

# TRANSCRIPT

## STANDING COMMITTEE ON THE ECONOMY AND INFRASTRUCTURE

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

Melbourne — 31 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

#### Witnesses

Ms Samantha Dunn, MLC, Bill Sponsor, and

Ms Elizabeth Ingham, Parliamentary Adviser to Ms Dunn.

**The CHAIR** — I declare open the Standing Committee on the Economy and Infrastructure public hearing and welcome everybody present here. The committee is hearing evidence today in relation to the Road Safety Road Rules 2009 (Overtaking Bicycles) Bill 2015, and the evidence today is being recorded. All evidence taken today is protected by parliamentary privilege, and therefore you are protected for what you say in here today, but if you go outside and repeat the same things, those comments may not be protected by this same privilege. I welcome our witnesses who are present here today, and at this juncture, Ms Dunn, I might hand over to your good self to move into any introductory comments, and then we might follow up with some questions from the committee. And welcome to Ms Ingham.

### **Visual presentation.**

**Ms DUNN** — Thank you, Chair, and thank you to the committee for inviting me today. Assisting me will be Elizabeth Ingham with any matters in relation to this. Just briefly, I do not want to make an extensive presentation, because I think I would rather explore the issues through questions, but there are a couple of key points that I wanted to make to the committee in that this is actually about providing clarity about what is a sufficient distance to pass cyclists, and at its core is safety to cyclists as very vulnerable road users. We know already that 1 metre is part of the learner driver program. We already know that cars can cross white lines to pass obstacles and hazards. That is not controversial. The other thing we know is that this does not affect trams, because that does come up from time to time.

I am going to take you now to the *Road to Solo Driving* — this is the learner drivers handbook — and just point out to you what that handbook does say to learner drivers. On page 38 it is very clear in that drivers should leave at least 1 metre clearance when overtaking cyclists or motorcycles and more clearance on higher speed roads. So from the moment when we teach our learner drivers we are actually teaching them that 1 metre is the distance, but what is lacking in this regard is that that distance is not enshrined in the law as it stands at the moment. If we turn further into that learner driver guide to page 137, we see the little figure in the middle of the page there is about maintaining a 1-metre distance, so it is certainly reinforced when we teach learner drivers to drive.

I know and I heard earlier a submitter talk about this federal inquiry by the Rural and Regional Affairs and Transport References Committee. The committee will be aware that there is a recommendation that the National Transport Commission amend the model Australian rules to mandate a safe passing distance. I will not dwell on that, because you have heard evidence in relation to that.

I thought I would just include today a photograph of Royal Parade, because I understand that has come up in discussions in the committee. If we look at that photo of a car and the bicycle lane, I would suggest that cars actually driving in that section of that road — and that replicates many roads in that very inner Melbourne area — are already leaving 1 metre distance between cyclists, but there is plenty of room to do so without mounting a kerb.

**Mr LEANE** — Was that a cycle lane?

**Ms DUNN** — Yes. I will go back. Sorry; it is a bit hard to tell there but, yes, there is a cycle lane.

**Mr EIDEH** — It is more than 1 metre, isn't it?

**Ms DUNN** — Yes, absolutely. There is in fact more than 1 metre available to pass a cyclist there.

In terms of the bill, it certainly will not create safe roads on its own. It will clarify to drivers what is a safe distance. It will in fact assist with the Towards Zero framework, and I think the issue of consistency across the state, let alone the eastern seaboard, is one that needs to be considered.

In terms of the submissions to this committee, we did a quick cut — well, actually, it was not a quick cut, because 284 submissions is a very good amount of submissions — and we noted that 284 submissions supported the reform, 15 opposed it and 4 of them did not take a position one way or another.

It would not be a presentation in Melbourne without having a footy reference, and so I have got some. Really my point in relation to this is around the ability to estimate distance in a dynamic environment, and we find that there are many times as we participate in a whole range of activities, and even sporting endeavours, when you need to make decisions really quickly about what distance is and what is appropriate distance. So there are a

handful of distance measures that need to be made in a split second. You might argue with the umpire perhaps in AFL, but ultimately they make a lot of decisions very quickly about what is in a 15-metre rule and what is out.

If we turn more to the road rules, which may be more appropriate in this situation, there are many road rules that already contain distance measures, so it is important to note that already we have an expectation that drivers can calculate distance in terms of a whole range of different matters in relation to staying safe on our roads.

In terms of continuing pursuing that distance in a dynamic environment, there are a whole lot of different instruments that need to have distances. Intervention orders are one, boating has a lot of regulations around distance, we know that kitesurfer laws exist and there are laws for drones. So it is not outside the realms of possibility that drivers can work out what 1 metre from a cyclist is; that is my point.

**Mr LEANE** — I have to admit I did not know there were laws for kitesurfers.

**Ms DUNN** — But you do not get out kitesurfing. Mr Leane, I do not get out — —

**Mr LEANE** — When you said ‘we know’ there are, I am freely volunteering — —

**Ms HARTLAND** — I would love to see you kitesurfing, Mr Leane.

**Mr LEANE** — It would have to be a big kite.

**Ms DUNN** — Mr Leane, you can walk out of here today saying hand on heart you now know that there are kitesurfer laws and distances apply for those. I am going to stop that there, and I am happy to take questions on either the presentation or the bill.

**The CHAIR** — Fabulous. Thank you, Ms Dunn. I know Mr Leane, Mr Eideh and I have been up to late hours of the night trying to find very difficult questions for you, so we will fire straight into those. I might just kick off with the first one by asking: what is wrong with the term ‘sufficient distance’? Why is that not okay to move into the future?

**Ms DUNN** — I think the biggest core issue with ‘sufficient distance’ is that it is undefined. I think in terms of cyclists they are very vulnerable road users, possibly the most vulnerable. It is important to give some definition around what is sufficient distance, and the bill proposes to do that and make it very clear what is appropriate and what is not appropriate. In terms of agonising — and I know there has been commentary around that — if people pass at 95 centimetres I would probably be pretty happy about that, but if they pass at 20 centimetres, that is a really big problem for cyclists. That is far too close. I think that defining ‘sufficient distance’ means that there is a real guide for drivers as to what is appropriate and safe.

**The CHAIR** — We heard earlier this morning that Bicycle Network have proposed an exemption for areas where the speed limit is under 50 kilometres per hour for the 1-metre mandatory passing distance. I am interested to get your views on that possible exemption.

**Ms DUNN** — I certainly do not support that exemption. Cyclists are equally as vulnerable in those lower speed areas as they are on higher speed roads. The thought of being able to pass more closely to cyclists in those areas is a very scary proposition, I think, for cyclists and for safety.

**The CHAIR** — With regard to enforcement — and I think this is probably one of the key issues that we have heard from many people on — around the difficulty for police to try and enforce this particular law, I am interested to get your views on that difficulty in enforcing it.

**Ms DUNN** — Sure. I guess enforcement is one element of the law, but laws are really about guiding behaviour. To suggest that every single law is enforced to the letter of the law is completely erroneous. However, what we do know is that when laws are in place most people tend to try and obey the laws. So that is why it is a key component to have the law. Enforcement is one element, but that is only at one end of the spectrum of it. It is more important to have the law in place so that those people, the midpoint people, who are always going to try and obey the law do so. Setting the benchmark really high in relation to mobile phones, for example — we know that we are not allowed to touch mobile phones in cars. Is that enforced every single day

for every single car? No, it is not, but it is there. We all know that there are penalties attached to that, and I would hope that we all do not touch our mobile phones when we are driving as well.

**The CHAIR** — Indeed. You have handled my hard-hitting questions exceptionally well. Thank you, Ms Dunn.

**Ms DUNN** — Thank you, Chair.

**Mr EIDEH** — Many studies have been conducted in jurisdictions where a mandatory passing distance has been introduced. None has been able to point to conclusive evidence that the introduction of a mandatory passing distance increases cyclist safety. Why should we legislate this concept without conclusive evidence that it is effective?

**Ms DUNN** — I think there has been a lot of evidence around, and I am going to turn particularly to Queensland and the Queensland experience in terms of what has happened in that state. I think it is really telling in terms of the behaviour change in the drivers in that area and the lowering of the insurance claims that cyclists put in. I think that for a two-year trial it is already indicating some really positive changes.

In terms of the evidence, it is stacking up. It is not only in this country; it is in other countries as well that it is really important to keep our cyclists safe. I would reject the notion that there is no cold, hard evidence. I think when you look at the experience in other states, cyclists are reporting that drivers are leaving more room, drivers are reporting that they leave more room and the reality is that cyclists are safer on the roads in those states because of that experience.

**Mr EIDEH** — In that case do you think this should be introduced on a trial basis first, similar to Queensland and New South Wales, and then evaluated for its effectiveness?

**Ms DUNN** — For me the biggest concern is that cyclists are out there now using the roads, and my preference would be to see this bill pass through the house and for cyclists to get immediate protection. I could probably cope with a trial if I had to, but I think the core issue for me is protecting cyclists as soon as we possibly can and really highlighting how vulnerable they are on the road.

**Mr LEANE** — Thank you for assisting our committee today.

**Ms DUNN** — Thank you, Mr Leane.

**Mr LEANE** — Your bill suggests an exemption around crossing double lines to give the permitted distance from cyclists. I think one of the issues is that VicRoads and VicPol have put in submissions saying that they do not believe that there should be any exemptions at any time. What would you say to that?

**Ms DUNN** — There are a couple of things. There is what happens now: cyclists are cycling on roads with continuous single lines or double white lines, and motorists are passing them now. But the other element of that — and I am going to look at it from a Dandenong Ranges perspective, because it is my home turf, and there are some very tight roads there — is that there are all sorts of obstructions on the roads. It could be that a wheelie bin has fallen over; it could be that a branch has come off a tree. You never quite know in the hills what is coming around the corner. The reality is that the laws that are in place now allow me to cross those lines to avoid the wheelie bin but do not allow me to cross the lines to pass a cyclist. That seems a little at odds in terms of safety on our roads.

**Mr LEANE** — I actually agree with something you said. Can we get that slide on Royal Parade back up? I have got a rider. I actually agree with you that there is no reason at all why motorists should not be able to give the metre minimum passing distance to a cyclist in that situation. I do not want to sound like I am obsessed by this, but I probably will be accused of that. But in an instance where two cyclists are riding side by side in a bike lane or, say, there is no bike lane — you are talking about a standard lane — that is not the case as far as one of the committee members was talking about in Royal Parade. That is not the case as far as getting that distance to pass. That is a situation where to pass safely with the metre — and we all agree that cyclists should be treated as any other road user and be safe, and people need to respect that — someone would not be able to pass those two cyclists and give them a metre without hitting the gutter. What would you say to that?

**Ms DUNN** — I would say that there are very few roads in Melbourne that are configured like that where you have a single lane with a hard surface abutting that single lane. That is actually not a lot of roads across the metropolitan and Victorian context. What I would hope as a cyclist is that you would actually be cycling single file if you were in the context of this road.

**Mr LEANE** — Yes, in the context of some roads. I am actually so glad you said that, because that is what I have been sort of trying to get past, especially on certain roads and maybe at certain times of the day too. Cyclists do a great job in relieving congestion, but at certain times of the day motorists will be pretty impatient as far as trying to pass a cyclist, so would you consider that it would be recommended that cyclists be in single file in certain situations?

**Ms DUNN** — I think the difficulty with exemptions is that rather than clarifying something, it seeks to muddy the waters. I think a really key issue around this is education and awareness that underpins — —

**Mr LEANE** — Even recommended. I am not saying mandated — even if it was recommended.

**Ms DUNN** — I guess what I think is really important, and I am not sure whether the committee has actually undertaken to do this, is what would be the evidence that underpins that as being safer? Would it be — —

**Mr LEANE** — I think just pure maths.

**Ms DUNN** — Would it be what is happening out on the roads now? Is that actually a reality?

**Mr LEANE** — It might not be and it might be; I do not know. We had evidence today from one witness to say that they recommend cyclists go in the middle of the lane. That does not happen. We know that does not happen, because cyclists are happy for motorists to go past them safely, and I think that is your argument. If a motorist can get past and get to where they want to get to as expediently as they can within the law, cyclists would never begrudge that. We had evidence from one witness today that their recommendation is just to take the middle of the lane. I know that does not happen. So I am just putting it out there for consideration in certain circumstances, that is all. You might be right; it might not be happening. What I have witnessed is sometimes that cyclists may be overtaking a slower one, but if two cyclists decide that they want to have a conversation all the way in peak hour along a road like that and be side by side, I see it as an issue for a road like that.

**Ms DUNN** — I would have thought that if you are a cyclist riding side by side in peak hour, you would be going faster than the cars, so you probably would not choose to ride two abreast, because you would be quicker in the bike lane than in the main lane.

**Mr LEANE** — I pass cyclists every morning at peak hour. I pass them safely.

**Ms DUNN** — I am glad to hear that, Mr Leane. You leave a metre. I think you would need to look at when this is happening, the context of it happening and what the impact on traffic is. I think until you know the answer to those questions, it is difficult for me to answer you, because I would want to understand the impact of riding two abreast. I know, particularly in probably weekend riding, that I will often come across cyclists riding two abreast. In fact it is preferred; it is actually easier for me to pass two cyclists abreast than two single file, because in fact the amount of lead time and road that I need to overtake those cyclists is much less than if they are single file. I do not like going in between cyclists, so passing one and then passing the next.

**Mr LEANE** — You are not convincing me.

**Ms DUNN** — But that depends on the road too. In the Dandenongs that is not going to happen. You would not be able to pass a car or a tractor or any other vehicle because of the context of those roads. I think the difficulty is that roads are not the same everywhere. The laws are about trying to create a consistency about what is safe, but of course the rider on that — not the bicycle rider, let me clarify — is that the driver can only pass when it is safe to do so. That is the absolute core.

**Mr LEANE** — Pure maths with what your group is proposing actually supports what you are proposing when it is a sedan, like in that photo. VicRoads gave evidence yesterday that a standard lane is 3.5 metres. So as long as cyclists do not mind keeping to the left, and I think most of them do not mind too much, that gives them a bit less than a metre off the gutter, and then the car can go around and not even break the solid line. That maths supports your argument, but then when there are two abreast, it does not. That is the point I am trying to

make. As I said, I am not obsessed by this, but I am just trying to find a way through it. You do not have to comment; I am just externalising my thoughts.

**Ms DUNN** — I still come back to I think a more detailed examination of that to, rather than scratching the surface, actually really look at what the impact of that two abreast riding is.

**Mr LEANE** — You could be right; it might not be an issue. But if it is not an issue and it is the way cyclists behave now, why would it not be recommended for everyone?

**The CHAIR** — Are there any further questions? You have not been inspired, Ms Hartland?

**Ms HARTLAND** — No, sorry. I am quite comfortable with the presentation.

**Ms DUNN** — I thought I would get a grilling from Ms Hartland.

**The CHAIR** — I was expecting it as well, absolutely. Are there any final comments you would like to make, Ms Ingham or Ms Dunn?

**Ms DUNN** — Not from me, but of course we would be happy to follow up with any further queries that the committee might have should you have any.

**The CHAIR** — Fabulous. At this point I thank you very much for your contribution. I remind you that you will receive a transcript of your evidence today for proofreading, and that transcript will be made available on the website.

**Ms DUNN** — Thank you, Chair. Thank you, committee.

**Witnesses withdrew.**