



WA STATE DIV.

Government of Western Australia

Committee on Personal Choice and Community Safety

Email: pccs@parliament.wa.gov.au

Re: SUBMISSION ON BEHALF OF MEMBERS OF AUSTRALIAN STREET MACHINE FEDERATION – WESTERN AUSTRALIA (ASMf-WA)

We thank you for the opportunity to raise our concerns to Government of Western Australia in relation to recent interactions with Department of Transport relating to modification of motor vehicles. We believe that our concerns stem from a misconception in the broader community that modified car owners are hoons and are therefore treated as such by the authorities.

From the outset, it must be said that ASMf-WA does not condone hoon behaviour, and we fully support measures to control and stamp out hoons on public roads.

ASMf-WA has previously corresponded with the Transport Ministers office to convey our concerns which are outlined in the chain of correspondence attached to this submission. However, some background context and a brief outline of our concerns is provided below.

In Western Australia, there are a number of systems in place that allow for modified vehicles to be registered for use on public roads. One of the systems which is the one we have particular interest in is simply called 'modified vehicles' whereby vehicles modified in accordance with the Vehicle Standards Bulletin 14 (VSB14) – National Code of Practice for Light Vehicle Construction and Modification, are generally approved for use on public roads provided that the approved modifications are undertaken in a safe manner and that the vehicle drives, steers and stops safely.

VSB14 is a national document published by Department of Infrastructure, Regional Development and Cities. It was first published in 2006, then updated in 2011, and to the best of our knowledge, and based on personal experience of our members, has been used by the Department of Transport as the 'rule book' for what vehicle modifications are and are not allowable. Our group first approached Department of Transport (DoT) in 2016 to discuss proposed amendments to VSB14, and we were advised to make a submission to DoT seeking consideration of our proposed amendments.

At about the same time we heard whispers from some of our members and their associates that their (VSB14 compliant) build applications were being **rejected** based on **the opinion of an officer / officers at DoT** that aspects of the (VSB14) compliant application represented 'too much of a safety risk'. A copy of a typical letter from Department of Transport, rejecting a build application is appended as Attachment 1.

The ASMF-WA have undertaken research to determine whether the DoT "safety concerns" are based on fact or opinion. This research is based around actual accident history off vehicles modified in accordance with VSB-14, discussions with registered mechanical engineers and from our own web-based research.

The upshot of our research is that vehicles modified in accordance with VSB-14 have a significant lower occurrence of accidents than the majority of road going vehicles. We therefore of the view the "public safety concerns" raised by the DoT do not have any factual basis.

The letter states that DoT have adopted VSB14 as the code, yet goes on to say that any build application is subject to the discretion of DoT officers anyway. This is hardly a system that instils confidence in individuals spending tens to hundreds of thousands of dollars on their modified vehicles in many of the businesses in Western Australia that specialise in motor vehicle restoration and modification.

On 6 November 2017, following a meeting with officers of Minister for Transport, ASMF provided a follow up email outlining some of our particular concerns relating to incorrect information provided in the aforementioned letter of rejection of a build application. A copy of this email is appended as Attachment 2.

Following several follow up's by ASMF-WA, a response to the 6 November email from Transport Ministers office was received on 14 March 2018. Needless to say, the response was very disappointing as it contained some of the same factually incorrect information that was pointed out by ASMF-WA in our earlier correspondence. A copy of this email is appended as Attachment 3.

Our concerns were relayed back to Transport Ministers office via email on 23 April. This email further requested a meeting with DoT officers, which Transport Ministers staff said they would facilitate late in 2017. To date ASMF-WA have not been afforded the opportunity to attend a meeting with DoT and Transport Ministers staff. A copy of this email, which represents the most recent written correspondence (other than follow up emails) is appended as Attachment 4.

Despite having followed up Transport Ministers staff by phone and email in the period since 23 April 2018, there has been no commitment to a meeting. ASMF-WA find this particularly disappointing as we believe that our interactions with Transport Ministers office have been conducted in a professional manner and without the broader group hype through social and other media. Notwithstanding, there is no doubt an increasing level of frustration at the Governments apparent lack of interest and desire which will ultimately result in a diminished motoring enthusiast community and loss of jobs in the industry.

A large part of Australian culture is based around the motor vehicle and in particular, enthusiasts undertaking modifications to those motor vehicles, from minor changes such as changing wheels through to full restorations and upgrade of whole vehicles. Along with a strong culture, a whole industry generating thousands of jobs and millions of dollars is built

around the modified car scene. In Western Australia alone, there are over 100 car clubs representing tens of thousands of members, all of whom contribute to the Western Australian economy. Many of these clubs and organisations run events which raise significant funds for charitable organisations.

Should you have any queries regarding our submission, I can be contacted on 0403 578 887 or by email at hicraftwheelmodz@bigpond.com.

Yours Sincerely

Stan Khose

Chairman

Australian Street Machine Federation – Western Australia

Enc.



RE: VEHICLE MODIFICATIONS TO: [REDACTED]
CHASSIS # [REDACTED] REGISTRATION # UNLICENCED

Thank you for your application of [REDACTED] 2017, seeking approval to perform modifications to the above vehicle. While provision exists within the regulations for the Department of Transport (DoT) to approve modifications to a vehicle, assessment is based on **safety of the public** and whether the vehicle can safely accommodate the proposed conversion. ¹

The Chief Executive Officer (CEO) of the Department of Transport (DoT) has the legal power to set the requirements for the approval of modifications to vehicles in Western Australia. As the delegated Officer of the CEO of Transport I am empowered to make decisions under regulation 235 of the *Road Traffic (Vehicles) Regulations 2014* regarding vehicle modifications.

As you are aware, DoT has adopted the "National Code of Practice for Light Vehicle Modifications" ("VSB14" or "The Code") which is a set of nationally-agreed guidelines. VSB14, however, has not been enacted into national law and therefore the application of VSB14 in any State or Territory is subject to the discretion of the jurisdiction concerned.

Under this discretion, your application was assessed and a decision was made that the fitment of a later model [REDACTED] naturally aspirated petrol engine into a vehicle manufactured in [REDACTED] was **too much of a safety risk, despite the fact that the replacement engine met the requirements of VSB14 Table LA1.** ¹

Section LA in VSB14 specifically states that "*the recommended maximum capacity (swept volume) of engines for passenger cars and passenger car derivatives is outlined in Table LA1 []. An engine may not be a suitable replacement even if its capacity falls within the limits specified in Table LA1*". **Excessive engine power was identified as a major issue at the time VSB14 was developed. The table was clearly intended to try and limit engine power and the simplest way to do that at the time was by restricting the capacity of the engine.** ²

It is important to note that the VSB14 limits and requirements were developed in the context of engine performance data prior to 2000. Since then there have been substantial increases in engine performance as a result of technological developments and to date The Code has not been revised to take account of these advances. 2 2

Combined with the increases in specific power output for engines over the past 20 years, there have also been significant advances in vehicle safety, particularly for vehicle occupants, with the introduction of successive Australian Design Rules which have mandated stricter levels of safety features into new vehicles. High tensile steel passenger safety cell, crumple zones, side impact protection and supplementary restraint systems are now mandated on all new cars together with electronic stability and collision avoidance systems.

This has called into question the application of Table LA1 in the Code, based solely on the swept capacity of the engine, as a way of determining the safety of the vehicle. Significant safety concerns have been raised regarding the installation of high power modern engines into older pre-ADR vehicles.

These concerns, along with any deficiencies that have been identified in VSB14, are currently under review at the highest level within DoT. Reviews such as this are treated seriously and are required to be carried out in accordance with the DoT guidelines. Unfortunately reviews such as this take time. 3

With this in mind, any modification applications for older vehicles which involve excessive increases above the power output of the original engine are now being assessed on their merits, on an individual, case by case, basis.

Until the review is completed and an outcome is reached I am required to exercise my delegated discretion and make any decision regarding vehicle modifications in accordance with Regulation 235 of the *Road Traffic (Vehicles) Regulations 2014*. In this instance, I have rejected the modification application based on the safety issues listed above.

A decision under Regulation 235 of the *Road Traffic (Vehicles) Regulations 2014* to refuse to approve modifications to a vehicle is not a decision that the Department is obliged to reconsider under the *Road Traffic (Vehicles) Act 2012* or related Acts and Regulations. A decision under that regulation is also not subject to a right of review in the State Administrative Tribunal (SAT), unlike some other types of decision made under this legislation. It is open to you to seek your own advice on whether other avenues of appeal or review are available to a decision of this kind.



Should you require any further assistance or seek further clarification, please do not hesitate to contact the Coordinator on telephone number [REDACTED]

Yours sincerely

[REDACTED]
[REDACTED]
[REDACTED]

Attachment 2

From: [REDACTED]
Sent: Monday, 6 November 2017 10:39 PM
To: [REDACTED]
Subject: RE: Vehicles 1949-1984 from our meeting on Wed 25th October 2017

Hi [REDACTED],

Thank you for the opportunity to meet with yourself and [REDACTED] to discuss issues we highlighted in our email to Minister Saffioti dated 24 August 2017.

As a follow up to our meeting, and as further background information, please find attached a copy of a letter sent out to a vehicle modification applicant by Department of Transport, Vehicle Safety and Standards, Technical Policy and Services branch (DoTVSS) in response to a vehicle modification application. There are a few points to the letter which are highlighted and referenced to the dot points below.

1. The letter refers to decisions being made based on safety of the public. It is our understanding that VSB14 is written in a way to ensure vehicles are modified in a safe manner, which as we stated, ASMF fully support. However, based on the statistical accident and insurance information we have researched and discussed at our meeting, we cannot see how DoTVSS have formed the view that vehicles that conform to VSB14 requirements as currently written, are unsafe, or indeed represent an increased safety risk to the public.
2. DoTVSS state that engine performance data prior to 2000 was used for the development of VSB14 requirements. The first edition of VSB14 was endorsed by the then working group in February 2006 and further revised to the current edition in January 2011. Given that up to date engine performance data is readily available from any manufacturer, we find it difficult to believe that a new document would use information that was over five years old, and in the case of the second edition, over ten years old. Clearly, if there was a measurable issue with late model performance engines, it would have been addressed in the second edition.
3. DoTVSS refer to a 'review at the highest level within DoT'. We believe that a body such as ASMF along with industry can play an important role in such a review and to ensure that any decisions made as part of the review take in to consideration the viewpoints of all relevant stakeholders. We would appreciate it if you could please provide an update on the status of the review and the actual process undertaken to conduct the review.

As the issue of modification application rejection (for vehicles complying with VSB14 requirements) has only arisen since around September 2016, we can only presume that there must be recent data or statistics available to DoTVSS that demonstrates that vehicles historically approved under VSB14 are unsafe. If such data exists, certainly it would be in contrast to the data we have received.

Also during our meeting, you requested for more information on the reasoning why the South Australia Government implemented the new Vehicle Registration Concessional Laws and the affect it had on the local economy. We are pleased to inform you that Minister Stephen Mulligan will make time to speak with Minister Saffioti while attending the Tasmanian conference in November.

We look forward to continuing dialogue with DoT to ensure that the modified motoring enthusiast community receives a fair voice and representation in matters pertaining to the safe modification of vehicles. We would also extend to you an opportunity to join us at a motoring enthusiast event to allow you to have a greater understanding of the culture and of the positive impact it can have on the community and economy.

Kind Regards

Stan -State Director/Chairman

Rita – State Treasurer/Administrator
(ASMF) – WA State Division
(Australian Street Machine Federation)

[REDACTED]
[REDACTED]



Attachment 3

From: [REDACTED]
Sent: Wednesday, 14 March 2018 9:32 AM
To: [REDACTED]
Subject: DoT - VSB14: Application and new policy development

Good morning Stan and Rita,

Apologies for my delay in coming back to on this issue.

Since our meeting with you I have had meetings both with [REDACTED], Driver and Vehicle Services and Manager for Vehicle Operations, [REDACTED] to discuss your concerns.

Currently the CEO utilises the National Code of Practice for Light Vehicle Modifications, namely Vehicle Standards Bulletin 14 (VSB14), when evaluating applications. As this has not been enacted into national law, it is subject to the discretion of the jurisdiction.

Any modification applications for vehicles which involve excessive increases above the power output of the original engine are scrutinised on a case by case basis. Even though the recommended maximum capacity of engines for passenger cars and its derivatives is approved in the VSB14, it may not be a suitable replacement. The intent of this is to limit the power to weight ratio.

As the VSB14 was developed prior to 2000, there are advances in technology to date which have not been taken into account when considering the power to weight ratio. Further, significant concerns and deficiencies affecting vehicle safety have been identified in older vehicles. With the introduction of successive Australian Design Rules mandating stricter levels of safety features, newer vehicles are inherently safer than an older vehicle. To that end it has been determined that a review is required.

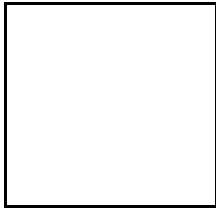
In the interim, in consultation with the Road Safety Commissioner and WA Police, a power to weight ratio policy which matches the power of a modified or replaced engine to the vehicle, limiting the power outputs of the engines allowed to be fitted is under development. The Department of Transport (DoT) is primarily concerned about the safety of vehicles that exhibit excessively high power to weight ratios and provide little or no occupant protection due to their age.

Once the development of the policy is further progressed, DoT will circulate to industry for consultation and comment. At this stage the proposed timeline for this consultation will be the latter half of 2018.

I'll make sure that you are notified when the new policy is made available and would be happy to arrange for you to meet with the Department to discuss the policy at that time.

Apologies again for the delay.

Kind regards,



Office of the **Hon. Rita Saffioti MLA**
Minister for Transport; Planning; Lands

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Attachment 4

From: [REDACTED]
Sent: Monday, 23 April 2018 10:36 AM
To: [REDACTED]
Subject: DoT - VSB14: Application and new policy development

Hi [REDACTED]

Thank you for your email.

Although the opportunity to comment on new guidelines is appreciated, we remain concerned that a proposed new policy is being prepared initially without input from a broader range of stakeholders that are experienced with modification of older vehicles. The result of this will be a document that, based on recent interactions will be one sided, and one that the authors will no doubt feel obliged to defend when feedback is sought from the broader group of stakeholders.

The very fact that your advisors tell you that VSB14 was developed prior to 2000 is just wrong and does nothing more than convey a sense of bias from within DoT against modified vehicles. What is more disappointing is that we pointed this out to you in our email of 6th November 2017, yet you quote back to us incorrect information which indicates to ourselves either a lack of understanding or a lack of interest from government in relation to our issue.

As we have previously advised you, VSB14 was originally published in 2006 and updated in 2011. We encourage you to view the document (link below) from Department of Infrastructure website which explains the history of VSB14. We would also encourage your advisors to read the document so at least they can quote the document correctly when corresponding with the public. https://infrastructure.gov.au/roads/vehicle_regulation/bulletin/pdf/NCOP1_Preface_V2_01Jan2011_v2.pdf

If you read the acknowledgement section in the VSB14 preface, it notes the consultation and assistance of individuals, industry groups, user groups and government agencies in the preparatoion of VSB14. This collective group resulted in the creation of a fair and balance document which for many years, the Department of Transport used in the assessment of modified vehicle applications.

Based on our research around Australia and what we have seen evolve in Western Australia, it is very clear that Western Australia is moving in a very different direction to the rest of Australia. This direction will most certainly cost jobs in Western Australia through enthusiasts not wanting to modify or restore their vehicle. There is no doubt that the motoring enthusiast community is becoming disillusioned with government's apparent lack of understanding of enthusiast vehicles and the amount of industry that this supports.

At our previous meeting, you agreed to facilitate a meeting between our group and DoT which to date has yet to be arranged. We therefore reiterate the request for a meeting with yourself and DoT regarding modified vehicles.

Kind Regards
Stan -State Director/Chairman

Rita – State Treasurer/Administrator
(ASMF) – WA State Division
(Australian Street Machine Federation)

[REDACTED]
[REDACTED]

