand roads. The provision to include electrically powered equivalents is intended to allow the amendment Rule to remain relevant as this technology further develops.

In 2017, 72 percent of the motorcycles imported in to New Zealand had engines rated over 125cc. It is estimated that around 60-70 percent of the new motorcycles entering the fleet in 2017 were already fitted with ABS.

In comparison, it is estimated that 10 percent of used motorcycles entering the fleet in 2017 were fitted with ABS. This figure is expected to gradually increase over time because of ABS being required in other jurisdictions.

Given the increasing availability of motorcycles fitted with ABS or CBS, the need for regulation was carefully considered. A cost benefit analysis showed that to gain the maximum benefit from the technologies, it is necessary to make ABS and CBS mandatory.

## **Proposal 2: To require motorcycles with engine capacities over 50cc and not exceeding 125cc, or an electrically powered equivalent, to be fitted with ABS or CBS.**

If a change were to be made in the requirements for larger motorcycles over 125cc, or an electrically powered equivalent, it is sensible to consider how smaller motorcycles should be treated. These motorcycles are frequently used by learner riders, who may benefit from the extra support that these technologies provide.

As identified in the cost benefit analysis undertaken by the Ministry of Transport (the Ministry), for the maximum benefit to be realised, it is necessary to make ABS or CBS compulsory for motorcycles over 50cc and not exceeding 125cc, and electrically powered equivalents.

## **Proposal 3: Implementation dates for ABS requirements will be from 1 November 2019 for new-model new motorcycles and from 1 November 2021 for all existing-model new and used motorcycles entering the fleet.**

Proposed implementation dates for motorcycles entering the fleet being required to have ABS or CBS fitted are:

- 1 November 2019 for new-model new motorcycles; and
- 1 November 2021 for all existing-model new motorcycles and all used motorcycles entering the fleet.

Modelling in the cost benefit analysis shows that the greatest overall benefits to safety would be realised by bringing forward the date for full implementation of ABS or CBS. The sooner motorcycles are required to be fitted with ABS or CBS, the sooner the benefits will be seen.

The proposed dates are considered the earliest practical implementation dates. While 1 November 2019 could be seen as a short lead in time for industry, a large number of importers were engaged in the early stage during the development of this policy.

A provision has been suggested to allow for instances where an order has been placed prior to the signing of the Rule but not entry certified before the implementation date. This would provide provision for importers who have been unable to amend their order to motorcycles with either ABS or CBS prior to the implementation date.

It is proposed that affected parties would be required to provide documentation (proof of order) to the Transport Agency to be exempted from complying with the Rule.



**Proposal 4: To except used motorcycles without ABS or CBS and manufactured on or before 1 January 1990 from the requirement to have ABS or CBS, and to allow a limited number of motorcycles without ABS or CBS to enter into service if they are of special interest.**

*1 January 1990*

There is continued interest in the collection of 'classic' or 'collectable' motorcycles, with 8 percent of total registrations in 2017 being motorcycles that were manufactured before 1997.

These motorcycles are usually not intended for daily commuter use and are mainly used for occasional recreational travel. Older motorcycles are also subject to six monthly warrant of fitness inspections, meaning the compliance burden of owning an older motorcycle is high.

Although these older motorcycles are travelling less compared to newer motorcycles, their continued importation and registration would reduce the expected long-term safety benefits as calculated in the cost benefit analysis. Given this, it is sensible to consider means to restrict the ongoing importation of these vehicles while allowing for demand from collectors.

Death and serious injury data held by the Transport Agency shows that exposure of the riders of motorcycles pre-1990 to potential crashes on the road is low.

The proposed date of 1990 was suggested as motorcycles with ABS or CBS fitted have become more widely available since 1990. Alternative dates of 1 January 1970 and 1 January 1980 were suggested for submitters to consider.

*Special Interest Motorcycle permit*

A Special Interest Motorcycle (SIM) permit scheme would allow for a limited number of collectable motorcycles that are manufactured in small numbers and not manufactured with ABS to be imported to meet the demand from collectors. The intent is for the SIM scheme to run concurrently with the proposed exception for motorcycles manufactured pre-1990, as this would allow motorcycles manufactured post-1990 and not fitted with ABS to be imported.

An applicant will need to apply to the Transport Agency and pay an associated fee for a permit. An application would be considered against specific criteria. It is intended to limit these permits to 100 a year, as this would allow interested parties to continue to import collectables while limiting the number of motorcycles without ABS entering service.

**Proposal 5: To provide exceptions for immigrant's vehicles and specialist motorsport motorcycles (Trial and Enduro) from requiring ABS or CBS and to allow certain motorcycles principally used off-road to be able to switch off the ABS function.**

*Immigrant's vehicle*

The purpose of the proposed immigrant's vehicle scheme is to assist returning New Zealand citizens and residents with a smooth transition, by enabling them to bring a means of transport even if the vehicle does not comply with certain requirements.

This proposal would expand the current exceptions in the *Land Transport Rule: Frontal Impact 2001* and *Land Transport Rule: Vehicle Exhaust Emissions 2007*.

It is proposed that the exception would allow an immigrant to either import one motor vehicle or one motorcycle that does not comply with the standards in the relevant Rule. Following the motorcycle gaining entry certification, the vehicle must remain registered in the name of the applicant for at least one year. This provision is similar to those that exist for passenger vehicles.

*Trial and Enduro motorcycles*

There are a small number of road-registered motorcycles which are primarily used for off-road or motorsports events and may occasionally travel on the road.

To require ABS or CBS to be fitted to these motorcycles could make them unfit for their intended purpose. It is proposed to create an exception from the requirement to have ABS or CBS fitted for these defined classes of motorcycle.

### *Switches to disable ABS*

To allow for circumstances where motorcycles are used on unsealed roads and off-road, it is proposed to create an exception to allow motorcycles to be equipped with a switch to enable the rider to temporarily disable the ABS function. The switch would need to be fitted at the point of manufacture. It is not intended that the exception will apply to switches that have been fitted after market.

ABS may not work as effectively on unsealed roads, such as gravel (or similar surfaces), as vehicles have lower levels of traction on these surfaces.

This provision, alongside the exceptions for Trial and Enduro motorcycles are consistent with the Australian Standard (ADR 33/01).

### **Proposal 6: To remove the requirement for twin-wheeled motor tricycles to have park brakes installed.**

Twin-wheeled motor tricycles are defined as having two wheels mounted on the same axle where the distance between the two is less than 460mm. These two wheels, which essentially operate as one wheel, can move up and down independently relative to each other allowing the vehicle to lean when cornering. It is proposed to remove the requirement for these vehicles to be equipped with a park brake.

Park brakes are designed to prevent vehicles from rolling while parked. However, most of these vehicles do not have the ability to stand by themselves and must use a stand. Without the stand, these motor tricycles do not roll by themselves, but will fall over, as with two-wheeled motorcycles. This makes the separate parking brake requirement redundant.

In Europe and Australia, twin-wheeled motor tricycles have been granted exceptions from the relevant legislation. Consequently, for New Zealand to continue to have different entry requirements would either remove these vehicles from the marketplace or create unnecessary compliance costs. The current Rule requires all motor tricycles to have a park brake. The Transport Agency issued 273 exemptions for twin-wheeled motor tricycles in 2018.



# COMMENTS BY SECTOR

## Special interest groups and businesses

Three Special Interest Groups and/or Businesses made submissions on the proposed Rule. All three raised concerns about the proposed Rule in different forms.

Northland Powersports agreed that all new motorcycles made after 2015 should be required to have ABS, but that this should not apply to the older motorcycles. It was also raised that as an importer of used Harley Davidson motorcycles from the USA, these vehicles do not usually have ABS and it would be uneconomical to retrofit the technology.

The BMW Owner's Register neither supported nor opposed the overall intent of the proposed Rule but did raise concern over the treatment of motorcycles that are already part of the fleet but currently deregistered. Their interpretation is that these motorcycles would be required to have the technology retrofitted and wished to seek compensation for motorcycle owners. It is not expected that these motorcycles will be retrofitted as the proposed amendments would only apply to motorcycles entering the fleet. The group does note specific support for the ability to switch off ABS to react to different road surfaces.

Bikers' Rights Organisation New Zealand opposes the requirement of both ABS and CBS, stating "education not legislation saves lives." As mentioned in the Overview, the intent of these proposed amendments is to improve safety for all motorcycle riders, not just those that are inexperienced.

## Industry Associations

Eight Industry Associations made submissions on the proposed Rule, with overall support for the intent of the proposed Rule, albeit with a few concerns noted.

Concerns raised by the Motor Industry Association (MIA) and Motor Trade Association (MTA) centred on the proposed requirements for motorcycles 125cc and under. Both associations noted that these smaller motorcycles are almost solely used in low speed urban environments, where the costs of requiring either ABS or CBS are likely to be greater than the safety benefits from requiring this technology. The MIA questioned the validity of the cost benefit analysis as the two size ranges, being 50cc to 125cc and over 125cc, were not separated. The Ministry carried out a separate analysis solely on the smaller motorcycles which provided a cost benefit of 57.8 compared to the original cost benefit analysis of 43.8 when the two size ranges were combined. The Ministry also noted that motorcycles 600cc and up are the motorcycles more highly represented in ACC statistics.

Both Associations also noted that the cost of the technology in relation to the price of the vehicles could be out of proportion. MIA predicted that potential users of lower powered motorcycles could shift towards either mopeds under 50cc or e-bicycles, given the reduction in choice and potential increase in cost of motorcycles with ABS or CBS fitted. The MTA predicted that prices of these motorcycles could increase by 20 percent and as these technologies are not available on the most popular smaller models, market choice would be limited.

In comparison, other Industry Associations such as the Automobile Association (AA), the New Zealand Local Authority Traffic Institute (TRAFINZ), Motorcycle Safety Advisory Council and the Insurance Council of New Zealand all expressed support for the overall intent of the Rule and the proposed requirements for both size ranges.

The Insurance Council of New Zealand noted "the fitment of ABS or CBS to motorcycles should help to reduce claims costs for insurers and this may see insurance premiums reduce were these active safety devices fitted and claims costs start reducing."

Proposed exceptions were widely supported by the Industry Associations. The MIA and MTA both queried the treatment of farm bikes and whether these would fit within the consulted-on requirements for off-road motorcycles.

The only other areas of contention for the Industry Associations was the proposed implementation date for new-model new motorcycles of 1 November 2019. The AA, MTA, MIA and the Imported Motor Vehicle Industry Association all noted that this would be impractical as orders have already been placed and may not be able to be altered to compliant motorcycles.

# ANALYSIS BY PROPOSALS

This section analyses submissions made on the proposed Rule - proposal by proposal. Feedback through submissions is summarised and analysed, with recommendations made on proposals where appropriate.

## Proposal 1

	Agree	Disagree
<b>To require motorcycles of engine capacity over 125cc, or an electrically powered equivalent, to be fitted with ABS</b>	27	18

A total of 45 submitters commented on Proposal 1.

Of the 27 submitters who agreed with the proposal: 19 fully supported it; and 8 agreed, with comments or qualified support.

Of the 18 submitters opposed to the proposal: 12 disagreed; and 6 disagreed, with comments. Those that disagreed did so on the basis that through mandating this technology, riders would not know how to safely operate motorcycles, particularly in the event of a near miss.

The Industry Association submissions, including the MIA, the TRAFINZ, Insurance Council of New Zealand, NZ Federation of Motoring Clubs, Motorcycle Safety Advisory Council and the VIA were in support.

The AA was also in support of the proposal, noting 'international evidence shows that ABS reduces motorcycle crashes on sealed roads'.

Submissions, aside from straight support or opposition, can be grouped into two main themes, which are outlined below.

### a) Driver Education

Several individual submitters raised that instead of mandating ABS, the Transport Agency should be encouraging driver education. Comments from Bikers' Rights Organisation New Zealand (BRONZ) noted that this technology would negate the need for motorcyclists to accurately handle their motorcycles and in times of emergency, the motorcyclist should be relied upon to react accordingly.

#### Analysis and conclusions

The Accident Compensation Corporation, in partnership with the Transport Agency and the Motorcycle Safety Advisory Council, offers the 'Ride Forever' campaign. This is a nationally available training programme which offers differing levels of training for riders, both in practical situations and online with theory-based learning. To date, 16,000 riders have completed at least one Ride Forever course.

These courses help ensure that riders have adequate knowledge and capability to safely ride their motorcycles.

The introduction of ABS will benefit the motorcycle community, as it will assist not only the 'average' rider but also experienced rider in adverse conditions. Overall, motorcyclists are disproportionately represented in annual safety statistics, with motorcyclists (who make up four percent of road users) accounting for 12 percent of total annual road deaths in 2017. Given these figures, it is reasonable to conclude that there is a knowledge or skill gap in this community that can be addressed with ABS or CBS.

#### Recommendation:

No change – proceed as consulted on.

## **b) Availability of motorcycles**

Submitters raised concern that this would limit the models of motorcycles available in New Zealand, particularly with regards to Harley Davidsons. One submitter, Northland Powersports, felt that this would push motorcyclists towards buying motorcycles second hand and riders would no longer have access to the same warranty that would come through purchasing through shops.

### **Analysis and conclusions**

While it is acknowledged that the proposed changes could have an impact on the business of submitters, this needs to be weighed against the overall benefit to society.

A delayed implementation time for used motorcycles is intended to allow the industry an appropriate transition period to ensure it can source compliant motorcycles. As this requirement becomes more prevalent overseas, this should be easier for importers.

This impact should reduce over time given that Harley Davidson are now producing more models with ABS to meet the changing demands of the international motorcycle market.

### **Recommendation**

No change – proceed as consulted on.

## Proposal 2

	Agree	Disagree
<b>To require motorcycles with engine capacities over 50cc and not exceeding 125cc, or an electrically powered equivalent, to be fitted with ABS or CBS</b>	15	23

A total of 38 submitters commented on Proposal 2.

Of the 15 submitters who agreed with the proposal: 10 fully supported it; and 3 agreed, with comments or qualified support.

Of the 23 submitters opposed to the proposal: 16 disagreed; and 7 disagreed, with comments. The reasons for opposition include:

- that the complexity and weight of the brakes system and the potential detrimental effect on the smaller motorcycles;
- the proposal should be based on power to weight ratios as per the Learner Approved Motorcycle Scheme motorcycles; and
- concern that this change would encourage riders to move towards buying mopeds for their daily commute.

Industry Associations such as the Motorcycle Safety Advisory Council and the Insurance Council of New Zealand submitted in support of this proposal. Similarly, TRAFINZ noted how this would bring New Zealand in line with Australia and would increase motorcycle safety.

Submitters that disagreed did note the overall safety increase, however questioned whether this benefit would be worth the potential increase in costs to consumers. These comments were made by both the MIA and the MTA.

BRONZ submitted that these changes would limit the motorcycles available with smaller engine capacities.

Submissions, aside from the straight support or opposition, can be grouped into two main themes, which are outlined below.

### a) Cost and complexity of braking system

Submitters, being both industry associations and individuals, raised whether the perceived benefits of the requirement for ABS or CBS in smaller motorcycles would outweigh the costs.

The MIA commented that these motorcycles operate almost solely in low speed urban environments where the costs of requiring ABS or CBS are greater than the safety benefits achieved. Similar themes was also raised by the MTA, who mentioned use in the urban environment but also submitted that this could potentially raise prices by 20 percent for the smaller, entry level motorcycles.

#### **Analysis and conclusions**

In the original cost benefit analysis, prepared by the Ministry of Transport, both proposals were included together to provide a cost benefit of 43.8. Following the submissions received, the Ministry carried out a separate analysis solely on the smaller motorcycles which provided a cost benefit of 57.8. So, while there may be a perceived increase in the cost of these motorcycles, the analysis shows that this is considerably outweighed by the overall benefits.

As these technologies become increasingly more common across the world, it is expected that this proposal will have little impact on the overall cost of these motorcycles as manufacturers move towards meeting the regulated requirements.

#### **Recommendation**

No change – proceed as consulted on.

## **b) Availability of motorcycles**

As for Proposal 1, submitters raised concern that this would decrease the availability of these motorcycles in the New Zealand market.

The MIA raised that motorcycle users would shift towards either mopeds under 50cc or an e-bicycle given the reduction in choice and potential increase in cost, whilst inferring this would be detrimental to safety. Similar comments were made by the MTA and BRONZ.

### **Analysis and conclusions**

The Transport Agency does not accept the shift in mode of transport (i.e. to mopeds under 50cc or e-bicycles) would have an adverse impact on overall safety in the urban environment as these do not reach open road speeds (i.e. 100km/h) and as such could have an overall improvement in safety outcomes.

Motorcycles within this size range would be widely available with CBS and as this becomes more common internationally, manufacturers should be moving to provide this technology.

As in Proposal 1, while there could be a small decrease in the availability of motorcycles that meet the requirements, and a small increase in the price of these motorcycles, these costs are outweighed by the overall benefits.

Without intervention, it is likely the market would correct itself to move towards more smaller motorcycles having either ABS or CBS. However, to best realise the safety outcomes, amendments to legislation are required to enable this change and prevent New Zealand becoming an international dumping ground for less safe motorcycles.

### **Recommendation**

No change – proceed as consulted on.



## Proposal 3

	Agree	Disagree
<b>Implementation dates for ABS requirements will be from 1 November 2019 for new-model new motorcycles and from 1 November 2021 for all existing-model new and used motorcycles entering the fleet</b>	19	16

A total of 35 submitters commented on Proposal 3.

Of the 19 submitters who agreed with the proposal: 12 fully supported it; and 7 agreed, with comments or qualified support. One submitter agreed, noting agreement with the date for 'new,' but 'used' should be age dependant. Another stated they agree in principle for new motorcycles, however they were concerned the rule would restrict the import of older used motorcycles.

Of the 16 submitters opposed to the proposal: 13 disagreed; and 3 disagreed, with comments. Submitters made comments including that used motorcycles should be considered out of scope, and that these dates would make it difficult to register bikes that are imported or restored without ABS.

Feedback from Industry Associations was mixed. The AA agreed with the intent but noted that 1 November 2019 could be too soon for new-model new motorcycles, as orders have already been placed. The AA noted the suggestion of allowing an exemption for motorcycles already ordered but would suggest pushing the implementation date to 1 April 2020 with the ability to push to 1 November 2020 upon the provision of documentation showing orders committed to that date. The MTA and the MIA also noted similar concerns regarding the implementation date of 1 November 2019 and the orders that have already been placed with manufacturers.

TRAFINZ submitted that given these proposals are a key part of the Government's road safety strategy, the implementation of these changes should be done at the earliest possible time. Further, TRAFINZ believed there was a danger that New Zealand could become a dumping ground for motorcycles without ABS.

Submissions can be grouped in to two main themes, which are outlined below.

### **a) 1 November 2019 too early**

The MTA, VIA, AA and MIA all submitted that the 1 November 2019 implementation date for new-model new motorcycles would be too tight given the lead in time for placing orders with manufacturers. These orders are committed to up to 12 months in advance.

Direct consultation occurred with the MIA following the close of submissions and the feedback was that it would not be possible for importers and distributors to back out of any orders that may have been placed on motorcycles that are non-compliant.

These submitters suggested the Transport Agency move the proposed implementation date for new-model new motorcycles out to 1 April 2020, with the ability to push out to 1 November 2020 upon the provision of documentation showing orders committed to that date.

### **Analysis and conclusions**

When considering the implementation date, many factors were considered, including bringing New Zealand in line with the implementation dates in Australia. By bringing New Zealand in line with Australia, it was believed this would prevent New Zealand from becoming a dumping ground for motorcycles that would not comply with entry requirements for Australia. Given the submitters' concerns around the new-model new motorcycles implementation date, it is expected that there will be motorcycles affected by the change.

The Transport Agency undertook targeted consultation with submitters who raised concern over the implementation date, asking for aggregate numbers of motorcycles that have been ordered to fully understand the number of motorcycles that could be affected by the proposed 1 November

2019 implementation date for new-model new motorcycles. Industry Associations were unable to provide these figures.

Modelling in the cost benefit analysis showed the greatest overall safety benefits would be realised the sooner these changes could be implemented and the dates that were consulted on were the earliest practical dates.

As more international jurisdictions move towards mandating the fitment of ABS or CBS on motorcycles, it is expected that the manufacturers will move towards making this technology available on more motorcycles. It may be that in the future these are the standard braking technologies on all motorcycles.

The Project Team, consisting of officials from the Ministry of Transport and the Transport Agency, has considered the balance between safety and impact on the industry if the implementation was delayed allowing for current orders to be imported. A delay to 1 April 2020 is not seen as having an overly adverse safety impact.

**Recommendation**

- Confirm implementation date of 1 April 2020 for new-model new motorcycles.

**b) Effect on classic and used motorcycles**

Several individual submitters noted concern that the proposed changes would restrict the importation of used and classic motorcycles and would hinder those that restore motorcycles.

**Analysis and conclusions**

It is acknowledged there is a market for those that wish to import classic motorcycles and for this, there are two avenues through which these can be imported without requiring ABS or CBS.

The proposed avenues are through allowing the importation of motorcycles manufactured before 1990 and through the Special Interest Motorcycle Regime.

Used motorcycles will continue to be able to be imported without ABS or CBS until 1 November 2021, after which time they will be required to comply with the amended Light-vehicle Brakes Rule, unless the motorcycle is imported using one of the proposed exceptions. The inclusion of these exceptions in the Rule acknowledges that these motorcycles are not commonly used for day to day commuting.

**Recommendation**

No change – proceed as consulted on.

	Agree (fully)	Agree (for new only)	Disagree
<b>Considering the safety benefits, do you agree that all new and used motorcycles imported should have ABS or CBS fitted from November 2019?</b>	15	5	14

A total of 34 submitters commented on the second question for Proposal 3, which was intended to question if it would be possible to have the proposed changes implemented for all motorcycles from 1 November 2019.

Of the 20 submitters who agreed, 15 agreed that this should apply to both new-model and existing-model new motorcycles. Several individual submitters noted that there should be exceptions for off-road and race motorcycles, which is discussed further in Proposal 5.

The Motorcycle Safety Advisory Council agreed with the proposal, noting that some manufacturers and importers may already have production commitments, so a three-month window should be allowed.

A majority of those that disagreed with the proposal were individual submitters, who provided no further information.

#### **Analysis and Conclusions:**

Given the cost benefit analysis showed that benefits to safety would be better realised the earlier the proposed changes are implemented across the whole fleet, this was an option that needed to be explored.

However, given the short window of time prior to implementation, it is apparent that to require all motorcycles entering the fleet to have ABS or CBS by 1 November 2019 would over-burden the industry. An incremental implementation date would be preferred as this allows importers adequate time to source motorcycles that comply with new entry requirements.

#### **Recommendation**

No change – proceed as consulted on.

## Proposal 4

	1990	1980	1970	None of these dates	Other dates suggested	Other comments
Of the three dates of manufacture, being 1990, 1980 or 1970, which do you think should not have to comply with the requirement to have ABS?	16	0	2	12	7	4

A total of 41 submitters commented on the first question for Proposal 4. Of these submitters, 16 supported the use of 1990 in terms of a date from which motorcycles manufactured prior would not have to comply with the requirement to have ABS or CBS. No submitters supported 1980, with two supporting 1970. Seven submitters supported the use of other dates, commonly 2000. 12 submitters did not support any of the dates mentioned in the question but did not recommend any other dates for consideration and four had other comments.

The MTA and BRONZ were two of the submitters that recommended another date aside from those included in the original question. The suggested date was the year 2000, stating that ABS did not become available until 1988.

Analysis for this section will be divided into sections regarding the suggested dates and then the other comments which were received.

### a) 1990

The MIA commented that any motorcycles older than this are considered classics or collectables and are not for mainstream use, given the rarity of the parts available. Similar comments were made by individual submitters.

The AA noted that following 1990, ABS became more readily available in motorcycles.

#### Analysis and conclusions

In considering the appropriate date for this question, it is acknowledged that there is a continued interest in 'classic' or 'collectable' motorcycles. Anecdotal evidence shows that the older motorcycles are not intended for regular use, i.e. daily commuting, and often travel only a small distance annually. Older motorcycles, alongside having scarcity of parts, are subject to six monthly warrant of fitness inspections, which means the compliance burden of owning these motorcycles is higher.

Allowing the importation of these older motorcycles to continue will detract from the overall safety benefits the amendment Rule is trying to achieve. However, it is acknowledged that given the consistency in market demand, motorcycle riders and importers would reasonably expect that this activity should continue following the implementation date.

#### Recommendation

- Confirm 1990 in clause 2.7(7)(c).

### b) 2000 (or 2010)

Individual submitters noted that the use of 1990 would be inappropriate given that ABS was not commonly fitted on motorcycles until 2010, as prior to this the technology was commonly only found on the larger motorcycles.

The Special Interest group, BRONZ was in support of the use of year 2000 or a rolling 20-year rule, similar to that which is found in the *Land Transport Rule: Vehicle Exhaust Emissions 2007*. Also, in support of the use of year 2000 was the MTA, who noted that prior to this, ABS was very uncommon and lacked the same effectiveness of the modern version that was made available.

### **Analysis and conclusions**

The year 2000 was considered when the original policy work was being carried out. However, the intent of the amendment Rule is to ensure the safety of motorcyclists, who are a vulnerable road user group, and the objective should be to limit the amount of motorcycles that are able to be imported without ABS or CBS as much as reasonably possible.

The intent of this exception is to allow for the genuine collectables to be imported without restraint, given the low vehicle kilometres travelled. The Rule intends for motorcycles that are manufactured between 1990 and 2000 to be processed through the Special Interest Motorcycle permit scheme, as this would allow for motorcycles where there is no ABS equivalent to be imported.

It may be that some submitters were unsure or confused about what the actual impact of changing from the year 1990 to the year 2000 (or 2010) would have. If this were done, the actual impact would be to allow for a greater number of motorcycles with ABS or CBS to enter the fleet and this would work against the primary policy objective of encouraging increased ABS and CBS uptake.

### **Recommendation**

- Confirm 1990 in clause 2.7(7)(c).

### **c) Other comments**

Several individual submitters noted concern in their response to this proposal that these older motorcycles would be unable to have ABS retrofitted.

Further comments also touched on that motorcycles previously imported and registered in New Zealand would now be unable to be registered if they did not have ABS. One individual submitter noted that there should be a provision to allow motorcycles already in the country to be re-registered.

Northland Powersports recommended a general exemption for years and models where ABS was not available.

### **Analysis and conclusions**

It is not expected that retrofitting will be required, the amendment Rule will only apply to motorcycles that are imported (first entry certified) following the implementation date. This will allow for motorcycles that have previously been registered in New Zealand to be re-registered for road use without ABS.

This provision acknowledges that for many enthusiasts, there is a known practise of not having all motorcycles registered, but rather storing and then registering when it is intended for these to be used.

The general concern regarding retrofitting braking technologies to motorcycles was a common misunderstanding that was found throughout the submissions and it may be that submitters did not have a clear understanding of the Overview, which set out that this would not apply.

With regards to a general exemption, if the motorcycle in question is not available with ABS, the Special Interest Motorcycle permit process will apply. This will allow these motorcycles to be imported but will restrict the number to 100 per year.

**Recommendation**

No change – proceed as consulted on.

	Agree	Disagree	Other
<b>To allow a limited number of motorcycles without ABS or CBS to enter into service if they are of Special Interest.</b> <ul style="list-style-type: none"> <li><b>Proposed criteria for the proposed Special Interest Motorcycle scheme</b></li> </ul>	19	15	14

A total of 35 submitters commented on the first question regarding the Special Interest Motorcycle scheme.

Of the 19 submitters who agreed with the proposal: 15 fully supported it; and 4 agreed, with comments or qualified support. TRAFINZ commented that there was logic in allowing these motorcycles to be imported.

One submitter partially agreed, stating that it would be easier if motorcycles manufactured before 2019 be imported without restraint.

Of the 15 submitters opposed to the proposal: 8 disagreed; 5 disagreed, with comments; and 2 submitters were concerned about the definition of 'collectable' and who would determine this. Another submitter who was concerned with the definition of collectable noted that the average member of the public would be unable to use this scheme. Another submitter noted that the Transport Agency needed to ensure that the scheme and associated fee are more transparent.

The Insurance Council of New Zealand, MTA and VIA were all in agreement with this question under Proposal 4. The AA stated that the amendment Rule is in line with the Special Interest Vehicle permit scheme for late-model enthusiast cars, which the AA fully supports.

**Analysis and conclusions**

With regards to the comments on the use of the word 'collectable' and how this relates to the criteria, this was defined in the Yellow Draft Rule as a:

- Vehicle having historic value
- Motorcycle is a model that was manufactured in an annual volume of not more than 20,000 units and was not manufactured with either ABS or CBS.

Given that these criteria are set out in the Rule, it is not expected that there should be too much room for interpretation and should encourage the scheme to be transparent – in that if a motorcycle does not meet the criteria, it will not be able to be imported under the Special Interest Motorcycle permit process.

The overall intent of the scheme is that collectors will have an avenue to import motorcycles. The scheme will not be restricted to importers as believed by a submitter and will instead be open to the wider public.

**Recommendation**

No change – proceed as consulted on.



	Agree	Disagree	Other
<b>To allow a limited number of motorcycles without ABS or CBS to enter into service if they are of Special Interest.</b> <ul style="list-style-type: none"> <li>• <b>Number of proposed permits (100) under the Special Interest Motorcycle scheme</b></li> </ul>	12	18	2

A total of 32 submitters commented on the proposed number of permits under the Special Interest Motorcycle scheme.

Of the 12 submitters who agreed with the proposal: 10 fully supported it; and 2 agreed, with comments or qualified support. One submitter commented that they agree with limiting numbers but questioned if this could be flexible. The other wanted assurance that the scheme would be reviewed to ensure this meets demand.

Of the 20 submitters opposed to the proposal: 12 disagreed; and 6 disagreed, with comments. 5 submitters stated there should be no limit and that there needs to be more exceptions based on merit and flexibility of the scheme.

Two submitters were uncertain why there was a limit and that the permit scheme should be driven by supply, not a set number.

The AA, MTA and VIA were all in agreement with this question under Proposal 4.

#### **Analysis and conclusions**

When considering the proposed number of permits, the Transport Agency considered the number of motorcycles that are being imported that were manufactured following 1990, as the motorcycles imported prior to this can reasonably be expected to flow through that exception.

For example, in 2017, 1,317 motorcycles with a year of manufacture between 1990 and 2000 were registered. It is believed that the proposed cap of 100 is appropriate as this will meet the intent of the amendment Rule to control the number of motorcycles imported without ABS or CBS. There needs to be a cap that would limit the number to ensure that predominantly genuine collectors would be importing these motorcycles, rather than riders purely looking for a motorcycle without ABS or CBS to use as their daily commuter. The Transport Agency administers a similar regime under the Frontal Impact Rule, which limits imports to 200 passenger vehicles per calendar year. Experience from this regime has been that a significant number of these permits are actually used for commercial purposes rather than the intended individuals. Comparatively, in terms of the ratio of compliant vehicles entering the fleet against those that are being issued with permits under either Special Interest regime, the proposed cap for motorcycles was deemed to be adequate when compared against that for passenger vehicles.

#### **Recommendations**

No change – proceed as consulted on.

## Proposal 5

	Agree	Disagree	Other
<b>To provide exceptions for immigrants' vehicles (returning New Zealand citizens or residents)</b>	16	18	2

A total of 36 submitters commented on the first question in Proposal 5 regarding immigrants' vehicles.

Of the 16 submitters who agreed with the proposal: 12 fully supported it; and 4 agreed, with comments or qualified support. Submitters agreed there should be no limit to the importation of these vehicles.

Of the 18 submitters who were opposed to the proposal; 13 disagreed and 5 submitters disagreed, with comments. Some comments included that there should be no exceptions and wondered why this group was being singled out.

The AA, MIA, MTA and the Insurance Council of New Zealand all agreed with the proposal. The VIA noted that one immigrant's car/utility and one motorcycle should be allowed. The Motorcycle Safety Advisory Council stated that people should have to own the vehicle for more than 24 months after importation.

TRAFINZ commented that it felt road safety should be a top priority and this scheme was more of a social policy.

### Analysis and conclusions

The intent of this scheme is to assist returning citizens and residents with a smooth transition when they move back to New Zealand. There was confusion among some submitters as to how this proposal would apply which suggests that submitters have not understood the specific definition of *immigrants' vehicle* used in Land Transport Rules. In comparison, immigrants (i.e. citizens from other countries) would need to consider using the Special Interest Motorcycle regime if their motorcycle was manufactured after 1990.

In shaping the original policy work, the ability to import one car or utility and one motorcycle was considered. However, this was seen as detrimental to overall road safety and would take away from the intent of the amendment Rule.

The length of time an immigrant (returning New Zealand citizens and residents) will need to own a motorcycle prior to importing, 12 months, is consistent with similar provisions in the *Land Transport Rule: Vehicle Exhaust Emissions 2007* and *Land Transport Rule: Frontal Impact 2001*.

With regards to this being a social policy, the intent is to bring this in line with other Rules which provide for such a scheme. At the time of introducing these, it was to provide a balance between road safety and allowing New Zealand citizens and residents that are returning to the country to import their vehicular possessions. In many circumstances, given the financial constraints around the importation of vehicles, only those with a collectable motorcycle are likely to be willing and able to import their motorcycle home with them.

### Recommendations

No change – proceed as consulted on.

	Agree	Disagree	Other
<b>To provide exceptions for specialist motorcycles (i.e. Trial and Enduro)</b>	30	5	2

A total of 37 submitters commented on the second question in Proposal 5 regarding Trial and Enduro motorcycles.

Of the 30 submitters who agreed with the proposal: 21 fully supported it; and 9 agreed, with comments or qualified support. Comments included the fact that there must be an allowance for specialist motorcycles to not have ABS, and that anything off-road should be exempt as it is safer for the rider.

Of the 5 submitters who were opposed to the proposal; 4 disagreed and 1 submitter disagreed with further comment on the fact these motorcycles are still represented in crash data yet would pay a lower registration fee.

Those that made other comments suggested that these motorcycles should only be granted an exception from the requirements of the amendment Rule if they are not road registered and provided feedback on the criteria for the Trial and Enduro motorcycles as per the added definitions in the Amendment Rule.

The MIA, TRAFINZ, AA, MTA and VIA all agreed with the proposal with comments. AA and the VIA questioned how farm motorcycles would be treated, as they should not be required to have ABS.

Submitters' comments can be categorised into two main themes, which are below.

#### **a) Treatment of farm bikes**

Both the AA and the VIA raised questions as to how farm bikes would be treated as the definition of off-road motorcycles was unclear. Further, the VIA noted that these motorcycles should not be expected to have ABS.

#### **Analysis and conclusions**

Farm motorcycles, as in motorcycles which are designed and constructed for agricultural purposes, are not intended for regular use on the road. However, there are instances where these could be used on the roads, such as assisting with the movement of stock. It is expected that these motorcycles should be road registered and have a current warrant of fitness. There is a separate, smaller registration fee for these motorcycles to reflect their infrequent use and this is referred to as '*Exempt Class B – farm vehicles*'.

ABS is not preferable on off-road motorcycles, as when ABS is used on off-road surfaces or unsealed roads, it does not work as effectively given the lower traction levels.

The effect of the recommended change is that a farm motorcycle which does not have ABS or CBS will only be able to be legally used on the road for agricultural purposes and will have to be licensed to reflect this. A farm motorcycle that does have ABS or CBS will be able to be registered for general use on the road.

#### **Recommendation**

- Insert new clause 2.7(7)(g) to exclude a farm motorcycle from requiring ABS or CBS (as appropriate) at the point of entry certification.
- Insert new clause 2.7(9) to allow a farm motorcycle that does not have ABS or CBS to be used on the road only when being operated in relation to the conditions of registration as a Class B or Class X vehicle within the meaning of *Schedule 1 of the Land Transport (Motor Vehicle Registration and Licensing) Regulations 2011*.
- Insert a definition of farm motorcycle.
- Insert a definition of agricultural purposes.
- Remove the reference in 2.7(7) to "off-road motorcycles".

**b) Criteria and exceptions for Enduro and Trial motorcycles**

The MTA, while in support of the intent of the proposal, questioned the weight restriction and the intended definition in relation to Enduro motorcycles.

**Analysis and conclusions**

It is intended that the Light-vehicle Brakes Rule will refer to the *Land Transport Act* as the primary legislation. This will mean in terms of ‘unladen weight’, it is expected that these motorcycles should have a full tank of fuel.

Given the need to look in to how the unladen weight allowance in the criteria for the definition of Enduro motorcycles was raised, the Project Team recommended that the other criteria for both Enduro and Trial motorcycles be considered by technical experts to ensure these were fit for purpose. This would ensure these motorcycles are adequately captured and certain models were not incorrectly placed outside of the scope of the proposed exceptions.

Further, in line with the proposed changes for farm motorcycles in terms of restricting the exception for motorcycles that are being used for their intended purposes, it was considered that an amendment similar to this would be suitable for both the Enduro and Trial motorcycles. This would allow these motorcycles to be used at competitions sanctioned by the Fédération Internationale de Motocyclisme or its New Zealand affiliate, Motorcycling New Zealand.

**Recommendations**

- To amend the unladen weight to 150kg to provide an allowance for a full tank of fuel.
- Amend 2.7(8) to reflect these motorcycles may only be used on a road without ABS or CBS when taking part in a sanctioned competition.
- Insert a definition of sanctioned competition.

	Agree	Disagree	Other
<b>Do you agree with the proposal to allow motorcycles that are principally used off-road to have a switch to disable ABS?</b>	31	6	1

A total of 38 submitters commented on question three in Proposal 5 regarding the provision of an off-switch to disable ABS.

Of the 31 submitters who agreed with the proposal: 6 agreed with comments or qualified support. Comments included that such a switch should be allowed on all motorcycles given the number of gravel roads in New Zealand and that it must be clear that ABS should be switched ‘on’ by default.

Of the 6 submitters who were opposed to the proposal, only one disagreed with further comment. This submitter commented that this proposal would make the purpose of the Rule change redundant.

The single other comment was noting concern over how farm bikes would be affected by the requirement to have ABS. This concern is addressed on page 23 of this report.

The MIA, TRAFINZ, VIA and AA were all in support, as was the Insurance Council of New Zealand and the Motorcycle Safety Advisory Council.

**Analysis and conclusions**

The intent of this proposal is to allow for circumstances where motorcycles are used on unsealed roads and off-road. This exception would allow motorcycles to be equipped with a switch to temporarily disable the ABS function.

In some instances, ABS may not work as effectively on unsealed roads, such as gravel, due to the lower levels of traction.

It is noted that one submitter commented that this would go against the intent of the Rule in terms of allowing ABS to be switched off, as this switch is required to enable the rider to safely operate their motorcycle in these circumstances.

**Recommendation**

No change – proceed as consulted on.

## Proposal 6

	Agree	Disagree	Other
Do you agree with the proposal to allow an exception for twin-wheeled motor tricycles from the park brake requirements?	20	5	3

A total of 28 submitters commented on Proposal 6.

20 submitters agreed with this proposal, with no further comment provided.

5 submitters were opposed to the proposal. Three submitters made comments such as considering these motor tricycles more as cars than motorcycles. BRONZ commented that treatment of these machines is generally unsatisfactory.

The AA, MTA, MIA and the Insurance Council of New Zealand were all in agreement with this proposal.

### Analysis and conclusions

Twin-wheeled motor tricycles are defined in the amendment Rule as having two wheels mounted on the same axle where the distance between the two is less than 460mm. These two wheels operate as one, moving independently from one another to allow the motorcycle to lean while cornering.

In the current Rule, these motor tricycles are required to have park brakes despite a majority being manufactured without park brakes. This means the Transport Agency is needing to issue exemptions to allow these motor tricycles to gain entry to the New Zealand fleet, with 273 being issued in 2018.

Park brakes are designed to prevent vehicles from rolling while parked, though a majority of twin-wheeled motor tricycles do not have the ability to stand up by themselves, so must have a stand. This is similar to motorcycles, which, like the twin-wheeled motor tricycles, are unable to roll and instead fall over.

### Recommendation

No change – proceed as consulted on.



# GENERAL COMMENTS AND ISSUES RAISED

The review received comments of a general nature made by 23 submitters. Many of the comments outlined below are beyond the scope for specific action by the review; however, the comments have been noted.

The comments have been grouped into two groups: specific motorcycle education/safety and then general comments about motorcycles and the transport system as a whole.

## Education/Safety Gear

Five submitters, all of these being individuals, made comment regarding the provision of education for motorcycle riders (or drivers in general) and the use of safety gear. These comments included:

- All drivers should be required to undertake a defensive driving course before gaining their full licence
- Ride Forever courses should be mandatory when upgrading or renewing a motorcycle licence
- Need to ensure other road users are aware they need to be aware of motorcyclists on the road
- Ride Forever courses need to be incentivised with lower ACC levies
- All motorcyclists should sit a practical test every ten years
- Safety gear should be inspected at Warrant of Fitness to ensure gear is CE approved, including that the helmet complies with the standards and is not damaged.

At this stage, the Transport Agency does not intend to review the use of the Ride Forever courses and continues to strongly recommend that motorcyclists use this course to gain and maintain safe riding techniques.

## General comments

These comments covered a wide variety of topics, such as:

- Cyclists should pay road user charges
- Tracks should have real time speed recorders and decreased speed limits
- Police enforcement should be increased
- Importance of aligning New Zealand with Australia
- Concern that ABS would kill off a range of road legal dirt bikes
- Query as to whether a Rule change is required given the market changes
- Promoting the use of motorcycle headlight modulators
- Rule could reduce the number of insurance claims, which could see a change in insurance premiums.

Submitters' comments are noted. Enforcement of road rules is a Police activity and it is not within the scope of this review to recommend changes to Police enforcement activity. Similarly, road user charges, motorcycle headlights, and truck speed limits are outside the scope of this review due to sitting in different Land Transport Rules.

The proposed Rule should not greatly restrict road legal dirt bikes, as there are appropriate exceptions for the use of these. As shown in the cost benefit analysis, to see the greatest safety benefits, it was recommended to proceed with amending the Rule.

## APPENDIX 1: LIST OF SUBMITTERS

Individuals' names have been withheld from this list of submitters at the submitter's request. If you wish to know these names, please contact the Transport Agency and we will consider your request under the Official Information Act 1982 criteria.

Submitter	Submitter Number
Jason Parlane	LVB.001
Karl Switzer	LVB.002
Chris Hunter	LVB.003
Darren	LVB.004
Louis Whyborn	LVB.005
Zed Butters	LVB.007
Frank Schepers	LVB.008
Nick Monrad	LVB.009
Lloyd Derby	LVB.010
Rick Ratcliff	LVB.011
Daniel Town	LVB.012
Harry Bailey	LVB.013
Glynn Babington	LVB.014
Dave Blackwell	LVB.015
Andrew McIntosh	LVB.016
Name withheld	LVB.017
Name withheld	LVB.018
Nicky Crawford	LVB.019
Name withheld	LVB.020
Terry Leach	LVB.021
Elisa Knight	LVB.022
Carey Griffiths	LVB.023
Steven Perreau	LVB.024
Steve Hedges	LVB.025
Grant Hird	LVB.026
Ken McIntosh	LVB.027
Simon Richards	LVB.028
Rex Collins	LVB.029
Thiago Tirapelle	LVB.030
Jonathan Buck	LVB.031
Russell Woods	LVB.032
Vanessa Hodges	LVB.033
Bay of Plenty Regional Council	LVB.034
BMW Owners' Register (Hawkes Bay)	LVB.035
Motor Industry Association	LVB.036
TRAFINZ	LVB.037
Motorcycle Safety Advisory Council	LVB.038
Automobile Association	LVB.039
Bikers' Rights Organisation New Zealand	LVB.040

Insurance Council of New Zealand	LVB.041
NZ Federation of Motoring Clubs	LVB.042
Motor Trade Association	LVB.043
John Wladmann	LVB.044
Northland Powersports	LVB.045
Imported Motor Vehicle Industry Association	LVB.046
Simon Jobs	LVB.047
Leigh Roberts	LVB.048
Ian Meyle	LVB.049