

[REDACTED]

From: [REDACTED]
Sent: Friday, 21 June 2019 1:30 PM
To: NI Legislation
Subject: proposed changes to Traffic Act 2010 (NI)
Attachments: henderson glass submission.pdf; traffic act submission.pdf

Dear Sir

Please find attached 2 submissions in relation to the proposed changes to the NI Traffic Act. It is noted that only in the last day or so has the dept website been updated extending the closing date to the 30th. It would be nice if the Administrator or the dept advised the community - not everyone has internet and regularly checks the dept website.

Thank you

CM LeCren

21st June 2019



Dear Sir

Thank you for the opportunity to comment on the consultation paper titled "Traffic Laws in Norfolk Island", albeit less than a month to do so.

In short, we wish to advise that we object to the proposed changes for reasons listed below.

1. Introduction

The Traffic Act 2010 (NI) and its associated regulations DO NOT require changing and DO NOT require alignment or consistency with the rest of Australia. Norfolk Island is a small remote Island with English country lanes and a maximum speed limit of 50km per hour. Simply because one or two persons within the Australian justice system don't agree with our way of life IS NOT reasons to change our legislation which is suited to our way of life, not Australia.

In a public meeting held at Rawson Hall, Norfolk Island on 19th November 2014, Mr Gary Hardgraves the Administrator of Norfolk Island, being the Australian Government representative at the time, said to the hundreds of community members present that "my only lecture comment to you is that way of life, culture and traditions are only lost if you walk away from them, don't do that and don't allow economic decline to discredit the way of life, culture and traditions that have been at the heart of Norfolk Island for a long time, its absolutely vital absolutely vital".

So, in support of your representative's comments and obvious recognition of our way of life, culture and traditions, we won't be walking away as they (way of life, culture and traditions) are at the heart of Norfolk Island and her people.

1.1 Purpose of this consultation paper

The wording of this paragraph implies that the changes will happen regardless of community comment. May we remind you of the DITRDC legislation consultation framework, which we believe is DITRDC's "bible" that says - where the proposed legislation may affect a large number of businesses, organisations or individuals, there may be strong views on the proposed legislation among stakeholders or the public, the issue may be sensitive or may generate significant public debate –

- a) **The Administrator will provide fact sheets, newspaper articles and radio announcements** – there are no fact sheets, there has been one (1) newspaper article published on 1st June 2019 advising members of the public they can obtain a copy of the consultation paper from the Administrators Office, and there has been no radio announcements. We say the consultation process is therefore flawed as the Administrator has not delivered his responsibility to the people of Norfolk Island.
- b) DITRDC with technical expertise as required will have targeted meetings – who have the targeted meetings been with and what was their recommendation? A public meeting has not been held with the public who is most affected, a meeting has not been held with the Council of Elders, what was the recommendation of the NI Road Safety Committee?? We say the consultation process is therefore flawed as there have been no targeted meetings with the community.

- c) This consultation paper was published on the DITRDC website on Friday 24th May 2019 with comments due by 21st June – this is less than one month for the community to provide comment on legislation that affects our way of life. It is an insufficient timeframe, perceived to be deliberate knowing that these proposed changes will not be popular. This timeframe is an insult to the people of Norfolk Island and we say that the **consultation process is flawed**. If this is the process undertaken by the Australian Law Reform Commission then we have serious concerns with the operation of Australian community legislative consultation and governance.

1.2 Proposed way forward

It is obvious DITRDC have taken the usual “quick and easy” fix by just proposing to change legislation. Identified issues are coming from one (1) person from Australia and not from the permanent population of approximately 1200 – we have to put *approximately* as population statistics are no longer publicly available to the community since Border Force / Australian Government have been in control.

If DITRDC and the Commonwealth were really serious and concerned about the status of our roads, legislation, and public safety then the long-term solution should be actioned immediately. In our opinion and in talking to other Norfolk Islanders, Norfolk Islanders do not consider changes to our Traffic Act to be “immediate high priority issues that should be advanced in the short term” – fixing our hospital to allow at least post mortems to be done and securing the future education for Norfolk Island for longer than 5 years at a time is an immediate high priority issue.

DITRDC and the Commonwealth CANNOT choose when and where we are part of Australia. Australian traffic rules SHOULD NOT apply on Norfolk Island if the roads and vehicle designs are not up to Australian standards.

2. Proposed changes

2.1 Recognising Australian provisional licences (P Plates) in Norfolk Island

We do not agree with amending our legislation to “suit visitors”, as **Norfolk Island is first and foremost the home of its residents**. DITRDC and Commonwealth are happy to amend legislation to suit visitors but how seriously will they consider any comments that will “suit locals”. We notice there is no reciprocal proposal to amend Australian legislation to recognise Norfolk Island P Plates?

Those Norfolk Islanders living away are well aware that we have our own legislation, and once on Island, if they do not already have a Norfolk licence they can go through our process of learners, P plates then a full licence just like everybody else.

2.2 Preventing injuries from ute tray riding

We strongly object to this proposed change. There is nothing wrong with our existing provisions allowing us to ride on the back of a truck, and it also forms part of the Norfolk Island way of life - just because you cannot do it in Australia does not constitute a forced legislation change. We do not live in Australia, we live on a small remote Island with a maximum speed limit of 50km per hour, travelling on “English country lanes”.

This proposal is another stripping of our tradition and our way of life. Travelling on the tray of an open truck is another aspect of our Island life that makes us unique and different.

Since the introduction of the Motor Car Ordinance 1929(NI) the people of Norfolk Island have been able to travel on the tray of an open truck or utility. For most, travelling this way is a necessity, particularly those with large families. Families today, travel on the back of trucks to go Christmas lighting, to get to family gatherings and functions, to get to our Bounty Day march, or just to get from A to B. The people of Norfolk Island who have grown up here, or those that have been here a long time, have the experience and knowledge of how to travel on the tray of an open truck or utility – we know not to stand up whilst the vehicle is moving or to jump off a moving vehicle. Statistically, over the 90 years that we have been traveling on the tray of an open truck or utility, there has been only one (1) fatality on a public road. This fatality was the result of inexperience, intoxication, no knowledge and a lack of common sense in how to travel on the tray of an open truck, from a visitor to the Island who had only been on the Island a matter of hours.

Many may have a different opinion on traveling on the tray of an open truck or utility, and they have a choice not to do so, however it is part of our tradition and way of life.

We strongly object to any changes to Sections 40A and 44G (2B) of the Norfolk Island Traffic Act 2010.

2.3 Reviewing laws applying to electric scooters and other mobility devices

What other Norfolk Island laws will DITRDC and the Commonwealth be reviewing in relation to mobility devices? Just because there are safety issues in other Australian states and territories does not mean that Norfolk Island has issues, where are the local statistics to support this for Norfolk Island? As mobility devices are not covered in the Traffic Act, is it the intention to insert provisions into the Act, and if so what –the people of Norfolk Island need to know specific legislative changes. This proposal should not be listed until specifics have been identified. We object to this proposed change to the Traffic Act.

2.4 Enabling removal of abandoned vehicles

Various other Norfolk Island legislation provide the power to other statutory / council positions on Norfolk Island to remove abandoned vehicles from public land, so this proposed change is unnecessary and not required. We object to this proposed change to the Traffic Act.

2.5 Deterring hazardous driving practices

2.5.1 Dangerous driving

Is a private “field” a private paddock or private portion of land? All “fields”, if they are fields for sport and recreation, on Norfolk Island are publicly owned and are regulated by their own legislation eg Public Reserves Act(NI) or the Local Government Act 1993 (NSW)(NI). Landowners should have the right to drive a vehicle how they want on their own private land, as it currently is. This is a poorly worded clause, which could have a big impact on landowners and families and obviously has an alternate purpose why it’s so badly worded. We object to this proposed change to the Traffic Act.

2.5.2 Drink Driving

The Commonwealth seriously offended the Norfolk Island community in early 2016 when they changed the blood alcohol level to 0.05 WITHOUT PUBLIC CONSULTATION. Our legislated level was 0.08 and there was no “random breath testing”, which suited the conditions of Norfolk Island; given there is no public transport or taxis “like other jurisdictions”.

Dot point 1 - we disagree with the use of the term "suspected drink driving" – how can someone be charged on suspicion? They either were or were not driving the vehicle. Length of time required by police to attend an incident should not be a reason to change the legislation. Norfolk Island people, in general, are honest and would own up.

Dot point 2 – what is wrong with the existing provision? – licences should only be suspended by the Court or the Registrar of Motor Vehicles.

Dot point 3 – this is a matter for the Courts to determine the length of disqualification of a licence, unless you are intending that low range drink driving is 1 month disqualification, mid range is 2 months and high range is 3 months regardless of what the court orders?? – if this is not what you are intending then the consultation paper needs to be clearer.

Dot point 4 – Really!!!! "just in case in the future", "could be installed", "could become available" are not justifiable reasons for inclusion in the proposed changes. We note there is no mention of costs / maintenance etc.

Dot point 5 – Our legislation is sufficient for novice drivers, there is no need to align with other jurisdictions; we are Norfolk Island.

2.5.3 Drug driving

In 2014 the cause of the accident was speeding, those who were here on Island at the time know that. We believe there is some form of discrimination in relation to the detection of prescription / legal drugs compared to illegal drugs, in that the police have to detect from behaviour before requesting a blood / urine test. Prescription / legal drugs can have just as much an effect on driving ability. Until all drugs, legal or illegal are detected in the same manner then proposed changes should not occur to our Act.

Once again, there is no public transport or taxis and the application of other jurisdiction laws does not mean that they will be suitable for Norfolk. To the best of our knowledge you can't just go down the road on Norfolk Island and buy ecstasy, cannabis, cocaine and methamphetamine (including speed and ice), whereas we're assuming you can do this in "other jurisdictions". If these drugs are coming into Norfolk Island then that's the real issue where resources, time and money should be spent. We question the need and therefore object to this proposed change.

2.6 Suspending a driver's licence

2.6.1 Authority for police to immediately suspend a driver's licence

On Norfolk Island, the suspension of licences is a court matter or a matter for the Registrar of Motor Vehicles, not the police. If police suspend a licence and the matter is not heard in court for six months (which sometimes can be the case) then that person has been without a licence longer than the court could suspend the licence for. Previously on Norfolk Island cautions were recorded on traffic infringement notices so why does this need to change. We object to this proposed change.

2.6.2 National recognition of licence suspension and disqualification

The issue of Norfolk Island licences not being physically surrendered when suspended is purely an administrative process and does not warrant legislative changes. All it takes is consistency when making the court order to suspend / disqualify / cancel the licence.

Dot point 1 – If the licence is handed in to the Court then they cannot drive, regardless of where the licence was issued. Currently, when Norfolk Island licence holders are obtaining an Australian licence, the RTA in Australia will contact the registry section of NI Regional Council to confirm details of the Norfolk Island licence, which includes suspension etc. Before receiving their Australian licence, the Norfolk Island licence is handed in to the RTA. In addition, it shows the lack of Norfolk Island knowledge and process by the authors of the consultation paper, as there is no Norfolk Island Registrar of Drivers Licence's, the Traffic Act states it is the Registrar of Motor Vehicles.

Dot point 2 – Is it an offense to hold an Australian and American licence at the same time? We have our own traffic legislation, which is not Australian legislation, therefore our licences are not Australian licences and it should not be an offense to hold a Norfolk Island licence and an Australian licence.

Dot point 3 – “examine ways” is not a legislative description of a change and should not be included. To ascertain whether a licence is valid would purely be an administrative process between the issuing RTA and the Norfolk Island Registrar of Motor Vehicles.

2.7 Improving data collection for research purposes

This is irrelevant and we question if there would be a breach of privacy principles. On the other hand, one would have thought this research would have been done before publishing this consultation paper. However, as previously mentioned, our legislation, our roads and our way of life are different to Australia; therefore, it is irrelevant to make comparisons to other jurisdictions. We object to this proposed change to the Traffic Act.

2.8 Reviewing penalties for traffic offences

Is the “further consultation on the detail of any proposed changes before an amending ordinance is made” referring to all of the consultation paper or just 2.8 – if it is just 2.8 then why single out this specific clause for further consultation?

We trust that DITRDC and the Commonwealth will recognise, acknowledge and accept that Norfolk Island is different to Australia. Looking at the governance changes from 2015, it should be evident to DITRDC and the Commonwealth (and blind Freddy!) that Australian legislation does not easily transfer to a small remote Island. In this particular instance, our roads are not to the same standard, our speed limits are not the same, there is no public transport or taxis, and our way of life and traditions are different to that of Australia (does Australia even have any traditions or way of life, we know the aboriginal people (the first Australians) do, but what about white Australians?). What more can be expected from a government that doesn't even recognise their own indigenous people!!

Our Traffic Act does not need changing, as it is suited to Norfolk Island. We suggest DITRDC, the Administrator and the Commonwealth concentrate on more important high priority matters like health and education and stop picking the quick and easy tasks, because as far as many in the community see, what has happened to these facilities is a joke!!

Yours sincerely

CM LeCren & MP Quintal

