



Traffic Laws in Norfolk Island

Consultation Paper (May 2019)

Key comments in relation to each proposed change

The below is a mix of summarised comments and verbatim input from community members, as well as their suggestions to refine the proposed changes.

The comments below are from individual Norfolk Island community members. The comments do not reflect Australian Government views nor are the comments necessarily an accurate interpretation of current Norfolk Island laws.

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

One respondent expressed the view that allowing P plate drivers from Australian states and territories to drive in Norfolk Island is long overdue as there is no or limited public transport in place. However, some noted that there is no reciprocal arrangement to amend legislation in other Australian jurisdictions to recognise Norfolk Island provisional licences.

Some queried whether this would introduce an additional hazard, and that only fully licensed drivers should be allowed to drive in Norfolk Island because of the unique Norfolk Island driving conditions, including cattle with right of way and lack of street lighting. One community member suggested driver education about Norfolk Island road rules.

One respondent suggested the majority of visitors to Norfolk Island are over the age of 50 and queried whether this change was necessary.

2.2 Preventing injuries from ute tray riding

Most expressed the view that travelling on the back of an open truck is integral to Norfolk Island culture and tradition, and that Norfolk Islanders know how to drive with passengers in the open ute trays.

Some questioned the evidence to support the change, noting that prevalence of incidents should drive change instead of a coroner's report.

One respondent expressed the view that the current risk is 'As Low As Reasonably Practicable' (ALARP) due to mitigation measures in place, such as low maximum speed limit, raised ute/truck sides, no highways, the 'English country lanes' character of the road network, and the friendly local driving etiquette.

Another respondent pointed out that in Australia, motorcyclists are 30 times more likely to die on the road compared to car occupants, yet motorcycles don't get banned; they further indicated the view that in Norfolk Island, riding in the back of open ute trays involves some risk which is mitigated by legislation.

It was also said that many families only own one truck and this would disadvantage low income families.

Suggestions from community members included:

- currently the Traffic Act allows children over 5 years of age to ride in the back of an open ute tray; an option could be to have a curfew on tray riding with passengers over 5 years of age only be allowed to ride in a ute/truck until dusk, when it is less safe as visibility is low and it would be more responsible for children to be in the vehicle at night-time;
- creating an on-the-spot fine for a person who is driving with one or more intoxicated passengers in an open ute tray;
- instigating more driver education around driving with passengers in the open ute tray;
- having a special licence condition for those that want to drive with passengers in an open ute tray;
- restricting the speed limit for drivers with passengers in an open ute tray (eg. 40 km/h).

2.3 Reviewing laws applying to electric scooters and other mobility devices

Comment was made that the Department needs to consider that there is no public transport on island when undertaking this review, and that elderly people make up a significant proportion of the Norfolk Island population.

2.4 Enabling removal of abandoned vehicles

Some queried whether existing laws are adequate to enable removal of abandoned vehicles from public places (eg. Council laws). A respondent suggested that if the vehicle is a hazard on public land, the police should be able to remove, however the owner must be contacted first and sufficient attempt made to ensure that it isn't just a money-making exercise.

2.5.1 Dangerous driving: (a) public land and (b) off-road (including private field)

There was some agreement to deterring dangerous driving in public places but many did not agree with prohibiting dangerous driving off-road (including private field), noting that police should not have access to private land (or only with a warrant), many learn to drive in private paddocks, driving dangerously on private property is at the driver's own risk, and there is no public traffic on private property. There was a concern this law could be used indiscriminately.

2.5.2 Drink driving (range of measures)

Many respondents objected to the proposal that the police could apprehend someone who they thought to have been operating a vehicle. This was considered by some to be potentially discriminatory and could lead to police charging those without due cause. It was suggested that this could be an option if there had been an accident with witness statements.

Some respondents commented on the fact that drink driving laws shouldn't change because there is no public transport in Norfolk Island, which makes it difficult to have a 'Plan B'. Walking at night is too dangerous because there are no street lights or pavement.

Some said the introduction of Random Breath Testing (RBT) and Prescribed Concentration of Alcohol (PCA) changes in the past were made without community consultation and there was a view that the community does not support these measures.

A couple of submissions commented on the proposed mandatory disqualification of a driver's licence after a guilty plea or finding for a PCA offence, whether or not a conviction is recorded, and there was a view that it should be left to the court to decide the severity of the sentence.

Some queried whether interlock devices are required in Norfolk Island, believing this would be a waste of money and 'overkill'.

2.5.3 Drug driving (introduction of mobile drug testing)

There were mixed views on this proposal. Some suggested drug testing should only be introduced if there is appropriate health promotion campaigns. Some opposed this change because there is no public transport, advising that the people of Norfolk Island can regulate themselves and that the number of traffic incidents on the road are quite low. One respondent agreed that if the driver is driving erratically the police should test for substances. One community member suggested that if drugs are coming into Norfolk Island, this is where the focus should be.

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

Respondents thought that in Norfolk Island, the suspension of a licence is a only court matter or a matter for the Registrar of Motor Vehicles, not the police. Some suggested that if the licence is suspended, and the court cannot hear the matter for over six months, the person could be without a licence for longer than a court-imposed suspension.

2.6.2 National recognition of licence suspension and disqualification

One community member commented that currently, when Norfolk Island licence holders obtain a licence from another Australian jurisdiction, the Roads and Traffic Authority (RTA) would contact the registry section of the Norfolk Island Regional Council to confirm details of the Norfolk Island licence, including suspension, etc, and that before receiving their new licence, the Norfolk Island licence is handed to the RTA.

There was a view that it should not be an offence to hold a Norfolk Island licence and a licence from another Australian jurisdiction.

Suggestion was made that Norfolk Island drivers' licences should be a recognised form of identity for Australian Government agencies, eg. Centrelink and the Australian Electoral Commission.

2.7 Improving data collection for research purposes

Objections included that this could be a violation of privacy, and it shouldn't be permitted unless prior approval is given by the offender.

2.8 Reviewing penalties for traffic offences

One respondent queried the evidence to support this review, and another noted that the current penalties are sufficient for a small remote island community.

Other comments and/or changes suggested by community members

- Norfolk Island legislation needs to be reviewed in context of the unique situation on Norfolk Island and not simply enact legislation according to other Australian jurisdictions.
- The Australian Road Rules contain the basic rule of the road for motorists. The Australian states and territories enact certain laws to reflect their own unique circumstances. Norfolk Island should be able to do the same.
- The most dangerous driving is by elderly tourists who have not driven in a while and then drive during their holiday in Norfolk Island.
- There needs to be a definition of 'third party' in the Traffic Act as some insurers have denied third party claims, particularly for passengers in the vehicle being operated by a driver who causes an accident.
- The regulations around minimum vehicle inspection standards and definitions of the various vehicle registration categories need to be updated.