15 January 2017

The Executive Officer
Law Reform, Road and Community Safety Committee
Parliament House
Spring Street
EAST MELBOURNE VIC 3002

By email: lrrcsc@parliament.vic.gov.au

Dear Sir/Madam,

We welcome the opportunity to provide feedback in relation to the Committee’s Inquiry into VicRoads’ Management of Country Roads.

**About us**

Maurice Blackburn Pty Ltd is a plaintiff law firm with 32 permanent offices and 29 visiting offices throughout all mainland States and Territories. The firm specialises in personal injuries, medical negligence, employment and industrial law, dust diseases, superannuation (particularly total and permanent disability claims), negligent financial and other advice, and consumer and commercial class actions.

Maurice Blackburn employs over 1000 staff, including approximately 330 lawyers who provide advice and assistance to thousands of clients each year. The advice services are often provided free of charge as it is firm policy in many areas to give the first consultation for free. The firm also has a substantial social justice practice.

Maurice Blackburn employs specialised road injuries legal teams in Victoria, Queensland, New South Wales, Western Australia, South Australia, the ACT and Northern Territory. We work in partnership with Motorcyclist interest groups such as Ulysses and various motorcycling councils across Australia, with whom we work closely on initiatives related to the rights and safety of motorcyclists. Maurice Blackburn frequently participates in both state and federal submissions processes pertaining to road user safety, inclusive of the recent ‘Australian Road Rules 12th Amendment Package Consultation Draft – June 2017’, undertaken by the National Transport Commission.
Scope of Response

Our response relates to Term of Reference 1, namely:
“The effectiveness of VicRoads management of country roads”

Our response is confined to the issue of road resurfacing within works carried out by or on behalf of VicRoads on country roads and in particular the tendency of roads to be left as inherently dangerous for motorcycle and scooter riders following those works.

Maurice Blackburn notes that motorcyclists face significant challenges with respect to safety as vulnerable road users. Having dangerous road surfaces resulting from the completion of roadworks is entirely preventable and should not count among those challenges.

Response in Detail

In our work as road injury lawyers we repeatedly see the impact of injuries caused by incidents directly resulting from the manner in which road resurfacing works are carried out.

Broadly speaking, the incidents of concern are the result of contractors leaving roads in a state which may be relatively safe for most road users but which is inherently very dangerous for motorcyclists.

On the evidence of the type of the incidents in which our clients have been injured it appears to be a routine practice of contractors to leave loose material on the road surface post completion of roadworks. On some occasions, it would appear that the intention is for this loose material to be removed at a later date once the surface has settled. On some occasions, it would appear that the debris is left to disburse without further intervention over a period of time.

Maurice Blackburn submits that resurfacing practices involving loose material being left on a road which is open for use should not be allowed.

In 2014 VicRoads published “Making Roads Motorcycle Friendly: A guide to road design, construction and maintenance”. That publication states the following:

- “Excess bitumen on the road surface can provide a slippery hazard for motorcyclists in wet and dry conditions. In this situation resurfacing or removal of the excess bitumen should be carried out. Prior to this, signs warning of the slippery surface should be installed”. (p.9)

• “Loose material on road surfaces should be cleaned up during and after roadworks. Loose gravel and other material can be scattered on the road surface, and mud and other debris can be dropped from construction vehicles onto the road. This loose material needs to be swept from the road as it can lead to a motorcycle or scooter losing traction”. (p.10)

Again based on incidents in which our clients have been injured, evidence would suggest that contractors undertaking road resurfacing works have not complied with such “guides”.

Maurice Blackburn would be pleased to provide case studies which illustrate the point, including an example of unsafe practices on one of the most iconic motorcycling roads specifically mentioned in the guide being the Great Alpine Road.

**Our Submission**

• Maurice Blackburn submits that the Committee, as part of its deliberations, seek clarification from VicRoads as to whether “guides” such as the one referenced above form part of the contractual terms that VicRoads has with roadworks contractors.

• We further encourage the Committee to enquire as to:
  - the extent of reporting required by contractors upon completion of roadworks to VicRoads, and
  - the extent to which VicRoads completes auditing of completed roadworks to ensure compliance with any relevant contractual terms that it has with contractors based on the guides referenced above or otherwise in order to ensure safe conditions for motorcyclists.

Please do not hesitate to contact me and my colleagues on [redacted] or at [redacted] if we can further assist with the Committee’s important work.

Yours faithfully,

**Malcolm Cumming**
Principal, Maurice Blackburn
**Accredited Specialist Personal Injury Law**