

**Hon Julie Anne Genter**  
**Associate Minister of Transport**

**Mandating anti-lock braking systems for motorcycles**

**Date of issue:** 21 March 2019

**Description:** On 18 February 2019, Cabinet agreed to undertake public consultation on proposed amendments to the Land Transport Rule: Light-vehicle Brakes 2002.

**The following documents have been proactively released:**

- Cabinet paper: *Mandating Anti-lock Braking Systems for Motorcycles: Proposed Consultation* (considered by the Cabinet Economic Development Committee on 13 February 2019) continued below.
- [Cabinet Economic Development Committee Minute DEV-19-MIN-0002](#)

**Agency for key advice:** [Ministry of Transport](#)

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In Confidence

Office of the Associate Minister of Transport

Chair

Cabinet Economic Development Committee

## **PUBLIC CONSULTATION: MANDATING ANTI-LOCK BRAKING SYSTEMS FOR MOTORCYCLES**

### **Proposal**

1. This paper seeks Cabinet Economic Development (DEV) Committee's agreement to proceed to public consultation on amendments to the Land Transport Rule: Light-vehicle Brakes 2002 (the Rule). The proposed amendments would:
  - 1.1. mandate the fitting of anti-lock braking system (ABS) on motorcycles over 125cc or a simpler system known as a combined braking system (CBS) on smaller motorcycles. This requirement would apply to new motorcycles entering the fleet from 1 November 2019, and used motorcycles from 1 November 2021, subject to public consultation.
  - 1.2. make a minor amendment to remove an unnecessary requirement for twinned wheeled motor tricycles to be fitted with a park brake.

### **Executive summary**

2. The Government Policy Statement on Land Transport 2018/19–2027/28 (GPS), released in June this year, includes a range of measures to improve the safety of vulnerable road users, including considering mandating ABS for motorcycles.
3. International research has overwhelmingly concluded that ABS has significant safety benefits for motorcyclists. These studies show it can reduce motorcycle crashes by a third or more. Excessive wheel skidding under brake application is known to destabilise a motorcycle and increase stopping distances. Conversely, where a rider hesitates to brake sufficiently (to try to avoid skidding), stopping distances also increase.
4. Crashes involving motorcyclists are a disproportionate contributor to deaths and injuries on New Zealand roads. ABS is therefore a highly desirable feature to have fitted to all motorcycles entering the fleet. However, unless ABS for motorcycles is made mandatory, New Zealand will continue to receive new and used imported motorcycles<sup>1</sup> without it, even when suitable motorcycles with ABS are readily available.

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<sup>1</sup> Although reference is made to 'imported', the requirements would only apply to motorcycles that are being registered for the first time to be used on New Zealand roads. Motorcycles that are already registered or are used off-road are not affected.

5. As global deployment increases, the costs of fitting are falling, making it highly cost effective.
6. In order to maximise the safety benefit of ABS to New Zealand, without significantly impacting the expected availability or cost of motorcycles,<sup>2</sup> this paper recommends consultation on a draft rule mandating ABS for motorcycles entering the fleet that are 125cc and over, and either ABS or CBS<sup>3</sup> for motorcycles entering the fleet that are between 50cc and 125cc. The timing and scope of proposals mirror those adopted in Australia which has recently mandated ABS.
7. I propose the following timetable for the introduction of ABS in New Zealand:
  - 7.1. 1 November 2019 for all<sup>4</sup> new-model<sup>5</sup> new motorcycles entering the fleet and 1 November 2021 for existing-model new motorcycles and all used motorcycles entering the fleet.
8. The introduction dates are subject to consultation.
9. It is estimated that the introduction of mandatory ABS for all new motorcycles from 2019 and used motorcycles from 2021 would prevent 34 fatalities, 375 serious injuries and 656 minor injuries between 2019 and 2046, based on current road safety trends. This would produce a net safety benefit (benefit over and above costs) conservatively estimated at \$186.6 million. The benefit to cost ratio is 43.8:1, which is the highest of all the road safety implementation options I have considered.
10. Adopting the earliest dates for full uptake of motorcycles fitted with ABS, as proposed, is expected to provide large road safety benefits at little cost. As part of consultation, I will confirm that these are the earliest possible dates to mandate this technology.
11. Another amendment is proposed to remove the requirement that a specific type of three-wheeled motor tricycle, referred to as 'twinned wheeled', be fitted with a park brake. This type of brake is not required in other jurisdictions and the amendment will remove the need for the NZ Transport Agency to issue exemptions.

## Background

12. The GPS, released in June this year, signals our support for a much greater investment in safety. It contains a range of measures to improve the safety of vulnerable road users and these include improving the vehicle fleet, through actions such as considering mandating ABS for motorcycles.
13. In March 2018, I sought Cabinet agreement to a paper *Improving Road Safety in New Zealand* [DEV-18-MIN-0025 refers]. Along with the development of a new road safety strategy, the paper set out a planned programme of key short to medium-term initiatives to improve road safety. Cabinet agreed that the Ministry of Transport would

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<sup>2</sup> For simplicity, the term motorcycle is assumed to include all formats of three-wheeled motorcycles, unless the context requires otherwise. By definition, mopeds have motors smaller than 50cc, so are not affected by this proposal.

<sup>3</sup> For simplicity, CBS is assumed to be covered by the term ABS in the rest of this paper.

<sup>4</sup> Some minor exceptions would also apply. These are discussed in the body of the paper.

<sup>5</sup> New-model motorcycles are those that have not previously been sold. Existing-models are those that were already available for sale at the time the Rule comes into effect and does not include used motorcycles which have already been registered in New Zealand or somewhere else. The delay is intended to allow importers to sell older stock.

carry out further investigations and, if appropriate, report back to Cabinet with a draft amendment to the Rule mandating ABS for consultation. This paper provides that report back.

14. Most motorcycles entering the fleet are new motorcycles. In 2017, 25 percent of motorcycles entering the fleet were used motorcycles.

**Table 1 : Total number of motorcycles entering the fleet**

Type of motorcycle	2015	2016	2017
New, larger than 125cc	7184	7023	6740
New, smaller than 125cc	5017	3825	3267
Used, larger than 125cc	2788	2583	2915
Used, less than 125cc	413	504	377
<b>Total</b>	<b>15 402</b>	<b>13 935</b>	<b>13 299</b>

#### *Effectiveness of ABS*

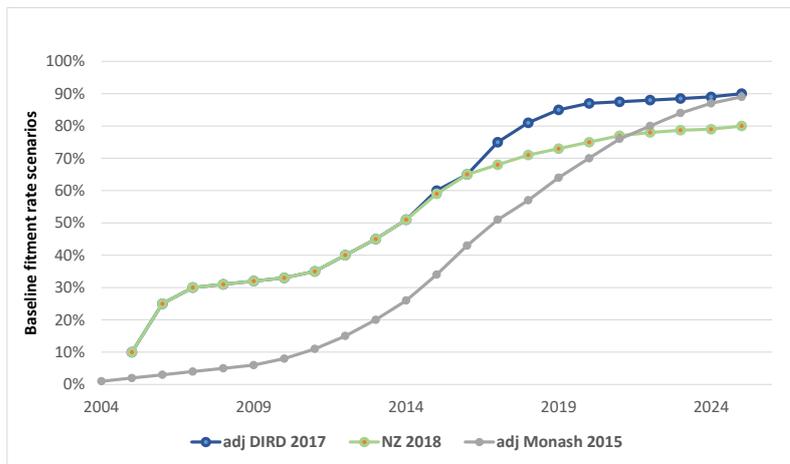
15. A 2014 report prepared on motorcycle safety for the Australasian government road safety organisation, Austroads, identified several key factors contributing to the significantly higher proportion of motorcyclist fatalities than for other vehicles types. This included the lack of protection from injury in the event of collision, higher levels of speed and risk taking by motorcyclists, and vehicle factors such as the inherent instability of motorcycles relative to cars<sup>6</sup>.
16. The 2014 report identifies that there is considerable variability in braking effectiveness, as most motorcycles have independent front- and rear-wheel brakes. This creates a significant safety risk because excessive wheel skidding under brake application is known to destabilise a motorcycle and increase stopping distances. Conversely, where a rider hesitates to brake sufficiently close to the tyres' tractive limit (to try to avoid skidding), stopping distances also increase. ABS ensures the maximum amount of brake force can be applied safely and by reducing skidding, ABS improves stability and shortens stopping distances on most solid surfaces.
17. While results vary by study, an extensive body of international research confirms that ABS is very effective in reducing motorcycle crashes. The collective evidence indicates that ABS has the potential to reduce motorcycle injuries by around 30 percent. No other motorcycle related technology is available that can deliver such large gains in rider safety.
18. Officials have investigated whether it is practical to retrofit ABS to motorcycles. They concluded that this would be theoretically possible, but is too complex and expensive to be considered for the existing motorcycle fleet.

<sup>6</sup> Austroads (2014). A Discussion Paper on Elements of Graduated Licensing Systems for Motorcycle Riders. Austroads Limited. Sydney.

*Current level of ABS fitted to motorcycles entering New Zealand and likely trends in uptake*

19. The Ministry of Transport’s initial investigation of the market has found that the rate of fitting ABS has been steadily increasing in motorcycles sold new in New Zealand. This is largely due to the international trend towards mandating it and increasing customer demand that it be present. Around 60 to 70 percent of new motorcycles entering the fleet in 2017 were estimated to already be fitted with ABS. The Ministry has developed a cost-benefit analysis which is attached. The cost-benefit analysis used projections of uptake based on limited New Zealand data provided by importers and data used in a comparable analysis in Australia.

**Figure 1: Projections<sup>7</sup> of expected uptake of ABS (both new and used) without regulation by year of manufacture**



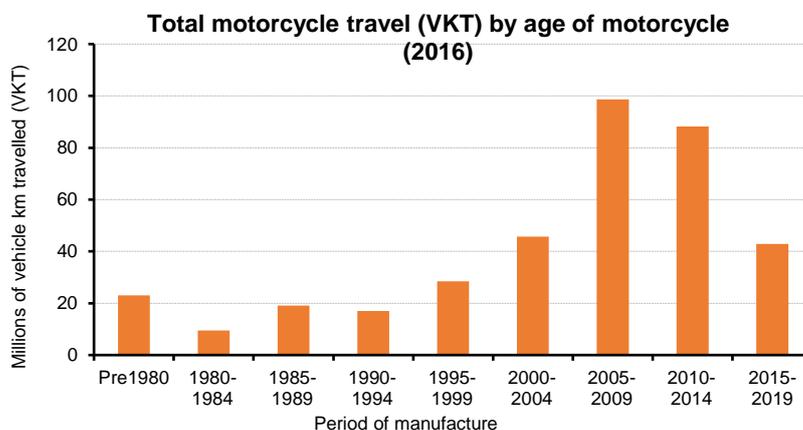
20. If left to the market, it is expected that the level of fitting ABS to new motorcycles will eventually get close to 90 percent. However, it is likely that some new models without ABS that are currently sold in New Zealand will continue to be available for some time, especially low cost models. We estimate that this could make up 10 percent of motorcycles entering the fleet.
21. While most new motorcycles are manufactured by a small number of major brands, around 10 percent of new motorcycles entering the fleet are imported by a large number (up to 50) of smaller, usually less well-known brands selling less than 50 motorcycles a year. The Ministry has very little information about the safety technology fitted to these motorcycles, or any plans these companies may have for fitting of ABS. It is assumed that some of these brands may offer ABS as standard or as an option, but there is likely to be a significant portion that would not.
22. Without regulation, a market for cheaper but less safe motorcycles models which lack ABS is likely to continue. The introduction of mandatory ABS could ‘level the playing field’ by preventing importers from undercutting the market with lower cost and less safe vehicles in the future.
23. For the roughly 3,000 used motorcycles that enter the fleet each year (25 percent of all motorcycles), the level of fitting ABS is much lower than on new motorcycles. This is primarily because the technology has only become common in the past five years.

<sup>7</sup> DIRD 2017 and Monash 2015 refer to uptake curves used in published Australian cost benefit studies. See P.14 of attached costs benefit analysis.

Based on initial discussions with importers, it is provisionally estimated that less than 10 percent of used motorcycles entering the fleet in 2017 had ABS.

24. The number of used motorcycles fitted with ABS is expected to gradually increase over time as a result of the ABS being made mandatory in other jurisdictions. In Europe (2017), Brazil (2019), India (2019), Japan (2021) and Australia (2021) all models will be required to have ABS fitted across all new and used motorcycles entering their fleets (years cited are for full implementation).
25. The relevant government authorities in the United States have not formally indicated that their Government is considering mandating ABS for motorcycles in the near future, though recent media reports indicate it may be about to do so<sup>8</sup>. At present around 40 percent of used motorcycles (10 percent of all motorcycles) entering the fleet are from the United States. This means there will continue to be a relatively large population of motorcycles that may potentially enter the fleet as used motorcycles<sup>9</sup>, which will not be required to be fitted with ABS in the foreseeable future.
26. As well as used motorcycles imported from the United States, there are also a relatively large number of used motorcycles entering the fleet that are more than 20 years old and which are therefore unlikely to be fitted with ABS. In 2017, 31 percent of used motorcycle registrations (8 percent of total registrations or around 1,100 motorcycles) were manufactured in or before 1997. Given their age, many of these older motorcycles are assumed to be ‘classic’ or ‘collectable’ models not intended for regular use. Travel data shows these older motorcycles generally travel very small distances and so pose a reduced safety risk compared to newer motorcycles.

**Figure 2: Most travel by motorcycles is by those younger than 15 years**



27. Because of the ongoing entry of older motorcycles from the United States, we assume in the modelling that without intervention, used motorcycles without ABS would continue to make up 10 percent of all motorcycles entering the fleet until 2046. This is in addition to the 10 percent that may continue to enter as new motorcycles. This is why figure 1 shows a peak level of 80 percent of all motorcycles entering would be

<sup>8</sup> <https://www.jsonline.com/story/money/business/2018/09/12/safety-agency-seeks-mandate-anti-lock-brakes-new-motorcycles/1279068002/>

<sup>9</sup> The New Zealand importer of new Harley Davidson motorcycles advises that all new motorcycles it sells are already fitted with ABS, so this is only a concern for used motorcycle imports.

fitted with ABS without intervention, not 90 percent as in the Australian (Monash University) study.

### **Legislative options for increasing the uptake of anti-lock braking systems**

28. I have considered a range of legislative and non-legislative options for increasing the uptake of ABS for motorcycles, to ensure New Zealand obtains the greatest benefit from this technology.
29. The Ministry of Transport prepared a cost-benefit analysis to identify optimal implementation dates for mandating ABS for new and used motorcycles entering the fleet. This drew on similar studies, such as the one prepared when ABS was mandated in Australia. Its findings have been independently peer reviewed and are consistent with the overseas reports. This analysis took into account both the benefits of a reduction in motorcycle crashes on New Zealand roads and the potential costs of reduced availability, choice, or increased price of motorcycles for New Zealand consumers. I intend to publish the cost-benefit analysis, alongside the Regulatory Impact Assessment and this Cabinet paper, as part of the consultation process.
30. Based on the findings of the cost benefit analysis and the dates adopted in Australia, the regulatory option I propose for increasing ABS uptake is to mandate that ABS is fitted to all motorcycles new and used entering the New Zealand fleet from 1 November 2019 and 2021 respectively. The proposal would not affect motorcycles already in the fleet.

### **Removing the requirement for twinned wheeled motor tricycles to be fitted with park brakes**

31. Park brakes prevent larger motor tricycles from moving while parked and perform the same function as a hand brake in a motor car. However, in the specific case of twinned wheeled tricycles<sup>10</sup>, the twin wheels are so close together they effectively operate as a one wheeled motorcycle would. When not in use, the motor tricycles are unable to stand by themselves and must use a stand. This makes a separate parking brake a redundant requirement. It is not required in most jurisdictions where New Zealand imports these tricycles from.
32. The legal concern in New Zealand is that all motor tricycles are required under the Rule to have a park brake. However, at the present time, these twinned wheeled tricycles are not made with a park brake which means the NZ Transport Agency has had to issue exemptions, with 260 issued in July 2018 alone. We expect the availability and demand for these tricycles to continue to increase.
33. Twinned wheeled motor tricycles are not required to have park brakes in Europe or Australia. If New Zealand continues to require a park brake, this will either completely cut these twinned wheeled tricycles out of market, or raise unnecessary compliance costs, either through requiring importers to apply for an exemption, or by having a park brake installed. Changing the Rule to include this exception will reduce compliance costs and not impact safety outcomes.

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<sup>10</sup> 'twinned wheels' is defined in European legislation as having two wheels mounted on the same axle, the distance between centres of their areas of contact with the ground being less than 460 mm. Twinned wheels shall be considered as one wheel.

## Proposal for consultation

### *Mandate the fitting of ABS to motorcycles*

34. The proposed amendment is intended to move forward the date when the motorcycle fleet will be equipped with ABS. I have proposed the earliest practicable implementation dates to ensure that uptake – and therefore safety benefit to New Zealand – is maximised.
35. I propose to consult on a proposal to mandate ABS for motorcycles 125cc and over and for either ABS or CBS for motorcycles that are between 50cc and 125cc, entering the fleet according to the following timetable:
  - 35.1. 1 November 2019 for all new-model<sup>11</sup> new motorcycles entering the fleet and 1 November 2021 for existing-model new motorcycles and all used motorcycles entering the fleet.
36. Because of the importance of ABS for improving the safety of motorcycle riders, feedback will also be sought during public consultation on an earlier implementation date for existing and used motorcycles. This would include the option of mandating the requirements for ABS to be fitted for used and existing-model motorcycles in November 2019, in line with new-model motorcycles.

### *New motorcycles*

37. For new motorcycles, this implementation is expected to be relatively uncomplicated. Initial investigation of the market has indicated that the majority of motorcycles sold new in New Zealand are either already fitted with ABS, or the importers plan to implement the technology shortly. However, some delay in implementing the requirement may be needed to allow for motorcycles that retailers have already ordered from their manufacturers, but which have not been shipped. To address this, as is common with other vehicle standards, I propose to implement the requirement for new-model new motorcycles in advance of existing-models. New-model new motorcycles are those models that have not previously been sold in New Zealand. Existing-models are those models that were already available for sale at the time the Rule comes into effect. The delay for existing-models allows importers to sell older stock either in their possession, or ordered in advance of the Rule being made and is the approach used in the Australian legislation.
38. Consultation will consider the appropriate length of delay after the Rule comes into effect before the requirements are implemented and if the requirements should apply separately to new- and existing-model new motorcycles.

### *Used motorcycles*

39. Used motorcycles are where the individual motorcycle has previously been registered in another country or in New Zealand but was deregistered. For used motorcycles, any ABS requirement will be delayed by two years after the date selected for new

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<sup>11</sup> New-model motorcycles are those that have not previously been sold. Existing-models are those that were already available for sale at the time the Rule comes into effect and does not include used motorcycles which have already been registered in New Zealand or somewhere else. The delay is intended to allow importers to sell older stock.

motorcycles, to reduce disruption in supply. The preferred option is after 1 November 2021.

40. If the availability of affordable motorcycles entering New Zealand were to be unduly restricted, there is a risk that older, less-safe motorcycles would be retained for longer. To avoid potential negative consequences from retaining older vehicles, Rules that have separate requirements for used vehicles typically have delays of up to ten years after new vehicles. However, the very high safety benefit of ABS means that a relatively short delay is appropriate in this circumstance. No other jurisdiction that the Ministry is aware of regulates used motorcycles separately as they do not form a major part of most jurisdictions' markets.

#### *Alternative implementation dates for used motorcycles*

41. I consider that an implementation date for used motorcycles from November 2021 provides sufficient notice to the used imported motorcycle industry. Its current purchasing and importing processes can be adapted to minimise the disruption to motorcycle supply. A later implementation date for used motorcycles (for example five years after new motorcycles) would ensure access to a greater supply of ABS-fitted vehicles in Europe, Japan, and the United States, but would deliver less acceleration of ABS uptake.

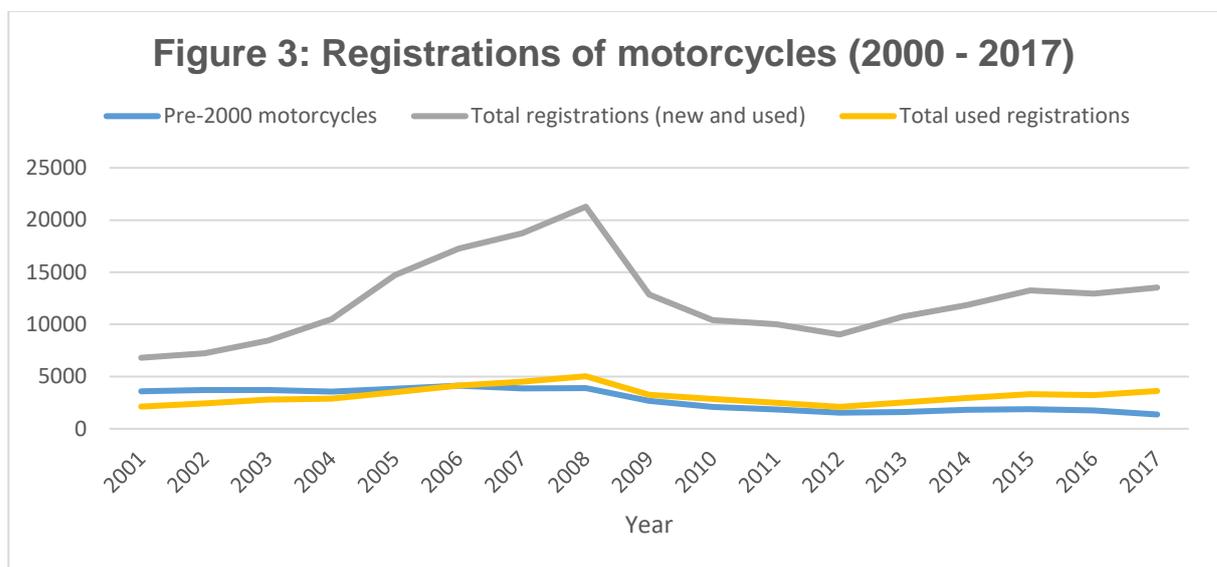
#### *Exceptions and exemptions from the proposed requirements*

42. As with motor cars, there is a small, but significant trade in older and vintage motorcycles that are not intended for regular use. Registrations of motorcycles more than 20 years old have been relatively constant at 1,000 – 1,200 per annum since the year 2000. Given the consistency of demand for older motorcycles, motorcycle riders and importers will expect some form of exception or exemption process to allow for these older 'classic' and 'collectable' motorcycles to continue to be imported.
43. I propose that there should be an exception which will automatically allow motorcycle used motorcycles to enter the fleet if they are manufactured prior to a certain date. This is to ensure that safety benefits are maximised while recognising the desire for some to continue to have access to 'classic' motorcycles.
44. For the purposes of consultation I will seek feedback on a range of cut-off dates. I intend to consult on a range of dates. These will include 1 January 1970, 1980 and 1990. It is assumed that motorcycles manufactured prior to these dates would otherwise not be able to comply with the proposed Rule because retrofitting ABS to these motorcycles is not practical.
45. Based on 2017 motorcycle registrations, the proportion of motorcycles that would be exempted from the Rule are set out in Table 2.

**Table 2 : Total number of motorcycles entering the fleet**

Year of manufacture (YOM)	Number of motorcycles older than YOM registered	Percent of all 2017 motorcycle registrations
1970	203	1.5%
1980	530	4%
1990	857	6%

46. A rolling exception of 20 years, as is used in some other land transport rules, was considered, but was not preferred. A rolling exception would have enabled ongoing import of motorcycles without ABS in future years even when models fitted with ABS were available.



47. The proposed fixed date exception allows enthusiasts to continue to import older 'classic' motorcycles without needing to create a potentially complicated and expensive exemptions process. A fixed date exception is not expected to create a significant potential market for non-ABS motorcycles as unlike with cars, older motorcycles are not significantly less expensive than newer models.
48. There could also be an exception to allow for New Zealand citizens or New Zealand residents to continue to import 'immigrant' motorcycles into New Zealand. This would be subject to a number of specific conditions and would be required to be consistent with the immigrant vehicle clause as defined under the Land Transport Rule: Frontal Impact 2001. This exception would allow people immigrating to New Zealand to import motorcycles, as part of their household possessions, that they already owned overseas.
49. Initial consultation with motorcycle retailers and users also raised the issue of the use of motorcycles on unsealed roads and off-road where ABS may not work as effectively<sup>12</sup>. To mitigate this, I also propose to consult on an exception to allow some specific types of motorcycles to be equipped with a switch to temporarily disable ABS. This option would enable riders to choose to turn off the feature only whilst operating

<sup>12</sup> Lower levels of traction on gravel and similar surfaces may make ABS less effective.

off-road or on an unsealed road. This policy is consistent with the provisions in the equivalent Australian legislation mandating ABS.

50. Motorcycles not intended for on-road use would not be required to fit ABS. However, there are a small number of specialist motorcycles that are primarily used in off-road or motocross events that are registered to enable them to occasionally travel on road, often as part of races. For these models of motorcycle, it would not be practical to be fitted with ABS or CBS. Using the same definitions as used in the Australian legislation, there would be a class created for trial and enduro motorcycles for which ABS would not have to be fitted.
51. I also propose to create a new Special Interest Motorcycle permit process that would allow for collectable motorcycles to continue to be imported, under the condition that there is no option with ABS available. Under this process, applicants would be able to apply to the NZ Transport Agency for an exemption, which would allow the motorcycle to be granted entry to New Zealand without meeting all the requirements set out in existing rules. The NZ Transport Agency would limit the amount of Special Interest Motorcycle permits to 100 per year. This would be equivalent to the existing special interest motor vehicle permit regime for specialist motor cars. As with the permits for motor cars, the NZ Transport Agency would charge \$160 to process these permits.
52. The cost-benefit analysis assumed that classic and collectable motorcycle models<sup>13</sup> over 20 years of age (approximately 10 percent of new and used motorcycles entering the New Zealand fleet each year) would be exempted. Therefore, we assume that if the number of motorcycles which are excepted from requiring ABS is reduced, the corresponding safety benefit will be increased.

*Remove the requirement for park brakes for twinned wheeled motor tricycles*

53. I also propose to consult on an additional amendment to the Rule which would create an exception for motor tricycles with twinned wheels. These specific types of motor tricycles would no longer have to be fitted with a park brake.

**Costs and benefits of the proposed regulatory options**

54. It is estimated that the introduction of mandatory ABS for new motorcycles in 2019 and used motorcycles in 2021 would prevent 34 fatalities, 375 serious injuries and 656 minor injuries between 2019 and 2046 based on current road safety trends, with a net safety benefit (benefits over and above costs) conservatively estimated at \$186.6 million. The benefit to cost ratio is 43.8:1 which is the highest of all the road safety implementation options I have considered.
55. The costs of the policy over the same period are estimated at \$4.3 million. The vast majority of this cost (\$4.25 million) is based on increased purchasing costs. It is estimated that the average price increase as a result of the proposed change for each additional used motorcycle fitted with ABS will be less than \$90. It is likely, especially in the first few years after implementing any requirement, there will be some reduced choice of both new and used motorcycles.

56. Bringing forward the uptake of ABS from what would occur without intervention will potentially have some additional associated costs. The analysis estimated that the policy would include a slight reduction of mobility, estimated to be less than \$20,000 over the 28 years modelled. The remaining costs include publicity costs to the NZ Transport Agency.
57. The proposed amendment to remove the requirement for motor tricycles to be fitted with a park brake was not included as part of the cost benefit analysis for mandating ABS for motorcycles. The proposed exception is minor and technical, and is intended to reduce compliance and administrative costs.

## **Non-regulatory options considered for increasing the uptake of ABS**

### *Status quo*

58. If left to the market, it is likely that New Zealand would continue to receive motorcycles without ABS for some time, even when suitable motorcycles with ABS are readily available. The safety benefit of ABS would not be maximised in New Zealand and there would be preventable deaths and injuries from crashes as a result. I do not support this option, especially in light of the extremely high cost-benefit ratio identified in the cost-benefit analysis from implementing the technology as soon as possible.

### *Stimulate consumer demand for ABS through a promotional campaign*

59. Internationally, public demand for ABS has not been compelling enough for manufacturers to fit it to all motorcycles produced without regulation. International evidence has also found that no matter what level of awareness an advertising or awareness campaign creates, the final proportion of consumers to take up the technology is generally less than 100 percent.
60. Given that New Zealand's used motorcycle market is primarily a supply rather than a demand driven market, promotion-induced consumer demand is unlikely to be sufficient to provide this incentive.
61. A promotion campaign for ABS is therefore not, on its own, the most efficient or effective means to maximise uptake in New Zealand, though further advertising may be useful to raise greater awareness ahead of any legislation taking effect.

## **Stakeholder views**

62. This paper seeks agreement to consult on the draft Rule change. There has been no formal consultation with any groups so far. However, some initial consultation has been undertaken as part of research into the uptake of ABS for new and used motorcycles across New Zealand. The views from stakeholders have been reflected in this paper and in the Regulatory Impact Assessment.
63. Interest groups such as the Motorcycle Safety Advisory Council and the Motor Industry Association have indicated that they are supportive of the draft Rule change. The majority of motorcycle suppliers engaged with during the initial consultation process did not indicate opposition to mandating ABS. Some suppliers of used motorcycles expressed concerns about the impact that mandating ABS would have on

their ability to import motorcycle stock. These impacts will be canvassed during formal consultation.

### **Next Steps**

64. If Cabinet approves the proposed draft Rule for public consultation, the NZ Transport Agency will commence drafting. I intend to enable an amendment rule with explanatory material to be published for consultation in January 2019.
65. I am also seeking authorisation to make decisions, consistent with the overall policy proposals in this paper, on any minor issues that arise during the course of drafting the changes and as a result of the consultation process.
66. Officials will prepare a communications package, which will be ready for proactive release ahead of public consultation. I expect there will be media interest in the proposals and it will be important to send a clear message about the benefits of ABS for motorcycles and that the proposed changes are intended for consultation. Feedback will be taken into account in developing recommendations for final rule changes.
67. I do not propose to return to Cabinet before making the amendment rule to give effect to the requirements unless consultation identifies significant changes, or there are other issues that require Cabinet's attention.
68. A timeline will be developed for the preparation and delivery of an education campaign prior to the implementation of the new requirements. I anticipate that the communications package would commence being delivered in early to mid-2019.
69. We do not anticipate any changes to the Land Transport (Offences and Penalties) Regulations 1999 will be required. If consultation identifies that any changes are required, a Cabinet paper addressing any offences and penalties changes will be prepared for consideration by the Cabinet Legislation Committee.

### **Consultation**

70. Formal public consultation on a draft amendment to the Rule will take place as part of the normal Rule development process, if Cabinet approves the proposal.
71. The following government agencies have been consulted on this paper: the NZ Transport Agency; the NZ Police; the Ministry of Justice; the Treasury; the ACC; the Ministry of Business, Innovation and Employment; Ministry of Foreign Affairs; and the Ministry of Health. The Department of the Prime Minister and Cabinet has been informed.
72. The Minister of Transport has agreed to the submission of this paper.

### **Financial implications**

73. There will be some small implementation costs associated with mandating ABS. These will be funded from the Vehicle Safety Standard Levy and absorbed within the NZ Transport Agency's budget, making the proposal fiscally neutral to the Crown. The NZ Transport Agency's costs for processing the proposed Special Interest Motorcycle permits will be recovered through charging a fee.

## **Human rights, gender and disability implications**

74. No specific human rights, legislative or gender issues have been canvassed in this paper. They proposals are not expected to raise any specific concerns. In 2016, 82 percent of all injured motorcyclists and 91 percent of motorcyclist deaths were males.

## **Legislative implications**

75. The proposal will be implemented by amending the Land Transport Rule: Light-vehicle Brakes 2002.
76. The proposal to mandate ABS was included in the Transport Rules Programme for 2018/19, which noted that Cabinet approval for the policy would be required [DEV-18-MIN-0144 refers].
77. Consequential amendments to regulations will be required to support the amendment rule:
- 77.1. An amendment to the Land Transport (Certification and other Fees) Regulations 2014, to extend the current fees of \$160 charged by the Agency for processing applications for special interest vehicle permits and for identification of a vehicle as an immigrant's vehicle to special interest motorcycle permits and for identification of a motorcycle as an immigrant's vehicle.
- 77.2. An amendment to the Land Transport (Offences and Penalties) Regulations 1999 to create offences for breach of rule provisions prohibiting the production of a false declaration for the purposes of obtaining a special interest motorcycle permit and of having a motorcycle declared to be an immigrant's vehicle, punishable on conviction by a fine not exceeding \$2,000, consistent with penalties for existing false declaration offences in relation to special interest vehicle permits and identification of a vehicle as an immigrant's vehicle.

## **Regulatory Impact Analysis**

### *Regulatory Impact Analysis requirements*

78. The Regulatory Impact Analysis requirements apply to this policy proposal. A Regulatory Impact Statement (RIS) has been prepared by the Ministry of Transport and is attached to this paper.

### *Quality of impact analysis*

79. The Ministry of Transport's RIS Assessment Panel considers that the information and analysis summarised in the RIS generally provides a compelling case for mandating safer braking systems for motorcycles.
80. The Panel assessed the RIS as partially meeting the quality assurance criteria. This is because the proposal has not yet been consulted on publicly. The impacts of this intervention, and the paper itself, should be further strengthened following consultation.

81. The RIS will be updated after consultation and, following a final review by the Ministry's RIS Assessment Panel, will be published on the Ministry of Transport and Treasury websites.

*Exception for twinned wheeled motor tricycles from requiring park brakes*

82. The Treasury Regulatory Quality Team has determined that the proposal to create an exception for twinned wheeled motor tricycles is exempt from the Regulatory Impact Analysis requirements on the grounds of minor impacts on businesses, individuals and not-for-profit entities.

**Publicity**

83. If Cabinet approves the proposal, I plan to issue a press statement to announce the decision taken and the process and timelines to be followed for amendments to the Land Transport Rule: Light-vehicle Brakes 2002.

**Proactive Release**

84. I propose to proactively release this paper and the accompanying draft RIS and cost-benefit analysis, subject to redactions as appropriate under the Official Information Act 1982.

**Recommendations**

85. I recommend that the Committee:
1. **note** that anti-lock braking systems (ABS) and combined braking systems (CBS) in smaller motorcycles are now a low-cost motorcycle safety technology with proven effectiveness in reducing the incidence of motorcycle crashes
  2. **note** that investigating whether to mandate anti-lock braking systems for motorcycles is a deliverable of the *Safer Journeys Action Plan 2016-2020*
  3. **agree** that in order to improve the safety of New Zealand's motorcycle fleet, I will commence preparation of an amendment to the Land Transport Rule: Light-vehicle Brakes 2002.
  4. **agree** to consult on a proposal to mandate ABS for motorcycles 125cc and over and for either ABS or CBS for motorcycles that are between 50cc and 125cc, entering the fleet according to the following timetable:
    - (a) 1 November 2019 for all new-model new motorcycles entering the fleet and 1 November 2021 for existing-model new motorcycles and all used motorcycles entering the fleet
  5. **agree** that:
    - (i) the requirement to fit ABS to motorcycles will also include three wheeled motorcycles

- (ii) switching technology to deactivate ABS will be acceptable on specific types of motorcycles intended for use on un sealed roads or off-road where this is allowed in the relevant Australian Design Rule
  - (iii) a class, based on the criteria in the relevant Australian Design Rule, will created be for trial and enduro motorcycles for which ABS would not have to be fitted
  - (iv) public feedback will be requested on a range of fixed date exception from the requirement to fit ABS to motorcycles entering the fleet manufactured on or before 1 January 1990, with alternative dates proposed for consideration of:
    - a. 1 January 1970
    - b. 1 January 1980
    - c. 1 January 1990
  - (v) an exception for motorcycles of any age that are imported by immigrants as part of their household possessions will be created
  - (vi) a new Special Interest Motorcycle system be created to allow for a small number of collectable motorcycles without ABS manufactured after the fixed date exception to continue to be imported supported by application fees and offences and penalties consistent with the existing regime for other classes of vehicle.
6. **agree** to consult on a proposal to amend the Land Transport Rule: Light-vehicle Brakes 2002 to remove the requirement for twinned wheeled motor tricycles to be fitted with a park brake
  7. **invite** the Associate Minister of Transport to issue drafting instructions to the Parliamentary Counsel Office for consequential amendments to regulations to give effect to the Rule decisions (if required) once consultation is completed
  8. **note** that this proposal is not expected to significantly impact the availability or cost of motorcycles for New Zealanders, though it may reduce choice, especially for used motorcycles
  9. **note** that the proposal is expected to deliver significant and immediate safety benefits to all users of motorcycles
  10. **agree** that the attached cost-benefit analysis and Regulatory Impact Assessment along with this Cabinet paper be published as part of the consultation process
  11. **note** the intention of the Associate Minister of Transport to implement the proposal by making amendments to the Land Transport Rule: Light-vehicle Brakes 2002 without further reference to Cabinet unless contentious issues

arise in the course of the development of the Rule or new policy decisions are required.

Hon Julie Anne Genter  
**Associate Minister of Transport**

Dated: \_\_\_\_\_