

Submission 344



**MOTORCYCLING  
QUEENSLAND**

A.B.N. 24 009 866 424

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*Affiliated to  
Motorcycling Australia*

Submission to the  
Crime and Misconduct Commission  
review of Queensland's off-road motorbike  
noise laws.

Motorcycling Queensland

August 2008

Lindsay Granger

General Manager

## **Motorcycling Queensland**

Motorcycling Queensland (MQ) is the governing body for motorcycle sport and recreation in Queensland. MQ is recognised and partly funded by the Queensland Government through Sport and Recreation Queensland.

MQ represents the broad general interests of motorcycle sport and recreation but we specifically represent our membership of:

- approximately 100 affiliated motorcycling clubs
- over 7000 licensed riders, coaches and officials
- a range of not-for-profit associations which promote motorcycle events
- commercial promoters of motorcycle events.

## **Background to this submission**

MQ has been a member of the South East Queensland Trailbike Management Forum (the Forum) since its inception in 1999. The Forum made a submission to the Queensland Government in 2003 in response to the inquiry by the Police Minister into a range of trailbike issues.

This submission was an extensive proposal to deal with trailbike issues which focussed on regulatory reform, the provision of places to legally ride trail bikes and the coordination of responses between government departments which have responsibilities which cover trailbike riding.

No formal response was received by the Forum in regard to this submission.

In 2005 MQ provided a response to Queensland Police (copy attached) regarding the *Police Powers and Responsibilities (Motorbike Noise) Amendment Bill 2005*.

The submission focussed on a number of issues including:

- the lack of an objective form of noise measurement
- the imprecise wording of the Bill
- whether organised motorcycle sporting events were covered by the Bill
- the requirements for coordination with Local Government Authorities.

No response was received by MQ in regard to this submission.

### **Comment**

Since the introduction of this legislation in 2006, there are no publicly available statistics on the use of the legislation by Queensland Police. The anecdotal responses which have been provided to MQ are that the legislation is rarely invoked by police, however trailbike noise issues are still reported by politicians as a significant problem in some electorates, particularly in South East Queensland and some coastal cities.

As stated earlier, the submission by the Forum in 2003 cited the need for a widespread response within the government and non-government sectors to trailbike issues. Although there has been no formal public response by the Queensland government to this submission, we are aware of the existence of an interdepartmental committee which apparently has been established to provide some coordination of response between government agencies. This committee has not provided any publicly available documents or reports on its activities.

The legislation which was introduced in 2006 did not appear to be related to any whole-of-government response to trailbike issues and it has not been linked to any other government proposals regarding trailbikes.

In our view it has not been successful in addressing any of the issues which are currently facing the community in regard to trail bikes. It has apparently not solved any of the issues regarding the use of motorcycles on private property. It does not provide any solutions for the issues of illegal riding on

public or private land. On its own, it does not address any of the issues relating to the lack of legal places for riders of trail bikes to engage in their chosen recreation.

#### **Recommendations**

MQ suggests that the following issues be addressed in regard to trail bike riding.

- This legislation should be framed in terms of an objective form of measurement of the noise emissions of off-road motorcycles.
- The preferred form of resolution of trailbike noise issues within the community should be by mediation rather than the creation of a range of offences.
- Organised motorcycle sporting and recreational events which are sanctioned by MQ should be specifically exempted from this legislation because these events are already governed by extensive rules regarding noise emissions (see attachment).
- A formal response from the Queensland government should be provided which addresses the issues raised in the South East Queensland Trailbike Management Forum's 2003 submission entitled *Solutions to Unlawful Trailbike Riding in South East Queensland*.
- The membership and terms of reference of the interdepartmental committee on trailbikes should be made publicly available, as should the outcomes of its activities.
- The current program of Sport and Recreation Queensland to identify unallocated state land suitable for trailbike use should be prioritised and supported by all government departments.



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Affiliated to  
**Motorcycling Australia**

Acting Inspector Neal White  
Operational Research and Advisory Unit  
Queensland Police Service

12 August 2005

Dear Acting Inspector White

Thank you for the opportunity to respond on behalf of Motorcycling Queensland to the proposed changes to current legislation included in the *Police Powers and Responsibilities (Motorbike Noise) Amendment Bill 2005*.

Motorcycling Queensland is the governing body for motorcycle sport and recreation in this state. We have approximately 7000 members in 90 affiliated clubs and we conduct over 1000 permitted events in Queensland each year. The events which we sanction are in the disciplines of Motocross, Road Racing, Moto-Trials, Dirt Track, Speedway, Enduro and Historic competition as well as Trail Rides and other recreational activities. We are affiliated to Motorcycling Australia (MA) as the national governing body and the Federation Internationale de Motorcyclisme (FIM) at the international level.

Whilst I understand the government's intention with these proposed changes to legislation, I am concerned that there are a small number of areas where unintended consequences are likely, or where insufficient safeguards are in place to ensure the proper operation of the legislation.

The key to parts of the proposed changes are included in the amendment to s51(3) as "to investigate the emission of excessive noise from a motor vehicle....." however the guidelines for police in deciding what constitutes excessive noise in s358 and 359 appear to be vague and do not have any objective form of measurement. Even when dealing with registered motorbikes on public roads, there is no mention of recognised standards such as the Australian Design Rules which are used to regulate noise emissions from motorcycles.

Similarly when motorcycles are dealt with by the police in an off road situation, there is no opportunity to test whether the vehicle is compliant with the current noise emission requirements of Queensland Transport or of Motorcycling Australia. I have attached a copy of the Motorcycling Australia noise emission rules for your information.

The Bill simply requires a police officer attending in response to a complaint to be 'reasonably satisfied the noise complained of is clearly

audible at the complainant's premises'. Although there are further instructions which police *may* rely on to decide whether the noise is excessive, a simple necessity for the noise to be 'clearly audible' is not, in my opinion, sufficient grounds for further action. Many of the sounds of modern day living are clearly audible from residential or commercial premises, however they do not constitute the basis for legislative change. If this legislation is going to be successfully enacted, then clearly defined noise levels must be included. As a guide I refer you to the relevant sections of the Environmental Protection Act dealing with acceptable noise levels.

Whilst on this subject, the example of a decision on what constitutes excessive noise which is included after s359(C)(3) seems to obscure rather than clarify the point. It refers to a situation where a person causes excessive noise by *continually* driving past a motel while playing their car radio at an *excessive* level (my emphases). Is the issue the continuous nature of the behaviour or the (undefined) excessive noise emanating from the car radio? I am not trying to defend this behaviour in any way, but I do not believe that the example gives any clarity for police in their task of defining excessive noise.

I am concerned by s59CA which apparently allows police to start proceedings for a motorbike noise offence by arrest. Whilst the issue of motorbike noise is a significant issue for legislators to deal with, the nature of these offences are not so significant that any police action should need to be initiated by arrest. Any police action dealing purely with motorbike noise surely should be initiated by a notice to appear.

The changes within s59LE(1)(a) appear to indicate that a motorbike forfeiture may be initiated against a person who has been charged with other vehicle offences even if those charges have not been heard and regardless of whether the offences have anything to do with motorbike noise emissions. The purpose of this legislation should not be to enable penalties far greater than any relevant fine to be enforced through vehicle forfeiture.

Motorcycle sporting events which hold a permit from MQ are required to be responsibly organised in the following respects:

- All riders must be licensed
- Competency assessments of riders are required
- Officials must be accredited and trained to agreed standards in the National Officials Accreditation Scheme (NCAS) which are developed by Motorcycling Australia and the Australian Sports Commission
- All machines must comply with the rules for noise emission (see attached)
- All riders must observe the General Competition Rules
- All venues must be registered

- A \$50 million Public Liability Insurance cover is applied through Motorcycling Australia  
Under these circumstances it is essential that our events are not subject to inadvertent disruption through these proposed legislative changes. The existing legislation, particularly at a local government level, which applies to motorcycle sport and recreation also creates a responsible framework within which the sport is conducted.

Part of the stated aims of Judy Spence MP, Minister for Police and Corrective Services in proposing these changes was to ensure that 'Trail bike riders who act responsibly will be free to enjoy themselves', however the allowances for riders engaging in properly organised and sanctioned motorcycle sporting and recreational events are poorly defined. In particular the exemptions noted in s358(2) are insufficient. Because Motorcycling Queensland is the principal body which organises and sanctions motorcycle sporting and recreational events in Queensland, we believe that events which are sanctioned by us should be noted as the following addition: *s358(2)(d) while the place is being used by motor vehicles under a permit issued by Motorcycling Queensland.*

The proposed exemptions under s358(2)(a) and (c) appear to rely on permits to be issued by local government authorities (LGAs). Although some LGAs have adopted this process for properly organised motorcycle sporting and recreational events, many LGAs are not currently issuing such permits and therefore we believe that the exemption for events held under a permit from Motorcycling Queensland is a necessary addition to ensure that properly organised events are not inadvertently caught up in this legislation.

Whilst I estimate that Motorcycling Queensland issues permits for more than 95% of formally organised motorcycle sport and recreation events in Queensland, the small number of events which might be organised by other bodies will still be able to seek exemption from the proposed legislation through the other provisions of s358(2), however there will need to be a process put in place by the Queensland Police Service to educate LGAs of the role which they will be expected to play under the requirements of this legislation.

Also on this subject, it appears that the organisers of an event which may be held without an LGA permit may be liable for prosecution under the provisions of s360(7)(b). This appears to be a potentially heavy-handed response for a situation which should fall under the description of 'trail bike riders acting responsibly'.

As the body which is recognised and partially funded by the Queensland Government as the State Sporting Organisation (SSO) for motorcycle sport, we are keen to have an involvement in any review of the legislation conducted under s458A. I believe that we are key informants regarding the effectiveness of the legislation in allowing responsible and properly organised motorcycle sporting and recreational activity to continue as part of the Queensland community's expectation for sport.

If possible, I would appreciate a response to the points which I have raised in this letter.

Yours faithfully

Lindsay Granger  
General Manager  
Motorcycling Queensland

Attachment: Motorcycling Australia Noise emission guidelines



**12.10 NOISE EMISSIONS -ALL  
DISCIPLINES**

**12.10.1 Specifications**

12.10.1.1 Noise emissions must not exceed **96dB(A)** unless a lower limit is provided for in SR or another limit is shown in the table below:

DISCIPLINE	LIMIT dB(A)
Road Racing	102
Historic Road Racing	102
Motocross and Supercross	96
Classic MX & Dirt Track	96
Speedway	98
Dirt Track	96
Track	98
Quads	96
Moto-Trials	96
Supermoto	96
Enduro & Reliability Trials	96
Minikhana	95
Record Attempts	No limit

12.10.1.2 Where government regulations or planning orders exist in relation to noise testing, or where a permanent Road

Race circuit noise emission required is part of the circuit hire contract, the noise emission required will prevail over GCR 12.10.1.1.

### 12.10.2 Measurement

12.10.2.1 Noise emissions must be measured with a microphone placed 500mm from the exhaust pipe at an angle of approx 45 degrees measured from the centre line of the exhaust pipe, and at the height of the exhaust pipe, but at least 200mm above the ground. Where the height of the exhaust outlet makes this impossible, the microphone should be placed at a 45 degree angle above the outlet. see Figs.

12.10.2.2 The reading shall be taken with engine warmed up, running steadily at the specified revs and with the motorcycle out of gear.

12.10.2.3 The test revs depends on the mean piston speed corresponding to the stroke of the engine according to the table below. The revs are calculated using the following formula:

$$N = \frac{300,000 \times \text{cm}}{l}$$

Where N = prescribed revs  
 cm = fixed mean piston speed in metres per second, and  
 l = stroke in mm

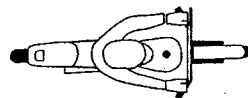
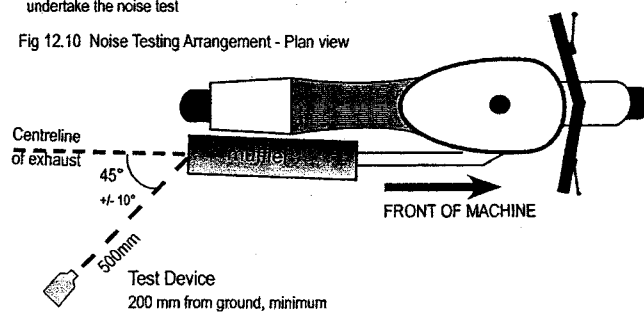


Fig 12.11.2.1  
 No more than 2 people should undertake the noise test

Fig 12.10 Noise Testing Arrangement - Plan view



Stroke in mm	RPM	Stroke in mm	RPM
Except Motocross (See 17.3)		Except Motocross (See 17.3)	
30	11,000	66	5,000
31	10,645	67	4,925
32	10,313	68	4,853
33	10,000	69	4,783
34	9,706	70	4,714
35	9,429	71	4,648
36	9,167	72	4,583
37	8,919	73	4,521
38	8,684	74	4,459
39	8,462	75	4,400
40	8,250	76	4,342
41	8,049	77	4,286
42	7,857	78	4,231
43	7,674	79	4,177
44	7,500	80	4,125
45	7,333	81	4,074
46	7,174	82	4,024
47	7,021	83	3,976
48	6,875	84	3,929
49	6,735	85	3,882
50	6,600	86	3,837
51	6,471	87	3,793
52	6,348	88	3,750
53	6,226	89	3,708
54	6,111	90	3,667
55	6,000	91	3,626
56	5,893	92	3,587
57	5,789	93	3,548
58	5,690	94	3,511
59	5,593	95	3,474
60	5,500	96	3,438
61	5,410	97	3,402
62	5,323	98	3,367
63	5,238	99	3,333
64	5,156	100	3,300
65	5,077		

- 12.10.3 Use of sound level meters**
- 12.10.3.1** Sound testing apparatus must comply with international standard IEC 651, Type 1 or Type 2.
- 12.10.3.2** Sound testing apparatus must be set to "slow response" setting, A weighted setting on sound level meter.
- 12.10.3.3** Correction
- Type 1 meter : deduct 1dB(A)
  - Type 2 meter : deduct 2dB(A)
- 12.10.3.4** The revs shall be measured using a calibrated electronic tachometer or a vibrating reed tachometer held against any solid part of the machine.
- 12.10.3.5** The sound testing apparatus must be equipped with a calibrator for control and adjustment of the meter during periods of use.
- 12.10.3.6** During a sound test, machines not equipped with a gear box neutral must be placed on a stand.
- 12.10.3.7** The sound level for engines with more than one cylinder will be measured on each exhaust end.
- 12.10.3.8** The ambient sound within a 5m radius of the test site should not exceed 80dB(A).
- 12.10.3.9** Tests shall not take place in rain or excessively damp conditions.
- 12.10.3.10** In other than moderate wind, machines shall face forward in the wind direction. (Mechanical sound will blow forward, away from microphone).
- 12.10.3.11** Due to the influence of temperature on sound tests, all figures are correct at 20°C.
- For tests taken at temperatures below 10°C, there will be a + 1dB(A) tolerance.
  - For tests below 0°C, there will be a + 2 dB(A) tolerance.
- 12.10.3.12** Always round down meter reading, that is: 103.9dB(A) = 103dB(A).
- 12.10.4 Machine testing**
- 12.10.4.1** Other than the rider, the sound testing operator and a person to hold the front of the machine there should be no person within 3 metres of the testing site.
- 12.10.4.2** Sound level measuring equipment must include a compatible calibrator, which must be used immediately before testing begins and always just prior to a re-test if a disciplinary sanction may be imposed.
- 12.10.4.3** If a machine fails, it can be represented for re-testing.
- 12.10.4.4** No person may compete in any event on a machine whose noise emissions exceed the prescribed levels.
- 12.10.4.5** A machine which does not comply with the sound limits can be presented several times.
- 12.10.4.6** When presented for examination, the correct stroke must be stamped in a clearly visible position on the crankcase.
- 12.10.5 Sound control during competition**
- 12.10.5.1** The Noise Control Officer (NCO) must arrive in sufficient time for discussions with the Clerk of the Course and other Technical Officials in order that a suitable test site and testing policy can be agreed.
- 12.10.5.2** In a competition which requires sound control tests during the event, machines must comply with the sound limits.
- 12.10.5.3** Machines considered excessively noisy must be individually tested if conditions allow.