

# TRANSCRIPT

## STANDING COMMITTEE ON THE ECONOMY AND INFRASTRUCTURE

### Inquiry into the Road Safety Road Rules 2009 (Overtaking Bicycles) Bill 2015

Melbourne — 30 May 2016

#### Members

Mr Joshua Morris — Chair

Ms Colleen Hartland

Mr Khalil Eideh — Deputy Chair

Mr Shaun Leane

Mr Nazih Elasmr

Mr Craig Ondarchie

Mr Bernie Finn

#### Participating Members

Ms Samantha Dunn

#### Staff

Secretary: Dr Christopher Gribbin

#### Witness

Mr Bernard Carlon, Executive Director, New South Wales Centre for Road Safety (*via videoconference*).

**The CHAIR** — I declare open the Standing Committee on the Economy and Infrastructure public hearing. The committee is hearing evidence today in relation to the Road Safety Road Rules 2009 (Overtaking Bicycles) Bill 2015. The evidence today is being recorded. All evidence taken today is protected by parliamentary privilege. Therefore you are protected for what you say today, but if you repeat the same things, those comments may not be protected by the same privilege. At this point, Mr Carlon, I once again thank you for agreeing to be a witness before our committee today. I will hand over to your good self for some introductory comments. We have a copy of your presentation here also. After we have had those introductory comments, we will move into some questions. Over to you.

**Mr CARLON** — Not a problem. I will run through fairly briskly. The information that I have provided to the committee in writing just gives you an overview of what has happened in New South Wales leading up to the introduction of the minimum passing laws that have been introduced as a trial two-year period.

Essentially the government in New South Wales supports the growth of safe cycling. In 2013 we did have a significant increase in our fatalities from 7 to 14. You will see there below a graph which actually demonstrates the pedal cyclist serious injuries up until 2014. Up until around 2013 we had not actually had matched data in New South Wales around serious injuries from our hospital system and our crash data, and we have had a significant investment in the last three years to develop the systems to be able to match what we call serious injuries, which are those people who have had a crash on a road or road-related area and are admitted to hospital in New South Wales. It was not until that time that we actually saw how significant pedal cyclist serious injuries were and in fact the degree to which they had been increasing in New South Wales. You can see on that graph that we have actually gone from around 1400 hospitalisations in 2011 up to more than 1800 hospitalisations in 2014. So that was the backdrop to the creation of a cycling safety action plan in New South Wales, which I will refer to.

The bicycle riders — that is slide 3 — at risk from being passed or overtaken is the key issue that we are attempting to tackle in the minimum passing distance laws: crashes that may involve drivers not leaving sufficient distance when passing or overtaking. Leaving a safe passing distance better protects riders, clearly, including in situations where they may not realise a vehicle is approaching them from behind. Of course the crash risk for bicycle riders is reduced.

Increased clearance between the vehicle and bicycle in passing and overtaking manoeuvres creates a greater margin of error by either party. We realise that vehicle movements and cycling movements on the road can sometimes be unpredictable between motorists and cyclists. Much of our research in terms of the social research that we have done indicates that there is some level of anxiety and a lack of understanding of what to do when passing cyclists on the road. So partly these measures, as well as the lead-up to these measures, were about addressing those concerns that people have.

We did for some time have a partnership with the Amy Gillett Foundation in New South Wales, which started in 2013, to promote the 'It's a two-way street' theme and the Metre Matters campaign. Under driver rules and road rules are behavioural messages to encourage sharing the road. We published a lot of advertising and we did animations and Z-CARDS. We did a fair amount of public education about the safety issues to do with minimum passing distances.

The cycling safety action plan — on page 5 now — was essentially in response to that increase in fatalities in 2013. It was endorsed by the minister for roads. There were 37 actions against key safe system pillars around people and behaviour, roads and speeds, vehicles and equipment. It includes a commitment to review the options for increasing bicycle rider compliance with the road rules and to improve safety. Those actions continue to be implemented, the 37 actions in that plan, but then specifically we instigated a program around bicycle rider safety and compliance.

The minister had raised concerns around bicycle rider compliance as well as safety issues, and we had a series of cycling safety round tables with bicycle rider user groups, including the Amy Gillett Foundation, the pedestrian council, the NRMA, police and Justice in New South Wales. Those cycling safety round tables basically were an effort to look at the whole system around compliance but also look at the safety issues. It specifically reviewed the minimum passing distance rule that operated in Queensland at the time. We also addressed increased penalties for bicycle rider offences and the notion of photo identification for adult bicycle riders.

The new rules on page 7 were informed by the Queensland approach to drafting the minimum passing rules. The new rules were announced by the government in November last year. The new rule builds on those existing safer overtaking provisions and specifies the minimum passing distance when passing a bicycle rider: at least 1 metre when the speed limit is up to kilometres per hour and 1.5 metres when the speed limit is greater than 60.

Rule 144-2 exempts drivers from some of the other rules associated with the minimum passing distance rule. For example, it exempts them from the rule including crossing unbroken lines or straddling a lane, but only when it is safe to do so. The penalty for not leaving sufficient distance is \$319 and two demerit points, which is the same as the existing rule 144, which is not leaving sufficient space to avoid a crash when you are passing another vehicle on the road.

On page 8 you can see that the Go Together campaign was announced in late 2015. The package commenced on 1 March 2016, and it had a significant advertising component in radio, outdoor advertising on busy cycling routes as well as minimum passing distance animation on our website. It was very much modelled on the Queensland approach. Subsequent to the Queensland evaluation being released, and noting that there was probably not as much education done on the exemption for motorists in terms of being able to cross broken lines when it was safe to do so, we have actually reinvigorated that campaign in order to focus specifically on motorists around the rule for minimum passing distance.

We have had a significant amount of campaign activity on digital, print and social media, and on the road network we have been using approximately 100 variable message signs, which have been supporting a campaign at the point of behaviour with messaging tailored to the speed limits. At 60 kilometres and below the VMS boards are saying two new road rules for drivers, give cyclists at least a metre when passing. Then in the above 60 kilometres an hour we are using the 1.5 metres in terms of the VMS messaging.

As I said earlier, we have a two-year trial. To measure the impact of the new rule we did quite a significant amount of pre-collection of data as well as some surveying of motorists and other road users prior to the introduction of the new law. It is a two-year evaluation by CARRS-Q reflecting an extensive baseline. We are looking at key evaluation issues like bicycle rider and vehicle driver behaviour; crashes and near misses; other risks created by drivers when leaving the minimum passing distance; other impacts, such as urban congestion; and changes in road user attitudes, especially to other types of road users. We have collected benchmark information on how people perceive these rules. After a two-year period the government will then determine whether the rule should continue or whether any changes should be made to the way the rule operates in New South Wales.

**The CHAIR** — Excellent. Thank you, Mr Carlon, for that very good summary of exactly what is happening in New South Wales. I am interested in some of the changes to the laws. Have these occurred through legislation or regulation? How have the changes, particularly the 1 metre and 1.5, been implemented?

**Mr CARLON** — They are implemented through regulations in relation to the road rules in New South Wales. Under the Australian road rules there are in each jurisdiction some specific road rules that are different to the consistency across the whole of the country, and we have amended the regulations in terms of the exemptions for drivers to cross, when it is safe to do so, those unbroken lines.

**The CHAIR** — Excellent. Thank you. I note in your submission as well that a change in the regulation also stipulated that a rider over the age of 18 needed to carry photo ID. I am just interested in the rationale behind that change.

**Mr CARLON** — That change has not been implemented as yet, but it was part of the package that was announced. In New South Wales it is intended that people who are adults and who are riding a bicycle will be required to carry photo identification. Around 86 per cent of adults in New South Wales already have a drivers licence, and then around another 8 per cent have a photo identification from Roads and Maritime Services. Somewhere around 92 per cent of the population already have that photo identification, and what we are saying is that you will be required to carry that and present it when asked by a police officer, should they suspect you of breaking one of the road transport laws, to provide them with the copy of your photo identification.

**The CHAIR** — In terms of the changes to some of the fines for the likes of not wearing a helmet, running a red light and the like, there have been some significant increases in the size of those fines; is that correct?

**Mr CARLON** — Yes, that is correct. What we have done in New South Wales is a complete review of the safety risks associated with all of the around 108 different penalties, specifically applying our road rules to bicycle riders. Out of those 108 we have identified 5 of those that actually pose the highest risk, including not wearing a helmet, being towed by a vehicle and running a red light. With those fines we have moved them to the same level as another motorist would have to pay. So the fine for not wearing a motorcycle helmet is now exactly the same if you are not riding with a helmet on a pushbike. With the other fines, we have actually changed those so that they have gone from a level 1, which is about a \$71 fine, up to \$106, up to a level 2, for the remainder of those three other fines.

On the analysis that we did in terms of the deterrent effect on the highest risk activities, we were getting feedback from the community that in fact those fines were not providing a deterrent effect for people to adhere to the road rules. We know in our own data from our serious injuries that you are twice at risk of severe head injury if you are not wearing a helmet versus those who are wearing a helmet who are involved in a crash. So those fines have been implemented.

I would note that when you have a look at the whole set of infringements and when you compare them to Victoria, around 70 per cent of the Victorian fines are still higher than those in New South Wales, and in South Australia around 80 per cent of the fines for bicycle riders are still higher than the new ones introduced in New South Wales.

**The CHAIR** — That is interesting. I understand Queensland has also introduced similar measures with regard to having fines at the same level as for other vehicle users, whether they be motorists and the like. We have heard a lot about tension on the roads between different road users, and I think that is an interesting way of trying to level the playing field in some way with regard to different road users.

**Mr CARLON** — Yes. When we looked at the risks associated with those that we specifically increased, there is a significant amount of road trauma. I think the reality, as we found out in our serious injury data, is that the number of people who are actually being admitted to hospital with quite severe injuries but are not being picked up in our police crash reports is a significant number. In excess of 80 per cent of those who are being admitted to hospital do not have a corresponding police crash report, yet there are significant numbers of people who are suffering from road trauma from cycle crashes.

We have only just become aware of the impact of that trauma, and it is really important that we address it, from an education and regulation as well as enforcement perspective. So we are doing quite a lot of communication and education but also targeted operations with our motorcycle response teams in the CBDs to actually target the highest risk behaviours of cyclists. Of course the minority of cyclists are not abiding by those rules, but our view is that they are taking very high risks in terms of the impact that they can have in a crash. For example, a few people have suggested that the fine for running a red light should not be the same as for a motor vehicle, but on reflection the trauma that is created for a motorist who is legally driving through a green light and who then ends up killing somebody who has ridden through a red light on a bicycle is real, and we want to eliminate that risk at those intersections.

**Mr LEANE** — Thanks so much for assisting us with this reference to our committee. Looking out your back window, it looks like the weather might be a bit warmer there than it is here.

**Mr CARLON** — We did have one of our coldest mornings for very many years, but it has turned into a beautiful sunny day.

**Mr LEANE** — That is nice. You mentioned a lack of understanding of motorists of what to do when approaching cyclists on the road. I think we might have a similar issue in our jurisdiction. Did you base that on surveying motorists, or was it anecdotal? Where did that view come from?

**Mr CARLON** — We did both a qualitative and quantitative survey of motorists, cyclists and pedestrians in the building up of the information for the benchmarks of not just the minimum passing laws but also the whole campaign that we are doing on attempting to get people to go together safety on our roads. There was very strong feedback from motorists that there was a significant amount of anxiety about how to safely pass, and there was a significant number of motorists who were saying that more information or more clarity about what the rules are in passing cyclists would be appreciated.

Our existing rules already allow for the obligation of all road users to safely pass another motorist on the road, whether that be a bicycle rider or a motorcycle rider or a truck. In clarifying the metre and the metre and a half, it provides very clear guidance for people around the sort of space that allows for the safer passing of bicycle riders on the road. We also found in our survey that around 70 per cent of motorists said that they were already providing at least a metre when they were passing bicycle riders on the road as well.

**Mr LEANE** — Is that survey material a public document? Is that something we could access?

**Mr CARLON** — We would be able to provide that to the committee.

**Mr LEANE** — That would be fantastic. I have just got one more question. Why did New South Wales decide to go for a trial period rather than permanent legislation?

**Mr CARLON** — We have actually put the regulations in place for the two-year period whilst we monitor its impact and effectiveness. When making that decision, it was really based on the fact that our road network, the width of our roads and the sorts of levels of traffic volumes on our roads are significantly different to those in Queensland. So from that point of view we felt that it was important that we actually benchmark the safety outcomes prior to the introduction of the law and that we monitor those throughout the period in order to assess whether or not we were getting similar or the same outcomes as in Queensland, keeping in mind that the volumes of traffic, the volumes of cycling and the sorts of road environments that we are talking about are significantly different, particularly in the metropolitan area of Sydney.

**Mr LEANE** — Yes, as it would be different in Melbourne's CBD as well. Thank you.

**Ms HARTLAND** — With the identification laws and the increased fines coming in at the same time as you were working on the minimum passing, do you think that overshadowed what you were trying to do in terms of distance?

**Mr CARLON** — I would have to say on the focus of the introduction of those other safety measures that there was a significant amount of public discourse and media lobbying and a range of other factors that did tend to drown out the minimum passing laws at the time. However, that did get reversed towards the end of that process, and certainly the majority of our advertising and communications effort was actually poured into the minimum passing regulations that we were introducing. I think I did around 28 radio interviews within the week of their introduction as well in Sydney, trying to reinforce that minimum passing distance, because there had been quite a lot of public discussion about the other elements of the package. So, yes, that was a concern. We attempted to address that publicly by making sure that we had a very strong focus on the minimum passing laws, and we continue to work now collaboratively.

We actually do have a *Cycling Safety Action Plan* implementation group, which includes all of the bicycle rider associations in New South Wales, the police, Justice and others. We are working very closely with them to ensure that we continue to focus on making sure the message gets out on an ongoing basis to both motorists and cyclists around the safety and compliance issues. There has been a strong refocus following the Queensland result coming out, in terms of the monitoring of theirs, that you really do need to be communicating directly to motorists in order to have them understanding exactly how the minimum passing law operates and that they are able to cross over lines when it is safe to do so in order to give that minimum passing distance.

**Ms HARTLAND** — Can you talk about any data that you might have, from pre the trial starting, on what kinds of accidents cyclists were involved in and how often they were caused by cars or trucks or other vehicles being too close to them? Is there data on those issues? I presume you have got no data yet, because you only started the trial in March.

**Mr CARLON** — We do have, fortunately, some pre-data in relation to particularly serious injuries, because our fatalities, really at an average of only 11 a year, do not provide a significant body of evidence and numbers to be able to assess what sort of impact the minimum passing distance law might have. When we are talking about 1800 people who are admitted to hospital in each year, then there is much more data available and we do have the breakdown of the types of crashes that are happening — a collision with either a car or a van versus the information about a collision with a fixed object versus a collision where the cyclist actually just falls to the road maybe depending on road conditions or having been clipped by another cyclist. So we do have that information,

and we are able to then over the period of the next two years monitor the sorts of crashes that are happening on the network and what sorts of outcomes are coming from those crashes.

**Ms HARTLAND** — If we were to go to a trial in Victoria, would you say that it is absolutely pivotal that we have that data established before the trial was to begin?

**Mr CARLON** — The Queensland experience was, by my understanding, that they introduced the legislation and did not have the opportunity to do a very thorough benchmark. We have done a benchmark in both qualitative and quantitative surveys with the community around their knowledge, skills and attitudes around this issue, and we do have our crash data which we are able to also reflect on in terms of the number of incidents that occur. I think that those core elements are important in order to monitor the effectiveness of the change that we are implementing, and so, yes, of course that provides a stronger foundational benchmark to be monitoring the impact of the changes over time.

**The CHAIR** — Thank you very much for taking the time to provide some evidence to our committee today. I just remind you that you will receive a copy of the transcript of today's evidence for your proofreading and that that transcript will ultimately be posted onto the committee's website. Once again, thank you for taking the time to provide evidence to our committee.

**Mr CARLON** — Thank you. I appreciate the flexibility of being able to give it via videoconference.

**The CHAIR** — Indeed. It has been great. Thank you very much.

**Committee adjourned.**