



**PARLIAMENT OF VICTORIA**  
Legislative Council  
Economy and Infrastructure Committee

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

Parliament of Victoria  
Economy and Infrastructure Committee

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# Terms of reference

**On 9 February 2016, the Economy and Infrastructure Committee resolved:**

That the Economy and Infrastructure Standing Committee inquire into and report on the Road Safety Road Rules 2009 (Overtaking Bicycles) Bill 2015 and, in particular — to inquire into, consider and make recommendations in relation to an evaluation of a minimum passing distance rule for motorists when overtaking cyclists, in terms of:

- (1) The outcomes and experience of implementing similar laws in other Australian states and territories, such as Queensland, the Australian Capital Territory and Tasmania.
- (2) The educational campaign that would be required to effectively implement the Bill in Victoria.
- (3) The enforcement policies and strategies that would be required to implement the Bill in Victoria.

In conducting the inquiry, the Committee is requested to seek information from government and non-government agencies, interstate jurisdictions, cycling and motorists groups and the community.



# Chair's foreword

Cycling has become an increasingly popular activity in recent decades, both for recreation and commuting. However, there are many parts of Victoria where there are no bicycle paths and cyclists need to ride on the roads. There they face a number of risks — ten cyclists were killed in Victoria in 2014-15 and hundreds were seriously injured.

The Overtaking Bicycles Bill was introduced into the Parliament as a way of increasing the safety of Victorian cyclists. If passed, the Bill would require motorists to leave at least 1 metre of space between themselves and cyclists when overtaking (and 1.5 metres when overtaking on higher-speed roads). This would provide a buffer between motor vehicles and cyclists that should reduce the number of accidents and should reinforce the message that motorists need to recognise the vulnerability of cyclists on the roads. It would bring the Victorian road rules into line with South Australia, New South Wales, the Australian Capital Territory and Queensland.

The Economy and Infrastructure Committee resolved to investigate the Bill and the practicalities of implementing its provisions in Victoria. The Committee heard from many groups and individuals and spoke with people in other jurisdictions where similar rules have been implemented. Overall, the Committee concluded that the rule changes proposed in the Bill are likely to have a positive impact on road safety and should be supported, though with some modifications.

The Committee also found that, if the rule changes are implemented, it will be important for them to be accompanied by initiatives to make motorists aware of the rules, along with programs to motivate and help police enforce the rules and research to evaluate the impact of the rules.

The provisions in the Bill would be one step towards making the roads safer for cyclists. But they are not all that can or should be done. Regardless of whether or not the Bill is passed, cyclists' safety is an issue that needs the attention of governments. The Committee has recommended that, even if the Bill is not passed, an education campaign about safe passing distances be run, that a stakeholder group be established to advise and assist with cyclist safety initiatives and that mandatory standards be considered for the width of traffic and bicycle lanes.

Many people assisted the Committee with this inquiry and I would like to thank them for their help. The Committee appreciates the time and effort that people put into writing submissions and speaking at public hearings. A number of people shared personal stories, some of which involved the loss of loved ones, and the Committee is particularly grateful for people sharing these difficult experiences.

I would also like to thank the Secretariat for their hard work supporting this inquiry. I know the whole Committee appreciates their dedication and assistance in navigating through complex issues.

**Chair's foreword**

Finally, as Chair of the Committee, I would like to thank my fellow committee members for their time, effort and collegiate approach throughout this inquiry.

It is my sincere hope that we can make the roads safer for cyclists. Every life saved on the roads is important and it is incumbent on us as Parliamentarians to do what we can to save those lives.

A handwritten signature in black ink, appearing to read 'J Morris', written in a cursive style.

**Joshua Morris MLC**  
**Chair**

# Executive summary

Cyclists are among the most vulnerable users of Victoria's roads. Between 2004 and 2013, over 13,000 cyclists were injured in Victoria and 80 were killed. As one way to increase cyclists' safety, a number of Australian and international jurisdictions have mandated that motorists leave specified minimum distances when passing cyclists. This is intended to reduce accidents as a result of side-swipes, rear-ends and near-misses.

The Road Safety Road Rules (Overtaking Bicycles) Bill 2015 was introduced into the Parliament in March 2015. It proposes introducing minimum passing distances of 1 or 1.5 metres (depending on the speed limit) for motor vehicles overtaking bicycles in Victoria. This would replace the current road rule which requires motorists to leave "sufficient distance" to avoid a collision and to avoid obstructing the path of the bicycle. In addition to establishing minimum distances, the Bill provides exemptions to a number of other road rules (such as not crossing unbroken centre lines) for motorists overtaking cyclists. These exemptions are expected to provide more opportunities for motorists to pass cyclists with the specified minimum distances.

The Committee resolved to inquire into and report on the Bill in February 2016, including seeking evidence from stakeholders and the community.

The Committee received 172 unique submissions (including two pro forma submissions). The majority of submissions supported the 1/1.5-metre minimum passing distances. The Committee also heard from 36 witnesses in public hearings, including a number of witnesses from interstate jurisdictions where similar rules have been introduced.

Both potential benefits and potential problems with the proposed changes to the Road Rules were identified through the process. Supporters of the Bill argued that specified minimum passing distances would change motorist behaviour by clarifying what a safe passing distance is, would facilitate police prosecuting drivers for risky behaviour, would increase the perceived safety of cycling and therefore encourage more people to cycle, would contribute to changing motorists' attitudes to cyclists and would provide consistency with neighbouring states. They argued that allowing motorists to cross the centre line would enable motorists to leave the required passing distances in more situations.

Opponents of the Bill were concerned that the specified minimum passing distances would mean that traffic was slowed down and tensions increased on the roads due to motorists being unable to legally pass cyclists. They were also concerned that the rules would be impractical, as drivers may be unable to accurately judge lateral distance and the rules may be difficult for police and the courts to enforce. There was also a suggestion that the rules may encourage cyclists to engage in riskier behaviour. Concerns were expressed that allowing motorists to cross the centre line to overtake cyclists would increase the number of head-on collisions, with particular concern noted about motorcyclists.

The Committee examined the results of introducing similar rules in other jurisdictions. Preliminary data from Queensland and surveys of road users from a number of jurisdictions suggest that the rules have increased cyclist safety. However, limited objective data about the impact on driver behaviour and road safety are available at this time.

Weighing up the evidence received through the inquiry, the Committee considers that the Legislative Council should support the Bill, though it suggests some amendments:

- all references to “overtaking” in the Bill should be replaced with “overtaking or passing”, as the provisions of the Bill only relate to overtaking, which is narrowly defined in the Road Rules and does not cover a number of situations where specified minimum passing distances may be important for cyclists
- the Council should consider ways to reduce potential conflicts between bicycles and motor vehicles at intersections with high volumes of bicycles and narrow lanes (such as in the central business district), as the proposed rules may otherwise result in significant traffic delays at times
- the Council should consider whether or not motorists should be allowed to cross unbroken yellow lines on the edges of tram lanes to overtake cyclists, as this would increase the opportunities for motorists to overtake cyclists while leaving the required gap.

The Committee also believes that further work is needed to understand the risk to motorcyclists from allowing vehicles crossing the centre lines of roads to pass bicycles. In implementing the proposed rules, it may be important to introduce measures to mitigate any increased risks for motorcyclists.

A number of witnesses suggested that there should be exemptions to the proposed rules:

- where there is a bicycle lane
- where there is a bicycle lane and the speed limit is less than 50 kilometres per hour
- for motorcycles.

However, the Committee did not consider that the possible benefits identified for any of these exemptions outweighed the potential negative consequences.

The Committee identified three things that would be needed to successfully implement the changes: education and information campaigns, enforcement strategies and evaluation of the rules after implementation.

The Committee received evidence regarding education campaigns about minimum passing distances developed in other Australian jurisdictions. Alternative approaches were also suggested as part of the inquiry. VicRoads and the Transport Accident Commission supported Victoria implementing an education campaign about safely overtaking bicycles regardless of whether or not the Bill is passed. The Committee agrees that this would be beneficial. If the

Bill is passed, the Committee considers that education campaigns should be supplemented by including the new rules in learner driver testing and through the erection of road signs reminding drivers about the specified minimum passing distances.

The Committee was told by some stakeholders that there may be difficulties with enforcing the rules. It was suggested that difficulties with enforcement have been experienced in some other jurisdictions where similar rules have been introduced. If the rules are to be introduced, the Committee considers that it will be important to train police to understand the reasons for the rules, to encourage police to have empathy with cyclists and to provide guidance about what constitutes sufficient evidence to issue an infringement notice. In addition, the Committee has recommended that attention be paid to new technology that may help with the identification and prosecution of offenders.

The Committee also found that, following implementation of new road rules, undertaking an evaluation of the rules will be important. Such an evaluation should determine whether the expected benefits of road rule changes are realised as well as identifying any unintended consequences.

Submitters and witnesses to this inquiry also noted that there are many things in addition to specified minimum passing distances that could be done to improve bicycle safety. Increasing the number of dedicated bicycle lanes and improving safety at intersections may be particularly effective. These are areas where further work by the Government may be valuable.

Finally, the Committee notes that a number of jurisdictions have established stakeholder groups to assist with the development and implementation of cyclist safety initiatives. The Committee considers that this may be helpful in Victoria too.

# Recommendations

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<b>3</b>	<b>Specified minimum passing distances</b>	
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	<b>RECOMMENDATION 3:</b> That the Legislative Council consider amending the Overtaking Bicycles Bill to reduce potential conflicts arising from the interaction of cyclists and vehicles at intersections, particularly intersections with high volumes of bicycles and narrow roads, such as those in Melbourne’s central business district.....	39
	<b>RECOMMENDATION 4:</b> That the Legislative Council support changes to the Road Rules requiring motor vehicles to leave minimum passing distances when passing bicycles of:	
	(a) 1 metre in areas with speed limits of 60 kilometres per hour or less	
	(b) 1.5 metres in areas with higher speed limits.....	44
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	<b>RECOMMENDATION 5:</b> That the Government undertake a communication campaign to remind motorists that cyclists are permitted to ride two abreast and to encourage cyclists to be courteous in riding two abreast by not doing so where it will slow traffic down unnecessarily.....	53
	<b>RECOMMENDATION 6:</b> That, if specified minimum passing distances are introduced, the Government erect signage at relevant locations recommending that cyclists ride single files at specified times. Relevant locations would include high-volume arterial roads where it may be impossible for motorists to pass cyclists riding two abreast while maintaining the minimum passing distance.....	53
	<b>RECOMMENDATION 7:</b> That, if the Road Rules are changed to allow motorists to cross centre lines when passing bicycles, the Government undertake research to understand the risk posed to motorcyclists travelling in the opposite direction when cars cross centre lines. Based on this research, the Government should develop a strategy to mitigate this risk.....	54



**RECOMMENDATION 8:** That the Legislative Council support changes to the Road Rules allowing motorists to do the following when passing bicycles if safe:

- (a) cross the centre of an unmarked two-way road
- (b) cross a dividing line separating traffic travelling in different directions (including single lines, double lines, broken lines and continuous lines)
- (c) drive on a dividing strip
- (d) drive across the edge of a painted island
- (e) cross lines separating lanes in a multi-lane road (including continuous lines)
- (f) drive over the edge line of a road. . . . .55

**5 Effective implementation of the changes** page

**RECOMMENDATION 9:** That, regardless of whether or not the Overtaking Bicycles Bill is passed, the Government undertake an education campaign to increase motorists’ awareness of the safe distance to leave when passing bicycles. In developing a campaign, the Government should build on the materials and learnings from other Australian states and territories. The campaign should be developed with VicRoads and the Transport Accident Commission, to draw on their expertise and integrate the message with other road safety campaigns. . . . .72

**RECOMMENDATION 10:** That, if specified minimum passing distance rules are introduced, the Government amend learner driver materials and tests to reflect the new rules. . . . .73

**RECOMMENDATION 11:** That, if specified minimum passing distance rules are introduced, the Government erect signs on key cycling routes and higher-risk locations to remind motorists of the rules. In developing the signage, the Government should note research about changing driver behaviour to ensure that the signs are as effective as possible. . . . .76

**RECOMMENDATION 12:** That, if specified minimum passing distance rules are introduced, the Government implement a training program for police designed to ensure that police understand the reasons for the rules, to encourage empathy for cyclists and to provide guidance as to what constitutes sufficient evidence to issue an infringement notice. . . . .79

**RECOMMENDATION 13:** That, if specified minimum passing distance rules are introduced, the Government investigate technological solutions to assist with the identification of offenders and the enforcement of the rules. . . . . 81

**RECOMMENDATION 14:** That, if specified minimum passing distance rules are introduced, the Government task a suitable body with evaluating the impact of the rules in Victoria. The learnings from the Queensland evaluation should be taken into account in designing the Victorian evaluation. Among other things, the evaluation should:

- (a) compare driver behaviour and attitudes before and after the rules are changed
- (b) identify any changes in cyclist behaviour as a result of the rule changes
- (c) look for any impact on the risk of head-on collisions from allowing motorists to cross unbroken centre lines to pass cyclists (including accidents with motorcyclists)
- (d) consider the effectiveness of any education and awareness campaigns.

**6 Further matters for consideration** page

**RECOMMENDATION 15:** That, in considering the Overtaking Bicycles Bill, the Legislative Council consider whether or not the Road Rules should be changed to allow motorists to cross continuous yellow lines on the edges of tram lanes to pass bicycles (so long as doing so is safe and does not obstruct trams). . . . . 90

**RECOMMENDATION 16:** That the Government consider ways to reduce the number of bicycle accidents at intersections. This should include consideration of awareness campaigns and infrastructure such as bicycle traffic lights. . . . . 93

**RECOMMENDATION 17:** That the Government establish a stakeholder group including bicycle rider associations, other road user organisations, police and other stakeholders. This group could provide advice and assist with the implementation of specified minimum passing distance rules (if passed by the Parliament) and other initiatives to improve cyclist safety on the roads. . . . . 96

# Referral of the Bill and inquiry process

On 18 March 2015, the Road Safety Road Rules 2009 (Overtaking Bicycles) Bill 2015 was introduced into the Legislative Council and its second reading commenced. Debate was then adjourned following the usual procedures of the House.

On 9 February 2016, the Economy and Infrastructure Committee resolved:

That the Economy and Infrastructure Standing Committee inquire into and report on the Road Safety Road Rules 2009 (Overtaking Bicycles) Bill 2015 and, in particular — to inquire into, consider and make recommendations in relation to an evaluation of a minimum passing distance rule for motorists when overtaking cyclists, in terms of:

1. The outcomes and experience of implementing similar laws in other Australian states and territories, such as Queensland, the Australian Capital Territory and Tasmania.
2. The educational campaign that would be required to effectively implement the Bill in Victoria.
3. The enforcement policies and strategies that would be required to implement the Bill in Victoria.

In conducting the inquiry, the Committee is requested to seek information from government and non-government agencies, interstate jurisdictions, cycling and motorists groups and the community.

On 9 February 2016, the President advised the Legislative Council that the Committee was undertaking the inquiry.

The Committee sought input from the community through an advertisement in *The Age* on 2 March 2016, through the Committee's website and thorough Parliament's Facebook and Twitter accounts. The Committee also wrote to 296 stakeholders inviting submissions. In response, the Committee received a total of 172 different submissions. This includes 2 pro forma submissions sent in by 141 individuals or organisations. A full list of submitters can be found in Appendix 1.

Of the 172 submissions, 84 per cent supported the 1/1.5-metre passing distance proposed in the Bill, while 8 per cent opposed or saw no benefit in these measures. Many submitters included personal stories of accidents or near accidents that they had experienced or that people they knew had experienced.

The Committee conducted hearings with 36 witnesses (see Appendix 2). Seven sessions were conducted by video-conference to enable the Committee to receive evidence about similar rules in other Australian and international jurisdictions.

1

Then Committee very much appreciates the time and effort put in by all contributors to the inquiry. The evidence received from these individuals and organisations has been essential for the Committee in preparing this report.

# 2

## Provisions of the Bill

### 2.1 Overview of the provisions

The Road Safety Road Rules 2009 (Overtaking Bicycles) Bill 2015 (“the Bill”) seeks to amend the Road Safety Road Rules 2009 (“the Road Rules”). The changes would require motor vehicle drivers (including motorcycle riders) to maintain specified distances between themselves and bicycles when overtaking. The Bill also includes a number of exemptions from other rules for motorists overtaking bicycles.

Clause 4 of the Bill amends Road Rule 144, which deals with keeping a safe distance when overtaking. The Bill would require motorists to allow 1 lateral metre when overtaking cyclists on roads with speed limits of 60 kilometres per hour or less and 1.5 lateral metres when overtaking on roads with speed limits higher than 60 kilometres per hour. This clause is discussed further in Chapter 3 of this report.

Clause 3 of the Bill amends Road Rule 139, which allows motorists to cross the centre or dividing line of a road, drive over a dividing strip or cross over a painted island to avoid obstructions on the road. The Bill would amend this rule to also permit these actions when overtaking bicycles. Further discussion of this change can be found in Chapter 4 of this report.

Clause 5 makes amendments to Road Rules 146 and 147, which deal with staying within one lane and not crossing a continuous line between lanes, and Road Rule 150(1A), which deals with not driving on or across a continuous edge line. The amendments provide exemptions to these rules for drivers overtaking cyclists. Exemptions to these rules are currently in place for avoiding an obstruction on the road and certain other circumstances.

The Road Rules are statutory rules made pursuant to section 95D of the *Road Safety Act 1986*. They will sunset in 2019, meaning that, if the measures proposed in the Bill are agreed to, they will only be in force until this time. To have force after this time, they would either need to be remade as a part of the new Road Rules, or a further Bill would need to be passed by the Parliament. If the intent of the Parliament is for the provisions in the Bill to have ongoing operation, the Act would need to be amended rather than the Road Rules.

## 2.2 The interpretation of “overtaking”

### 2.2.1 The Committee’s interpretation of “overtaking”

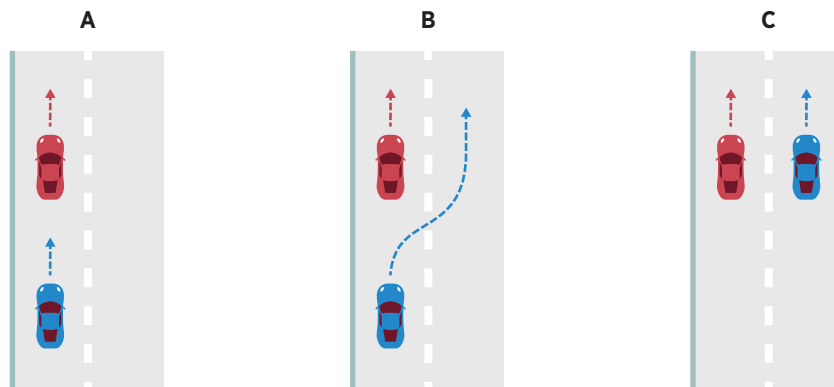
The Committee notes that the changes proposed in the Bill relate to “overtaking”. In the Road Rules dictionary, “overtake” is defined as:

**overtake**, for a driver, means the action of—

- (a) approaching from behind another driver travelling in the same marked lane or line of traffic; and
- (b) moving into an adjacent marked lane or part of the road on which there is room for a line of traffic (whether or not the lane or part of the road is for drivers travelling in the same direction); and
- (c) passing the other driver while travelling in the adjacent marked lane or line of traffic;

These three steps are illustrated in Figure 2.1.

**Figure 2.1** Steps involved in “overtaking” as defined in the Road Rules



Source: Economy and Infrastructure Committee

Rules 144 and 150(1A), which are amended by the Bill, explicitly note that the above definition applies. The other rules amended in the Bill (rules 139, 146 and 147) do not explicitly refer to this definition. However, in the absence of anything to the contrary, this definition could be thought to apply to these rules too (see section 4(c) of the Road Safety Road Rules 2009).

Given the definition in the Road Rules dictionary, the Committee believes that the following actions might not be considered “overtaking” for the purposes of the Road Rules:

- a car passing a bicycle when both remain in the same lane as each other throughout the manoeuvre
- a car passing a bicycle which is travelling in a bicycle lane, even if that bicycle lane is only 60 centimetres wide

- a car passing a bicycle in an adjacent lane, even if the bicycle is travelling close to the edge of the lane nearest the car (as may happen, for example, when a bicycle is travelling in a lane which is also used for parking or when two bicycles are riding abreast)
- a car passing a bicycle when the bicycle is on the shoulder of the road (cyclists may use the shoulders on some rural freeways).

Given this, the Committee anticipates the following consequences if the Bill were passed in its current form:

- a vehicle would not be required to leave a 1/1.5-metre gap if it passes a bicycle that is in the same lane as the vehicle and the vehicle stays within the same lane for the entire passing manoeuvre
- a vehicle would not be required to leave a 1/1.5-metre gap if it passes a bicycle that is in a lane adjacent to the vehicle (including a bicycle lane) prior to the passing manoeuvre or on a road shoulder (unless the vehicle was also on the road shoulder before passing the bicycle)
- a vehicle would not be permitted to cross the centre of a road, a dividing line, a dividing strip, the edge of a painted island, the edge of a lane or the edge line of a road in order to leave 1/1.5 metres of clearance when passing a bicycle if that bicycle is in an adjacent lane (including a bicycle lane) or on the road shoulder.

Instead, the minimum passing distance requirement and the provisions allowing a vehicle to cross a centre line (and other exemptions) would only apply to a vehicle that is travelling in the same lane as a bicycle, but leaves that lane in order to overtake the bicycle.

The Committee notes that other jurisdictions with similar rules address this by referring to “passing” a bicycle rather than “overtaking” a bicycle.

### 2.2.2 View of the Bill’s sponsor

The Committee wrote to the sponsor of the Bill (Ms Samantha Dunn MLC) to clarify the above concerns. In response, Ms Dunn advised the Committee that her intention was that the minimum distance would apply in all circumstances where a vehicle overtakes or passes a cyclist, whether or not the cyclist is in a bicycle lane, on a road shoulder or in the same lane as the vehicle.

Ms Dunn disagreed with a number of aspects of the Committee’s interpretation. However, she proposed amending the existing Road Rule 144 by changing “overtaking” to “overtaking or passing” in subrule 144(1) and the heading. This would mean that Road Rule 144 would become:

#### **144 Keeping a safe distance when overtaking or passing**

- (1) A driver overtaking or passing a vehicle—
  - (a) must pass the vehicle at a sufficient distance to avoid a collision with the vehicle or obstructing the path of the vehicle; and

- (b) must not return to the marked lane or line of traffic where the vehicle is travelling until the driver is a sufficient distance past the vehicle to avoid a collision with the vehicle or obstructing the path of the vehicle.

Penalty: 10 penalty units.

**Note: Marked lane** and **overtake** are defined in the dictionary.

- (2) For the purposes of this rule, sufficient distance—
- (a) in relation to a driver of a motor vehicle overtaking a person who is riding a bicycle (whether or not the bicycle rider is in a bicycle lane) means—
- (i) if the speed-limit applying for the length of road where the driver is driving at the time of overtaking is not more than 60 kilometres per hour—a distance of not less than 1 metre from the bicycle;
- (ii) if the speed-limit applying for the length of road where the driver is driving at the time of overtaking is more than 60 kilometres per hour—a distance of not less than 1.5 metres from the bicycle;
- (b) in relation to a rider of a bicycle overtaking another bicycle means a distance that is a safe distance in the circumstances.
- (3) For the purposes of this rule, sufficient distance is measured by the lateral distance between the following points—
- (a) the furthestmost point to the left on the driver’s vehicle or any projection from the vehicle (whether or not attached to the vehicle);
- (b) the furthestmost point to the right on the bicycle, any bicycle trailer towed by the bicycle, the rider or any passenger in or on the trailer.

Examples

- (1) A basket or pannier bags attached to the bicycle would be considered to be part of the bicycle.
- (2) A flag or stick attached to the bicycle, whether flexible or inflexible, would not be considered to be part of the bicycle.

**Note: Bicycle lane** is defined in the dictionary.

However, Ms Dunn did not consider that any further amendments were necessary in order to achieve her intended aims with the legislation. She argued this on two bases:

- that clause 4 of the Bill provides that the minimum passing distance applies “whether or not the bicycle rider is in a bicycle lane” (see proposed rule 144(2)(a) as set out above)
- the definition of “overtaking” in the Road Rules dictionary includes “passing the other driver while travelling in the adjacent marked lane or line of traffic”.



### 2.2.3 The Committee's view

The Committee does not agree with Ms Dunn's position above.

In relation to Road Rule 144, the Committee notes that the proposed specified minimum passing distance set out in the proposed section 144(2)(a) (see Section 2.2.2 of this chapter) specifically applies only to overtaking. While it does reference a bicycle in a bicycle lane, this does not mean that the minimum specified passing distance would apply to all acts of passing a bicycle in a bicycle lane. The Committee believes that the bicycle lane provision would only apply to a motorist that is travelling in a bicycle lane<sup>1</sup> behind a bicycle which then leaves that lane and passes the bicycle.

Ms Dunn's interpretation of the definition of overtaking appears to rest on understanding it as providing three scenarios, any of which is overtaking. However, the Committee notes that the three actions listed in the definition are linked by "and" not "or" (see Section 2.2.1 of this chapter). The Committee believes the definition is intended to describe a three-step process, all steps of which must occur for an action to be considered overtaking. This interpretation was also made by VicRoads and the Traffic Accident Commission in their submission to the inquiry.<sup>2</sup>

The Committee therefore considers that the action of passing a bicycle in an adjacent lane (including a bicycle lane) or on a road shoulder would not fall within the definition of overtaking unless the vehicle was driving in that adjacent lane, bicycle lane or road shoulder prior to the manoeuvre. As such, the Bill as it stands would not require a driver to leave the specified minimum passing distances in these scenarios, nor would it allow a driver to cross the centre of a road or other markings in these scenarios.

The Committee believes that this should be amended. This could be done by changing all references to "overtaking" in the Bill to "overtaking or passing". This would require the following amendments to the Bill:

- Clause 3(a) – insert "or passing" after "overtaking"
- Clause 3(b)(i) – insert "or pass" after "overtake"
- Clause 3(b)(ii) – insert "or pass" after "overtake"
- Clause 3(b)(iii) – insert "or pass" after "overtake"
- Clause 3(b)(iv) – insert "or pass" after "overtake"
- Clause 3(b)(v) – insert "or pass" after "overtake"
- Clause 3(b)(vi) – insert "or pass" after "overtake"

<sup>1</sup> This is permitted in a number of circumstances – see Road Rules 153 and 158.

<sup>2</sup> VicRoads and Transport Accident Commission, *Submission 166*, 29 April 2016, p.29

- Clause 4
  - in 2(a) – insert “or passing” after “overtaking”
  - in 2(a)(i) – insert “or passing” after “overtaking”
  - in 2(a)(ii) – insert “or passing” after “overtaking”
  - in 2(b) – insert “or passing” after “overtaking”
- Clause 5 (1) – insert “or passing” after “overtaking”
- Clause 5 (2) – insert “or passing” after “overtaking”
- Clause 5 (3) – insert “or passing” after “overtaking”.

An alternative to making these 14 amendments to the Bill would be to enact legislation in a similar way to New South Wales, South Australia or Queensland. Instead of amending existing rules, these Parliaments inserted new sections relating to passing (rather than overtaking) cyclists (see Section 2.3.1 of this chapter). New South Wales and South Australia also enacted a second provision within the same new section which contains the exemptions to other rules (such as allowing motorists to cross centre lines when passing cyclists). The House will need to consider which option will give the greatest clarity to road users whilst keeping the road rules consistent between the states and territories.

**RECOMMENDATION 1:** That the Legislative Council amend the Overtaking Bicycles Bill so that all references to “overtake” or “overtaking” are replaced by references to “overtake or pass” or “overtaking or passing”.

## 2.3 Comparison with other jurisdictions

### 2.3.1 Australian jurisdictions

The road rules of each Australian state and territory are based on the Australian Road Rules. These are a set of model road rules that have been developed by the National Road Transport Commission. There is currently no Australian Road Rule specifying minimum passing distances for passing cyclists.

Specified minimum passing distance rules have been introduced into four other Australian jurisdictions, with each jurisdiction requiring motorists to leave 1 metre when passing in areas with speed limits of 60 kilometres per hour or less and 1.5 metres in areas with higher speed limits. In addition, Tasmania has introduced legislation allowing motorists to cross centre lines, straddle lanes and cross painted islands in order to pass a cyclist, but has not specified minimum passing distances in the legislation. Table 2.1 below compares the passing distance laws across Australia.

A private member’s bill to bring in specified minimum passing distances was introduced into the Western Australian Parliament in March 2014 but has not yet been passed. It does not contain exemptions for crossing the centre line, straddle lanes or crossing painted islands.

**Table 2.1 Comparison of Australian minimum passing distance rules**

	Vic	ACT	NSW	Qld	SA	Tas	WA	NT
Passing/overtaking requires 1m where speed limits are at or below 60km/h	●	✓	✓	✓	✓		●	
Passing/overtaking requires 1.5m where speed limits are above 60km/h	●	✓	✓	✓	✓		●	
Exemptions to other road rules allowed if passing/overtaking (e.g. crossing centre line of road, straddling lanes or crossing painted islands)	●	✓	✓	✓	✓	✓		
Began as trial		✓	✓	✓				
Trial length		2 years	2 years	2 years				
Trial end		Nov 2017	March 2018	April 2016				
Current Status	Bill	Trial	Trial	Law	Law	Law	Bill	
Other measures introduced at the same time		✓	✓		✓			

● = considering legislation

The changes proposed in the Victorian Bill (if amended as recommended in Section 2.2.3 of this report) would bring Victoria into alignment with its neighbouring states.

While the rules are essentially the same in the Australian Capital Territory, New South Wales, Queensland and South Australia, each jurisdiction has incorporated the rules into its framework in a different way (see Appendix 3). However, in each case, the rules have been introduced by inserting new provisions rather than amending the overtaking rule. The circumstances in which the specified minimum passing distances apply are defined as a motorist:

- “passing the rider of a bicycle” (Queensland)
- “driving past to the right of a bicycle that is travelling on a road in the same direction as the motor vehicle” (New South Wales)
- “driving past to the right of the rider of a bicycle travelling in the same direction as the driver” (South Australia)
- “passing the rider of a bicycle that is travelling in the same direction as the driver” (Australian Capital Territory).

Some of the jurisdictions also introduced other measures at the same time, such as requiring cyclists to carry identification or allowing cyclists to ride on footpaths. These are discussed in Section 6.5 of this report.

### 2.3.2 International experience

Specified minimum passing distance rules have also been introduced in jurisdictions overseas. In most US jurisdictions where minimum passing distances have been implemented, the minimum distance has been 3 feet (0.9 metres) and in Europe the minimum distance has been 1 metre or 1.5 metres. In its written submission, VicRoads and the Transport Accident Commission<sup>3</sup> advised the Committee that minimum passing distance rules have been enacted in the following jurisdictions:

USA:

- 26 jurisdictions have introduced 3-foot minimum passing distances<sup>4</sup>
- 2 states have introduced minimum passing distances larger than 3 feet.<sup>5</sup>

Europe:

- 2 countries have introduced 1-metre minimum passing distances<sup>6</sup>
- 3 countries have introduced 1.5-metre minimum passing distances<sup>7</sup>
- 1 country has introduced 1-metre minimum passing distances in urban areas and 1.5-metre distances outside urban areas.<sup>8</sup>

Elsewhere:

- Nova Scotia in Canada has introduced a 1-metre minimum passing distance
- Western Cape, South Africa, has introduced a 1-metre minimum passing distance.

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3 VicRoads and Transport Accident Commission, *Submission 166*, 29 April 2016, pp.23-4  
 4 Alabama, Arizona, Arkansas, California, Colorado, Connecticut, Delaware, Florida, Georgia, Illinois, Kansas, Louisiana, Maine, Maryland, Minnesota, Mississippi, Nebraska, Nevada, New Hampshire, Oklahoma, Tennessee, Virginia, Utah, West Virginia, Wisconsin, Wyoming and the District of Columbia  
 5 Pennsylvania has a 4-foot passing law. South Dakota enacted a two-tiered passing law with a 3-foot passing requirement on roads with posted speeds of 35 miles per hour or less and a minimum of 6 feet separation for roads with speed limits greater than 35 miles per hour.  
 6 Belgium and the Netherlands  
 7 Germany, Spain and Portugal  
 8 France

# 3

## Specified minimum passing distances

### 3.1 Proposed changes to the Road Rules

Clause 4 of the Bill proposes that the Road Rules be amended to include specified minimum passing distances between motor vehicles (including motorcycles) and bicycles when motor vehicles are overtaking bicycles. The Bill proposes that a gap of at least 1 metre must be left when overtaking a cyclist on a road with a speed limit of 60 kilometres per hour or less. A gap of at least 1.5 metres must be left on a road with a speed limit of more than 60 kilometres per hour.

A driver failing to leave the required gap would be liable to fines of up to 10 penalty units (currently \$1,554.60).

As discussed in Section 2.2 of this report, the Committee considers that the Bill would need to be amended to apply whenever a motor vehicle overtakes *or passes* in order to achieve the intentions of the bill sponsor.

### 3.2 Passing distances

#### 3.2.1 Current situation in Victoria

The Victorian Road Rules do not currently require drivers to leave a specified minimum distance when overtaking a cyclist. Road Rule 144 currently states:

A driver overtaking a vehicle [including a bicycle<sup>9</sup>] —

- (a) must pass the vehicle at a sufficient distance to avoid a collision with the vehicle or obstructing the path of the vehicle; and
- (b) must not return to the marked lane or line of traffic where the vehicle is travelling until the driver is a sufficient distance past the vehicle to avoid a collision with the vehicle or obstructing the path of the vehicle.

As noted in Section 2.2 of this report, “overtaking” has a specific meaning in the Road Rules and does not include passing a bicycle that is in a different lane to the vehicle (including a bicycle lane) or on the shoulder of a road. The Road Rules do not include provisions covering passing bicycles other than when overtaking.

On its website, VicRoads suggests that drivers should allow at least 1 metre when overtaking cyclists:

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<sup>9</sup> Road Rule 15 defines a vehicle as including a bicycle. Road Rule 144 therefore applies whether a driver overtakes another motor vehicle or a bicycle.

... [drivers should] give bike riders a clearance of at least one metre when passing them, more if travelling over 60km/h. If this clearance isn't possible don't overtake until it is safe to do so. After overtaking, make sure you are well clear of the bicycle before moving back.<sup>10</sup>

Similar advice is provided in VicRoads' handbook for learner drivers.<sup>11</sup>

However, these recommended distances are not included in the Road Rules. As the Amy Gillett Foundation advised the Committee:

The current test in the legislation is 'sufficient', and the guidelines give an indication of what VicRoads expects out of motorists in terms of what is 'sufficient', so 1 metre in 60 kilometre zones and more in zones over 60 kilometres. But they are guidelines, so it is not the law, and that is why a change to make this a permanent fixture in the Victorian law is important.<sup>12</sup>

Victoria Police informed the Committee that what constitutes unsafe passing under the current Road Rules would be determined by individual police officers:

It would be up to each specific member as to their observations of what has occurred in front of them, whether that distance is safe or not. Again, that is the subjectiveness of the issue — travelling at different speeds, the lower speed you would imagine the closer the distance would be that it would be safe to pass at. So it is hard to say what constitutes safe or unsafe. It would be in a police officer's mind as to the observations that he has made as to whether what he has seen is, in his mind, safe or unsafe.<sup>13</sup>

It has been suggested that, as Road Rule 144 simply indicates that a driver must leave "sufficient distance to avoid a collision ... or obstructing the path of the vehicle", police have been reluctant to prosecute people for breaking this rule unless there is an impact between a cyclist and a vehicle. A number of cyclists told the Committee that they had informed the police about drivers passing them with dangerously small distances but that police did not act.<sup>14</sup> Victoria Police informed the Committee that most of the infringement notices issued in relation to Road Rule 144 are as a result of collisions.<sup>15</sup>

Victoria Police informed the Committee that an average of 207 infringement notices per year are issued in relation to Road Rule 144.<sup>16</sup> This includes all vehicles (not just bicycles), and the Police indicated that they are unable to identify what proportion of these involved bicycles or whether any infringement notices were issued to motorists who passed a cyclist closely without colliding.

<sup>10</sup> VicRoads, "Bike Riders and Sharing the Road" <[www.vicroads.vic.gov.au/safety-and-road-rules/cyclist-safety/sharing-the-road](http://www.vicroads.vic.gov.au/safety-and-road-rules/cyclist-safety/sharing-the-road)>, accessed 24 August 2016

<sup>11</sup> VicRoads, *Road to Solo Driving* (2014), p.136

<sup>12</sup> Ms Phoebe Dunn, Amy Gillett Foundation, *Public Hearing*, 3 May 2016, p.13

<sup>13</sup> Acting Senior Sergeant Ryan Burns, Victoria Police, *Public Hearing*, 30 May 2016, p.28

<sup>14</sup> See, for example, Mr Paul Klat, *Submission 60*, 10 March 2016, Ms Jenica Brooke, *Submission 80*, 17 March 2016; Mr Stephen Williams, *Submission 147*, 1 April 2016, pp.1-2

<sup>15</sup> Acting Senior Sergeant Ryan Burns, Victoria Police, *Public Hearing*, 30 May 2016, p.29

<sup>16</sup> Victoria Police, correspondence received 21 June 2016 (Committee calculation based on data over the six years from 2010 to 2015 inclusive)

### 3.2.2 The importance of leaving a gap when passing a cyclist

The Committee was told that it is important to allow a substantial space to the side of a cyclist because a number of factors can mean that cyclists have to veer quickly from a straight line at times:

There is debris, there is gravel and there are potholes. Any of these obstacles require a cyclist to swerve around, but they may be typically invisible to a driver who is speeding past and they might be forgotten and gone in a matter of moments.<sup>17</sup>

... wind is a really big factor for us. If you are riding in a strong wind, it can blow you off the line.<sup>18</sup>

... cyclists require adequate space to cover their need to move their bike quickly sideways in order to avoid road hazards such as: potholes; broken glass; branches and sticks; oil patches etc. In many cases it appears that drivers don't understand the safety issues for cyclists ...<sup>19</sup>

A gap is required to provide a buffer in such instances:

Cyclists do not have a physical 'shell' like a car driver does, and therefore should be protected from motorists passing too close. For example, when the roads have potholes or broken glass, or if riding into a headwind or uphill, a cyclist may move slightly within a lane. If during this time a motorist is passing, it can be very unsafe and extremely intimidating. To have the extra 'buffer' space would ensure a more safe and comfortable ride — and would make riding a more attractive option for more.<sup>20</sup>

It was also noted that cyclists do not actually have to be hit to be negatively impacted by a close pass:

... a cyclist could be pulled into traffic by the turbulence caused by a closely overtaking vehicle, a strong gust of wind or as a result of being startled to a point that causes them to lose control of their bicycle.<sup>21</sup>

... someone might not even be hit but it is so close that they go off the road or ... they hit another person or kerb ...<sup>22</sup>

One submitter also highlighted the problem of “off-tracking” involving articulated vehicles. This occurs when the rear wheels of an articulated vehicle do not follow the same line as the front wheels when the vehicle turns. This may lead to the rear wheels passing closer to cyclists than the driver realises.<sup>23</sup> A significant gap may provide more buffer to compensate for off-tracking.

17 Ms Sue Blakey, Bike Safe Macedon Ranges, *Public Hearing*, 31 May 2016, p. 29

18 Ms Sue Blakey, Bike Safe Macedon Ranges, *Public Hearing*, 31 May 2016, p. 37

19 Mr Andrew Hollis, *Submission 2*, 2 March 2016, p.1

20 Port Phillip Bicycle User Group, *Submission 101*, 22 March 2016, p.1

21 VicRoads and Transport Accident Commission, *Submission 166*, 29 April 2016, p.32

22 Mr Kipp Kaufman, Cycling Victoria, *Public Hearing*, 30 May 2016, p.14

23 Mr Stephen Williams, *Submission 147*, 1 April 2016, p.2

A gap is also important because studies suggest that some drivers may find it difficult to accurately estimate the distance with which they pass cyclists.<sup>24</sup> Advising people to leave a large gap provides some buffer for the fact that people may make incorrect judgements about how much space they are leaving.

A gap is also important to help cyclists feel safer on the road. The Committee was told:

There are uncountable near-misses occurring almost every day I cycle that leave me feeling scared, frustrated and angry at drivers' ignorance of bicyclists rights and obligations on the road.<sup>25</sup>

Looking at some of the research, even those who do not use their bike, over 60 per cent of them show that many are just too scared to get on their bike and that is one of the reasons that they are not participating.<sup>26</sup>

The potential of the proposed rules to increase cyclists' perception of safety is discussed further in Section 3.3.4 of this report.

### 3.2.3 How big a gap is required

Limited research has been done to identify exactly how much space is required when passing. Nonetheless, a number of traffic authorities around the world advocate distances of at least 3 feet or 1 metre. These distances also have a reasonable degree of support in the Australian community.

As mentioned in Section 3.2.1 of this chapter, VicRoads recommends a 1-metre gap when travelling at up to 60 kilometres per hour and more if travelling faster. The RACV provides the same advice,<sup>27</sup> as do other Australian jurisdictions (see Section 2.3.1). As noted in Section 2.3.2 of this report, international jurisdictions have similarly adopted minimum distances of at least 3 feet (0.9 metres).

A number of surveys have also found high levels of community support for 1 or 1.5-metre passing distances:

- a survey of over 10,000 Victorians in 2014 found that 93 per cent of cyclists and 69 per cent of other road users supported a 1-metre minimum passing distance<sup>28</sup>
- a survey in New South Wales found 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”<sup>29</sup>

24 N. Haworth & A. Schramm, “The Safety of Bicycles Being Overtaken by Cars: What Do We Know and What Do We Need to Know?”, *Proceedings of the 2014 Australasian Road Safety Research, Policing & Education Conference (2014)* [author's version, <eprints.qut.edu.au/81847>], p.4; Amy Schramm, Narelle Haworth, Kristiann Heesch, Angela Watson & Ashim Debnath, *Evaluation of the Queensland Minimum Passing Distance Road Rule: Final Report (2016)*, p.68

25 Ms Elise Gould, *Submission 29*, 4 March 2016, p.1

26 Mr Kipp Kaufman, Cycling Victoria, *Public Hearing*, 30 May 2016, p.9

27 Mr Brian Negus, RACV, *Public Hearing*, 31 May 2016, p.40

28 VicRoads and Transport Accident Commission, *Submission 166*, 29 April 2016, p.17

29 Mr Bernard Carlon, New South Wales Centre for Road Safety, *Public Hearing*, 30 May 2016, p.60



- in Tasmania, 81 per cent of surveyed motorists agreed that motorists should stay at least 1 metre away from a bicycle when overtaking at less than 60 kilometres per hour and 90 per cent agreed that motorists should stay at least 1.5 metres away when travelling above 60 kilometres per hour<sup>30</sup>
- Queensland research prior to the introduction of minimum passing distance rules found that “about 80% of cyclists and non-cyclists agreed with the statement that motorists should stay a minimum of 1 metre away when passing a cyclist at 60 km/h and 1.5 metres when passing at 100 km/h.”<sup>31</sup>

Ms Gemma Kernich from the South Australian Department of Planning, Transport and Infrastructure informed the Committee that the 1/1.5-metre minimum passing distance rule in South Australia originated with a citizens’ jury and that people saw it as common sense:

When people have asked, ‘Why should I give them a metre?’ or, ‘This is too much distance’, and you say, ‘Well, what do you think would be a safe distance to overtake people’, most people sit there and go, ‘Oh yeah. That sort of makes sense’. Or, ‘How am I ever going to get past someone on the road; there is never enough room’, and you say, ‘What did you do before?’, and they said, ‘Broke the law overtaking them’. In some respects it is sort of a logical argument for people when they start to understand. Provided they understand that they can actually cross double lines or move to the wrong side of the road to afford that distance, most people seem to reconcile that it is logical, it is how they were driving anyway. Indeed as part of our regulatory consultation it came quite strongly in some of the responses that it is what people felt that they were doing as a safe driver.<sup>32</sup>

Research in a number of countries on actual driver behaviour found that the majority of drivers do leave gaps consistent with these guidelines (though significant portions of drivers leave gaps of less than 1 metre).<sup>33</sup>

Most submitters to this inquiry who supported introducing specified minimum passing distances supported the 1/1.5-metre gaps proposed in the Bill. One submitter called for a minimum passing distance of 1.5 metres to be set for all roads.<sup>34</sup> Another called for a uniform 1-metre requirement on all roads at all speeds to reduce confusion.<sup>35</sup> Several submitters and witnesses suggested that smaller distances should be permitted in certain circumstances. These are discussed in Section 3.8 of this chapter.

<sup>30</sup> Tasmanian Department of State Growth, *Cycling Research Report* (2015), pp.28-9

<sup>31</sup> N. Haworth & A. Schramm, “The Safety of Bicycles Being Overtaken by Cars: What Do We Know and What Do We Need to Know?”, *Proceedings of the 2014 Australasian Road Safety Research, Policing & Education Conference* (2014) [author’s version, <eprints.qut.edu.au/81847>], p.4

<sup>32</sup> Ms Gemma Kernich, South Australian Department of Planning, Transport and Infrastructure, *Public Hearing*, 30 May 2016, p.50

<sup>33</sup> N. Haworth & A. Schramm, “The Safety of Bicycles Being Overtaken by Cars: What Do We Know and What Do We Need to Know?”, *Proceedings of the 2014 Australasian Road Safety Research, Policing & Education Conference* (2014) [author’s version, <eprints.qut.edu.au/81847>], p.5; Kushal Mehta, Babak Mehran & Bruce Hellingapp, “Evaluation of the Passing Behavior of Motorized Vehicles When Overtaking Bicycles on Urban Arterial Roadways”, *Transportation Research Record: Journal of the Transportation Research Board* 2520 (2015), pp.15-16

<sup>34</sup> Mr Stephen Williams, *Submission 147*, 1 April 2016, p.3

<sup>35</sup> Ms Vicki Ward MP, *Submission 169*, 3 June 2016, p.1

## 3.3 The benefits of specified minimum passing distances

### 3.3.1 Potential number of accidents to be reduced

As discussed in Section 3.2.2 of this chapter, ensuring that motorists leave sufficient gaps when overtaking cyclists has the potential to reduce road accidents. The number of accidents that might be prevented is difficult to estimate, but some statistics can give a general idea of the scale.

Victoria Police statistics show that 80 bicycle riders were killed, 4,302 were seriously injured and 9,328 sustained other injuries in Victoria between 2004 and 2013.<sup>36</sup> This is based on accidents reported to police, which may not cover all serious accidents. Previous studies have found that there are significant numbers of in-traffic bicycle accidents which lead to hospital presentations which are not reported to police.<sup>37</sup> In addition, there may be many more near misses or minor injuries.<sup>38</sup>

Of the crashes involving bicycles that were reported to police over the last ten years:

- 4.5 per cent involved a vehicle travelling too close to a bicycle (or vice versa<sup>39</sup>) and side-swiping it
- 7.1 per cent involved a bicycle being rear-ended by a motor vehicle (or vice versa), when the front vehicle was either going straight or turning
- 0.3 per cent involved a motor vehicle overtaking a bicycle (or vice versa) but colliding when returning to the original lane.<sup>40</sup>

An analysis of bicycle accidents in the City of Melbourne similarly found that 5 per cent were due to side swipes when the car and bicycle were in parallel lanes.<sup>41</sup>

Other statistics were also provided to the Committee estimating the scale of accidents from overtaking. A Tasmanian survey was cited which found that 15 per cent of cyclists had been hit by a motor vehicle or involved in a near collision when being overtaken by the vehicle.<sup>42</sup> This survey took place after Tasmania's campaign to encourage motorists to leave 1/1.5-metre gaps when overtaking cyclists (though motorists are not required to leave this gap). The Amy Gillett Foundation estimated that, "1 in 10 [bicycle] crashes in Victoria involved a vehicle overtaking a bike rider."<sup>43</sup>

<sup>36</sup> VicRoads and Transport Accident Commission, *Submission 166*, 29 April 2016, p.10

<sup>37</sup> Megan Garratt, Marilyn Johnson & Jacinta Cubis, *Road Crashes Involving Bike Riders in Victoria, 2002–2012: An Amy Gillett Foundation Report* (2015), p.12

<sup>38</sup> Ms Margaret Douglas, *Submission 108*, 28 March 2016, p.1; Bike Safe Macedon Ranges, *Submission 130*, 31 March 2016, p.1

<sup>39</sup> Victoria Police statistics do not differentiate between motorists hitting bicycles and bicycles hitting motorists.

<sup>40</sup> VicRoads and Transport Accident Commission, *Submission 166*, 29 April 2016, pp.12-13

<sup>41</sup> Melbourne City Council, *Bicycle Plan 2016–2020* (2016), p.37

<sup>42</sup> Mr Craig Hoey, Tasmanian Department of State Growth, *Public Hearing*, 30 May 2016, p.53; Tasmanian Department of State Growth, *Cycling Research Report* (2015), p.18

<sup>43</sup> Ms Phoebe Dunn, Amy Gillett Foundation, *Public Hearing*, 3 May 2016, p.11

These types of accidents are responsible for higher proportions of fatalities than some other types of accident. Lane side-swipes account for 7 per cent of bicycle-accident fatalities in Victoria. Rear-ending accounts for another 26 per cent of Victorian fatalities.<sup>44</sup> Data for the whole of Australia similarly indicate that 21 per cent of Australian cyclist fatalities are from the motorist running into the rear of the bicycle.<sup>45</sup>

Specified minimum passing distances may have prevented some of these accidents. However, as VicRoads and the Transport Accident Commission pointed out in their submission, not all of these accidents would be prevented by minimum passing distance rules, as “Some cases are due to other factors such as inattention, failure to give way, ignorance or misunderstanding of rules, and in some cases the riders were at fault.”<sup>46</sup>

Although passing-related accidents account for a minority of bicycle accidents, they are one of the top fears of cyclists.<sup>47</sup> This may be partly because of near-misses as well as accidents. A survey of cyclists in Queensland (after specified minimum passing distance rules were introduced) indicated that the most common sort of near-miss was when being overtaken by a vehicle. The survey found that 59 per cent of cyclists had experienced a near-miss with a vehicle that was overtaking them in the last 12 months and 16 per cent had experienced a near-miss when swerving to avoid a vehicle overtaking them.<sup>48</sup> The proposed rules may reduce the frequency of such near-misses and make people feel safer about cycling (see further discussion in Section 3.3.4).

### 3.3.2 Clarifying the message for drivers

Some submitters and witnesses to this inquiry suggested that having specified minimum passing distances would provide clearer guidance for motorists than the current requirement to leave “sufficient distance” to avoid a collision or obstructing the path of the bicycle:

I think the biggest core issue with ‘sufficient distance’ is that it is undefined ... 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 ... I think that defining ‘sufficient distance’ means that there is a real guide for drivers as to what is appropriate and safe.<sup>49</sup>

‘Sufficient distance to avoid collision’ is too vague and open to subjective interpretation by both the motorist and by the cyclist — it potentially creates confusion between these road users and therefore conflict due to a lack of

44 Megan Garratt, Marilyn Johnson and Jacinta Cubis, *Road Crashes Involving Bike Riders in Victoria, 2002–2012: An Amy Gillett Foundation Report* (2015), p.30

45 Australian Transport Safety Bureau, *Deaths of Cyclists Due to Road Crashes* (2006), p.8

46 VicRoads and Transport Accident Commission, *Submission 166*, 29 April 2016, p.12

47 See Section 3.3.4 of this chapter

48 Amy Schramm, Narelle Haworth, Kristiann Heesch, Angela Watson & Ashim Debnath, *Evaluation of the Queensland Minimum Passing Distance Road Rule: Final Report* (2016), p.36

49 Ms Samantha Dunn MLC, *Public Hearing*, 31 May 2016, p.17

understanding from both sides — Currently, the only measure that a motorist has breached the ‘sufficient distance to avoid collision’ is that a collision has occurred — This is an unacceptable way to measure a transgression of law.<sup>50</sup>

The Committee heard that clarification of the appropriate passing distances was something that motorists in New South Wales wanted before the specified minimum passing distance rules were introduced:

... 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.<sup>51</sup>

It was also put to the Committee that some close passes to cyclists are deliberate intimidation, rather than the result of a lack of guidance about what is a “sufficient distance”. It was suggested that setting specific minimum passing distances would make it clear that close passes are not acceptable and would potentially deter such behaviour.<sup>52</sup> The parliamentary committee that recommended specified minimum passing distance rules for Queensland suggested that having rules with penalties was an important way of communicating the seriousness of the minimum passing distances.<sup>53</sup>

### 3.3.3 Prosecuting risky behaviour

Some submitters argued that quantifying the minimum passing distance would make it easier for police to penalise motorists who pass cyclists too closely. As noted in Section 3.2.1 of this chapter, with the current rules, police generally do not issue infringements unless a collision has occurred. It was argued that the proposed changes would enable police to issue infringements to motorists who drive dangerously close to cyclists *before* any cyclists are actually hit:

The current safe passing legislation’s flaw is that the police do not act against dangerous driving until after a cyclist is injured or killed. This approach does not save lives; it only serves to aid in prosecution after the event. We need a law that enables and encourages police to act on life threatening behaviour before someone is injured or killed.<sup>54</sup>

Mandating the passing distance would however ... enable cyclists with video evidence to press charges [against motorists deliberately passing close to cyclists] with the ultimate goal of removing such motorists permanently from the road.<sup>55</sup>

It is important to note, however, that the Committee received some evidence suggesting that enforcement of the proposed rules may not be straight-forward (see Section 3.4.3 of this chapter).

50 Bike Safe Macedon Ranges, *Submission 130*, 31 March 2016, pp.1-2

51 Mr Bernard Carlon, New South Wales Centre for Road Safety, *Public Hearing*, 30 May 2016, p.59

52 Mr Paul Yeatman, *Submission 99*, 20 March 2016, p.3; Ms Glennys Jones, *Submission 123*, 31 March 2016, p.2

53 Queensland Transport, Housing and Local Government Committee, *A New Direction for Cycling in Queensland* (2013) p.28, cited by Mr Adrian Vlok, *Submission 151*, 5 April 2016, p.2

54 Ms Jenica Brooke, *Submission 80*, 17 March 2016, p.1

55 Mr Paul Yeatman, *Submission 99*, 20 March 2016, p.4

### 3.3.4 Increasing the perceived safety of cycling

People often cite the fear of colliding with motor vehicles as a reason for not riding bicycles.<sup>56</sup> A survey of 150 Tasmanian adults who had cycled at least once in the last month found that 37 per cent felt unsafe due to the proximity of cars beside them always or most of the time and an additional 33 per cent sometimes felt unsafe due to the proximity of cars beside them.<sup>57</sup> Many submissions and witnesses to this inquiry also noted feeling unsafe at times when being passed by motor vehicles.<sup>58</sup>

The Committee was told that increasing the safety of cycling has the potential to make cycling more appealing to a significant portion of the population:

If we consider Australian society as a whole, there are a number of different categories of people who might ride a bike. The first 1 per cent are the strong and fearless. They are typically male and will ride anywhere, anytime, no matter the road or level of cycling infrastructure. Safe passing distances or not, these people will keep on cycling.

The next group, about 9 per cent, are the enthused but confident. They will ride in most situations where there is some form of cycling infrastructure, such as bike lanes. Although still male dominated, there are more women in this group, but still only about 3 in 10 people who ride to work in Australia are female.

The next group is the group that we at Bike Bendigo are most interested in. They are what we call the interested but concerned. These people represent up to 60 per cent of the general population. They are interested in cycling but their biggest concern is safety, more specifically mixing with traffic. In part the danger is perceived, as cycling is typically a safe activity, but the number of near misses or close or uncomfortable passes experienced with or without injury is relatively high for their level of traffic tolerance. Providing separated infrastructure for this group is the ideal outcome, but it would take considerable time and money to build comprehensive, comfortable cycling networks. Assuming a safe passing law is introduced and cycling infrastructure built over time, we can expect more people from this interested but concerned group to take up cycling for transport, for shopping, for health, for fun, to reduce pressure on road infrastructure and save car parks for those who need them, and to improve the livability of our cities and regions.<sup>59</sup>

A number of submitters and witnesses argued that having more people ride would reduce the risk for cyclists.<sup>60</sup> Research in Europe has suggested that there may be a “safety in numbers” effect with cycling.<sup>61</sup>

<sup>56</sup> E. Fishman, S. Washington & N. Haworth. “Understanding the Fear of Bicycle Riding in Australia”, *Journal of the Australasian College of Road Safety* 23(3) (2012), p.21

<sup>57</sup> Tasmanian Department of State Growth, *Cycling Research Report* (2015), p.13; Mr Craig Hoey, Tasmanian Department of State Growth, *Public Hearing*, 30 May 2016, p.53

<sup>58</sup> See also surveys cited by Mr Michael Nieuwesteeg, Transport Accident Commission, *Public Hearing*, 30 May 2016, p.39 and Bicycle Network, *Submission 140*, 1 April 2016, pp.7-8

<sup>59</sup> Mr Robert Kretschmer, Bike Bendigo, *Public Hearing*, 31 May 2016, pp.31-2; see also Whitehorse City Council, *Submission 138*, 1 April 2016, p.1; Mr Craig Richards, Bicycle Network, *Public Hearing*, 31 May 2016, p.2; Mr Kipp Kaufman, Cycling Victoria, *Public Hearing*, 30 May 2016, p.9

<sup>60</sup> See, for example, Mr Craig Richards, Bicycle Network, *Public Hearing*, 31 May 2016, p.2; Mr Kipp Kaufman, Cycling Victoria, *Public Hearing*, 30 May 2016, p.9

<sup>61</sup> Megan Garratt, Marilyn Johnson & Jacinta Cubis, *Road Crashes Involving Bike Riders in Victoria, 2002–2012: An Amy Gillett Foundation Report* (2015), pp.45-6

Some evidence suggests that, where specified minimum passing distances have been introduced, it has indeed increased the number of people cycling. Survey respondents in Queensland following the introduction of specified minimum passing distances generally agreed that there were more cyclists on the road than previously.<sup>62</sup> Stakeholders in US jurisdictions with such rules have also suggested that the rules may have increased participation.<sup>63</sup> However, as Bicycle Network notes, this evidence is anecdotal and therefore should be treated with caution.<sup>64</sup>

### 3.3.5 Changing attitudes to cyclists

Overseas experience suggests that minimum passing distance rules have also been valuable in educating motorists about sharing the road.<sup>65</sup> It is anticipated by some that the proposed rules could have a similar impact in Victoria:

This legislation helps to legitimise the rights of bike riders to use the road and share the road. It helps to shift the debate from an ‘us and them’ mentality to ‘how can we all share the road and all get to where we need to go to safely?’<sup>66</sup>

It helps to raise awareness of vulnerable road users and educate the drivers about the importance of leaving space.<sup>67</sup>

I support the proposed “A metre matters” changes in passing distance regulations. Not because I think they are enforceable or likely to result in every driver passing at a distance of one metre, but because introduction of this law would highlight the vulnerability of cyclists, their legitimacy as road users and the need to be careful around them. Introduction of this law would be accompanied by advertising material of some kind to increase road user awareness and this, too, would serve to raise awareness of cyclists as legitimate and vulnerable road users. I see this as a useful step in the slow process of changing road-user culture.<sup>68</sup>

In this context, the Committee notes that a recent survey of 112 Victorians found that 26 per cent agreed with the statement that “cyclists don’t belong on the road”.<sup>69</sup>

It was suggested that changing motorists’ attitudes towards cyclists may lead to safer driving. This is discussed further in Section 5.2 of this report.

<sup>62</sup> Amy Schramm, Narelle Haworth, Kristiann Heesch, Angela Watson & Ashim Debnath, *Evaluation of the Queensland Minimum Passing Distance Road Rule: Final Report* (2016), p.30

<sup>63</sup> Charles Brown, Patrick Farley, Jonathan Hawkins & Christine Orthmeyer (n.d.), *The 3 ft. Law: Lessons Learned from a National Analysis of State Policies and Expert Interviews*, pp.8, 71

<sup>64</sup> Bicycle Network, *Submission 140*, 1 April 2016, pp.6-7

<sup>65</sup> Charles Brown, Patrick Farley, Jonathan Hawkins & Christine Orthmeyer (n.d.), *The 3 ft. Law: Lessons Learned from a National Analysis of State Policies and Expert Interviews*, p.8

<sup>66</sup> Ms Phoebe Dunn, Amy Gillett Foundation, *Public Hearing*, 3 May 2016, p.13

<sup>67</sup> Ms Phoebe Dunn, Amy Gillett Foundation, *Public Hearing*, 3 May 2016, p.14

<sup>68</sup> Ms Christine Banks, *Submission 52*, 9 March 2016, p.1

<sup>69</sup> Wallis Strategic Market and Social Research, *Submission 125*, 31 March 2016, p.3



### 3.3.6 Consistency with other jurisdictions

As discussed in Section 2.3.1 of this report, the proposed rules (incorporating the amendments proposed in Section 2.2.3) would bring Victoria's road rules into alignment with Queensland, New South Wales, the Australian Capital Territory and South Australia. While each jurisdiction has introduced minimum passing distance rules in a different way, all have specified the minimum passing distances as 1 metre on roads with speed limits of 60 kilometres per hour or less and 1.5 metres on roads with higher speed limits (see Appendix 3 of this report).

## 3.4 Problems with specified minimum passing distances

### 3.4.1 Slowing motor vehicles and increasing tensions

There are a number of situations on Victorian roads where it will not be possible for a motorist to pass a cyclist with 1/1.5 metres of space, such as narrow roads, roads with certain tram infrastructure, busy roads and narrow, winding roads (see further discussion in Section 3.6 of this report). Under the proposed rules, if a motorist cannot pass<sup>70</sup> a bicycle with a gap of 1/1.5 metres, the motorist must wait behind the cyclist until an opportunity to pass with the minimum distance arises.

Concerns have been raised that this waiting may increase congestion on the roads:

... imposing this will cause significant strain — through delays and congestion — on [transport] operators wanting to safely and compliantly deliver their freight.<sup>71</sup>

Delays to motorists may also increase tensions between cyclists and motorists:

... the biggest concern for us all is that introducing a law where people cannot always easily comply may bring about more tension in a system where there is quite a lot of tension already between motorists and cyclists.<sup>72</sup>

Part of the problem of mandating some arbitrary rule is that those car drivers who are already antipathetic toward cyclists will just have their sense of injustice reinforced and it is entirely likely that they will never change their attitude.<sup>73</sup>

VicRoads and the Transport Accident Commission informed the Committee:

It is unknown whether introducing these rules would add to the tension, although the survey work reported earlier in this submission highlights that many people support the rules and believe it is an existing rule already. Therefore, the impact of introducing these laws may not be as big due to this current misconception that the advice is already a law.<sup>74</sup>

<sup>70</sup> Assuming the Committee's amendments as set out in Section 2.2.3 are adopted; otherwise, the restriction would only apply to overtaking as defined in the Road Rules.

<sup>71</sup> Victorian Transport Association, *Submission 114*, 30 March 2016, p.3

<sup>72</sup> Ms Samantha Cockfield, Transport Accident Commission, *Public Hearing*, 30 May 2016, p.39

<sup>73</sup> Mr Andrew Tytherleigh, *Submission 167*, 2 May 2016, p.1

<sup>74</sup> VicRoads and Transport Accident Commission, *Submission 166*, 29 April 2016, p.34

The Committee heard that similar laws had successfully been adopted in a number of European jurisdictions with narrow roads and high traffic volumes. However, it was noted that there is a different cultural attitude to cyclists in some of these countries:

Riding the roads of Europe often narrower and more traffic than ours in Australia but with generally total awareness of the safe overtaking distance of a minimum of 1 metre being a natural and an every day experience, so different to the aggressive and close shaves experienced here in Australia.<sup>75</sup>

The deferentiality of the motorists there [in Sweden] to cyclists is quite astounding to Australians until one learns that it is possible to be refused a Swedish drivers licence even if already a competent driver if one has not shown “awareness and consideration for cyclists” ... Drivers are required to pass cyclists carefully. In all road situations, where there is no separated lane, when the cyclist hears the driver approach from behind invariably the cyclist hears the sound of the engine speed lowering. If the road is wide and clear this is less pronounced as the driver goes to the other lane. But in all situations where the lane is shared the driver noticeably decreases speed. The effect on the feeling of safety for the bicycle rider is profound. The rider is made completely aware that he/she has been seen by the driver.<sup>76</sup>

Further discussion about changing attitudes in Victoria can be found in Section 5.2 of this report.

In relation to congestion, it was also suggested by a number of submitters and witnesses that the proposed laws may reduce congestion by encouraging more people to cycle, thereby reducing the number of vehicles of the road:

There is a concern here around traffic congestion. Congestion costs this country \$15 billion a year. There is an easy solution to congestion and that comes from getting more people riding bikes ...<sup>77</sup>

However, it is not clear that the potential increase in people riding bicycles would be greater than the impact of slowed traffic due to the inability to pass cyclists in more situations.

### 3.4.2 Drivers’ ability to accurately judge passing distances

Some people raised concerns about motorists’ ability to accurately judge the 1/1.5-metre passing distances. A survey in Queensland found that most drivers believe that they do not find it hard to judge the minimum passing distances, but do believe that other drivers find it hard.<sup>78</sup> Limited research has been done

<sup>75</sup> Laurie Lyster, *Submission 22*, 4 March 2016, p.1

<sup>76</sup> Mr Peter Robinson, *Submission 51*, 9 March 2016, p.1

<sup>77</sup> Mr Craig Richards, Bicycle Network, *Public Hearing*, 31 May 2016, p.4

<sup>78</sup> Amy Schramm, Narelle Haworth, Kristiann Heesch, Angela Watson & Ashim Debnath, *Evaluation of the Queensland Minimum Passing Distance Road Rule: Final Report* (2016), pp.25-6



objectively measuring motorists' ability to judge lateral distance, but research on related matters suggests that it may be difficult for some.<sup>79</sup> This may make it hard for motorists to comply with the new road rule.<sup>80</sup>

In Queensland, some police officers felt that the difficulty estimating lateral distances had led some motorists to allow more space than needed, potentially causing problems for on-coming vehicles.<sup>81</sup> Risks associated with crossing centre-lines are discussed in Section 4.3 of this report.

One submission to this inquiry was concerned that the difficulty judging passing distances may distract motorists:

The potential for drivers to spend more time attempting to calculate the metre ruling from the cyclist, than focussing on safe driving practices whilst overtaking, is a considerable risk.<sup>82</sup>

However, the Amy Gillett Foundation has noted that there are a significant number of other road rules that require motorists to judge distance. The Foundation has compiled a list of other road rules that include measurements of distance, a number of which relate to moving vehicles.<sup>83</sup> Ms Samantha Dunn MLC told the Committee that:

... 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.<sup>84</sup>

### 3.4.3 Enforceability

Some witnesses and submitters opposed the Bill because they believed that the rules would be difficult to enforce. For example, VicRoads and the Transport Accident Commission stated:

... if legislation specifies a minimum overtaking distance, enforceability of the rule may be affected by the introduction of evidentiary issues. This means that enforcement officers would be required to prove that a distance of one metre had been accurately measured [in relation to an incident] prior to enforcing the rule, and more importantly, prosecuting a driver for breaching the rule.

<sup>79</sup> N. Haworth & A. Schramm, "The Safety of Bicycles Being Overtaken by Cars: What Do We Know and What Do We Need to Know?", *Proceedings of the 2014 Australasian Road Safety Research, Policing & Education Conference* (2014) [author's version, <eprints.qut.edu.au/81847>], p.4; Amy Schramm, Narelle Haworth, Kristiann Heesch, Angela Watson & Ashim Debnath, *Evaluation of the Queensland Minimum Passing Distance Road Rule: Final Report* (2016), p.68

<sup>80</sup> VicRoads and Transport Accident Commission, *Submission 166*, 29 April 2016, p.14

<sup>81</sup> Amy Schramm, Narelle Haworth, Kristiann Heesch, Angela Watson & Ashim Debnath, *Evaluation of the Queensland Minimum Passing Distance Road Rule: Final Report* (2016), pp.12, 68; Acting Senior Sergeant Ryan Burns, Victoria Police, *Public Hearing*, 30 May 2016, p.23

<sup>82</sup> Victorian Transport Association, *Submission 114*, 30 March 2016, p.3

<sup>83</sup> Amy Gillett Foundation, *Minimum Overtaking Distance: AGF Position, Rationale and the Evidence* (2013), pp.28-33; see also VicRoads and Transport Accident Commission, *Submission 166*, 29 April 2016, p.31

<sup>84</sup> Ms Samantha Dunn MLC, *Public Hearing*, 31 May 2016, p.17

This could have the effect of making the rule significantly more difficult to enforce and consequently less effective.<sup>85</sup>

Some submitters suggested that it was not good practice to have rules that could not be enforced.<sup>86</sup> It was also suggested there are other existing rules which can be used to prosecute people driving dangerously and are easier to enforce.<sup>87</sup>

A number of the supporters of the Bill acknowledged the difficulties with enforcement. However, one submitter explained:

We all recognise the difficulty with enforcement of the passing distance, but whenever there is no opportunity for separation, we have to rely upon less than ideal programmes such as this.<sup>88</sup>

Some submitters noted that there are other road rules which are difficult to enforce but which have nonetheless proven effective in modifying driver behaviour:

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.<sup>89</sup>

Some laws are really hard to prosecute, but that does not mean that they should not be laws. It is about deterrence, not just about penalty.<sup>90</sup>

... [the] view that a law must have strict and absolute application and enforceability in every instance before it should be on the statute books — [is] a high threshold that is not the case in many, many other legal applications.<sup>91</sup>

Victoria Police also expressed concern about the enforceability of the proposed rules (see further in Section 5.4 of this report), noting that enforcement would only be practicable where the vehicles were very close:

Unless the bicycle and the car become very close, the evidence required to prove beyond reasonable grounds that they have breached that 1-metre gap would be quite difficult to enforce.<sup>92</sup>

<sup>85</sup> VicRoads and Transport Accident Commission, *Submission 166*, 29 April 2016, p.14

<sup>86</sup> Ms Sue McKinnon, *Submission 103*, 24 March 2016, p.1; Public Health Association Australia (Victorian Branch), *Submission 152*, 11 April 2016, p.4

<sup>87</sup> Inspector Wayne Chatters, Victoria Police, *Public Hearing*, 30 May 2016, p.28; Professor Narelle Haworth, Centre for Accident Research and Road Safety – Queensland, *Public Hearing*, 3 May 2016, p.6

<sup>88</sup> Mr Ken Greene, *Submission 43*, 6 March 2016, p.1

<sup>89</sup> Ms Samantha Dunn MLC, *Public Hearing*, 31 May 2016, pp.17-18

<sup>90</sup> Ms Margaret Douglas, RoadSafe Central Victoria, *Public Hearing*, 31 May 2016, p.12

<sup>91</sup> Mr Peter Anderson, *Submission 4*, 2 March 2016, p.3

<sup>92</sup> Acting Senior Sergeant Ryan Burns, Victoria Police, *Public Hearing*, 30 May 2016, p.27, cf. p.28

However, the Police also noted that the community generally complies with the existing road rules regardless of their enforceability:

It is our experience that largely the community will comply with the law ... The vast majority of the community are in the middle. They make an assessment as to whether or not they will comply with the law dependent on whether or not they will be detected and whether or not they will sustain a negative consequence for their action. I think in general most of the population do want to be safe. They understand that others want to be safe when they use our road system, and largely they will comply depending on what their other interests might be — that is, if they are late, et cetera.<sup>93</sup>

Some witnesses argued that the specified minimum passing distance rules were primarily about prosecuting motorists who pass very close to cyclists. The Committee was told by some that the intention of the rule was not to fine people who passed a cyclist with a distance of 1.4 metres instead of 1.5. However, the advantage of having a specified minimum passing distance is that it would enable the prosecution of a motorist travelling well within the minimum distance (such as 0.2 metres).<sup>94</sup> As discussed in Section 3.2.1, this is difficult with the current rules.

The enforcement policies and strategies that would be required to implement the Bill in Victoria are the same as for most of the laws covered by the Victorian road rules. While there is no expectation that police are armed with yardsticks to measure passing gaps, it is expected that where a pass is made dangerously, and it can be established that the minimum distance was not observed, the laws can be enforced.<sup>95</sup>

While it is understood that minimum passing distance can be difficult to police it does not make its implementation any less important. Recent data from South Australia has demonstrated that the law can be enforced and is more successful than previously 'vague' definitions of dangerous passing.<sup>96</sup>

... we don't wish to see further development of the 'us-and-them' mentality where every minor infraction or possible encroachment into the 1 or 1.5m zone is reported. Obviously, we would like to see any motorist crashing into a cyclist, deliberately or by accident, dealt with in the strongest of terms. The issue though does tend to become one of how to handle narrow misses, or perceived narrow misses, again both accidental and deliberate.<sup>97</sup>

The Committee particularly notes the attitude of Queensland Police on this matter, as relayed to the Committee by Professor Narelle Haworth:

When we spoke with the police — we spoke to high level officers and we also spoke to officers who were in the enforcement role every day — they said there were difficulties in collecting sufficient evidence to withstand a challenge in court. They were quite concerned about that. They said that they really needed witnesses to come forward to supplement camera evidence to be confident of their ability to

<sup>93</sup> Inspector Wayne Chatters, Victoria Police, *Public Hearing*, 30 May 2016, p.26

<sup>94</sup> Mr Brett Ellis, Macedon Ranges Cycling Club, *Public Hearing*, 31 May 2016, pp.30-1; see also Ms Samantha Dunn MLC, *Public Hearing*, 31 May 2016, p.17

<sup>95</sup> Mr Paul Schofield, *Submission 78*, 16 March 2016, p.2

<sup>96</sup> Cycling Victoria, *Submission 90*, 22 March 2016, p.4

<sup>97</sup> Macedon Ranges Cycling Club, *Submission 128*, 29 March 2016, p.2

get a prosecution. There is relatively limited dedicated enforcement of the rule, but nevertheless officers said that their observation was that drivers' behaviour had changed; drivers were leaving more room. The police in general were very supportive of the continuation of the rule, despite the fact that it was not easy for them to enforce.<sup>98</sup>

Problems with the enforcement of specified minimum passing distances and potential solutions are further discussed in Section 5.4 of this report.

### 3.4.4 Riskier cyclist behaviour

Following the introduction of specified minimum passing distance laws in Queensland, the Queensland Police reported that motorist behaviour in relation to cyclists had improved. However, some police officers believed that cyclists had become less cautious:

Before the rule, cyclists rode closer to the left-hand edge of road. Several officers felt that after the introduction of the rule, cyclists appear to feel safer and take greater risks, or feel that they have a greater sense of entitlement to be on the road.<sup>99</sup>

This observation was echoed by Mr John Eacott of the BMW Motor Cycle Club Victoria, who indicated that he had heard reports from interstate, especially Queensland, of "a disregard, a casualness from cyclists expecting a degree of protection."<sup>100</sup> Several surveys of Queensland drivers have found that between 21 and 34 per cent of respondents believed that cyclists use the minimum passing distance rules to block lanes.<sup>101</sup>

However, Ms Genevieve Graves from the Royal Automobile Club of Queensland indicated that she had "not heard anywhere anybody saying that cyclists are less cautious."<sup>102</sup>

The Committee notes that no objective measurements have been made of changes in cyclist behaviour in Queensland following the introduction of the rules. Professor Narelle Haworth, who worked on the Queensland evaluation, suggested that cyclist behaviour (such as position on the road) is one area that should be monitored in evaluating the rule changes (see further discussion in Section 5.5.1 of this report).<sup>103</sup> Should the Bill pass, the Government may also need to undertake an education campaign targeted at cyclists to ensure they continue to ride cautiously on the road.

98 Professor Narelle Haworth, Centre for Accident Research and Road Safety – Queensland, *Public Hearing*, 3 May 2016, p.2

99 Amy Schramm, Narelle Haworth, Kristiann Heesch, Angela Watson & Ashim Debnath, *Evaluation of the Queensland Minimum Passing Distance Road Rule: Final Report* (2016), p.12

100 Mr John Eacott, BMW Motorcycle Club of Victoria, *Public Hearing*, 21 June 2016, p.12

101 Amy Schramm, Narelle Haworth, Kristiann Heesch, Angela Watson & Ashim Debnath, *Evaluation of the Queensland Minimum Passing Distance Road Rule: Final Report* (2016), p.21

102 Ms Genevieve Graves, Royal Automobile Club of Queensland, *Public Hearing*, 31 May 2016, p.51

103 Professor Narelle Haworth, Centre for Accident Research and Road Safety – Queensland, *Public Hearing*, 3 May 2016, p.7

### 3.5 The results of minimum passing distance rules in other jurisdictions

A key factor to be considered in determining whether or not to introduce the proposed rules in Victoria is whether or not the rules have had a positive impact in other jurisdictions where they have been introduced.

A number of the groups opposing the Bill considered that there was insufficient evidence as to the effectiveness of specified minimum passing distance rules from other jurisdictions. VicRoads and the Transport Accident Commission stated:

They have not got enough to really make a decision about whether or not there were any safety benefits gained through the implementation in Queensland. I guess what we were highlighting was that there are some indications that there might have been some behavioural shifts in Queensland. Whether that actually has resulted in good safety outcomes, that evaluation is not able to determine that at this point. We are not aware of any other evaluations that have taken place that really in a quantitative sense can demonstrate whether or not implementing this rule does result in safety benefits for cyclists.<sup>104</sup>

We feel that the evidence base, while it is building, is probably not what we would call solid in relation to this.<sup>105</sup>

A number of other groups also indicated that they did not consider there to be sufficient evidence to conclude that specified minimum passing distances have led to better safety outcomes for cyclists.<sup>106</sup>

As part of the trial of the rules in Queensland, efforts were made to evaluate the impact of the rule changes. It proved difficult to find objective evidence at the time the evaluation was conducted. The evaluation commenced after the rules came into effect, making the collection of baseline data difficult. Key sources of data in which before and after trends might be seen (such as emergency department presentations and hospitalisations) were not available at the time the evaluation was prepared.

Preliminary bicycle crash data from Queensland Police (relating to accidents of all sorts, not only those connected with overtaking) were made available as part of the evaluation in Queensland. The data indicate a reduction in the rate of bicycle crashes with injuries following the commencement of the trial.<sup>107</sup> The trends in serious bicycle-related crashes (that is, accidents resulting in death or hospitalisation) can be seen in Figure 3.1.

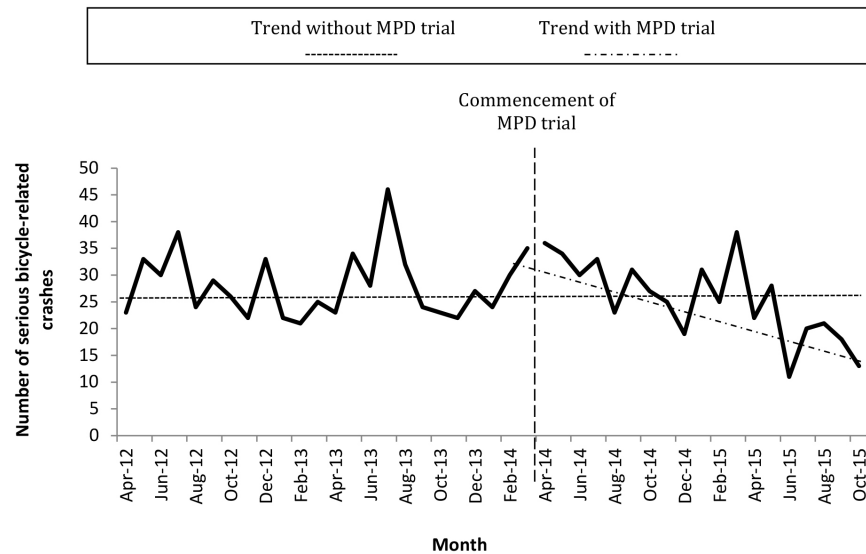
<sup>104</sup> Ms Robyn Seymour, VicRoads, *Public Hearing*, 30 May 2016, p.37

<sup>105</sup> Ms Samantha Cockfield, Transport Accident Commission, *Public Hearing*, 30 May 2016, p.39

<sup>106</sup> RACV, *Submission 150*, 5 April 2016, p.4; Bicycle Network, *Submission 140*, 1 April 2016, p.4

<sup>107</sup> Amy Schramm, Narelle Haworth, Kristiann Heesch, Angela Watson & Ashim Debnath, *Evaluation of the Queensland Minimum Passing Distance Road Rule: Final Report* (2016), p.58

Figure 3.1 Trend in serious bicycle-related crashes in Queensland



Note: "MPD" stands for "minimum passing distance".

Source: Amy Schramm, Narelle Haworth, Kristiann Heesch, Angela Watson & Ashim Debnath, *Evaluation of the Queensland Minimum Passing Distance Road Rule: Final Report* (2016), p.59

The evaluation concluded:

The extent to which the reduction in serious bicycle crashes can be attributed to the introduction of the MPD [minimum passing distance] road rule is unclear. A better understanding of the factors underpinning this change may be possible when a longer period of data and more detailed information becomes available which will allow identification of those crashes likely to have been affected by the MPD road rule. However, the reduction is consistent with the views expressed by many of the police interviewed and the cyclists and drivers surveyed that the introduction of the MPD road rule has made it safer for cyclists.<sup>108</sup>

Assistant Commissioner Mike Keating from the Queensland Police similarly interpreted the preliminary crash data as indicating "a reduction in incidents between cyclists and motorists which result in injury."<sup>109</sup>

Preliminary statistics from Queensland’s Motor Accident Insurance Commission also show a reduction in claims relating to cyclists crashing with motor vehicles:

If you look at 2012, we had 305 claims in Queensland. In 2013 we had 283 claims. For 2014, which has not quite been finalised, it actually kicked up slightly to 307. But what has been significant is the 2015 claims at this point [May 2016], bearing in mind that we do expect to see an increase but normally it would not be a fairly large one at this point. It is currently running at 198 claims for 2015.

... It is significant, but it is not proof in itself.<sup>110</sup>

108 Amy Schramm, Narelle Haworth, Kristiann Heesch, Angela Watson & Ashim Debnath, *Evaluation of the Queensland Minimum Passing Distance Road Rule: Final Report* (2016), p.69

109 Assistant Commissioner Mike Keating, Queensland Police, *Public Hearing*, 21 June 2016, p.20

110 Mr Mike Stapleton, Queensland Department of Transport and Main Roads, *Public Hearing*, 30 May 2016, p.46



These data suggest that the rules in Queensland have had a beneficial impact on cyclist injury rates. However, it is important to note that the data are preliminary and it will be important to re-assess the evidence once final data are available.

Surveys have indicated that many Queenslanders believe that the rules have had a positive impact on driver behaviour:

- one survey found that 73 per cent of cyclists and 60 per cent of motorists had observed motorists giving cyclists more room when overtaking than previously, with 25 per cent indicating that drivers gave cyclists “a lot more space”<sup>111</sup>
- other surveys have also found that cyclists believe that cars are providing more room when overtaking than previously, particularly in metropolitan areas (71 per cent) as opposed to non-metropolitan areas (59 per cent)<sup>112</sup>
- some surveys indicated that 20-27 per cent of drivers believe that the minimum passing distance rule has made them more aware of cyclists,<sup>113</sup> while others found that 55-57 per cent of all road users believe they are more aware of cyclists<sup>114</sup>
- 34 per cent of drivers and 66 per cent of cyclists believe the rule in Queensland has made it safer for cyclists.<sup>115</sup>

These perceptions about Queensland were also reflected in evidence given to the Committee.<sup>116</sup>

The Committee received similar evidence in relation to South Australia:

The [South Australian] police have informed us [the South Australian Department of Planning, Transport and Infrastructure] that, and it is anecdotal, there has been an increase in the observable distance afforded to cyclists by motorists. That is anecdotal only.<sup>117</sup>

Similarly, a Bike SA member survey found that:

- 70 per cent of respondents believed that motorists were better than previously at leaving at least 1 metre passing distances in areas with speed limits under 60 kilometres per hour

111 Amy Schramm, Narelle Haworth, Kristiann Heesch, Angela Watson & Ashim Debnath, *Evaluation of the Queensland Minimum Passing Distance Road Rule: Final Report* (2016), pp.19-20

112 Amy Gillett Foundation, *Queensland Minimum Overtaking Distance Trial: Public Opinion Research* (2015); Amy Gillett Foundation, *Queensland Minimum Overtaking Distance Legislative Trial: Market Research Findings* (2014)

113 Amy Schramm, Narelle Haworth, Kristiann Heesch, Angela Watson & Ashim Debnath, *Evaluation of the Queensland Minimum Passing Distance Road Rule: Final Report* (2016), p.21

114 Amy Gillett Foundation, *Queensland Minimum Overtaking Distance Trial: Public Opinion Research* (2015); Amy Gillett Foundation, *Queensland Minimum Overtaking Distance Legislative Trial: Market Research Findings* (2014)

115 Amy Schramm, Narelle Haworth, Kristiann Heesch, Angela Watson & Ashim Debnath, *Evaluation of the Queensland Minimum Passing Distance Road Rule: Final Report* (2016), p.21

116 Assistant Commissioner Mike Keating, Queensland Police, *Public Hearing*, 21 June 2016, p.19; Mr Mike Stapleton, Queensland Department of Transport and Main Roads, *Public Hearing*, 30 May 2016, pp.43, 46; Mr John Handley, *Submission 10*, 15 April 2016, p.2

117 Mr Andrew Parkinson, South Australian Department of Planning, Transport and Infrastructure, *Public Hearing*, 30 May 2016, p.49

- 47 per cent believed that motorists were better at leaving at least 1.5 metres where speed limits are above 60 kilometres per hour.<sup>118</sup>

In relation to New South Wales, the Committee was told:

**Mr AYRES** — ... [the members of Cycling New South Wales] feel that there are some positive changes out on the road. They certainly feel that ... Generally speaking there is a feeling that there is growing awareness but there is a long way to go.

**Ms HARTLAND** — So for the majority of drivers, who are reasonable people, it probably has made them more alert to the issues.

**Mr AYRES** — Absolutely, yes.<sup>119</sup>

A study of 3-foot (0.9 metre) minimum passing distance rules in the United States reported similar perceptions in some states:

Anecdotally, cyclists in Georgia have expressed that they feel they are receiving more space from motorists since the passing of the 3 Foot Law, though no effort has been made to document this.<sup>120</sup>

... in Kansas, there is a sense amongst bicyclists that drivers are becoming more respectful and doing a better job of sharing the road. This evidence is anecdotal ...<sup>121</sup>

The perception among some cyclists [in Louisiana] is that the 3 Foot Law has been effective in creating awareness of the necessity to pass cyclist at a safe distance.<sup>122</sup>

Certain advocates perceive that, in general, people are behaving on the road. Motorists [in Maine] seem to be giving cyclist room.<sup>123</sup>

However, Bicycle Network noted that Australian survey results need to be treated with some caution:

While these surveys are a welcome addition to an under-researched area, they provide evidence of riders' *belief* they are being given more space, and not strong evidence that vehicles are *actually* allowing more distance when overtaking.<sup>124</sup>

The Royal Automobile Club of Queensland indicated that, although there were tensions when the rules were first introduced in Queensland, anecdotally these appear to have reduced over time:

118 Bike SA, "South Australia's New Cycling Laws - 3 Months On Survey Results" <[www.bikesablog.com/2016/03/south-australias-new-cycling-laws-3-months-on-survey-results/](http://www.bikesablog.com/2016/03/south-australias-new-cycling-laws-3-months-on-survey-results/)>, accessed 9 August 2016; South Australian Department of Transport and Infrastructure, *Submission 172*, 17 June 2016, p.8

119 Mr Phil Ayres, Cycling New South Wales, and Ms Colleen Hartland MLC, *Public Hearing*, 31 May 2016, p.56

120 Charles Brown, Patrick Farley, Jonathan Hawkins & Christine Orthmeyer (n.d.), *The 3 ft. Law: Lessons Learned from a National Analysis of State Policies and Expert Interviews*, p.38

121 Charles Brown, Patrick Farley, Jonathan Hawkins & Christine Orthmeyer (n.d.), *The 3 ft. Law: Lessons Learned from a National Analysis of State Policies and Expert Interviews*, p.42

122 Charles Brown, Patrick Farley, Jonathan Hawkins & Christine Orthmeyer (n.d.), *The 3 ft. Law: Lessons Learned from a National Analysis of State Policies and Expert Interviews*, p.44

123 Charles Brown, Patrick Farley, Jonathan Hawkins & Christine Orthmeyer (n.d.), *The 3 ft. Law: Lessons Learned from a National Analysis of State Policies and Expert Interviews*, p.47

124 Bicycle Network, *Submission 140*, 1 April 2016, p.6



... if you use feedback measures such as social media, Facebook, not just to our site but to other sites, I think in the early days there was a lot of conflict and a lot of very aggressive messaging. I think over time that has settled down a bit, and I think some of that would be partly to the continued messages that have been rolled out to help create this more, I suppose, moderate thinking around safety and so on. And maybe people have just learnt to accept that there is now a need to road share because there is a road rule that underpins that requirement.<sup>125</sup>

A different perspective was presented by Mr John Eacott of the BMW Motorcycle Club Victoria:

The reports I have had from interstate, especially Queensland, are that there has been far more angst and upset since the introduction of the trial that they are having than there ever was before — far more. There is a disregard, a casualness from cyclists expecting a degree of protection. There is certainly angst from motorists and other road users from being held up. That is a direct observation from other motorcyclists.<sup>126</sup>

Queensland surveys also found that 17-20 per cent of drivers were annoyed that cyclists must be given the specified minimum passing distances.<sup>127</sup>

The Committee was particularly interested to hear from the Royal Automobile Club of Queensland (RACQ). Initially, the organisation had many of the same concerns that have been expressed by groups and individuals opposing the changes in Victoria. However, following the trial in Queensland, the RACQ changed its position:

Initially RACQ was opposed based on our belief that courtesy and educating for improved road sharing was a more effective approach. The evidence is not strong in terms of overseas jurisdictions where the distance rules have been introduced. We no longer oppose the 1-metre rule in Queensland given that it was introduced and during the trial we did not see the adverse effects that we had anticipated, but we also believe that it is better to support bicycle rider safety primarily with a common message rather than to just keep challenging it on the basis that it was difficult to enforce the road rule.

That was the key to our opposition to the road rule — that we do not like road rules that are unenforceable, and we do believe that it is very difficult to enforce a road rule that is about 1 metre distance ... in terms of bicycle safety, us having a message that was dissimilar to what was then run by other organisations is not improving bicycle safety, so we took a deep breath and said, 'Okay, we support the road rule'.

It is difficult to say whether it works evidentially, because the CARRS-Q [Centre for Accident Research and Road Safety - Queensland] evidence is not very clear on that, but anecdotally people do believe that it has worked, and that is coming both from bicycle riders and from car drivers that they have a better understanding.<sup>128</sup>

<sup>125</sup> Mr Steve Spalding, Royal Automobile Club of Queensland, *Public Hearing*, 31 May 2016, p.51

<sup>126</sup> Mr John Eacott, BMW Motorcycle Club of Victoria, *Public Hearing*, 21 June 2016, p.12

<sup>127</sup> Amy Schramm, Narelle Haworth, Kristiann Heesch, Angela Watson & Ashim Debnath, *Evaluation of the Queensland Minimum Passing Distance Road Rule: Final Report* (2016), p.21

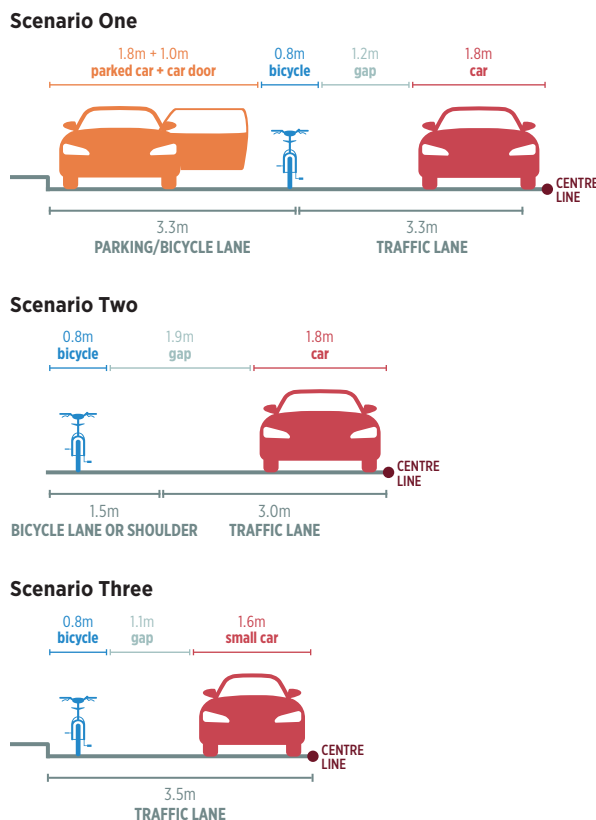
<sup>128</sup> Ms Genevieve Graves, Royal Automobile Club of Queensland, *Public Hearing*, 31 May 2016, p.50

### 3.6 Bicycle and traffic lane widths

The width of road and bicycle lanes was raised as a potential impediment for minimum passing distances. Some Victorian roads are wide enough that a motor vehicle can pass a cyclist with a 1/1.5-metre gap without the vehicle having to leave the lane. However, in many cases, lane widths mean that this will not be possible. The proposed minimum passing distances would therefore require vehicles to wait behind cyclists in situations where there is not enough space on the road to pass with the required distance and the vehicle cannot move out of its lane.

VicRoads’ guidelines recommend that general traffic lanes should be between 3.0 and 3.5 metres wide.<sup>129</sup> Wider lanes are recommended for busier roads. This is fairly comparable to international guidelines.<sup>130</sup> Austroads recommends that bicycle lanes should be at least 1.5 metres wide, with a minimum of 1.2 metres.<sup>131</sup> Where these guidelines are followed, there may be sufficient space for a car to pass a cyclist without leaving its lane (see Figure 3.2).

**Figure 3.2** Possible passing distances without leaving one’s lane on roads meeting VicRoads guidelines



Source: Economy and Infrastructure Committee

129 VicRoads and Transport Accident Commission, *Submission 166*, 29 April 2016, p.35

130 Bicycle Network & SKM, *Lane Widths on Urban Roads* (2010), pp.12-13

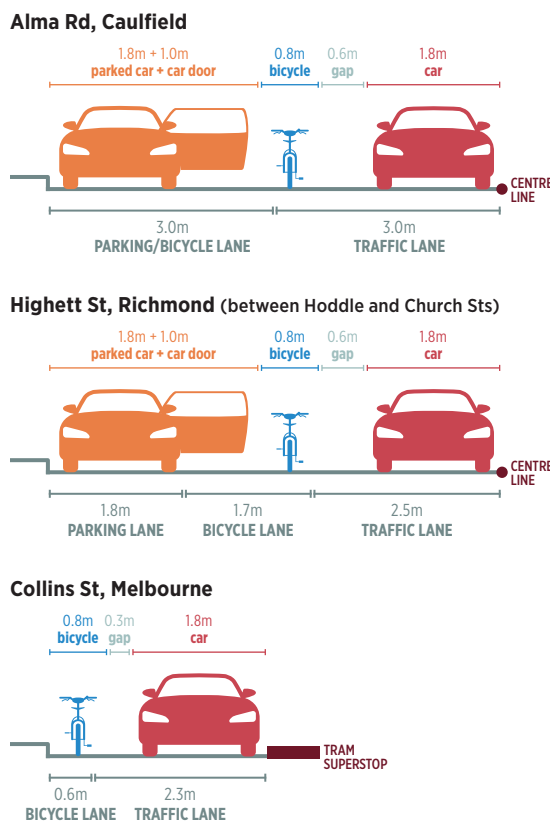
131 Austroads, *Cycling Aspects of Austroads Guides* (2014), p.31

However, a report by Sinclair Knight Merz for Bicycle Network found a number of examples in Melbourne where bicycle and traffic lane widths were narrower than the guidelines (see Figure 3.3). This is sometimes due to lanes being retrofitted to provide turning lanes, to create bicycle lanes, to reduce the crossing distances for pedestrians, to provide parking or to encourage lower traffic speeds.<sup>132</sup> The RACV stated:

... we are finding that a lot of councils, especially in inner Melbourne, are reducing the lane widths either to put in bicycle lanes, to put in more parking or to apply a restriction in those areas. Our concern there is there is not a mandated minimum. Whilst VicRoads has standards, there is not a direct compliance in terms of the width of bicycle lanes to apply, especially in council areas. So that is really a concern to us and is something which would need to be taken into account in this particular argument.<sup>133</sup>

Where bicycle or traffic lanes are narrow, it may not be possible for drivers to allow bicycles a gap of 1/1.5 metres without leaving the lane (see Figure 3.3).

**Figure 3.3** Possible passing distances without leaving one’s lane on roads in Melbourne with narrow traffic or bicycle lanes



Source: Economy and Infrastructure Committee

132 Bicycle Network & SKM, *Lane Widths on Urban Roads* (2010), p.5

133 Mr Brian Negus, RACV, *Public Hearing*, 31 May 2016, p.41

The scenarios in Figures 3.2 and 3.3 relate to cars. Less space would be available for larger vehicles (for example, trucks can be up to 2.5 metres wide). These scenarios also assume that it is safe for a motor vehicle to ride directly against the centre line, which may not be appropriate in some cases where traffic is coming in the other direction. Similarly, in some situations, it may not be safe for a bicycle to ride at the edge of the road.<sup>134</sup>

Where it is not possible for a motorist to leave 1/1.5 metres of space when passing,<sup>135</sup> the new rules would require the motorist to wait behind the cyclist.

The provisions in the Bill permitting motorists to cross centre lines, drive outside their lane and so on are intended to mitigate this by enabling motorists to overtake bicycles in more situations. These provisions are discussed further in Chapter 4 of this report.

Some submissions suggested that there should be an exemption to the specified minimum passing distances for motorists passing cyclists in bicycle lanes. This is discussed further in Sections 3.8.1-3.8.2 of this chapter.

The RACV argued that minimum bicycle and traffic lanes should be mandated:

... VicRoads should mandate and enforce minimum lane widths for bicycle and traffic lanes for all public roads in Victoria. We are not saying they all should be 3.5 metres — quite the contrary — but we are saying there should be a mandated minimum at least which applies to both bicycle and to vehicle lanes.<sup>136</sup>

The Committee particularly notes the variations in bicycle lane widths. In the City of Melbourne, for example, bicycle lanes vary from 0.6 metres in Collins Street to 1.4 metres in St Kilda Road to 1.8 metres in Canning Street.<sup>137</sup> Particularly narrow bicycle lanes may provide a false sense of security for drivers or cyclists.<sup>138</sup>

The Committee considers that there may be benefits to mandated minimum lane widths, especially for bicycle lanes.

**RECOMMENDATION 2:** That the Government consider the benefits of introducing mandatory minimum traffic and bicycle lane widths for Victorian roads.

<sup>134</sup> Mr Craig Richards, Bicycle Network, *Public Hearing*, 31 May 2016, pp.4-5

<sup>135</sup> Assuming the Committee's amendments as set out in Section 2.2.3 are adopted; otherwise, the restriction would only apply to overtaking as defined in the Road Rules.

<sup>136</sup> Mr Brian Negus, RACV, *Public Hearing*, 31 May 2016, pp.41-2

<sup>137</sup> Bicycle Network & SKM, *Lane Widths on Urban Roads* (2010), pp.24, 26, 27

<sup>138</sup> John Parkina & Ciaran Meyers ("The Effect of Cycle Lanes on the Proximity Between Motor Traffic and Cycle Traffic", *Accident Analysis & Prevention* 42.1 (2010), pp.159-65) found that, in some instances, motorists may leave less passing distance when passing a bicycle in a bicycle lane than when passing a cyclist where there is no bicycle lane. David L. Harkey & J. Richard Stewart ("Evaluation of Shared-Use Facilities for Bicycles and Motor Vehicles", *Transportation Research Record: Journal of the Transportation Research Board* 1578 (1997), pp.111-8) found that motorists drove closer to cyclists in bicycle lanes of 0.9 metres width than to cyclists in bicycle lanes of 1.2 metres or more. Kathryn Stewart & Adrian McHale ("Cycle Lanes: Their Effect on Driver Passing Distances in Urban Areas", *Transport* 29:3, pp.307-16) note the contradictory nature of the evidence on this matter and find that other factors may be more significant in determining passing distances than whether or not bicycle lanes are present.

## 3.7 Intersections

### 3.7.1 Potential problems at intersections

One concern raised by VicRoads and the Transport Accident Commission is the application of the minimum passing distance rule at intersections:

Rule 141 of the *Road Safety Road Rules 2009* allows bicycles to overtake other vehicles and stationary vehicles on the left, unless the other vehicle is indicating and turning left. One of the often cited arguments against minimum overtaking distance laws is what happens if a bicycle rider passes other vehicles in stationary or slow moving traffic or a bicycle comes to a stop beside a motor vehicle within a distance of one metre (e.g. when stopped at an intersection). A cyclist might choose to lane filter down a narrow gap between the kerb and stationary traffic, but under the proposed laws when the lights change would the motor vehicles have to stay stationary to avoid breaking the law? Is the driver still obliged to maintain the minimum overtaking distance in this instance? Could the driver be placed in a position where they could be accused of not maintaining the required distance, when it was the cyclist who chose to lane filter down a narrow width?<sup>139</sup>

Similar concerns were raised by some Queensland drivers in correspondence to the Department of Transport and Main Roads.<sup>140</sup>

In terms of the rules proposed in the Bill, the 1/1.5-metre passing distance is only specified for “a driver of a motor vehicle overtaking a person who is riding a bicycle”. On this basis, the Committee does not believe that any offence would occur if a cyclist were to overtake (or pass<sup>141</sup>) a motorist with less than the specified minimum passing distance (though the requirement for the cyclist to maintain a “sufficient distance” to avoid a collision or obstruction would remain). The Committee understands that this is how the rule has been interpreted in Queensland as well.<sup>142</sup>

However, where a cyclist is adjacent to a motorist or in front of a motorist at an intersection with a red light, the motorist could not pass<sup>143</sup> the cyclist when the light turns green unless they can do so with a 1/1.5-metre gap. If it is not possible for the motorist to leave this gap, they must wait behind the cyclist.

The Committee is concerned that this may present some problems at intersections with narrow lanes and large volumes of bicycle traffic, such as in Melbourne’s central business district. As noted above, cyclists are entitled to move past cars at intersections and move to the front of traffic. In addition, many intersections around Melbourne contain “bike boxes”. A bike box is an area marked at an intersection where cyclists must stop, and usually places them in front of the line of traffic.

<sup>139</sup> VicRoads and Transport Accident Commission, *Submission 166*, 29 April 2016, pp.30-1

<sup>140</sup> Amy Schramm, Narelle Haworth, Kristiann Heesch, Angela Watson & Ashim Debnath, *Evaluation of the Queensland Minimum Passing Distance Road Rule: Final Report* (2016), p.8

<sup>141</sup> Assuming that the amendments set out by the Committee in Section 2.2.3 of this report are adopted.

<sup>142</sup> Queensland Department of Transport and Main Roads, *Minimum Passing Distance Rules: Get the Facts*, (n.d.), p.3

<sup>143</sup> Assuming that the amendments set out by the Committee in Section 2.2.3 of this report are adopted.

In such situations, motorists will not be able to pass cyclists with 1/1.5-metre gaps. Where there is light bicycle traffic, this will slow down cars crossing the intersection and reduce the number of cars that can cross the intersection with each green light. If there is continuous bicycle traffic, motorists may not be able to legally move at all during a green light. The case study below (looking at the intersection of Spring, Collins and MacArthur Streets) illustrates some of these concerns.

### 3.7.2 Case study: the intersection of Spring, Collins and MacArthur Streets, Melbourne

Figure 3.4 illustrates the intersection of Spring, Collins and MacArthur Streets in Melbourne. There are tram “superstops” in both Collins and MacArthur Streets, and two sets of traffic lights on MacArthur Street near the Spring Street intersection. As noted in Section 3.6, the bicycle lane in Collins Street is only 0.6 metres wide, the traffic lane only 2.3 metres wide and the tram superstop means that motorists would not be able to leave the traffic lane to allow a 1-metre passing distance for cyclists. The situation is similar in MacArthur Street.

There is also a bicycle box at the intersection of Spring and MacArthur Streets, which would place cyclists directly in front of motorists.

During the morning peak, many bicycles and motor vehicles use the MacArthur Street-Collins Street route to access the central business district. A bicycle count in 2014 indicated that 286 cyclists travelled towards the central business district along MacArthur Street between 8 and 9 am.<sup>144</sup> This equates to an average of 4.8 bicycles per minute or one bicycle every 13 seconds.

Potential points of conflict would arise at the points labelled A, B and C in the diagram.

At points A and B, when there is a red light, a line of waiting cyclists may develop in the bicycle lane adjacent to cars or in the bicycle box in front of cars. As it is not possible to pass or overtake a cyclist with a 1-metre gap at these points (due to the tram superstop and tram lanes),<sup>145</sup> no motorist would be able to proceed through the lights until all cyclists had moved. This could lead to a substantial delay when there is a long line of waiting cyclists. If more cyclists come down the road while the cars are waiting and pass the cars, the cars could have to wait even longer.

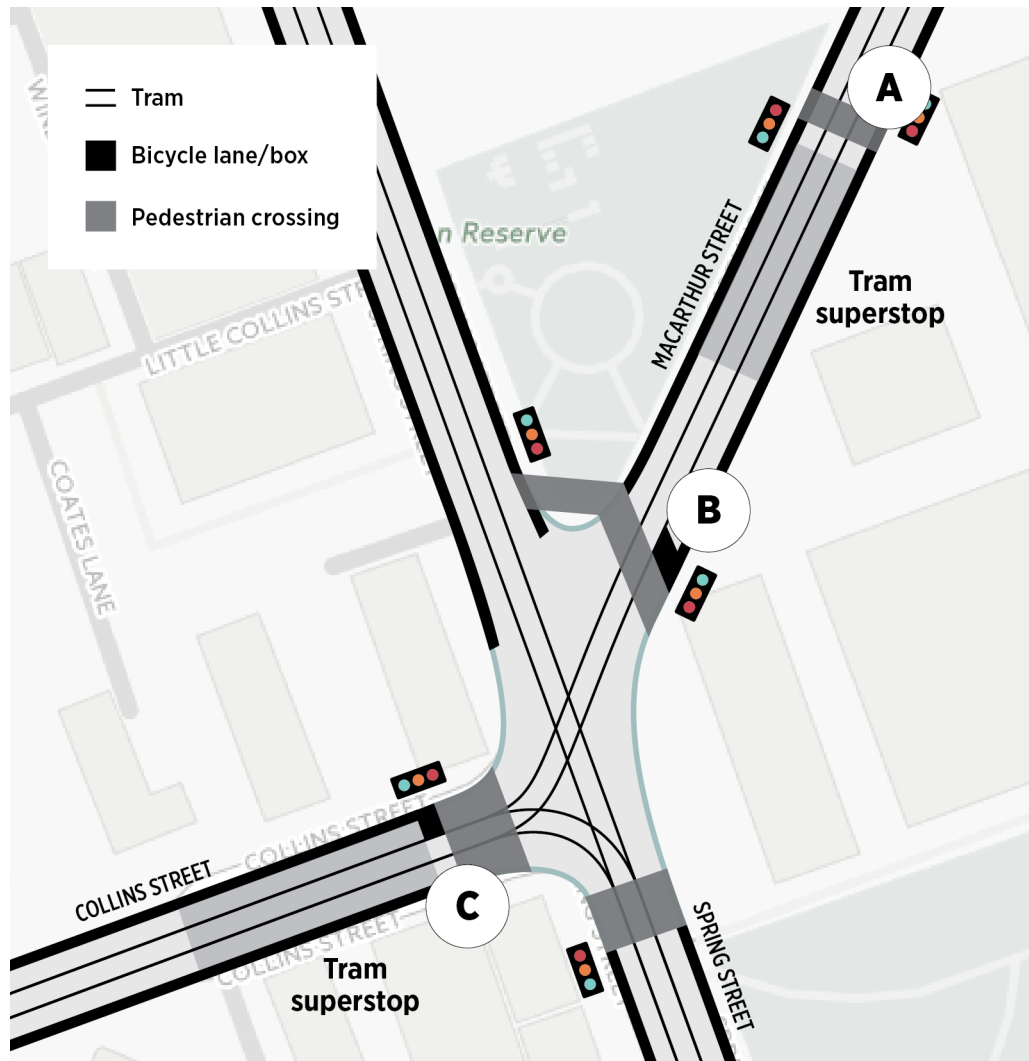
Vehicles that were able to move when the lights turn green at point A would only be able to travel at the speed of the last bicycle throughout the distance between points A and B, as there would be no opportunity to pass with a 1-metre gap in that length of road.<sup>146</sup>

<sup>144</sup> Melbourne City Council, “Annual Vehicle and Bicycle Counts at Key Locations” <[www.melbourne.vic.gov.au/sitecollectiondocuments/annual-bicycle-count-march-2014.doc](http://www.melbourne.vic.gov.au/sitecollectiondocuments/annual-bicycle-count-march-2014.doc)>, accessed 10 August 2016

<sup>145</sup> If the Road Rules were amended to allow vehicles to enter a tram lane to pass bicycles (see Section 6.2.1 of this report), this may allow passing at point B.

<sup>146</sup> There may be a small area where it would be possible if the Road Rules were amended to allow vehicles to enter a tram lane to pass bicycles (see Section 6.2.1 of this report).

**Figure 3.4** The intersection of Spring, Collins and MacArthur Streets, Melbourne



Source: Economy and Infrastructure Committee

At point C, Collins Street is very narrow and it would not be possible for a car to enter the street from the intersection at the same time as a bicycle while leaving a 1-metre gap. If a continual flow of bicycles were to occur, a motorist would be required to wait in the intersection until the flow of bicycles had stopped. Upon entering Collins Street, due to the narrow street, the motorist would then be required to travel at the speed of the last of the bicycles to enter the street until the tram superstop had been passed.

There are a number of other streets in and approaching Melbourne's central business district where similar difficulties may be encountered.

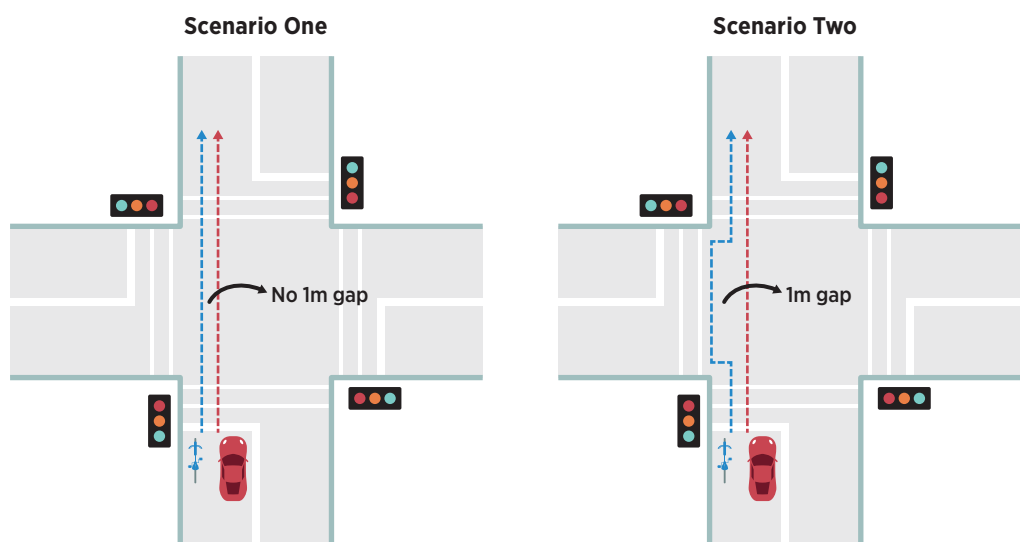


### 3.7.3 Potential solutions

There are a number of options for addressing these concerns, such as:

- introducing bicycle traffic lights at high-bicycle-volume intersections to provide times when motorists can travel through the intersection but bicycles cannot
- requiring or encouraging cyclists to veer left and ride closer to the pedestrian crossing of the perpendicular road when crossing an intersection (see Figure 3.5). This would facilitate cars leaving 1-metre gaps through the intersection, though some motorists might be prevented from leaving the intersection if there is a high volume of bicycle traffic and the road they are entering is too narrow to leave 1/1.5 metres
- amend the proposed legislation to only require motorists to allow a “sufficient distance” when passing cyclists at intersections and travelling below a certain speed. As with the previous option, there may still be issues with the car/bicycle interface when leaving the intersection
- amend the proposed legislation to only require motorists to allow a “sufficient distance” when travelling at less than a certain speed. The Committee was informed that this approach was adopted in Portland, Oregon, with a speed of 35 miles per hour (56 kilometres per hour) selected.<sup>147</sup> This would also facilitate drivers passing cyclists in slow-moving peak-hour traffic. However, this may have side effects such as not requiring motorists to leave 1/1.5-metre gaps in areas such as school zones (see Section 3.8.2 of this chapter in relation to exempting areas with low speed limits).

**Figure 3.5** Cyclists veering left at intersections



Source: Economy and Infrastructure Committee

147 VicRoads and Transport Accident Commission, *Submission 166*, 29 April 2016, p.31



The case study in Section 3.7.2 provides an example of one intersection where problems may need to be addressed. Modelling may be required to accurately gauge the full impact of the proposed rules on traffic flows, and to determine what measures may be required to mitigate potential congestion issues.

**RECOMMENDATION 3:** That the Legislative Council consider amending the Overtaking Bicycles Bill to reduce potential conflicts arising from the interaction of cyclists and vehicles at intersections, particularly intersections with high volumes of bicycles and narrow roads, such as those in Melbourne's central business district.

## 3.8 Proposed exemptions

In addition to the possible exemptions discussed in Section 3.7.3, a number of exemptions to the minimum passing distances were suggested by submitters or witnesses to this inquiry.

Some witnesses expressed concern that exemptions would weaken the message and make it more difficult for drivers to understand the rules. For example:

... exemptions and changes just confuse the issue.<sup>148</sup>

If we have exemptions from these requirements, it dilutes the message and therefore the message does not get through.<sup>149</sup>

Any exemptions will cloud the very important safety message for drivers, that they should give cyclists space, and only pass when safe to do so.<sup>150</sup>

The Committee notes that there are many road rules that have exceptions. Indeed, clauses 3 and 5 of the Bill (discussed in Chapter 4 of this report) propose adding to the number of exemptions to road rules, such as allowing motorists to cross the centre line of a road to overtake bicycles.

The Committee does not consider that exemptions should be ruled out solely because of their potential to confuse or weaken the message of a rule. However, the Committee accepts that exemptions do complicate the rules. Therefore the benefits of a potential exemption need to be significant to outweigh any potential confusion.

### 3.8.1 Exemption if there is a bicycle lane

The RACV gave evidence that, if minimum passing distances are mandated, the rule should not be applicable to motorists when passing bicycle riders in an adjacent bicycle lane.<sup>151</sup> The RACV argued:

148 Mr Kipp Kaufmann, Cycling Victoria, *Public Hearing*, 30 May 2016, p.12

149 Mr Andrew Smeal, *Public Hearing*, 31 May 2016, p.23

150 Ms Jenica Brooke, *Submission 80*, 17 March 2016, p.1

151 Mr Brian Negus, RACV, *Public Hearing*, 31 May 2016, p.41; RACV, *Submission 150*, 5 April 2016, p.6

The proposed bicycle overtaking rules effectively widen every bicycle lane by at least one metre, by requiring motor vehicles in an adjacent lane to provide at least a one metre separation to a bicycle in a bicycle lane ...

Riders position themselves against the right side of bicycle lanes, to reduce their exposure to the risk of a door of a parked vehicle being opened or a pedestrian stepping out. On busy bicycle commuter routes like St Kilda Road, this will prevent the use of the adjacent lane by trucks and buses, and possibly most motor vehicles.<sup>152</sup>

VicRoads and the Transport Accident Commission also suggested that consideration be given to whether or not specified minimum passing distances were needed where there is a bicycle lane, noting:

... if a bicycle rider is in a dedicated bike lane, the road environment has already delineated a degree of separation between riders and drivers, and there are rules governing the use of bicycle lanes by drivers which are designed to protect riders.<sup>153</sup>

As discussed in Section 3.6 of this chapter, one of the problems with this is that there is no mandated minimum width for a bicycle lane. Evidence from Ms Margaret Douglas of RoadSafe Central Victoria reflected this point, “Our view is that a bike lane is a piece of paint. It does not make an unsafe distance safe because it is a piece of paint.”<sup>154</sup>

Ms Douglas also suggested that such an exemption could be practically difficult:

... I am a lawyer, and you have got to read it really carefully to figure out what is a legitimate legal bike lane and what is a piece of paint with a stencil that is not actually a bike lane. It would produce a lawyer’s picnic, quite frankly.<sup>155</sup>

Some bicycle lanes have physical separators dividing them from traffic lanes. The Melbourne City Council suggested that these are “sufficient to ensure safe and adequate separation between cyclists and motorists” and therefore considered that a mandated minimum passing distance was unnecessary in such situations.<sup>156</sup>

However, the Committee notes that most bicycle lanes do not have physical separators. Given this, and the absence of mandated minimum bicycle lane widths, the Committee considers that cyclists in a bicycle lane can be in danger from motor vehicles passing. The Committee therefore does not agree with the idea of an exemption to the minimum passing distance rules where there is a bicycle lane.

152 RACV, *Submission 150*, 5 April 2016, pp.5-6

153 VicRoads and Transport Accident Commission, *Submission 166*, 29 April 2016, p.29

154 Ms Margaret Douglas, RoadSafe Central Victoria, *Public Hearing*, 31 May 2016, p.14

155 Ms Margaret Douglas, RoadSafe Central Victoria, *Public Hearing*, 31 May 2016, p.12

156 Melbourne City Council, *Submission 115*, 30 March 2016, p.2

### 3.8.2 Exemption if there is a bicycle lane and the speed limit is 50 kilometres per hour or less

Bicycle Network proposed an exemption to the minimum passing distances when there is bicycle lane and the speed limit is 50 kilometres per hour or less:

Particularly in urban environments in Australia, there are a myriad of on-road bike lanes where the adjacent road width does not allow a motor vehicle driver to give a rider a one metre space when passing a bicycle rider. In these locations, motor vehicles would be restricted to the speed of the bicycle rider and it would be a less efficient use of road space.

In streets where there are bike lanes and tram routes, this may also result in slowing tram movements which carry large numbers of people. This is not an effective method for an integrated transport system. A solution to this is making the MPDL [minimum passing distance law] not apply to bike lanes where the speed limit on the road is less than 50kmph.<sup>157</sup>

The Committee received a significant number of submissions from Bicycle Network members indicating that they were not consulted about this proposed exemption and did not support it.

This exemption would mean that drivers are not required to provide a minimum passing distance in school zones. This was one of the main reasons for opposing the suggestion:

We cannot see any logic to that recommendation. We also note that speed zones around schools and shopping precincts are 40 kilometres per hour. I personally would not like to think that my children on their bikes would not be protected by this law.<sup>158</sup>

School zones are one of the MOST DANGEROUS for cyclists because of constant law breaking by parents in cars, particularly double or triple parking, parking in no standing zones, illegal turns and so on. There is also, obviously a high percentage of children riding — consequently MORE protection is required, not less.<sup>159</sup>

In evidence to the Committee, the Amy Gillett Foundation argued that there is still a significant risk of injury to cyclists from being hit on roads with speed limits of 50 kilometres per hour and under:

... the likelihood of death of a vulnerable road user increases dramatically when hit at speeds of 30 kilometres or more; and at a speed of 50 kilometres that risk of fatality is at 80 per cent.<sup>160</sup>

Of bicycle crashes reported to Victorian Police between 2002 and 2012, 35 per cent occurred in speed zones of 50 kilometres per hour or less.<sup>161</sup>

<sup>157</sup> Bicycle Network, *Submission 140*, 1 April 2016, p.10

<sup>158</sup> Ms Phoebe Dunn, Amy Gillett Foundation, *Public Hearing*, 3 May 2016, p.14

<sup>159</sup> Mr John Handley, *Submission 10*, 15 April 2016, p.4

<sup>160</sup> Ms Phoebe Dunn, Amy Gillett Foundation, *Public Hearing*, 3 May 2016, p.14; see also Ms Margaret Douglas, RoadSafe Central Victoria, *Public Hearing*, 31 May 2016, p.12

<sup>161</sup> Megan Garratt, Marilyn Johnson & Jacinta Cubis, *Road Crashes Involving Bike Riders in Victoria, 2002–2012: An Amy Gillett Foundation Report* (2015), p.31

As discussed in Section 3.8.1 of this chapter, the Committee considers it important for the minimum passing distances to be maintained whether or not there is a bicycle lane. The Committee does not consider that a speed limit of 50 kilometres per hour or less provides sufficient protection to eliminate the need for a specified minimum passing distance.

### 3.8.3 Motorcycles

Some witnesses suggested that motorcyclists should be exempt from the minimum passing distance laws, and only be required to provide a “sufficient distance” when overtaking:

A rider of a motorcycle is ideally placed to judge and directly see “sufficient overtaking distance to avoid a collision” as required in the current version of RR [Road Rule] 144(a), unlike a driver of a motor vehicle which is required to estimate such a distance. Further, the occurrence of a motorcycle sideswiping a bicycle during an overtaking manoeuvre is extremely rare.<sup>162</sup>

Motorcycles are unlike other motorised road user groups in that riders are infinitely capable of judging their separation from other vehicles; there is no justifiable requirement to include motorcycles in giving a one or one and a half metre separation from bicycles. The current RR 144(a) ‘sufficient overtaking distance to avoid a collision’ is perfectly adequate for motorcycles and bicycles, so we submit that motorcycles should be included in the proposed RR 144(2)(b) and exempted from complying with the proposed minimum overtaking distance rules.<sup>163</sup>

Our recommendation there is that, if the road rules are amended, motorcycle riders should be exempted from mandated minimum separation and only provide sufficient distance ...<sup>164</sup>

Both the Victorian Motorcycle Council and the BMW Motorcycle Club Victoria suggested that the proposed rules may negatively impact the safety of motorcyclists, in particular by requiring them to cross the centre line of the road:

Under the proposed rules, a motorcycle performing an overtaking manoeuvre (if safe to do so) on a single lane each way road, will often but unnecessarily be required to cross over onto the wrong side of the road in order to comply with the minimum passing distance. In most cases a motorcycle could safely conduct the overtaking manoeuvre within the same lane by simply leaving a sufficient distance. This avoids any potential conflict with an oncoming vehicle.<sup>165</sup>

Another concern shared by motorcycle organisations and the RACV is that the rules will unnecessarily reduce the opportunities for motorcyclists to lane filter, a recent safety measure for motorcyclists:

<sup>162</sup> Victorian Motorcycle Council, *Submission 127*, 31 March 2016, p.4

<sup>163</sup> BMW Motorcycle Club Victoria, *Submission 131*, p.1

<sup>164</sup> Mr Brian Negus, RACV, *Public Hearing*, 31 May 2016, p.42

<sup>165</sup> Victorian Motorcycle Council, *Submission 127*, 31 March 2016, p.5

In terms of the conflict with other regulations, recent legislation changes enable motorcycle filtering between the kerb and a line of traffic at less than [30 kilometres per hour]. That is in a queued situation or a slow-moving queued situation. RACV supported that particular rule; it was practical. We do not support lane splitting, which is at speed, because that is inherently dangerous. Lane filtering is a different issue, and that has been legalised. The widest point of a motorcycle is readily apparent to the rider; it is pretty much where their hands are on the handlebars. The proposed change pertaining to bicycle clearance will prevent a motorcycle rider from filtering past a bicycle rider in that situation of filtering.<sup>166</sup>

A motorcycle not being allowed to filter or indeed attracting an overtaking infringement while filtering, is potentially an unintended consequence of these new overtaking laws.<sup>167</sup>

The Committee was informed about the importance of lane filtering for motorcyclists from a safety perspective:

... filtering is there for our safety. It gets us out of the traffic, from being rear-ended. The highest percentage of accidents within the urban area for motorcyclists are from being hit from behind, because you are stuck in traffic. Now that was the reason for filtering — so that we get out of the traffic lane and we get between them. Even if we are not actually moving past, we are positioned such that if somebody rear-ends, they can rear-end a car — that can take the impact, we cannot. We are soft, pink bodies and it hurts when we get hit, so we do not like to put ourselves in danger and we do not like to be put in a situation where our danger is increased unnecessarily.<sup>168</sup>

However, the proposed rules would not prevent all lane filtering. The rules would only prevent a motorcycle from filtering between a bicycle and a car.

The Committee notes that collisions with motorcycles account for a small portion of bicycle accidents, but that accidents between bicycles and motorcycles do occur. Victorian data suggest that 0.6 per cent of hospitalisations of cyclists due to on-road collisions are a result of collisions with two- or three-wheeled motor vehicles.<sup>169</sup>

The Committee notes the concerns expressed by a number of submitters about exemptions making rules more complicated (see above). The Committee does not consider that the potential benefits of exempting motorcycles from the minimum passing distance rules would outweigh the resulting confusion or weakening of the rule.

<sup>166</sup> Mr Brian Negus, RACV, *Public Hearing*, 31 May 2016, p.42; cf. RACV, *Submission 150*, 5 April 2016, p.8

<sup>167</sup> Victorian Motorcycle Council, *Submission 127*, 31 March 2016, p.6

<sup>168</sup> Mr John Eacott, BMW Motorcycle Club of Victoria, *Public Hearing*, 21 June 2016, pp.11-12

<sup>169</sup> Committee calculation based on data supplied by the Victorian Injury Surveillance Unit, covering the period 2004-2015, excluding incidents where the nature of the collision was not specified in the available data

## 3.9 Conclusions

Based on the considerations outlined in this chapter, the Committee considers that the likely benefits of specifying minimum passing distances outweigh the potential disadvantages. Though the Committee is not aware of research indicating that 1 metre and 1.5 metre gaps are the ideal minimum passing distances, it notes that these are generally recommended distances and that these same distances have been adopted in South Australia, New South Wales, Queensland and the Australian Capital Territory.

There is limited objective evidence as to the effectiveness of specified minimum passing distance rules in other jurisdictions. Preliminary data and anecdotal evidence suggest that such rules have been effective. If the rules are implemented in Victoria, it will be important for the Government to monitor developments in other jurisdictions as final data become available to ensure that the rules are effective and do not have unintended consequences (see further discussion on this in Section 5.5 of this report).

Overall, the Committee supports the idea of specified minimum passing distances. The Committee considers that clause 4 of the Bill should be supported by the Legislative Council, subject to the following points, as recommended above:

- that wherever the clause refers to “overtaking”, it should be amended to refer to “overtaking or passing” (see Section 2.2.3 of this report)
- that further thought be given to how the rules would function at intersections (see Section 3.7).

**RECOMMENDATION 4:** That the Legislative Council support changes to the Road Rules requiring motor vehicles to leave minimum passing distances when passing bicycles of:

- (a) 1 metre in areas with speed limits of 60 kilometres per hour or less
- (b) 1.5 metres in areas with higher speed limits.

# 4 Crossing the centre line

## 4.1 Proposed changes to the Road Rules

Clauses 3 and 5 of the Bill would allow a driver to do the following to overtake a bicycle:

- cross the centre of an unmarked two-way road
- cross a dividing line separating traffic travelling in different directions (including single lines, double lines, broken lines and continuous lines)
- drive on a dividing strip
- drive across the edge of a painted island
- cross lines separating lanes in a multi-lane road (including continuous lines)
- drive over the edge line of a road.

Importantly, with respect to the first four actions in the above list, drivers would only be able to do the action if they have a clear view of any approaching traffic, it is “necessary and reasonable” and the driver can do it safely.

These clauses reflect the fact that some Victorian roads are not wide enough for motor vehicles to pass bicycles with 1/1.5-metre gaps while staying in their lanes (see Section 3.6 of this report). The provisions would create more opportunities for motorists to legally leave their lanes to pass bicycles, thus reducing the frequency with which motorists would have to wait behind bicycles. This should reduce traffic congestion and driver frustration with the specified minimum passing distance rules.

The same provisions are made for avoiding obstructions on the road.

Similar provisions were included in the legislation in the other Australian jurisdictions with specified minimum passing distances. In Tasmania, similar provisions were introduced without a specified minimum passing distance. See Section 2.3.1 of this report for further details of other jurisdictions.

Allowing the crossing of continuous centre lines was a particular concern for a number of submitters and witnesses to this inquiry.



## 4.2 Rationale for allowing crossing the centre line

People arguing in favour of allowing drivers to cross the centre line to pass cyclists argued that it would make it easier for drivers to leave the required passing distance, especially on some rural roads.<sup>170</sup> Ms Samantha Dunn MLC explained:

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.<sup>171</sup>

Ms Gemma Kernich, from the South Australian Department of Planning, Transport and Infrastructure, suggested that allowing drivers to cross the centre line was important for public acceptance of the specified minimum passing distance rules:

Provided they understand that they can actually cross double lines or move to the wrong side of the road to afford that distance, most people seem to reconcile that it [a 1-metre passing distance] is logical ...<sup>172</sup>

Supporters of the change noted that the centre lines were designed to indicate when it is unsafe for a car to overtake another car. However, a bicycle is usually travelling at a slower speed and therefore takes less time to overtake. Similarly, as a bicycle is much narrower than a car, a vehicle does not need to venture as far across the centre line to pass a bicycle as it does when overtaking a car.<sup>173</sup> Professor Haworth, from the Centre for Accident Research and Road Safety – Queensland, explained:

... the calculations on which the decision to put the double unbroken lines in ... is based on the distance that a car needs to overtake another car, with the idea that the actual speed differential between the overtaking car and the other car is perhaps only maybe 10 kilometres an hour or something like that and that the car is obviously car-sized.

If the instance is actually a car overtaking a bicycle, then obviously the bicycle is smaller and also the speed differential is likely to be much greater in terms of the speed of the bicycle being quite slow compared to the car, given the car is accelerating, and so the distance taken to get around the bicycle is actually probably

<sup>170</sup> Bike Safe Macedon Ranges, *Submission 130*, 31 March 2016, p.2

<sup>171</sup> Ms Samantha Dunn MLC, *Public Hearing*, 31 May 2016, p.18

<sup>172</sup> Ms Gemma Kernich, South Australian Department of Planning, Transport and Infrastructure, *Public Hearing*, 30 May 2016, p.50

<sup>173</sup> See, for example, Mr Mike Stapleton, Queensland Department of Transport and Main Roads, *Public Hearing*, 30 May 2016, p.44; Ms Glennys Jones, *Submission 123*, 31 March 2016, p.3



much less, and so the driver is spending much less time on the other side of the road than if they were overtaking a car. So in many circumstances it is still safe while there is ... the white line, the double unbroken line.<sup>174</sup>

Work done in Tasmania estimated that it would be safe to cross the centre line to pass a bicycle in 70 per cent of the places where there are centre lines.<sup>175</sup>

It was also noted that some drivers currently cross unbroken lines to pass cyclists.<sup>176</sup> One submitter argued that it was undesirable to have a law which is ignored and is not enforced.<sup>177</sup>

## 4.3 Concerns about crossing the centre line

### 4.3.1 The risk of head-on collisions

In response to the argument in favour of allowing the crossing of centre lines, the RACV stated:

RACV is aware of arguments by bicycle riders that vehicles require less time to overtake them than another motor vehicle. However the ability of a driver to assess these marginal differences is a key concern. This is especially the case, given that many bicycles on country roads will also be travelling at speeds approaching that of a slow moving car, 25-35km/h on country roads, and up to 70km/h when descending a hill.<sup>178</sup>

The RACV further considered that allowing drivers to cross centre lines posed a safety hazard by increasing the risk of head-on collisions between vehicles travelling in opposite directions:

This proposal undermines the intent of centre lines, which are placed in locations where drivers cannot see far enough ahead to determine whether it is safe to safely complete an overtaking manoeuvre ...

It is not reasonable to place the onus on motorists to make a decision about the perceived safety of a passing manoeuvre that puts oncoming road users at risk of a head-on collision.<sup>179</sup>

<sup>174</sup> Professor Narelle Haworth, Centre for Accident Research and Road Safety – Queensland, *Public Hearing*, 3 May 2016, p.4

<sup>175</sup> Mr Craig Hoey, Tasmanian Department of State Growth, *Public Hearing*, 30 May 2016, p.54

<sup>176</sup> Ms Sue McKinnon, *Submission 103*, 24 March 2016, p.1; Mr Rob Salvatore, Victorian Motorcycle Council, *Public Hearing*, 21 June 2016, pp.3-5; VicRoads and Transport Accident Commission, *Submission 166*, 29 April 2016, p.33

<sup>177</sup> Ms Sue McKinnon, *Submission 103*, 24 March 2016, p.1

<sup>178</sup> RACV, *Submission 150*, 5 April 2016, p.5

<sup>179</sup> RACV, *Submission 150*, 5 April 2016, p.5; cf. Mr Brian Negus, RACV, *Public Hearing*, 31 May 2016, p.40

Similar concerns were expressed by VicRoads, the Transport Accident Commission and Victoria Police:

One of the other risks of allowing drivers to cross continuous centre lines, is creating the perception amongst road users that it is no longer dangerous to cross these centre lines and drivers may engage in this behaviour more often, even when not overtaking bicycles.<sup>180</sup>

Amendments to the rules would allow drivers to cross the double white lines and the unbroken single lines to be able to obey the new 1-metre rule, which would not be supported by Victoria Police. We would object as it is inconsistent with the previous communications around the danger of crossing over these lines, and it would increase the risk of road trauma. Allowing for the separation of vehicles from bicycles would subsequently increase the likely risks of vehicles coming into conflict. This is not consistent with the safe system approach.<sup>181</sup>

The “safe systems” approach underpins Victoria’s current road safety strategy (see further discussion in Section 6.1 of this report). It accepts that people sometimes make mistakes on the road and considers that the impact of mistakes should be mitigated by factors such as road infrastructure, vehicle technology, speed limits and reducing dangerous behaviour.<sup>182</sup>

In relation to South Australia, VicRoads and the Transport Accident Commission informed the Committee that:

Anecdotally, there has been some feedback and concerns regarding the mid line exemption rule which allow the motorist to cross if they have a clear view of any approaching traffic and can overtake safely. The concerns and early reports are that many drivers are not waiting until they have a clear view of oncoming traffic and they do not necessarily overtake when it is considered safe.<sup>183</sup>

In Queensland, some police officers also expressed concern about drivers’ ability to judge when it is safe to cross a centre line.<sup>184</sup> In response to a questionnaire developed as part of the evaluation of the trial of the rules in Queensland:

- 15 per cent of drivers indicated that they had experienced a near-miss with a vehicle travelling in the opposite direction when they were overtaking a bicycle in the last 12 months
- 9 per cent had experienced a near-miss with a vehicle travelling in the same direction when they were overtaking a bicycle
- 2 per cent had experienced a near-miss with another vehicle when that vehicle was overtaking a bicycle.<sup>185</sup>

<sup>180</sup> VicRoads and Transport Accident Commission, *Submission 166*, 29 April 2016, p.34

<sup>181</sup> Acting Senior Sergeant Ryan Burns, Victoria Police, *Public Hearing*, 30 May 2016, p.25

<sup>182</sup> Victorian Government, *Towards Zero* [2016]; Transport Accident Commission, “Towards Zero”, <[www.tac.vic.gov.au/road-safety/towards-zero](http://www.tac.vic.gov.au/road-safety/towards-zero)>, accessed 5 July 2016

<sup>183</sup> VicRoads and Transport Accident Commission, *Submission 166*, 29 April 2016, p.21

<sup>184</sup> Amy Schramm, Narelle Haworth, Kristiann Heesch, Angela Watson & Ashim Debnath, *Evaluation of the Queensland Minimum Passing Distance Road Rule: Final Report* (2016), pp.11-12

<sup>185</sup> Amy Schramm, Narelle Haworth, Kristiann Heesch, Angela Watson & Ashim Debnath, *Evaluation of the Queensland Minimum Passing Distance Road Rule: Final Report* (2016), p.37

However, the evaluation report noted that “none of the more than 4,000 drivers surveyed had been involved in a crash of this kind in the previous year”.<sup>186</sup>

Mr Mike Stapleton from the Queensland Department of Transport and Main Roads indicated that the United Kingdom has a similar rule and the experience there indicated the rule was safe.<sup>187</sup> After the two-year trial, he concluded that:

I believe that what we are seeing on the Queensland road network is that generally motorists are more than able to judge approach speeds and ‘safe to do sos’ in terms of the execution. So we think that at this stage it has been reasonably successful and that motorists have shown and demonstrated the capacity to actually apply the rule effectively.<sup>188</sup>

Professor Narelle Haworth noted that this rule was a challenge for communication:

... I think that there is a challenge in communicating that [it is sometimes safe to cross unbroken lines] to the public and communicating it well, but also to communicate to the public that it is not a carte blanche for travelling over the double unbroken lines; it is still when the driver perceives that it is safe to do. Clearly there are instances when it will not be safe to go over the line and the driver will have to stay behind the cyclist for a bit longer until they judge that it is safe to overtake.<sup>189</sup>

In terms of ways to address these concerns, the Tasmanian Government developed an online video seeking to explain these issues.<sup>190</sup> One submitter also suggested that:

Consideration should be given to marking roads where sightlines are so blocked that even a cycle should not be passed. This may be in the form of another line on the road in particular areas of very tight corners, narrow roads and high cycle use.<sup>191</sup>

The Committee notes that the evidence is unclear as to whether or not there is an increased risk of head-on collisions from allowing motorists to cross the centre line to pass bicycles. However, as VicRoads and the Transport Accident Commission indicated:

It is expected that the results from trials in the other states in the medium term, will make some assessment of the risks associated with crossing centre lines and the impact it has had in those states.<sup>192</sup>

If the proposed rules are implemented, the Committee considers that this is something that should be monitored as part of evaluation of the rules (see further discussion of evaluation in Section 5.5.1 of this report).

<sup>186</sup> Amy Schramm, Narelle Haworth, Kristiann Heesch, Angela Watson & Ashim Debnath, *Evaluation of the Queensland Minimum Passing Distance Road Rule: Final Report* (2016), p.68; cf. Professor Narelle Haworth, Centre for Accident Research and Road Safety – Queensland, *Public Hearing*, 3 May 2016, pp.3-4

<sup>187</sup> Mr Mike Stapleton, Queensland Department of Transport and Main Roads, *Public Hearing*, 30 May 2016, p.44

<sup>188</sup> Mr Mike Stapleton, Queensland Department of Transport and Main Roads, *Public Hearing*, 30 May 2016, p.44

<sup>189</sup> Professor Narelle Haworth, Centre for Accident Research and Road Safety – Queensland, *Public Hearing*, 3 May 2016, p.4

<sup>190</sup> See [www.youtube.com/watch?v=U-at\\_HaUPlg](http://www.youtube.com/watch?v=U-at_HaUPlg) (accessed 21 July 2016)

<sup>191</sup> Ms Sue McKinnon, *Submission 103*, 24 March 2016, p.1

<sup>192</sup> VicRoads and Transport Accident Commission, *Submission 166*, 29 April 2016, p.34

### 4.3.2 Cyclists riding two abreast

In Victoria, cyclist are currently permitted to ride two abreast, as long as there is no more than 1.5 metres between them (Road Rule 151). VicRoads and the Transport Accident Commission expressed concern about allowing drivers to cross centre lines to pass cyclists that are riding two abreast:

Under the proposed minimum overtaking distance laws, drivers have the ability to legally cross and straddle centre lines, on single lane, two-way, rural high-speed roads, marked with double-white centre lines. When overtaking cyclists riding two abreast on such roads (e.g. mountainous tourist roads), drivers may have to cross to the far right hand side of the road in order to comply with the laws.

While there is no argument that the riders should be given sufficient space when being overtaken, the question lies in whether the amendment in the Bill that allows a driver to legally perform this manoeuvre creates a safe road environment, given the potent risk of having serious casualty crashes with another vehicle travelling in the opposite direction.<sup>193</sup>

The Committee notes that the proposed provision allowing a motorist to cross the centre line only allows them to do so if it can be done safely.<sup>194</sup> As noted in Section 4.3.1 of this chapter, this is an important component of the rule to communicate.

Other witnesses were concerned that the minimum passing distance rules would make it impossible to overtake cyclists riding two abreast in some circumstances and would slow down traffic:

If I can't pass a push bike with out 1.5 mt clearance (80 K/ph zone here), I could be waiting several minutes, if they are two abreast (which is quite common) you only have a few safe places to pass at all.<sup>195</sup>

If cyclists are riding two abreast on a road with a speed limit of 100km/h cars would have to very quickly down to the cyclist's speed causing a dangerous situation to traffic behind them.<sup>196</sup>

However, others argued that it was easier for cars to pass two cyclists riding abreast rather than in single file because a shorter distance has to be travelled to pass.<sup>197</sup>

A key rationale for allowing cyclists to ride two abreast is that it forces cars to provide a wider passing distance by moving into another lane rather than trying to squeeze past the bicycles in the same lane.<sup>198</sup> Given this, VicRoads and the

<sup>193</sup> VicRoads and Transport Accident Commission, *Submission 166*, 29 April 2016, p.32

<sup>194</sup> Road Rule 139(2)(a)-(c)

<sup>195</sup> Mr Andrew Kane, *Submission 129*, 31 March 2016, p.1

<sup>196</sup> Mr Adrian Dixon, *Submission 106*, 28 March 2016, p.1

<sup>197</sup> Ms Samantha Dunn MLC, *Public Hearing*, 31 May 2016, p.19; Mr Kipp Kaufman, Cycling Victoria, *Public Hearing*, 30 May 2016, 10

<sup>198</sup> Mr Kipp Kaufmann, Cycling Victoria, *Public Hearing*, 30 May 2016, p.10; Mr Craig Richards, Bicycle Network, *Public Hearing*, 31 May 2016, p.5; VicRoads and Transport Accident Commission, *Submission 166*, 29 April 2016, p.33

Transport Accident Commission suggested that allowing cyclists to ride two abreast might not be necessary (at least on certain roads) if minimum passing distances were introduced.<sup>199</sup>

The Victorian Motorcycle Council advocated restricting the places in which cyclists can ride two abreast:

Alternative considerations could be a legal restriction to two abreast riding on such roads where the prevailing speed limit is greater than 60km/h, or a requirement for group rides to form into single file when a vehicle approaches from behind in order to facilitate being safely overtaken. Either would restore road safety for motorcyclists [when overtaking bicycles] and arguably cyclists.<sup>200</sup>

When a rule requiring motorists to leave a 1-metre passing distance was introduced in Nova Scotia, Canada, this was accompanied by the introduction of a rule requiring cyclists to ride in single file except when overtaking.<sup>201</sup> There may be a significant degree of public support for such a change in Victoria. A recent survey of Victorians found that 91 per cent of respondents believed that cyclists should ride in single file on roads.<sup>202</sup>

This was not supported by bicycle groups in Victoria:

Riding two abreast does, for the bike rider, reduce that risk. There is a reason they ride two abreast, because in effect in that moment it does make people take a sufficient distance to pass them. I have heard people suggest, 'We should outlaw riding two abreast so bike riders can only ride one abreast', but we certainly would not recommend that change.<sup>203</sup>

Mr Craig Richards from Bicycle Network noted that, "we would never advocate putting traffic expediency ahead of people's lives."<sup>204</sup> However, bicycle groups did note that it is important for cyclists to be aware of motorists and be courteous, which may involve riding in single file at times:

The capacity to ride two abreast is part of current Victorian law; we are not proposing a change to that. But in every situation and particularly in certain areas there is the need for cyclists to be aware of their surroundings and be aware of who is behind them and who is around them and show some respect to motorists as well.<sup>205</sup>

What we do advocate [in relation to cyclists riding two abreast] ... is a common sense approach and that cyclists should be practical and polite and understand their environment. We work together and have a shared environment on the road, and everyone should work in that way.<sup>206</sup>

<sup>199</sup> VicRoads and Transport Accident Commission, *Submission 166*, 29 April 2016, p.33

<sup>200</sup> Victorian Motorcycle Council, *Submission 127*, 31 March 2016, p.5

<sup>201</sup> Nova Scotia, Chapter 59 of the Acts of 2010, *An Act to Amend Chapter 293 of the Revised Statutes, 1989, the Motor Vehicle Act*

<sup>202</sup> Wallis Strategic Market and Social Research, *Submission 125*, 31 March 2016, p.3

<sup>203</sup> Mr Craig Richards, Bicycle Network, *Public Hearing*, 31 May 2016, p.5; see also Ms Phoebe Dunn, Amy Gillett Foundation, *Public Hearing*, 3 May 2016, pp.18, 19; Mr Kipp Kaufmann, Cycling Victoria, *Public Hearing*, 30 May 2016, p. 10

<sup>204</sup> Mr Craig Richards, Bicycle Network, *Public Hearing*, 31 May 2016, p.4

<sup>205</sup> Ms Phoebe Dunn, Amy Gillett Foundation, *Public Hearing*, 3 May 2016, p.18

<sup>206</sup> Mr Kipp Kaufmann, Cycling Victoria, *Public Hearing*, 30 May 2016, p.10

The Committee considers that, if specified minimum passing distances are introduced, it will be important to encourage and remind cyclists to take such a “common sense approach”. This would include being aware of situations where motorists are unable to cross centre lines or leave their lane of traffic when passing a cyclist due to heavy traffic or road infrastructure. In such circumstances, it may be best to avoid riding two abreast.

One way to encourage this behaviour is through an education campaign targeted at both cyclists and motorists. The Committee was told that many motorists are unaware that cyclists are permitted to ride two abreast.<sup>207</sup> An education campaign could remind motorists that cyclists have a right to be on the road and to ride two abreast. At the same time, the campaign could encourage cyclists to show courtesy to motor vehicles and not slow them down, such as by not riding two abreast where this would cause significant congestion:

If the minimum overtaking distance laws are to be introduced in Victoria, it should perhaps come with clarification of the current rules and courteous conduct in this regard, to avoid adding to any existing resentment and misunderstanding.<sup>208</sup>

In addition, it may be helpful to erect signs on key arterial roads recommending that cyclists ride single file at certain times of day. This would remind cyclists of the circumstances and the need to be courteous to motorists.

Alternatively the issue could be resolved through amendments to the Road Rules. One possibility would be to introduce a rule similar to a rule in the US state of Colorado. The Colorado Uniform Vehicle Code states that cyclists can ride two abreast unless it impedes the flow of traffic:

Persons riding bicycles or electrical assisted bicycles two abreast shall not impede the normal and reasonable movement of traffic and, on a laned roadway, shall ride within a single lane.<sup>209</sup>

A second option would be to amend Road Rule 125, which states that a driver (including a cyclist) “must not unreasonably obstruct the path of another driver or a pedestrian.” “Unreasonably” is not defined in this context for cyclists. However, should the Parliament or Government wish to modify the Road Rules to restrict riding two abreast, a subrule could be added to Road Rule 125 indicating circumstances in which riding two abreast constituted “unreasonably obstructing” vehicles.

No evidence was presented to the Committee that cyclists riding two abreast have caused problems in jurisdictions where motorists are permitted to cross centre lines to pass cyclists. The Committee therefore considers that changing the Road Rules to prevent cyclists riding two abreast is unnecessary at this time.

<sup>207</sup> Ms Margaret Churcher, *Submission 47*, 8 March 2016, p.1; Macedon Ranges Cycling Club, *Submission 128*, 31 March 2016, p.1; St Kilda Cycling Club, *Submission 76*, 16 March 2016, p.1

<sup>208</sup> Wallis Strategic Market and Social Research, *Submission 125*, 31 March 2016, p.4

<sup>209</sup> Colorado Revised Statutes, Title 42. Vehicles and Traffic, Article 4. Regulation of Vehicles and Traffic, Part 14. Other Offenses, 12. Operation of bicycles and other human-powered vehicles, 6(b)



However, given the concerns about motorists not being aware that cyclists are permitted to ride two abreast, a communication campaign may be beneficial for reducing tensions on the road, particularly if it also includes messages encouraging cyclists and motorists to be courteous. This may be particularly valuable if specified minimum passing distance rules are introduced, but may be useful even if they are not.

If specified minimum passing distances are introduced, signage recommending that cyclists ride single file on certain routes at certain times may also assist with traffic flow and with building a culture of considering other road users.

**RECOMMENDATION 5:** That the Government undertake a communication campaign to remind motorists that cyclists are permitted to ride two abreast and to encourage cyclists to be courteous in riding two abreast by not doing so where it will slow traffic down unnecessarily.

**RECOMMENDATION 6:** That, if specified minimum passing distances are introduced, the Government erect signage at relevant locations recommending that cyclists ride single files at specified times. Relevant locations would include high-volume arterial roads where it may be impossible for motorists to pass cyclists riding two abreast while maintaining the minimum passing distance.

### 4.3.3 The risk to motorcycles

The Victorian Motorcycle Council and BMW Motorcycle Club Victoria considered that crossing unbroken centre lines posed a particular risk for motorcyclists. Mr John Eacott from the BMW Motorcycle Club Victoria explained:

... allowing traffic to cross the median line — be it single or double white line — when considered safe to do so is a much greater risk, because whilst we saw [in a previous presentation to the Committee] video of people doing it illegally, once it becomes legal it is going to occur far more often. Now it is a major problem for all cycles and motorcycles — people seeing them, recognising them and judging the distance — because most are just a vertical line with no indication of an increase in width, which will give you an indication of the rate of closure... People [crossing the centre line] will see us, they will misjudge our distance and they will put us into danger. I have got to stress that.<sup>210</sup>

The Committee sought information about whether or not there had been accidents between cars crossing centre lines to overtake cyclists and motorcyclists travelling in the opposite direction in Queensland. Assistant Commissioner Mike Keating of the Queensland Police told the Committee:

I am not aware of any incident as you describe it that has resulted in a fatality in the last three years. Where somebody in a car was overtaking a bicycle and then in that process, if [an accident occurred with] a motorbike, I am not aware of any circumstance like that off the top of my head. The requirement on the car driver or the motor vehicle operator who is overtaking the bicycle is that they can only do that

210 Mr John Eacott, BMW Motorcycle Club of Victoria, *Public Hearing*, 21 June 2016, p.11

when safe, so there is still responsibility for them to be alert and to take reasonable steps to ensure that it is still safe to overtake. In that circumstance you described, I am not aware of any incident of that type off the top of my head.

... sadly I can give you a pretty clear summary of almost every fatality traffic crash in Queensland this year off the top of my head, and I am just not aware of any circumstance in the nature as you describe it. There may be injury crashes that have occurred that I am not aware of because I do not see all of the injury traffic crash reports, but I get a summary first thing every morning of every fatal incident in the last 24 hours, and I just do not recall that scenario at all.<sup>211</sup>

The Queensland Department of Transport and Main Roads (TMR) stated:

At this time, TMR does not have any data indicating that there has been an increase in the incidence of head-on crashes as a result of a motorist passing a bicycle while crossing centre lines. Further, there is no data indicating that the rule has had an impact on crashes involving motorcyclists, however, it is doubtful that any effects could be conclusively isolated.<sup>212</sup>

The Committee notes the lack of definitive data on this issue and considers that this is an area where additional work should be undertaken prior to the introduction of rule changes allowing motorists to cross the centre line. The experience in other jurisdictions where such rules have been introduced should provide an evidence base which can be used to understand the extent of the problem and strategies to mitigate it.

**RECOMMENDATION 7:** That, if the Road Rules are changed to allow motorists to cross centre lines when passing bicycles, the Government undertake research to understand the risk posed to motorcyclists travelling in the opposite direction when cars cross centre lines. Based on this research, the Government should develop a strategy to mitigate this risk.

The Committee also considers that any changes in the incidence of motorcycle accidents related to other vehicles overtaking bicycles should be monitored as part of evaluating the road rules (see Section 5.5.1 of this report).

## 4.4 Conclusions

Overall, the Committee considers that there would be benefits to allowing motorists to cross centre lines, lines separating lanes, edge lines and so on when overtaking bicycles, as proposed in clauses 3 and 5 of the Bill. This would enable motorists to pass cyclists with 1/1.5 metres of space in more situations and may therefore reduce congestion and tensions on the road.

211 Assistant Commissioner Mike Keating, Queensland Police, *Public Hearing*, 21 June 2016, p.22

212 Queensland Department of Transport and Main Roads, correspondence received 14 July 2016



The Committee notes the concerns about the increased danger of head-on collisions. The Committee considers it important for the Government to monitor data from other jurisdictions and Victoria (if the rules are introduced) to ensure that the rule has not increased the risk to drivers of motor vehicles, including motorcycles.

As discussed in Section 2.2.3 of this report, the Committee also notes that clauses 3 and 5 of the Bill should be amended to refer to “overtaking or passing” rather than “overtaking”.

**RECOMMENDATION 8:** That the Legislative Council support changes to the Road Rules allowing motorists to do the following when passing bicycles if safe:

- (a) cross the centre of an unmarked two-way road
- (b) cross a dividing line separating traffic travelling in different directions (including single lines, double lines, broken lines and continuous lines)
- (c) drive on a dividing strip
- (d) drive across the edge of a painted island
- (e) cross lines separating lanes in a multi-lane road (including continuous lines)
- (f) drive over the edge line of a road.



# 5 Effective implementation of the changes

## 5.1 Background

The terms of reference for this inquiry recognise that simply changing the Road Rules would not be sufficient to increase road safety. In addition, there would need to be an educational campaign to inform road users along with enforcement strategies. As the Amy Gillett Foundation explained:

Following the enactment of the amendments, education and enforcement are critical to ensure the amendments lead to behaviour change and a safer cycling environment. This has been the lesson from the experience in Queensland.<sup>213</sup>

To ensure that the education and enforcement strategies are effective, it would also be important to monitor the impact of the new road rules and the associated education and enforcement strategies.

## 5.2 Education and information campaigns

### 5.2.1 Raising awareness about minimum passing distances

Each of the Australian jurisdictions that have introduced similar rules have accompanied the rules with education and information campaigns. New South Wales and South Australia borrowed heavily from Queensland's program. Tasmania developed a more original approach. The Committee heard positive feedback from a number of submitters and witnesses about these other jurisdictions' campaigns.

Prior to any changes to road rules in Australia, community groups ran various campaigns to raise awareness about the need to pass cyclists safely.

#### Community groups

The Amy Gillett Foundation launched an awareness campaign called "A Metre Matters" nationally in 2009. The campaign's alliterative tagline was developed to encourage recall and was accompanied by a graphic to visually communicate the message of a safe passing distance to road users.

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213 Amy Gillett Foundation, *Submission 135*, 1 April 2016, p.7

Figure 5.1 The Amy Gillett Foundation’s “A Metre Matters” campaign



Source: Ms Phoebe Dunn and Dr Marilyn Johnson, Amy Gillett Foundation, presentation at *Public Hearing*, 3 May 2016

Initial communication channels included roadside billboards, public transport stops, stickers, backpack covers and jerseys. As part of the campaign, the Foundation established a partnership with Europcar rental cars in Australia. This included various initiatives, such as stickers on the rear windscreens of the entire Europcar fleet in 2013.<sup>214</sup>

The Foundation has also partnered with a number of local councils, State Government bodies and private sector bodies to deliver bicycle safety messages. A partnership with Toll has seen “a metre matters” on the side of trucks, along with messages to “humanise” the issue (see Figure 5.2).<sup>215</sup>

Figure 5.2 The Amy Gillett Foundation’s partnership with Toll



Source: Ms Phoebe Dunn and Dr Marilyn Johnson, Amy Gillett Foundation, presentation at *Public Hearing*, 3 May 2016

The Committee also heard from groups in central Victoria that worked on a campaign called “Pass with Care”. This included billboards by roads, signs at festivals, posters in shops and advertising on the back of buses to raise

214 Marilyn Johnson, Tracey Gaudry & Lyndal Bugeja, “A Metre Matters: Using a Public Policy Approach to Create a Safer Cycling Environment in Australia”, *International Cycling Safety Conference 2014*, 18-19 November 2014, Göteborg, Sweden, p.5

215 Amy Gillett Foundation, *Submission 135*, 1 April 2016, pp.9-10; Ms Phoebe Dunn, Amy Gillett Foundation, *Public Hearing*, 3 May 2016, pp.11-12

awareness.<sup>216</sup> Mr Margaret Douglas from RoadSafe Central Victoria stated that 50 per cent of respondents to surveys about the campaign indicated that the campaign had influenced their behaviour.<sup>217</sup>

RoadSafe Central Victoria particularly noted the value of on-road messaging, recommending that, in addition to other media, an education campaign in Victoria to support the road rule changes:

... should also include highly visible on road messaging delivered on well used cycling routes in Victoria. We have found that this educational tool works well for the campaigns we support in our region.<sup>218</sup>

### Queensland – “Stay Wider of the Rider”

The Queensland Government conducted a number of campaigns to raise awareness about the new rules. The “Stay Wider of the Rider” campaign was launched one week before the introduction of the rules in 2014:

The campaign ran for one month and consisted of online video, bus backs and billboards, radio and online advertising, and social media. TMR [the Department of Transport and Main Roads] also provided a detailed fact sheet online explaining how the rule applies in various on-road scenarios. The Amy Gillett Foundation also ran a campaign promoting and advocating parallels to Queensland’s trial, primarily through free media.<sup>219</sup>

The campaign materials used diagrams to indicate the required distances.

In late 2014, the Government ran a “Thanks Queensland” campaign, which targeted all road users with messages about sharing the road. It included a television commercial that depicted a motorist observing the minimum passing distance without explicitly stating the rule.<sup>220</sup>

Evaluations indicated that the campaigns achieved high levels of public awareness – 99 per cent of cyclists and 95 per cent of drivers were aware of the specified minimum passing distance rules 15 months after they had been introduced.<sup>221</sup> However, there was a lower level of awareness about the rules allowing drivers to cross unbroken centre lines when overtaking bicycles, with only 64 per cent of drivers aware that this was legal.<sup>222</sup>

216 Ms Margaret Douglas, RoadSafe Victoria, *Public Hearing*, 31 May 2016, p.12; Ms Sue Blakey, Bike Safe Macedon Ranges, *Public Hearing*, 31 May 2016, pp.28, 35 and presentation at *Public Hearing*

217 Ms Margaret Douglas, RoadSafe Victoria, *Public Hearing*, 31 May 2016, p.12

218 RoadSafe Central Victoria, *Submission 119*, 31 March 2016, p.2

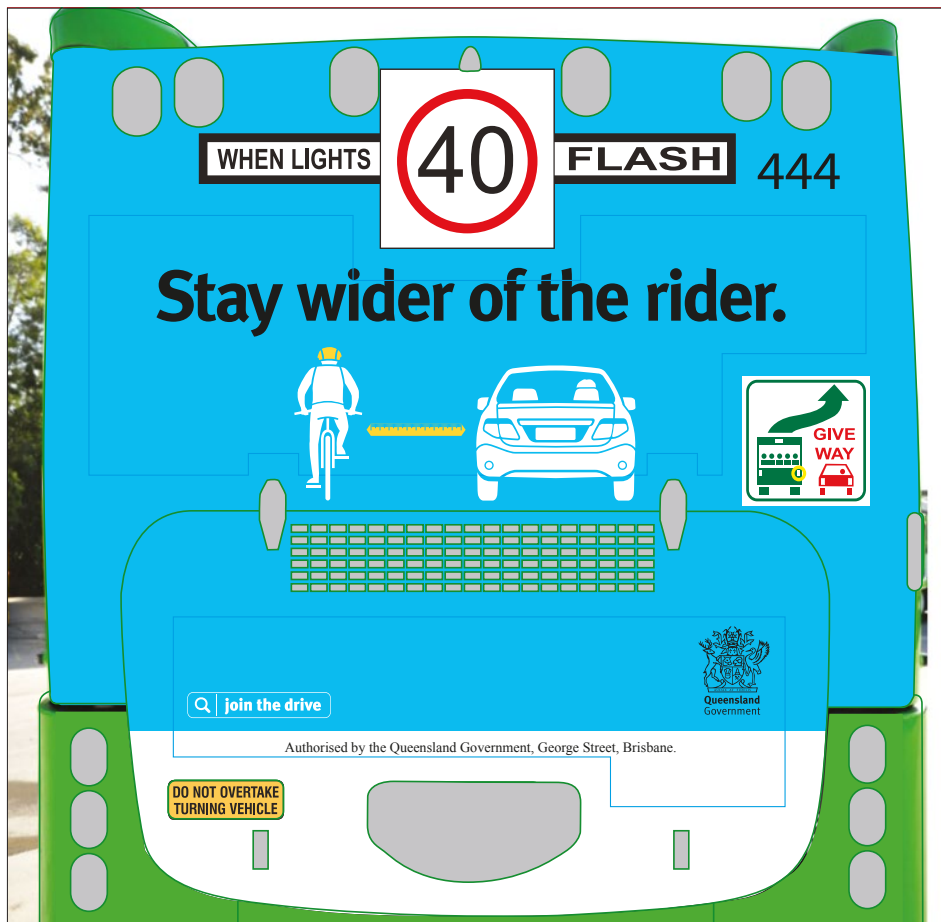
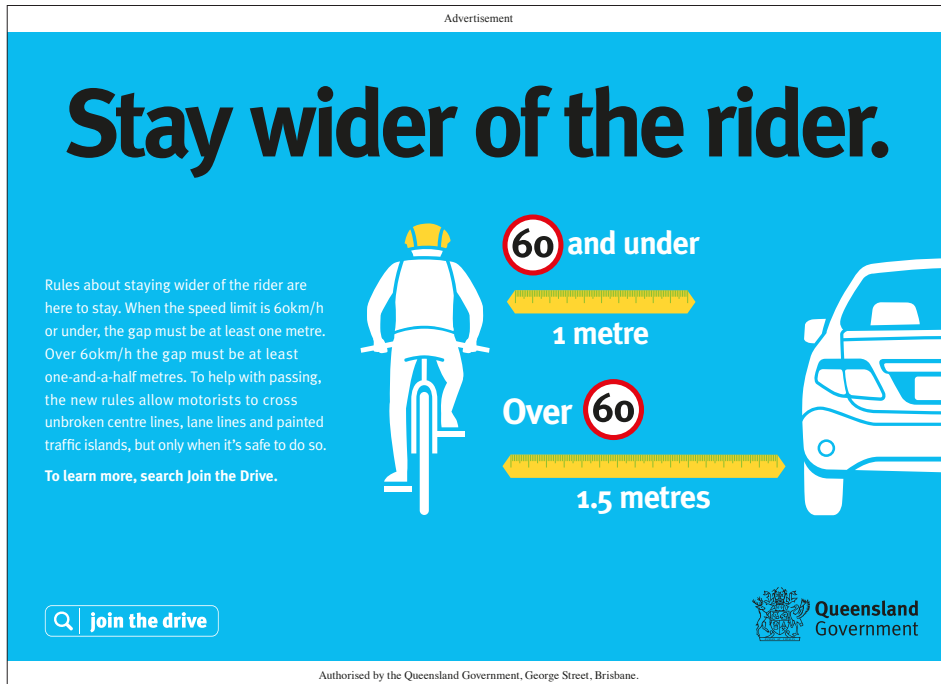
219 Mr Mike Stapleton, Queensland Department of Transport and Main Roads, *Public Hearing*, 30 May 2016, p.43; see also Professor Narelle Haworth, Centre for Accident Research and Road Safety – Queensland, *Public Hearing*, 3 May 2016, p.8

220 Mr Mike Stapleton, Queensland Department of Transport and Main Roads, response to questions on notice, 11 July 2016, p.3

221 Mr Mike Stapleton, Queensland Department of Transport and Main Roads, response to questions on notice, 11 July 2016, p.3; Amy Schramm, Narelle Haworth, Kristiann Heesch, Angela Watson & Ashim Debnath, *Evaluation of the Queensland Minimum Passing Distance Road Rule: Final Report (2016)*, p.21

222 Amy Schramm, Narelle Haworth, Kristiann Heesch, Angela Watson & Ashim Debnath, *Evaluation of the Queensland Minimum Passing Distance Road Rule: Final Report (2016)*, pp.20, 22; similar levels of awareness were found in research by the Royal Automobile Club of Queensland in May 2015 – Ms Genevieve Graves, Royal Automobile Club of Queensland, *Public Hearing*, 31 May 2016, p.50

Figure 5.3 Queensland’s 2016 “Stay Wider of the Rider” campaign – press advertisement and bus back advertisement



Source: Queensland Department of Transport and Main Roads

Surveys of people who had seen the campaigns found that:

- 80 per cent of respondents in November 2014 and 74 per cent in February 2015 agreed that they are “more aware of the distance cyclists need from other vehicles to be safe”
- 77 per cent of respondents in November 2014 and 73 per cent in February 2015 agreed that they are “more inclined to be courteous to cyclists when driving”.<sup>223</sup>

Market research commissioned by the Amy Gillett Foundation in October 2014 and April 2015 found (among other things) that:

- 67 per cent of road users in 2014 and 76 in 2015 thought the campaign was effective
- 77 per cent in 2014 agreed that it was clear and 75 per cent in 2015
- 63 per cent in 2014 spontaneously identified the campaign’s prominent message to be safer overtaking distances between motorists and cyclists
- 55 per cent in 2014 could recall the campaign and 49 per cent in 2015.<sup>224</sup>

In terms of the media used, the 2014 research found that “Radio is most effective with 31% recall from all road users, followed by newspaper (12%), billboard (10%), bus advertising (8%) and social media (7%).”<sup>225</sup>

Following the decision to make the rule changes permanent, the Queensland Government ran a second phase of the “Stay Wider of the Rider” campaign from April to June 2016. It included press, radio, online video, social media, outdoor advertising, bus backs, petrol bowser advertising and leaflets at car registration offices.<sup>226</sup> As a result of the evaluation of the rule change, the campaign messaging was modified to also remind drivers about the provision to cross continuous centre lines.<sup>227</sup>

### South Australia and New South Wales

South Australia and New South Wales adapted Queensland’s campaign when introducing their rule changes.<sup>228</sup> However, they did make some alterations.

Regarding South Australia, the Committee was informed:

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- <sup>223</sup> Data supplied by Mr Mike Stapleton, Queensland Department of Transport and Main Roads, response to questions on notice, 11 July 2016
- <sup>224</sup> Amy Gillett Foundation, *Queensland Minimum Overtaking Distance Legislative Trial: Market Research Findings* (2014); Amy Gillett Foundation, *Queensland Minimum Overtaking Distance Trial: Public Opinion Research May 2015* (2015)
- <sup>225</sup> Amy Gillett Foundation, *Queensland Minimum Overtaking Distance Legislative Trial: Market Research Findings* (2014), p.2
- <sup>226</sup> Mr Mike Stapleton, Queensland Department of Transport and Main Roads, *Public Hearing*, 30 May 2016, p.43; Mr Mike Stapleton, Queensland Department of Transport and Main Roads, response to questions on notice, 11 July 2016, pp.3-4
- <sup>227</sup> Mr Mike Stapleton, Queensland Department of Transport and Main Roads, *Public Hearing*, 30 May 2016, p.43
- <sup>228</sup> Ms Gemma Kernich, South Australian Department of Planning, Transport and Infrastructure, *Public Hearing*, 30 May 2016, p.48; Mr Bernard Carlon, New South Wales Centre for Road Safety, *Public Hearing*, 30 May 2016, p.58

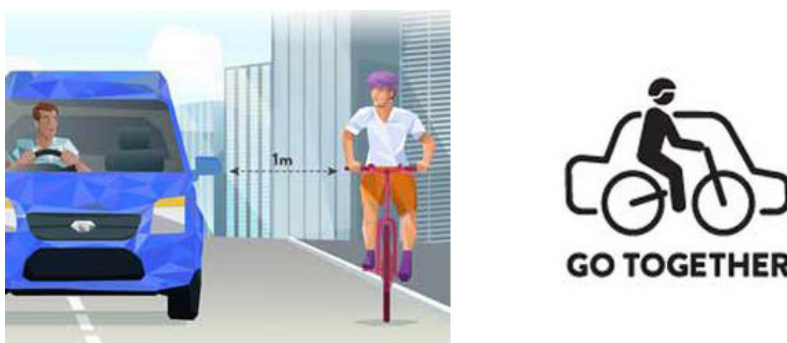
Queensland framed their education campaign a lot around reducing the number of deaths and injuries. Ours is slightly more skewed towards making it more comfortable for more people to cycle safely, so a lot about comfort and not wanting to be frightened or scared on the roads.<sup>229</sup>

In New South Wales, the “Go Together” campaign:

... 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.<sup>230</sup>

**Figure 5.4** New South Wales’ “Go Together” campaign



Source: New South Wales Centre for Road Safety

In both South Australia and New South Wales, the specified minimum passing distance rules were introduced along with other rules relating to cycling (see Section 6.5 of this report). In South Australia, changes were made permitting all cyclists to ride on footpaths. In New South Wales, penalties were increased for certain cycling offences and a requirement was introduced<sup>231</sup> requiring riders 18 years of age and over carry photo identification.

The Committee heard some concerns that the other changes in New South Wales reduced the effectiveness of the campaign in communicating the minimum passing distance messages:

The promotion and education of minimum passing laws needs to focus on the issue being addressed, that is sharing the road, leaving adequate space when passing and how the new laws allow drivers to pass easily when safe to do so. The recent

<sup>229</sup> Ms Gemma Kernich, South Australian Department of Planning, Transport and Infrastructure, *Public Hearing*, 30 May 2016, p.50

<sup>230</sup> Mr Bernard Carlon, New South Wales Centre for Road Safety, *Public Hearing*, 30 May 2016, p.58

<sup>231</sup> This requirement does not come into effect until March 2017.



implementation of minimum passing laws in NSW has been clouded by the other changes brought about at the same time and the focus in the publicity on increased penalties and impositions for cyclists, the safety and road sharing message of the rule change has been lost.<sup>232</sup>

... coupling any changes to the fine levels for the infringements for cyclists [to minimum passing distance rules] is very counterproductive in the messaging and education opportunity ... so my suggestion is that they are separated and you go with the single play, and that is introducing minimum passing distances.<sup>233</sup>

Mr Bernard Carlon from the New South Wales Centre for Road Safety indicated:

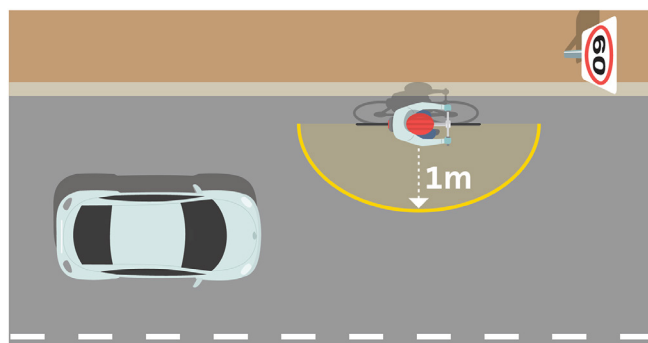
I would have to say on the focus of the introduction of those other safety measures that there was a significant amount of public discourse and media lobbying and a range of other factors that did tend to drown out the minimum passing laws at the time. However, that did get reversed towards the end of 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.<sup>234</sup>

Further discussion of rules accompanying minimum passing distance rules can be found in Section 6.5 of this report.

### Australian Capital Territory

The rule change in the Australian Capital Territory was accompanied by television, radio, print and digital advertising before and after the trial began.<sup>235</sup> A stakeholder group (see Section 6.6 of this report) provided advice on advertisements and information materials.<sup>236</sup>

**Figure 5.5** Diagram from an Australian Capital Territory brochure



Source: ACT Government, *Sharing the Road* (n.d.)

<sup>232</sup> Mr Paul Schofield, *Submission 78*, 16 March 2016, pp.1-2

<sup>233</sup> Mr Phil Ayres, *Cycling New South Wales, Public Hearing*, 31 May 2016, pp.55-6; see also Bike Safe Macedon Ranges, *Submission 130*, 31 March 2016, p.3; Ms Margaret Douglas, *Submission 108*, 28 March 2016, p.2; Bike Bendigo, *Submission 120*, 31 March 2016, p.3

<sup>234</sup> Mr Bernard Carlon, New South Wales Centre for Road Safety, *Public Hearing*, 30 May 2016, p.60

<sup>235</sup> VicRoads and Transport Accident Commission, *Submission 166*, 29 April 2016, p.19

<sup>236</sup> Amy Gillett Foundation, *Submission 135*, 1 April 2016, p.2

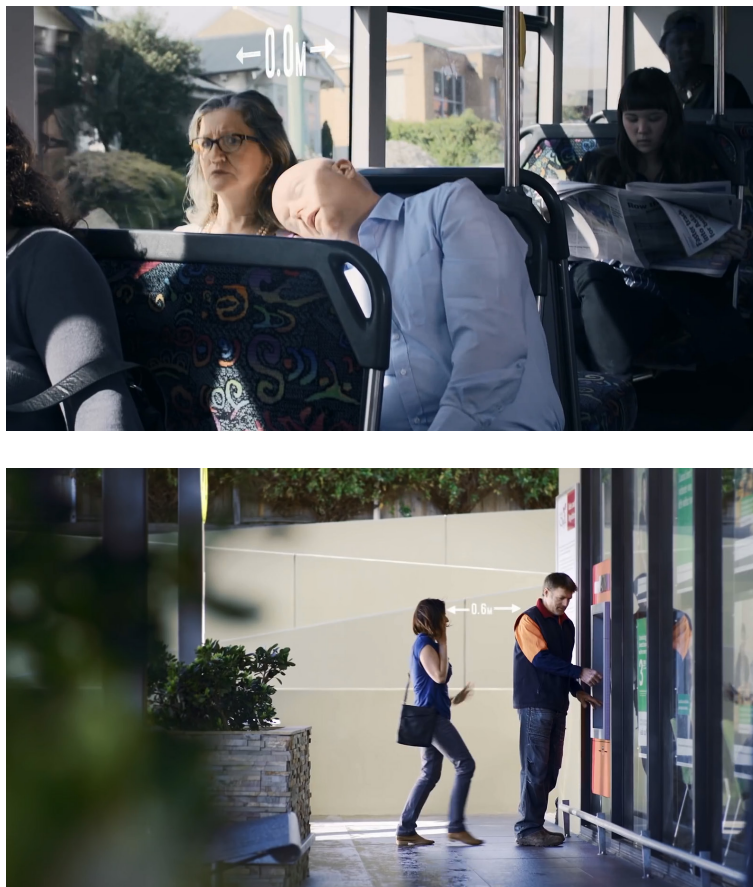
### Tasmania – “Distance Makes the Difference”

Tasmania has not set a specified minimum passing distance in its road rules, but encourages drivers to leave at least 1 metre when travelling in speed zones up to 60 kilometres per hour and 1.5 metres in speed zones greater than 60 kilometres per hour. The Government has also delivered a media campaign, “Distance Makes the Difference”:

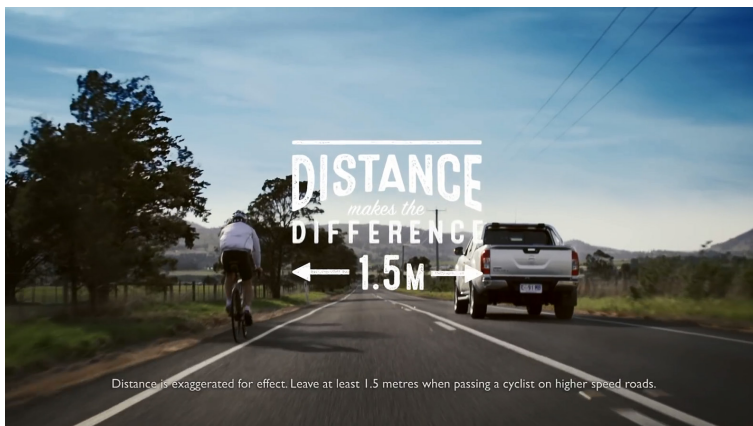
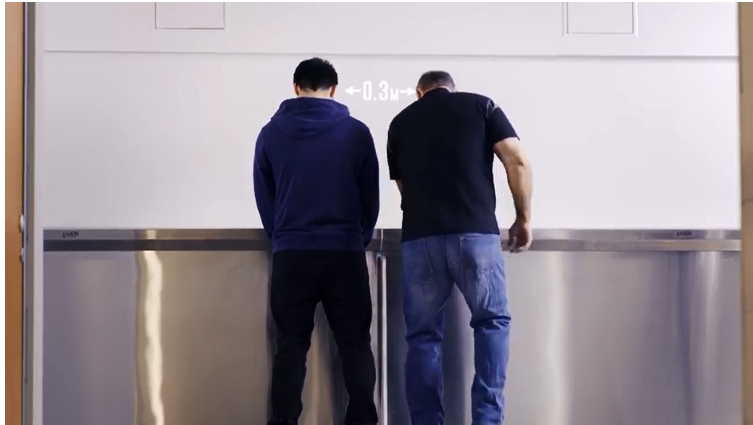
It was a television and billboard-type campaign that encouraged promoting a safe distance for passing cyclists ... It used humour, and there was no speaking involved in it. It tried to embrace the road space as a social space; like social spaces, we need to give people a minimum sort of room or distance. We exploited that to express it on the road to give a safe distance when passing cyclists.<sup>237</sup>

The television advertisement (see Figure 5.6) showed people breaking social norms by not keeping sufficient distances from each other, such as a man falling asleep on a bus and resting his head on another passenger’s shoulder, a woman getting too close to a man using an ATM and two men standing next to each other using a urinal. The advertisement then showed a car overtaking a bicycle, indicated that there was a 1.5 metre gap and displayed the slogan “Distance Makes the Difference”.

**Figure 5.6** Scenes from Tasmania’s “Distance Makes the Difference” television advertisement



237 Mr Craig Hoey, Tasmanian Department of State Growth, *Public Hearing*, 30 May 2016, p.52



Source: Tasmanian Road Safety Advisory Council

The advertising and marketing agency Clemenger Tasmania stated that:

... the TV spot quickly made its way around the world, gaining an organic reach of more than a million people in the week after the launch. Cycling blogs, road safety groups, news outlets and social media users all shared the important message, contributing to a global discussion about safe passing distances.

By changing the way a traditional enforcement message is portrayed, we gained the attention of a much wider audience.<sup>238</sup>

In December 2015, one month into the campaign, a survey commissioned by the Tasmanian Government found that 65 per cent of respondents recalled seeing advertisements concerned with road safety and cycling over the last 12 months, and 30 per cent of respondents had definite recall of the “Distance Makes the Difference” campaign.<sup>239</sup> At that point in time, however, knowledge of the road rules was relatively low, with only 31 per cent of respondents aware that it was legal to cross a continuous centre line to overtake a cyclist.<sup>240</sup>

<sup>238</sup> Clemenger, “Distance Makes the Difference: Television Commercial” <clemengertas.com.au/change/distance-makes-the-difference/>, accessed 20 July 2016

<sup>239</sup> Mr Craig Hoey, Tasmanian Department of State Growth, *Public Hearing*, 30 May 2016, p.53; Tasmanian Department of State Growth, *Cycling Research Report (2015)*, pp.38, 43

<sup>240</sup> Tasmanian Department of State Growth, *Cycling Research Report (2015)*, p.30; VicRoads and Transport Accident Commission, *Submission 166*, 29 April 2016, p.27

In May 2016, Mr Craig Hoey from the Tasmanian Department of State Growth considered the campaign to have been effective based on his personal experience and anecdotal evidence.<sup>241</sup>

A number of witnesses and submitters noted Tasmania’s campaign favourably. Ms Margaret Douglas from RoadSafe Central Victoria particularly noted the advertising on the back of buses.<sup>242</sup> This advised drivers to “Put a busload of distance between your car and bike riders”, with a diagram illustrating a 1.5 metre gap (see Figure 5.7).

**Figure 5.7** Bus advertising in Tasmania



Source: Tasmanian Department of State Growth

Similarly, advertising at urinals in sports stadium reminded people of the television advertisement and helped them to visualise 1.5 metres with a diagram illustrating “Appropriate distance between urinal users: 0.6m” and “Appropriate distance between drivers and bike riders: 1.5m” (see Figure 5.8).

**Figure 5.8** Urinal advertising in Tasmania



Source: Tasmanian Department of State Growth

241 Mr Craig Hoey, Tasmanian Department of State Growth, *Public Hearing*, 30 May 2016, p.55

242 Ms Margaret Douglas, RoadSafe Central Victoria, *Public Hearing*, 31 May 2016, p.12; Ms Margaret Douglas, *Submission 108*, 28 March 2016, p.2



## Other approaches

A number of submitters recommended that campaigns be developed on the model of Transport Accident Commission advertisements for motorcycle riders.<sup>243</sup> These generally feature realistic footage designed to help people understand the dangers facing motorcyclists, with some advertisements including graphic depictions of accidents.

Mr Paul Yeatman specifically suggested a campaign “showing the impact on the lives of cyclists’ families and the lives of irresponsible drivers’ families”. He also suggested materials stating that “intimidation is a form of bullying and this is socially unacceptable and that killing somebody [is] totally unacceptable.”<sup>244</sup>

Ms Margaret Douglas, a board member of RoadSafe Central Victoria, considered it important that any awareness campaign portray cyclists as real people and not animated figures.<sup>245</sup> RoadSafe Central Victoria in its submission further stated:

We recommend that the education campaign include television depicting real life examples of what the required behaviour looks like. It should depict different types of cyclists reflective of the broad cycling community and they should be shown riding in bike lanes, on roads without bike lanes, alone, two abreast and in groups as would be encountered on the road.

The roads depicted should include a mix of unmarked single rural roads, multi lane roads, unbroken lines, and different types of vehicles should be portrayed including commercial vehicles. Drivers should be depicted both waiting patiently, then overtaking when safe including across double lines.<sup>246</sup>

A key component of any advertising for many participants in this inquiry was reducing the “us and them” mentality between drivers and cyclists. For example, Dr Matthew Marques, a social psychologist, noted the importance of humanising cyclists:

[An educational campaign] that humanised road users as people, rather than as road users (motorists, cyclists) would likely be more successful in terms of acceptance. We know from decades of research into prejudice and in-group and out-group derogation, that conflict and acts of atrocity are facilitated when people dehumanise others. Categorising others, rather than seeing them as similar and unique individuals (rather than motorists or cyclists), leads to poorer attitudes and actions towards the outgroup. Therefore, it is my strong belief and consistent with research on intergroup conflict, that promoting these road rule changes as being beneficial to all road users is a must. Campaigns could also remind motorists that cyclists do not cause traffic, and a cyclist is one less motorist — congestion for the most part is due to motor vehicles.<sup>247</sup>

<sup>243</sup> For example, see Cycling Victoria, *Submission 90*, 22 March 2016, p.4; Mr Andrew Hollis, *Submission 2*, 2 March 2016, p.1; Ms Sue Blakey, Bike Safe Macedon Ranges, *Public Hearing*, 31 May 2016, p.29; Whitehorse City Council, *Submission 138*, 1 April 2016, pp.1-2

<sup>244</sup> Mr Paul Yeatman, *Submission 99*, 20 March 2016, p.4

<sup>245</sup> Ms Margaret Douglas, *Submission 108*, 28 March 2016, p.2

<sup>246</sup> RoadSafe Central Victoria, *Submission 119*, 31 March 2016, p.2

<sup>247</sup> Dr Matthew Marques, *Submission 110*, 29 March 2016, p.2; see also Ms Margaret Douglas, RoadSafe Central Victoria, *Public Hearing*, 31 May 2016, p.12; Ms Phoebe Dunn, Amy Gillett Foundation, *Public Hearing*, 3 May 2016, p.16; Mr Christopher Holberton, *Submission 116*, 30 March 2016, p.1

Ms Robyn Seymour from VicRoads also talked about VicRoads' effort to reduce tensions on the road:

I think that there is tension between motorists and cyclists, and it is really important that there becomes better awareness and understanding and appreciation of each other's legitimacy — that cycling is a form of transport and an important form of transport. I think that was always part of the intention of the Travel Happy — Share the Road campaign. It was really to start that conversation with the community about the fact that we all need to share the road and actually if we do, we will all actually get there safely, it will be much more pleasant and it will reduce the angst if we are a bit more tolerant of each other.<sup>248</sup>

Cycling Victoria suggested that campaigns should include public figures, sports stars and everyday people.<sup>249</sup>

Several witnesses and submitters expressed the view that education should come before road rule changes, rather than introducing both at the same time.<sup>250</sup>

## 5.2.2 Behavioural change

Bicycle Network indicated to the Committee that simply informing people about the laws was not sufficient:

Research shows that mass education/awareness campaigns are not an effective way at creating behavioural change (McKenzie-Mohr 2011). While campaigns designed to increase public knowledge can be effective in altering attitudes, they are highly unlikely to result in behavioural change as there is usually little or no relationship between attitudes and/or knowledge and a change in behaviour (McKenzie-Mohr 2011).

The use of an information-based campaign could be effective if the only barrier to drivers not allowing sufficient distance is lack of knowledge. However, there is no evidence to support this. Accordingly, the expenditure of advertising could be wasteful and ineffective.

Bicycle Network's recommendation is to supplement the law with a research-based driver behaviour change program that:

- clearly defines the desired behaviour: for example 'Drivers in Victoria leave a minimum of one metre space when passing a bike rider'\*
- researches existing barriers, beliefs and attitudes preventing drivers from carrying out the desired behaviour (possibly with the support of organisations such as the RACV, the Victorian Taxi Association and major transport groups)
- uses the findings from the research to develop strategies

<sup>248</sup> Ms Robyn Seymour, VicRoads, *Public Hearing*, 30 May 2016, p.36

<sup>249</sup> Cycling Victoria, *Submission 90*, 22 March 2016, p.4

<sup>250</sup> Mr Steve Spalding, Royal Automobile Club of Queensland, *Public Hearing*, 31 May 2016, p.52; Bike Safe Macedon Ranges, *Submission 130*, 31 March 2016, p.2; Amy Gillett Foundation, *Submission 135*, 1 April 2016, p.2

- pilots the strategies with a small section of the community to quickly evaluate effectiveness
- uses learnings from the pilot to implement the most successful strategies.

\* the process should also be following for the behaviour: 'Drivers in Victoria leave a minimum of one and a half metre space when passing a bike rider at more than 60km/h'<sup>251</sup>

Bicycle Network stated that any campaign should consider and target different road user groups:

... talk to the taxidriviers, talk to truck drivers, talk to motorists in regional areas and inner-urban areas, because they will all have different drivers for why they are not complying with the desired behaviour. So a broadbrush one slogan is not going to resonate with all of those different types of road users.<sup>252</sup>

The Royal Automobile Club of Queensland noted that all road users, including cyclists, need to be encouraged to be considerate of other users:

The reason you need good road safety and sharing messages is because you are trying to get behaviour change from all road users. So you need vehicles to give cyclists more room and safer passing distances, but you also need cyclists to appreciate that there will be times when they can help the traffic flow by stepping aside and allowing that movement to free up.<sup>253</sup>

VicRoads and the Transport Accident Commission provided a number of recommendations in their submission regarding how an education and communication campaign on this issue should be run.<sup>254</sup> Their advice includes:

- If road users are to accept the introduction of new laws, they need to understand the reasons why they were introduced. Ultimately, even if they don't like the new laws, they will be more accepting of them if they understand the rationale for their introduction and their intended outcome objectives.
- ...
- Relevant stakeholders need to be included as one of the target audiences for communications, as in some instances they are best placed to communicate the messages to parts of the target population.
- To assist with compliance, communications and education need to provide advice to road users as to how they might best comply with the laws. To bring about behavioural change, target behaviours must be seen to be justified, logical, simple and easily achievable.<sup>255</sup>

VicRoads and the Transport Accident Commission also noted the importance of making sure that motorists are able to comply with the rules. They recommend:

251 Bicycle Network, *Submission 140*, 1 April 2016, p.10; Ms Tess Allaway, Bicycle Network, *Public Hearing*, 31 May 2016, p.9

252 Ms Tess Allaway, Bicycle Network, *Public Hearing*, 31 May 2016, p.9

253 Mr Steve Spalding, Royal Automobile Club of Queensland, *Public Hearing*, 31 May 2016, p.51

254 VicRoads and Transport Accident Commission, *Submission 166*, 29 April 2016, pp.42-7

255 VicRoads and Transport Accident Commission, *Submission 166*, 29 April 2016, pp.42-3

... that helpful and perhaps creative methods be developed which help motorists more accurately estimate 1 and 1.5 metre overtaking distances. One of the issues with noncompliance may not only be due to the willingness of motorists to obey the rules, but also an inability to accurately estimate these distances.<sup>256</sup>

Similar feedback was provided by Queensland police officers interviewed as part of the evaluation of the Queensland trial:

Officers suggested that more education could have been conducted in the lead-up to the introduction of the road rule, and potentially visual representations of appropriate passing distances (from different perspectives, e.g. from a 4WD vehicle and a small passenger vehicle) would have been beneficial.<sup>257</sup>

In this context, the Committee particularly notes Tasmania's "busload of distance" and urinal advertising (see Section 5.2.1 of this report).

### 5.2.3 Is education without regulation sufficient?

VicRoads and the Transport Accident Commission suggested that an education campaign without any rule changes might be preferable to introducing rule changes, given their concerns about the potential consequences of the proposed rules:

It could be hypothesised that education and communication may be as effective at bringing about the behavioural change anticipated by introducing these laws. If this is true, then the benefit to costs ratio of prescribing minimum overtaking distances in law, when considering the secondary impacts on other road rules and regulations, drivers, infrastructure and the environment, may be lower than undertaking education on its own.<sup>258</sup>

Introducing a law that may create more tension when we are still waiting to understand the evidence base better I think is premature. We are not suggesting we do nothing. We are suggesting that we continue and add weight to what we have already been doing in terms of public education in relation to the Metre Matters public education ... we actually have very good case studies where we have achieved a lot more than other jurisdictions through public education and trying to create that cultural change without creating tension because people do not feel they are being victimised in any way.<sup>259</sup>

Supporting this, VicRoads and the Transport Accident Commission suggested that many motorists are simply unaware of the dangers caused by passing cyclists too closely.<sup>260</sup> Ms Samantha Cockfield of the Transport Accident Commission also explained that changing road rules was not always necessary in order to bring about behaviour change:

<sup>256</sup> VicRoads and Transport Accident Commission, *Submission 166*, 29 April 2016, p.44

<sup>257</sup> Amy Schramm, Narelle Haworth, Kristiann Heesch, Angela Watson & Ashim Debnath, *Evaluation of the Queensland Minimum Passing Distance Road Rule: Final Report* (2016), p.11

<sup>258</sup> VicRoads and Transport Accident Commission, *Submission 166*, 29 April 2016, p.32

<sup>259</sup> Ms Samantha Cockfield, Transport Accident Commission, *Public Hearing*, 30 May 2016, p.39

<sup>260</sup> VicRoads and Transport Accident Commission, *Submission 166*, 29 April 2016, p.32



Law change is not the only way to change behaviour, and we have got some fairly good case studies — which are actually used internationally now — in Victoria where we have not immediately moved to changes in regulations or the law — that have been very successful, and I will point to one that I have particularly been involved in and in fact so have a few other people at this table. It was the introduction of a 120-hour requirement for learner drivers prior to licensing.<sup>261</sup>

The RACV also supported an education campaign without rule changes:

... the road rules should not be amended to specify a mandated minimum separation, and instead the state government should fund an ongoing mass media and online campaign about the road rules and road behaviours necessary for bicycle riders and other road users to safely share the road. RACV stands ready to be engaged in that campaign, as we have been in the past.<sup>262</sup>

However, a number of submitters and witnesses to this inquiry argued that enforceable rules would complement an educational campaign. It was argued that the combination of education and mandatory rules would be most effective in bringing about behaviour change:

There is no doubt that education programmes concerning road use can work. They are more likely to work if they are related to both carrots and sticks — an obligation to conduct yourself in a certain way (the stick, the legal rule) and an understanding of the benefits that can be achieved from the desired behaviour (the moral or human or social purpose and outcomes).<sup>263</sup>

[Previous successful road safety campaigns in Victoria] have three essential components: education, so that people in Victoria know the rules; attitudinal change — we need to have the public conversations that change attitudes; ... and enforcement — we know that enforcement is an essential component for safer roads. These three elements are needed for behaviour change campaigns. Awareness is not enough.<sup>264</sup>

... in terms of behaviour change theory, authority is one of the best ways to get change in people's behaviour ... So if you have the position of authority with the legislative change and then the grassroots to push up, then you reinforce that.<sup>265</sup>

It was argued that mandatory rules are particularly important to reach those people whose behaviour is not changed by education campaigns:

An education programme about safe driving distances without an underpinning legal rule about safe driver-cyclist distances is not good enough. It is and has been tried and is an incomplete position. Education programmes tend to attract attention from those with a tendency to already be respectful and compliant on the road — it is the disrespectful driver who is likely to ignore education programmes who would be accountable to the proposed new law.<sup>266</sup>

261 Ms Samantha Cockfield, Transport Accident Commission, *Public Hearing*, 30 May 2016, p.34

262 Mr Brian Negus, RACV, *Public Hearing*, 31 May 2016, p.42; cf. p.47

263 Mr Peter Anderson, *Submission 4*, 2 March 2016, p.2

264 Ms Phoebe Dunn, Amy Gillett Foundation, *Public Hearing*, 3 May 2016, p.12

265 Mr Robert Kretschmer, Bike Bendigo, *Public Hearing*, 31 May 2016, pp.31-32

266 Mr Peter Anderson, *Submission 4*, 2 March 2016, p.2

... drivers are taught through TAC [Transport Accident Commission] ads that driving 5 or 10 kilometres over the speed limit can have catastrophic results. It can make a difference for pedestrians, and yet do they believe the signs or do they believe what they hear? There is still that sense of 'Yeah, but'. So I believe that a pure education program is not enough, and that is unfortunately why laws exist: because although many people do do the right thing, there are many who will just try to get around it because no-one is looking or because, 'I am better than that', or, 'It is not going to happen to me'.<sup>267</sup>

## 5.2.4 A campaign for Victoria

The Committee notes the clear view from VicRoads, the Transport Accident Commission and other bodies that, even if the Road Rules are not changed, there would be advantages to an education campaign promoting awareness of safe bicycle passing distances. VicRoads and the Transport Accident Commission provided a detailed discussion of potential approaches to such a campaign in their submission, and noted that it could form part of the current "Towards Zero" road strategy brand.<sup>268</sup> The Amy Gillett Foundation and Bike Bendigo also expressed support for the inclusion of such messages within the Towards Zero campaign.<sup>269</sup> Some cycling groups noted the importance of resourcing local organisations and councils to support broader messaging from a local perspective.<sup>270</sup>

Education campaigns about safe passing distances have now been developed in a number of other Australian jurisdictions. In some cases, evaluations have been conducted which enable us to know what has worked well and what can be improved. The other jurisdictions' experiences and learnings should form the starting point for developing an education campaign for Victoria. There is also much material that could be borrowed and adapted from these other jurisdictions.

**RECOMMENDATION 9:** That, regardless of whether or not the Overtaking Bicycles Bill is passed, the Government undertake an education campaign to increase motorists' awareness of the safe distance to leave when passing bicycles. In developing a campaign, the Government should build on the materials and learnings from other Australian states and territories. The campaign should be developed with VicRoads and the Transport Accident Commission, to draw on their expertise and integrate the message with other road safety campaigns.

<sup>267</sup> Ms Sue Blakey, Bike Safe Macedon Ranges, *Public Hearing*, 31 May 2016, p.35

<sup>268</sup> VicRoads and Transport Accident Commission, *Submission 166*, 29 April 2016, pp.42-7

<sup>269</sup> Ms Phoebe Dunn, Amy Gillett Foundation, *Public Hearing*, 3 May 2016, p.12; Amy Gillett Foundation, *Submission 135*, 1 April 2016, p.2; Mr Robert Kretschmer, Bike Bendigo, *Public Hearing*, 31 May 2016, p.32; Bike Bendigo, *Submission 120*, 31 March 2016, p.3

<sup>270</sup> Bike Bendigo, *Submission 120*, 31 March 2016, p.3; Mr Robert Kretschmer, Bike Bendigo, *Public Hearing*, 31 May 2016, p.32; Macedon Ranges Cycling Club, *Submission 128*, 31 March 2016, p.2

## 5.3 Maintaining long-term awareness

### 5.3.1 Learner drivers

The Victorian learner driver's handbook already recommends that, "Drivers should leave at least one metre clearance when overtaking cyclists or motorcyclists and more clearance on higher speed roads."<sup>271</sup> It was suggested that, if the Bill passes, this and other learner driver resources should be updated to reflect the new rules. It was also suggested that the rules should be included in learner driver testing.<sup>272</sup>

The Tasmanian and South Australian Governments added cycling-related questions to their learner driver tests following the introduction of new rules for passing cyclists.<sup>273</sup> In Tasmania:

Applicants are required to answer 35 questions.

There are 170 questions in the pool. 19 of these are cycling related questions.

The test is broken into 4 sections. One of these sections is termed 'compulsory'. Applicants are required to answer 7 'compulsory' questions all of which must be answered correctly. Compulsory questions are drawn from a pool of 19 questions, one of which is a cycling related question.<sup>274</sup>

Similar changes might be made in Victoria to ensure that future generations of drivers are aware of the changes.

Some submitters called for a failure to leave a correct passing distance in a practical driving test to be an instant fail.<sup>275</sup> One recommended that failure to identify correct distances in a theory test should also be an instant fail.<sup>276</sup>

**RECOMMENDATION 10:** That, if specified minimum passing distance rules are introduced, the Government amend learner driver materials and tests to reflect the new rules.

### 5.3.2 Signage

Road signage is another mechanism for publicising information about minimum passing distances. In addition to informing drivers about the change initially, the long-lasting nature of road signage means that it can serve as a regular reminder about the rules.

<sup>271</sup> VicRoads, *Road to Solo Driving* (2014), p.136

<sup>272</sup> Public Health Association Australia (Victorian Branch), *Submission 152*, 11 April 2016, p.4; Mr Robert Kretschmer, Bike Bendigo, *Public Hearing*, 31 May 2016, p.32; Bike Bendigo, *Submission 120*, 31 March 2016, p.3; Amy Gillett Foundation, *Submission 135*, 1 April 2016, p.8

<sup>273</sup> Mr Craig Hoey, Tasmanian Department of State Growth, *Public Hearing*, 30 May 2016, p.54; South Australian Department of Planning, Transport and Infrastructure, *Submission 172*, 17 June 2016, p.7

<sup>274</sup> Mr Craig Hoey, Tasmanian Department of State Growth, response to questions on notice from *Public Hearing*, 30 May 2016

<sup>275</sup> Amy Gillett Foundation, *Submission 135*, 1 April 2016, p.8; Public Health Association Australia (Victorian Branch), *Submission*, 11 April 2016, p.4

<sup>276</sup> Public Health Association Australia (Victorian Branch), *Submission 152*, 11 April 2016, p.4

A number of witnesses noted the signage introduced in Tasmania in early 2016.<sup>277</sup> Though Tasmania has not introduced minimum passing distance rules, it has encouraged people to leave 1 or 1.5 metres:

In February/March we erected around about 270 advisory signs on our road network advising motorists of a safe distance to pass cyclists — that being 1.5 metres on roads above 60 kilometres and 1 metre on 60 or below roads. Those road routes were done in consultation with a small working group that included representations from local cycling groups, our local government association and also the Amy Gillett Foundation. We used local knowledge as well as some analysis of strava (GPS recording that is popular with cyclists) results to try to find some of those cycling routes that are popular amongst cyclists.<sup>278</sup>

**Figure 5.9** Tasmanian signage



Source: Mr Craig Hoey, Tasmanian Department of State Growth, response to questions on notice from Public Hearing, 30 May 2016

Surveys of Tasmanian road users found that 34 per cent of respondents could definitely or probably recall the 1-metre version of the sign and 36 per cent could definitely or probably recall the 1.5-metre version.<sup>279</sup> Of those that recalled the signs, 78 per cent considered them “effective in conveying the safe distance that motor vehicles should leave when overtaking cyclists”.<sup>280</sup>

Ms Margaret Douglas from RoadSafe Central Victoria also spoke favourably about Tasmania’s signs. One of the things that she noted about the signs is that, in contrast to existing signs in Victoria (see Figure 5.10), the Tasmanian signs depict upright cyclists:

... at the moment the signs we have on the road [in Victoria] ... are cyclists crouching low. It is not a popular image, quite frankly, from a motorist’s perspective, because immediately there is some angst in the society about lycra and the two abreast, for example.

<sup>277</sup> Bike Safe Macedon Ranges, *Submission 130*, 31 March 2016, p.3; Ms Margaret Douglas, RoadSafe Central Victoria, *Public Hearing*, 31 May 2016, p.13

<sup>278</sup> Mr Craig Hoey, Tasmanian Department of State Growth, *Public Hearing*, 30 May 2016, p.52

<sup>279</sup> Tasmanian Department of State Growth, *Cycling Research Report* (2015), pp.31, 33

<sup>280</sup> Tasmanian Department of State Growth, *Cycling Research Report* (2015), p.36

What we would suggest ... is the upright cyclist riding their bike, a normal person, but the very clear 1 metre and 1.5 metre.<sup>281</sup>

The Committee notes that some research has suggested that the level of caution shown by motorists when passing cyclists may be influenced by cyclists' appearance, though other research has found this not to be the case.<sup>282</sup>

**Figure 5.10** Victorian signage



Source: Ms Sue Blakey, Bike Safe Macedon Ranges, Presentation, Public Hearing, 30 May 2016

Ms Douglas also noted favourably signs that she had seen in France.<sup>283</sup> Figure 5.11 shows two signs from in and near Toulon in France. The first indicates that 1.5 metres should be left "If I pass" ("Si je dépasse"). The second explains "passing forbidden, insufficient width" ("dépassement interdit, largeur insuffisante").

**Figure 5.11** Signage in or near Toulon, France



Source: La Masse Critique <lamassecritique.fr/wp/?p=4282>

In some parts of the United States, similar signs also inform drivers that minimum passing distances are a legal requirement (see Figure 5.12).<sup>284</sup>

<sup>281</sup> Ms Margaret Douglas, RoadSafe Central Victoria, *Public Hearing*, 31 May 2016, p.13

<sup>282</sup> See especially Ian Walker, "Drivers Overtaking Bicyclists: Objective Data on the Effects of Riding Position, Helmet Use, Vehicle Type and Apparent Gender", *Accident Analysis and Prevention* 39 (2007), pp.417-25 and Ian Walker, Ian Garrard & Felicity Jowitt "The Influence of a Bicycle Commuter's Appearance on Drivers' Overtaking Proximities: An On-Road Test of Bicyclist Stereotypes, High-Visibility Clothing and Safety Aids in the United Kingdom", *Accident Analysis and Prevention* 64 (2014), pp.69-77. See discussion in N. Haworth & A. Schramm, "The Safety of Bicycles Being Overtaken by Cars: What Do We Know and What Do We Need to Know?", *Proceedings of the 2014 Australasian Road Safety Research, Policing & Education Conference* (2014) [author's version, <eprints.qut.edu.au/81847>], p.6.

<sup>283</sup> Ms Margaret Douglas, RoadSafe Central Victoria, *Public Hearing*, 31 May 2016, p.13

<sup>284</sup> Compare the suggestion in Macedon Ranges Cycling Club, *Submission 128*, 31 March 2016, p.1



Figure 5.12 Signage in Kansas, USA



Source: Mr Craig Sooter

Studies in other jurisdictions have found that signage can change driver behaviour, though differences in signage can have a significant impact on their effectiveness.<sup>285</sup> The Committee therefore considers that any rule changes requiring motorists to leave specified minimum passing distances should be accompanied by signage reminding them of the minimum passing distance rules. However, it is important for any signage in Victoria to be developed with consideration of the experience in other jurisdictions, to ensure that it is as effective as possible in communicating the message.

**RECOMMENDATION 11:** That, if specified minimum passing distance rules are introduced, the Government erect signs on key cycling routes and higher-risk locations to remind motorists of the rules. In developing the signage, the Government should note research about changing driver behaviour to ensure that the signs are as effective as possible.

## 5.4 Enforcement strategies

As noted in Section 5.2.3 of this chapter, some witnesses and submitters considered that enforcement is an essential part of achieving behavioural change with respect to passing bicycles. Some submitters called for the minimum passing distance rules to be enforced with zero tolerance.<sup>286</sup> Cycling Victoria suggested that police have “crack down” periods of enforcement.<sup>287</sup> Others advocated a more lenient approach:

<sup>285</sup> George Hess & M. Nils Peterson, “‘Bicycles May Use Full Lane’ Signage Communicates U.S. Roadway Rules and Increases Perception of Safety”, *PLoS ONE* 10(8) (28 August 2015); Jonathan J. Kay, Peter T. Savolainen, Timothy J. Gates & Tapan K. Datta, “Driver Behavior During Bicycle Passing Maneuvers in Response to a Share the Road Sign Treatment”, *Accident Analysis and Prevention* 70 (2014), pp.92-9

<sup>286</sup> Bike Safe Macedon Ranges, *Submission 130*, 31 March 2016, p.3

<sup>287</sup> Cycling Victoria, *Submission 90*, 22 March 2016, pp.3, 5

As cyclists are arming themselves these days with rear mounted video cameras, one option for a narrow miss may be that if it is recorded and demonstrable, and the vehicle registration is available or if the cyclist is prepared to sign a statutory declaration, that a formal warning of the narrow miss is issued to the driver of the vehicle, along with the relevant sections of the law. This formal warning is then recorded on the police database with the vehicle ownership and registration. Any subsequent notification of near misses associated with that vehicle and owner are then dealt with under the penalty points system.<sup>288</sup>

Safe Cycling Australia argued against a blitz, but indicated that:

... when Queensland cyclists have submitted video footage of blatant breaches of the rule and the police refuse to act, there must be a foolproof means of guaranteeing enforcement, and which motorists know is in use as an effective deterrent.<sup>289</sup>

However, as discussed in Section 3.4.3 of this report, a number of people raised concerns about the enforceability of minimum passing distance rules. Concerns were raised about whether sufficient evidence could be gathered to successfully prosecute people in court for violating the rules. It was also suggested that police in some jurisdictions have been reluctant to enforce minimum passing distance rules.

Given these problems, the Committee believes that a successful enforcement strategy would require two key elements: police training and suitable technological solutions.

### 5.4.1 Police training

In Queensland, police officers noted that:

... it is a particularly difficult road rule to enforce. It was noted by a number of officers that cycling fatalities or crashes take priority over these types of complaints, and that in some cases the driver is more likely to be issued with an Undue Care and Attention TIN [traffic infringement notice].<sup>290</sup>

The Committee was informed that only 87 motorists were issued with minimum passing distance infringements in Queensland between April 2014 and January 2016. The Department of Transport and Main Roads was unable to advise how many of these involved motorists being fined for breaching the minimum passing distance rule without actually crashing with the bicycle.<sup>291</sup>

<sup>288</sup> Macedon Ranges Cycling Club, *Submission 128*, 31 March 2016, p.2

<sup>289</sup> Safe Cycling Australia, *Submission 148*, 3 April 2016, p.3

<sup>290</sup> Amy Schramm, Narelle Haworth, Kristiann Heesch, Angela Watson & Ashim Debnath, *Evaluation of the Queensland Minimum Passing Distance Road Rule: Final Report* (2016), p.11

<sup>291</sup> Queensland Department of Transport and Main Roads, correspondence received 12 July 2016

The Committee received mixed evidence as to why the number was so low. Some believed that it was because of high levels of compliance with the rules by motorists,<sup>292</sup> while others suggested that there was a “lack of meaningful police enforcement”.<sup>293</sup> Reluctance by police to enforce minimum passing distance rules has also been noted in other jurisdictions.<sup>294</sup>

It was suggested to the Committee that enforcement levels may increase if the police are encouraged to see enforcing minimum passing distances as a higher priority.<sup>295</sup> It was argued that training would help in this regard:

Enforcement agencies will need to be empowered through training to understand the law changes, the motivations behind these changes (saving lives) and to develop an empathy for the experience of vulnerable road users such as people who walk and cycle.<sup>296</sup>

One submitter noted the importance of police education extending “all the way up the management chain.”<sup>297</sup>

Bike Bendigo suggested that experience was helpful in developing an understanding of the issues and empathy for bicycle riders:

We would also encourage any person in an enforcement role to participate in cycling in a variety of on-road situations of differing infrastructure and traffic levels and perhaps to join one of our community rides so as to develop an improved understanding and empathy for the experience of vulnerable road users.<sup>298</sup>

The Committee agrees that, if the rules are introduced, police officers should receive training to help them understand the reasons for the rules and to encourage empathy for cyclists.

The Committee also notes that Queensland police officers had differing views about what can be used as evidence when issuing infringements:

While [police] officers [in Queensland] who had issued MPD TINs [minimum passing distance traffic infringement notices] thought that camera footage was useful, some other officers who had not issued MPD TINs were concerned that the distortion in videos rendered it difficult to estimate distances between motor vehicles and bicycles.<sup>299</sup>

Training for police might therefore also include guidance about what evidence is sufficient to issue an infringement notice.

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<sup>292</sup> Dr Marilyn Johnson, Amy Gillett Foundation, *Public Hearing*, 3 May 2016, p.16

<sup>293</sup> Safe Cycling Australia, *Submission 148*, 3 April 2016, p.2

<sup>294</sup> Charles Brown, Patrick Farley, Jonathan Hawkins & Christine Orthmeyer (n.d.), *The 3 ft. Law: Lessons Learned from a National Analysis of State Policies and Expert Interviews*, p 6, 9

<sup>295</sup> Bicycle Network, *Submission 140*, 1 April 2016, p.11; drawing on experiences in the USA, see Charles Brown, Patrick Farley, Jonathan Hawkins & Christine Orthmeyer (n.d.), *The 3 ft. Law: Lessons Learned from a National Analysis of State Policies and Expert Interviews*, pp.9, 72

<sup>296</sup> Bike Bendigo, *Submission 120*, 31 March 2016, p.3

<sup>297</sup> Dr Tim Connors, *Submission 56*, 9 March 2016, p.1

<sup>298</sup> Mr Robert Kretschmer, Bike Bendigo, *Public Hearing*, 31 May 2016, p.32

<sup>299</sup> Amy Schramm, Narelle Haworth, Kristiann Heesch, Angela Watson & Ashim Debnath, *Evaluation of the Queensland Minimum Passing Distance Road Rule: Final Report* (2016), p.12



**RECOMMENDATION 12:** That, if specified minimum passing distance rules are introduced, the Government implement a training program for police designed to ensure that police understand the reasons for the rules, to encourage empathy for cyclists and to provide guidance as to what constitutes sufficient evidence to issue an infringement notice.

## 5.4.2 Using technology

Police officers in Queensland identified problems with obtaining sufficient evidence as the greatest obstacle to enforcement.<sup>300</sup> While a number of cyclists suggested to the Committee that footage from bicycle-mounted cameras could be used as evidence for an infringement of the rules,<sup>301</sup> Victoria Police informed the Committee that this would not be sufficient by itself to prosecute a person for violating the minimum passing distance rules:

Corroborating evidence, such as GoPro cameras, CCTV footage or body worn cameras, either affixed to a bicycle helmet, would require a subject matter expert again to convert and explain the evidence via prosecutions to accurately establish the distance. This would incur unsustainable costs in a prosecution process.<sup>302</sup>

... Victoria Police are not the subject matter expert in terms of interpreting the image and then determining what the distance is. Unless they are actually almost touching and it is apparent to everybody, then I think we will be back in the position where we probably are not going to mount a prosecution unless we reasonably believe we can succeed.<sup>303</sup>

There were mixed views about such evidence in Queensland:

There were identified enforceability, measurement and evidentiary issues associated with the 1 metre rule, with police thinking that camera footage would be useful in estimating the distance, while others were concerned about the disproportion in videos rendering it difficult to estimate distances between motor vehicles and bicycles, and there were questionable levels of support from the courts in terms of electing not to record a conviction or reducing monetary penalties for offenders.<sup>304</sup>

Victoria Police noted the potential to use evidence from video cameras installed in police vehicles. However, they indicated that there are currently only approximately 50 Victorian police vehicles with video cameras installed.<sup>305</sup> In addition, they suggested that such footage would be subject to similar difficulties as other video footage:

<sup>300</sup> Amy Schramm, Narelle Haworth, Kristiann Heesch, Angela Watson & Ashim Debnath, *Evaluation of the Queensland Minimum Passing Distance Road Rule: Final Report* (2016), p.11

<sup>301</sup> Ms Sue McKinnon, *Submission 103*, 24 March 2016, p.1; Ms Glennys Jones, *Submission 123*, 31 March 2016, p.3

<sup>302</sup> Acting Senior Sergeant Ryan Burns, Victoria Police, *Public Hearing*, 30 May 2016, p.25

<sup>303</sup> Inspector Wayne Chatters, Victoria Police, *Public Hearing*, 30 May 2016, p.28

<sup>304</sup> Acting Senior Sergeant Ryan Burns, Victoria Police, *Public Hearing*, 30 May 2016, p.23

<sup>305</sup> Acting Senior Sergeant Ryan Burns, Victoria Police, *Public Hearing*, 30 May 2016, p.24

Where police cars are fitted with in-car technology, unless they are travelling directly behind the offending vehicle, the footage angle would distort distance and it would be subject to challenges in court due to its reliability. Subject matter experts would be required to explain the footage, the distance and angles in the court for evidence to be relied upon.<sup>306</sup>

Even where a police officer has directly observed a motorist violating the rule, the Police informed the Committee that there may be evidentiary issues:

The [minimum passing distance] amendments require a subjective judgement of an objective criteria, which would be difficult to detect and easier to contest.

Where a party has been charged and the matter goes to court, police are not recognised as subject matter experts for the courts in relation to distances, and therefore expert witnesses would be required to prove or disprove the violation of the 1-metre rule. Due to the subjective nature of a police member estimating the distance, there would be an inability to provide evidence beyond a reasonable doubt.<sup>307</sup>

### Emerging technology

The evaluation of the Queensland trial of minimum passing distance rules found that more research into emerging technologies would be beneficial:

The challenges of measuring passing distances from video were also evident in the observational study undertaken as part of this evaluation, where about one-third of the passing events identified could not be measured because of obscuration by vehicles or glare or the distance being too great. The potential for development and use of improved technology for both enforcement and research in this area should be investigated.<sup>308</sup>

The Committee received evidence about a company that has developed a device known as “C3FT” (see Figure 5.13). This device affixes to a bicycle’s handlebars and can record the lateral distance between the bicycle and a vehicle. It can also photograph the passing vehicle.

We are also aware of technology in use by some American and Canadian police forces to enforce the law with a device known as C3FT, which measures the distance from the handlebars of bikes to passing cars.<sup>309</sup>

When we did the study, at the time there was no technology available or we did not know of any technology that would allow police officers to actually enforce this law, but recently technologies have been developed to assist in monitoring or enforcing the 3 foot law ... there are police departments throughout the US now that are looking into this and receiving training to actually enforce the law.<sup>310</sup>

<sup>306</sup> Acting Senior Sergeant Ryan Burns, Victoria Police, *Public Hearing*, 30 May 2016, p.25

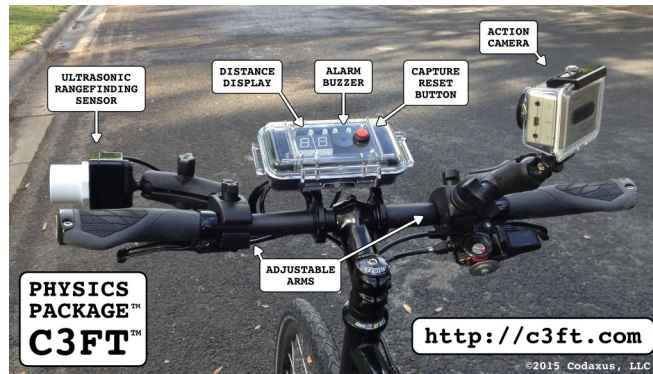
<sup>307</sup> Acting Senior Sergeant Ryan Burns, Victoria Police, *Public Hearing*, 30 May 2016, p.24

<sup>308</sup> Amy Schramm, Narelle Haworth, Kristiann Heesch, Angela Watson & Ashim Debnath, *Evaluation of the Queensland Minimum Passing Distance Road Rule: Final Report* (2016), p.67

<sup>309</sup> Ms Phoebe Dunn, Amy Gillett Foundation, *Public Hearing*, 3 May 2016, p.13

<sup>310</sup> Adjunct Professor Charles Brown, Rutgers University New York, *Public Hearing*, 30 May 2016, p.4

Figure 5.13 The C3FT device



Source: Codaxus LLC

If members of the public were to use this device, it is unclear whether or not the evidence would be admissible in a court. However, such devices may be of assistance if attached to police bikes (possibly with police in plain clothes<sup>311</sup>). Such evidence could be similar to the evidence from speed cameras. The courts accept speed camera evidence because these cameras are in the constant custody of the police and are regularly tested and certified.<sup>312</sup>

The Committee heard that Queensland Police is currently undertaking a trial of such devices and is in the process of evaluating their evidentiary value:

In response to the CARRS Q [Centre for Accident Research and Road Safety – Queensland] evaluation findings ... the department and the Queensland Police Service have commenced work to investigate a trial of technology aids to enforce — for example, enforcement agencies in the United States have been trialling bicycle mounted devices that accurately measure the lateral distance between a bicycle and passing vehicle. The trial will look at whether these and other measures are accurate and easy to use and their evidentiary value.<sup>313</sup>

The results of this trial will be valuable for Victoria Police if the Bill is passed.

**RECOMMENDATION 13:** That, if specified minimum passing distance rules are introduced, the Government investigate technological solutions to assist with the identification of offenders and the enforcement of the rules.

## 5.5 Monitoring the impact

A number of submitters and witnesses noted that there is a lack of robust data about the effectiveness of the proposed legislation. A number of studies have examined people's perceptions of the impact that the rules have had (see further

311 See Ian Walker, Ian Garrard & Felicity Jowitt ("The Influence of a Bicycle Commuter's Appearance on Drivers' Overtaking Proximities: An On-Road Test of Bicyclist Stereotypes, High-Visibility Clothing and Safety Aids in the United Kingdom", *Accident Analysis and Prevention* 64 (2014), pp.69-77) on the impact on passing distances of cyclists identified as police by their clothes.

312 Assistant Commissioner Mike Keating, Queensland Police, *Public Hearing*, 21 June 2016, p.21

313 Mr Mike Stapleton, Queensland Department of Transport and Main Roads, *Public Hearing*, 30 May 2016, pp.43-4; see also Assistant Commissioner Mike Keating, Queensland Police, *Public Hearing*, 21 June 2016, p.18

discussion in Section 3.5 of this report). However, little work has been done to objectively measure the impact of the rules on driver behaviour and road safety outcomes. As VicRoads and the Transport Accident Commission stated:

Despite 42 jurisdictions from around the world having introduced minimum overtaking distance laws or other laws to increase passing distances, there appear to be few evaluations available which have been undertaken to indicate the effectiveness of these laws in improving rider safety, and none of them are clear about whether the laws are actually effective in reducing road trauma.<sup>314</sup>

Two studies have measured driver behaviour after the introduction of minimum passing distance rules – one in Baltimore (USA) and the other in Queensland. In both cases, however, baseline data about driver behaviour before the rules were introduced was either minimal or non-existent. As a result, it was impossible to identify whether there were any changes to driver behaviour with the introduction of the rules.<sup>315</sup> It was also noted that the Baltimore evaluation “did not address whether there were any adverse effects influencing other types of crashes, e.g. head-on crashes from vehicles crossing centre lines.”<sup>316</sup>

Some preliminary data relating to accident rates in Queensland are available (see Section 3.5 of this report). However, one must be cautious about reaching any conclusions from these data until more information is available.

Given the lack of objective data about the effectiveness of minimum passing distance rules and potential adverse effects, a number of witnesses and submitters suggested that any changes in Victoria should be carefully monitored. The Committee agrees that this will be important and the results should be considered when the Road Rules are re-made in 2019.

### 5.5.1 How the rules should be evaluated

Critical to any evaluation of the rules is the collection of robust baseline data. Ms Robyn Seymour of VicRoads expressed her view on what would be required to show whether or not the rules were effective:

So before implementing this rule, we would need to do that baseline work — the surveys in particular — to really understand what is our current behavioural and cultural perspectives from cyclists, and then we would need to repeat that as part of the proper evaluation, to determine actually in quite an objective way whether there has been a shift in behaviour. Plus Queensland did the observational work as well, and I think that is really valuable. There were some limitations to that and having that pre and post would be really important in that context as well.<sup>317</sup>

<sup>314</sup> VicRoads and Transport Accident Commission, *Submission 166*, 29 April 2016, p.4; cf. pp.25-8; see also Acting Senior Sargeant Ryan Burns, *Public Hearing*, 30 May 2016, p.25

<sup>315</sup> Ms Robyn Seymour, VicRoads, *Public Hearing*, 30 May 2016, p.37; VicRoads and Transport Accident Commission, *Submission 166*, 29 April 2016, pp.25-8

<sup>316</sup> VicRoads and Transport Accident Commission, *Submission 166*, 29 April 2016, p.25

<sup>317</sup> Ms Robyn Seymour, VicRoads, *Public Hearing*, 30 May 2016, p.38

Professor Narelle Haworth, who was part of the team that conducted the evaluation of the rules in Queensland, explained that pre-trial data were not collected in Queensland because the evaluation was commissioned after the trial had begun.<sup>318</sup> She advised the Committee that, if a trial of the rules were to be undertaken in Victoria, time be left for people's behaviour and attitudes to be measured before the rules come into effect.<sup>319</sup>

In terms of what should be evaluated, Professor Haworth explained:

I think that you need to evaluate both what people think and what people do. Some people might say you only have to evaluate what people are doing, but if you only measure what people are doing you do not understand why. If there is not good compliance, then you do not understand is it because people do not know, is it because people do not understand, is it because people do not agree. I think that you need a combination of both measures of what people are doing on the road but also measures of what people understand and what the challenges are for them. Then obviously later on you need to be able to see it. Has it really made a difference to improve your safety in terms of numbers of collisions and injuries and so on? I think there are different components that you need to have a complete evaluation of how it is working.<sup>320</sup>

Professor Haworth also identified a number of learnings in terms of the practicalities of measuring driver behaviour that came from the Queensland evaluation.<sup>321</sup>

Work is underway to monitor the impact of the rule changes in New South Wales, including the collection of baseline data:

... 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 [Centre for Accident Research and Road Safety – Queensland] 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.<sup>322</sup>

The Committee notes that there are mechanisms in place in Victoria and other states to capture data about accidents reported to police, hospitalisations and emergency department presentations. These will form a particularly important source of evidence about the effectiveness of the road rules at reducing injury on

<sup>318</sup> Professor Narelle Haworth, Centre for Accident Research and Road Safety – Queensland, *Public Hearing*, 3 May 2016, p.2

<sup>319</sup> Professor Narelle Haworth, Centre for Accident Research and Road Safety – Queensland, *Public Hearing*, 3 May 2016, pp.2, 5

<sup>320</sup> Professor Narelle Haworth, Centre for Accident Research and Road Safety – Queensland, *Public Hearing*, 3 May 2016, p.5; see also Phoebe Dunn, Amy Gillett Foundation, *Public Hearing*, 3 May 2016, p.14

<sup>321</sup> Professor Narelle Haworth, Centre for Accident Research and Road Safety – Queensland, *Public Hearing*, 3 May 2016, pp.5-7

<sup>322</sup> Mr Bernard Carlon, New South Wales Centre for Road Safety, *Public Hearing*, 30 May 2016, p.58; cf. p.61

the roads. The Transport Accident Commission is not currently in favour of the rule changes because it does not consider there to be a solid evidence base at this time. The Committee was told that injury data would be a key requirement for that position to change:

... what we would be really looking for is evidence that it provides a safety benefit — that is, that fewer people are being killed or seriously injured as a result of this law change. My understanding is that the longer term evaluations that are coming out will provide that evidence base ... if something improves the safety of any road user group and does not disbenefit another road user group, we are going to be in favour of it.<sup>323</sup>

However, the Committee notes that it is important to also collect other data to provide context for these results. Mr Paul Yeatman explained in his submission to the inquiry:

If a cyclist feels safer on the road, or a potential cyclist feels safer where motorists are mandated to pass at a “safe” distance, then it is likely there will be more cycling trips. More trips would potentially result in more deaths ...<sup>324</sup>

Mr Yeatman therefore notes the importance of understanding the number of kilometres travelled by cyclists both before and after any rule changes. This would enable a metric such as “injuries and deaths per kilometre travelled” to be developed, which would provide a more meaningful assessment of the rule changes.<sup>325</sup>

Bicycle Network also recommends monitoring the impact of the rule changes on bicycle riding rates,<sup>326</sup> given that one of the anticipated benefits of specified minimum passing distance rules is increased participation in cycling (see Section 3.3.4 of this report).<sup>327</sup>

As part of the Queensland evaluation, concern was raised by some police officers that cyclists had become less cautious as a result of the rule (see Section 3.4.4 of this report). An evaluation of the rules should also try to identify whether any changes to cyclist behaviour might be contributing to the outcomes. For example, Professor Haworth recommended measuring whether the position of cyclists on the road changed as a result of introducing the rules.<sup>328</sup>

In addition, a number of organisations expressed concern about the risk of increased head-on collisions as a result of allowing motorists to cross unbroken centre lines in order to pass bicycles (see Chapter 4). As little evidence exists in relation to this matter, this is also something that should be examined as part of any evaluation of the rules.

<sup>323</sup> Ms Samantha Cockfield, Transport Accident Commission, *Public Hearing*, 30 May 2016, p.40

<sup>324</sup> Mr Paul Yeatman, *Submission 99*, 20 March 2016, p.3

<sup>325</sup> Mr Paul Yeatman, *Submission 99*, 20 March 2016, pp.3, 7; see also Amy Schramm, Narelle Haworth, Kristiann Heesch, Angela Watson & Ashim Debnath, *Evaluation of the Queensland Minimum Passing Distance Road Rule: Final Report* (2016), p.71

<sup>326</sup> Bicycle Network, *Submission 140*, 1 April 2016, p.11

<sup>327</sup> Bicycle Network, *Submission 140*, 1 April 2016, pp.6-7

<sup>328</sup> Professor Narelle Haworth, Centre for Accident Research and Road Safety – Queensland, *Public Hearing*, 3 May 2016, p.7



Finally, the Committee notes that it would be essential to evaluate the education and awareness campaign as part of an overall evaluation of the rules. It will be important to understand whether or not the rules are being effectively communicated in order to understand any changes (or lack of changes) in driver behaviour following the introduction of the rules.

**RECOMMENDATION 14:** That, if specified minimum passing distance rules are introduced, the Government task a suitable body with evaluating the impact of the rules in Victoria. The learnings from the Queensland evaluation should be taken into account in designing the Victorian evaluation. Among other things, the evaluation should:

- (a) compare driver behaviour and attitudes before and after the rules are changed
- (b) identify any changes in cyclist behaviour as a result of the rule changes
- (c) look for any impact on the risk of head-on collisions from allowing motorists to cross unbroken centre lines to pass cyclists (including accidents with motorcyclists)
- (d) consider the effectiveness of any education and awareness campaigns.

## 5.5.2 The need for a trial period

In introducing the legislation, some jurisdictions initially introduced it on a trial basis. In the case of Queensland, Mr Mike Stapleton from the Department of Transport and Main Roads explained:

My understanding is the decision to take the trial was mainly because no other jurisdiction in Australia at that stage had actually undertaken such a measure. The trial was to see whether or not this would work in the context of Queensland at that point in time.<sup>329</sup>

New South Wales and the Australian Capital Territory have introduced their legislation on a trial basis for two years.<sup>330</sup> The Committee was told that the decision to conduct a trial in New South Wales:

... 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.<sup>331</sup>

However, the changes in South Australia were introduced without trials.

<sup>329</sup> Mr Mike Stapleton, Queensland Department of Transport and Main Roads, *Public Hearing*, 30 May 2016, p.44

<sup>330</sup> Mr Shane Rattenbury MLA, ACT Minister for Justice, "New Cycling Rules to be Trialled from November" (media release), 21 September 2015; Mr Bernard Carlon, New South Wales Centre for Road Safety, *Public Hearing*, 30 May 2016, p.57

<sup>331</sup> Mr Bernard Carlon, New South Wales Centre for Road Safety, *Public Hearing*, 30 May 2016, p.60

In light of the difficulties in assessing the effectiveness of the proposed rules, some participants in the inquiry called for the rules to be introduced in Victoria on a trial basis. A trial would enable the effectiveness of the rules to be assessed, along with any potential negative consequences. This may be particularly important given some of the unique road infrastructure in Victoria (see Section 6.2 of this report).

Professor Narelle Haworth, who worked on the evaluation of the Queensland trial, noted that any trial “has to be long enough that you can actually get sensible results”. She considered that this would be “at least two years”, though she noted that two years had not been sufficient in Queensland to fully identify the road safety impact.<sup>332</sup> VicRoads suggested that a trial should be at least three years long.<sup>333</sup> Bicycle Network recommended a five-year trial to provide sufficient time “to properly assess the impact of the change”.<sup>334</sup>

However, others argued that there was no need for a trial.<sup>335</sup>

In light of the significant amount of anecdotal evidence and preliminary data suggesting that the Queensland trial has had positive impacts on cyclist safety (see Section 3.5 of this report), the Committee considers that it would be reasonable to introduce the rules without a trial period. This has the great advantage of making communications campaigns more straight-forward than if there were a trial.

Nonetheless, the Committee acknowledges that new data are being collected in other states which may indicate a different picture. Any evaluation of the rules in Victoria may also provide a clearer picture of the effectiveness of the rules and any negative side-effects. It will therefore be important for the Victorian Government to re-assess the appropriateness of the rules in the light of new data.

The current Road Rules (including the proposed changes if passed) will expire in 2019. The Committee considers that it would be appropriate for the Government to examine the evidence when re-establishing the Road Rules at that point. Should new evidence suggest that there are adverse consequences of the proposed rules, then the Government might consider modifying or removing the rules as part of that process.

## 5.6 Conclusions

A number of participants in the inquiry noted that changes to the Road Rules would need to be accompanied by education campaigns and enforcement of the rules in order to be effective.

<sup>332</sup> Professor Narelle Haworth, Centre for Accident Research and Road Safety – Queensland, *Public Hearing*, 3 May 2016, p.5

<sup>333</sup> Ms Robyn Seymour, VicRoads, *Public Hearing*, 30 May 2016, p.38

<sup>334</sup> Bicycle Network, *Submission 140*, 1 April 2016, p.9

<sup>335</sup> For example, see Ms Pheobe Dunn, Amy Gillett Foundation, *Public Hearing*, 3 May 2016, p.13, Ms Samantha Dunn MLC, *Public Hearing*, 31 May 2016, p.18.



Education campaigns have been implemented in a number of other jurisdictions, which Victoria could build on in developing an education strategy for Victoria. The Committee notes the importance of not only informing people about the rule changes but also motivating behaviour change in motorists. Key groups, including VicRoads, the Transport Accident Commission and the RACV advocated an education campaign about safe passing distances regardless of whether or not specified minimum passing distance rules are implemented.

Enforcement has proven difficult in other jurisdictions. This was attributed to problems gathering sufficient evidence to prosecute people who infringe the law and to reluctance on the part of some police to enforce the rules. Providing training and exploring new technologies were put forward as solutions to these problems.

If the proposed rules are implemented, it will also be important to monitor the impact that the rules are having. Much about the design of an appropriate evaluation can be learnt from previous evaluations (especially Queensland). Most notably, it is essential to collect baseline data of behaviour and attitudes before the rules are introduced so that changes brought about by the rules can be identified. It will also be important to look for any unintended negative side-effects of the rules.



# 6 Further matters for consideration

## 6.1 Background

Bicycle safety initiatives, such as minimum passing distances, take place within a broader framework of road safety policy. In Victoria, the “Safe System” approach has been adopted as an over-arching framework. VicRoads and the Transport Accident Commission (TAC) explained this approach to the Committee:

The Safe System philosophy of road safety is a holistic method that aims to minimise the risk of death or serious injury on the roads by taking into account the interaction between roads, vehicles, speeds and all road users (including bike riders and pedestrians). It contends that humans are fallible and crashes will happen.

There is therefore a key role for road safety authorities in making the transport system as forgiving as possible, so that it either absorbs the energy of a crash when it occurs or makes it impossible for an injury occurring crash to occur, significantly limiting deaths and injuries. VicRoads and TAC have adopted the Safe System Approach and are working towards its full implementation. The components of the safe system are safer vehicles, safer speeds, safer roads and roadsides and alert and compliant road users.

The key principles underpinning and driving a safe system approach are that:

- People are fallible and make mistakes;
- People have a limited ability to absorb forces from impacts at high speed; and
- Safety is a shared responsibility between the system designers and the system users.<sup>336</sup>

Although an examination of the broader policy framework is beyond the scope of this inquiry, a number of issues emerged during this inquiry relating to the broader framework and to Victoria-specific circumstances. These issues are discussed in this chapter.

## 6.2 Victorian infrastructure

### 6.2.1 Trams

One difference between Victoria and other Australian jurisdictions is the significant presence of trams in Melbourne. Trams affect the proposed rules in two ways: trams are themselves vehicles which may have accidents with bicycles; and the presence of tram tracks is another factor constraining movement on Victorian roads.

<sup>336</sup> VicRoads and Transport Accident Commission, *Submission 166*, 29 April 2016, p.9

The proposed rule changes in the Bill would not require trams to leave a 1/1.5 metre-gap.<sup>337</sup> The onus for maintaining a safe distance between a bicycle and a tram would therefore fall on the bicycle rider. Given the relatively predictable nature of tram movements and the priority of trams over other vehicles,<sup>338</sup> the Committee does not consider this problematic.

However, tram lanes can act as a constraint for other vehicles, as drivers are not permitted to drive within tram lanes in most circumstances.<sup>339</sup> As a result, it would not be possible on some streets, especially in Melbourne's central business district, for a motorist to pass a bicycle with the specified minimum passing distance, as the lanes are not wide enough (see further discussion of lane widths in Section 3.6).<sup>340</sup> This may slow traffic down in some cases.<sup>341</sup>

One solution would be to permit motorists to briefly enter tram lanes when passing a bicycle. This is currently permitted in a small number of circumstances, including avoiding an obstruction (Road Rule 158(2)(a)). Allowing drivers to cross unbroken yellow lines (marking tram lanes) when passing a bicycle would therefore be similar to the provisions in clauses 3 and 5 of the Bill (see Chapter 4 of this report).

Introducing such a provision would not resolve all restrictions as a result of tram infrastructure. There would still be places where it is impossible to pass a bicycle because of physical barriers separating tram lanes from traffic lanes or next to some tram "superstops".<sup>342</sup> The provision would also have to make clear that motorists could not enter tram lanes if it would obstruct trams or if unsafe. Even with such constraints, though, allowing motorists to enter tram lanes to pass bicycles may enable more flexibility on many roads, especially in the central business district.

However, the Committee received little evidence in relation to this issue and has not spoken with tram operators or Public Transport Victoria. There may be practical difficulties in relation to tram operations, especially on busy roads in the central business district. Further consultation would be needed to identify the potential side-effects of such a provision.

**RECOMMENDATION 15:** That, in considering the Overtaking Bicycles Bill, the Legislative Council consider whether or not the Road Rules should be changed to allow motorists to cross continuous yellow lines on the edges of tram lanes to pass bicycles (so long as doing so is safe and does not obstruct trams).

<sup>337</sup> Clause 4 of the Bill only specifies the minimum passing distance for "a driver of a motor vehicle." While "motor vehicle" is not defined in that provision, other references to "motor vehicle" in the Road Rules reference the definition in the *Road Safety Act 1986* (section 3), which excludes trams.

<sup>338</sup> See, for example, Road Rules 76 and 123

<sup>339</sup> That is, part of a road with tram tracks marked at the beginning and end with "tram lane" signs and bordered by a continuous yellow line – Road Rule 155

<sup>340</sup> RACV, *Submission 150*, 5 April 2016, p.6

<sup>341</sup> VicRoads and Transport Accident Commission, *Submission 166*, 29 April 2016, pp.5, 36; see also Bicycle Network, *Submission 140*, 1 April 2016, p.10

<sup>342</sup> VicRoads and Transport Accident Commission, *Submission 166*, 29 April 2016, p.36

## 6.2.2 Centre-line barriers

VicRoads and the Transport Accident Commission advised the Committee that Victoria has recently commenced a new infrastructure program which includes installing flexible barriers down the centre lines of some rural roads. They indicated that this infrastructure has not been installed in other jurisdictions with specified minimum passing distances. Therefore, it has not been necessary to factor this infrastructure into rules in those jurisdictions.<sup>343</sup>

This infrastructure would make it impossible for a vehicle to cross the centre line to pass a cyclist. If the Bill were passed, traffic may be slowed down where:

- centre-line barriers are in place and
- there is insufficient space to pass a cyclist and leave the minimum passing distance.

Where these two conditions both occur, vehicles would have to slow down and wait for an opportunity to pass. VicRoads and the Transport Accident Commission did not indicate how many roads there are where both of these conditions are likely to occur. The Committee notes that in some cases where there are centre-line barriers there are multiple lanes or road shoulders which will reduce the problem.

The Committee notes that these barriers are installed “on roads in Victoria where there is a probable or demonstrated high risk of head-on or run-off-road crashes involving vehicles crossing the centre line.”<sup>344</sup> These places may therefore be spots where it is inadvisable to cross the centre line to pass a bicycle. Given this, these centre-line barriers may complement the minimum passing distance rules and go some way to addressing concerns about motorists crossing centre lines unsafely as a result of the proposed rules (see Section 4.3 of this report).

## 6.3 Dedicated bicycle lanes

A number of participants in the inquiry considered that dedicated bicycle lanes provided the best solution for the safety of riders. Bicycle Network stated that separated bicycle lanes reduce the risk of a crash by approximately 90 per cent (whereas painted bicycle lanes reduce the risk by 50 per cent).<sup>345</sup>

The RACV recommended:

... the state government should fund an ongoing program to construct off-road and on-road separated bicycle facilities. We know that they are the safest. Where space is constrained, on-street parking should be removed so that traffic lanes can be retained. The role of roads in these situations should be about moving vehicles, not parked vehicles with zero occupancy.<sup>346</sup>

<sup>343</sup> VicRoads and Transport Accident Commission, *Submission 166*, 29 April 2016, p.40

<sup>344</sup> VicRoads and Transport Accident Commission, *Submission 166*, 29 April 2016, p.40

<sup>345</sup> Mr Craig Richards, Bicycle Network, *Public Hearing*, pp.3, 5

<sup>346</sup> Mr Brian Negus, RACV, *Public Hearing*, 31 May 2016, p.42; RACV, *Submission 150*, 5 April 2016, p.8

The RACV particularly recommended physical separators between traffic lanes and bicycle lanes.<sup>347</sup> Others noted that some bicycle lanes end abruptly, without having reached a particular end destination and called for funding to complete and link routes.<sup>348</sup>

VicRoads indicated that it has been undertaking work to create dedicated facilities:

In terms of some of our newer communities that we are building out in the growth areas, we are trying out in the growth areas to start designing, well before houses come in, how we can set up our primary arterial roads and our secondary arterial roads so that we get cyclists off road as much as possible and have dedicated bike lanes outside of the road environment. That is what we are ultimately aiming for, for our road networks moving forward, recognising that in some instances we might have on-road cycle lanes where we are trying to connect important areas. But as much as possible we are really trying to get high-quality, off-road cycle lanes and get the cyclists away from the traffic lanes.

In some built-up areas — for example, in the inner areas — where we do have available road space, we will try as much as possible to have separation for our cyclists.<sup>349</sup>

The Government's Towards Zero strategy includes funding of \$100 million for safe cycling and pedestrian infrastructure projects including "an increase in separate bike paths and lanes on principal and priority bicycle networks and routes to help protect cyclists from traffic."<sup>350</sup>

Some councils also informed the Committee that they have been investing in cycling infrastructure and some called on the State Government to provide additional funding.<sup>351</sup> The Committee was told that there is a grants program to assist local councils with infrastructure on local roads, for which bicycle lanes have been a major component.<sup>352</sup>

Mr Craig Richards from Bicycle Network was particularly concerned that the introduction of specified minimum passing distance rules might be accompanied by the removal of existing bicycle lanes or might be seen as substitute for maintaining or improving existing bicycle lanes. He called for this not to happen.<sup>353</sup> Relatedly, the Melbourne City Council recommended that:

... the Committee should consider the extent that the proposed legislation may impact design guidelines, and ensure that it does not reduce the ability to provide quality bicycle infrastructure in constrained environments in the future.<sup>354</sup>

<sup>347</sup> Mr Brian Negus, RACV, *Public Hearing*, 31 May 2016, p.45

<sup>348</sup> Ms Vicki Ward MP, *Submission 169*, 3 June 2016, p.1

<sup>349</sup> Mr Con Stasinis, VicRoads, *Public Hearing*, 30 May 2016, p.32; see also VicRoads and Transport Accident Commission, *Submission 166*, 29 April 2016, p.39

<sup>350</sup> Victorian Government, *Towards Zero* [2016], p.16; VicRoads and Transport Accident Commission, *Submission 166*, 29 April 2016, p.9

<sup>351</sup> See, for example, Melbourne City Council, *Submission 115*, 30 March 2016; Yarra City Council, *Submission 134*, 1 April 2016; Port Phillip City Council, *Submission 141*, 1 April 2016

<sup>352</sup> Ms Samantha Cockfield, Transport Accident Commission, *Public Hearing*, 30 May 2016, p.33

<sup>353</sup> Mr Craig Richards, Bicycle Network, *Public Hearing*, pp.3, 5

<sup>354</sup> Melbourne City Council, *Submission 115*, 30 March 2016, p.3

The Committee supports efforts to provide dedicated bicycle lanes where practicable and believes that work in this area should continue. Specified minimum passing distance rules should not be seen as a substitute for separated bicycle lanes.

## 6.4 Turning at intersections

A particular point of danger for cyclists is vehicles turning. Crashes when vehicles are turning right account for 13.9 per cent of bicycle accidents reported to police and vehicles hitting cyclists when turning left account for 4.6 per cent of accidents.<sup>355</sup>

Vehicles turning right are generally required to give way to oncoming traffic.<sup>356</sup> However, cyclists are required to give way to motorists turning left (Road Rule 141(2)). One witness advocated for this to be changed:

In addition, it is my belief that the current law that a cyclist must give way to a vehicle indicating left and turning left is contradictory and dangerous. Because bicycles most commonly are travelling through intersections to the left of cars, they ought to be treated the same as pedestrians – having the right of way over turning vehicles.<sup>357</sup>

The Committee considers that it is appropriate for bicycles to give way to vehicles turning left, as in many cases it will be easier for cyclists to see vehicles turning left ahead of them than for the vehicles to see the cyclists. However, the Committee notes that it may be difficult for the cyclists to see cars in some situations, such as where there is a parking lane between a bicycle lane and a traffic lane.

Given the prevalence of bicycle accidents when vehicles are turning, the Committee considers that this is an area that the Government should consider as part of its road safety campaigns. Awareness campaigns may be a valuable tool in reducing the rate of such accidents. Infrastructure such as bicycle traffic lights may also be helpful at some busy intersections.

**RECOMMENDATION 16:** That the Government consider ways to reduce the number of bicycle accidents at intersections. This should include consideration of awareness campaigns and infrastructure such as bicycle traffic lights.

<sup>355</sup> VicRoads and Transport Accident Commission, *Submission 166*, 29 April 2016, pp.12-13. Vehicles turning right includes the categories “right through” and “right turn side swipe”; vehicles turning left includes only “left turn side swipe”. These figures include both motor vehicles hitting bicycles and bicycles hitting motor vehicles, as police data do not differentiate these scenarios.

<sup>356</sup> See, for example, Road Rules 62(1)(c), 72(5)(b), 73(6)(a)

<sup>357</sup> Mr John Handley, *Submission 10*, 3 March 2016, p.1



## 6.5 Accompanying rules

In some other jurisdictions where specified minimum passing distances have been introduced, they have been accompanied by a number of other rules applying to cyclists.

In New South Wales, changes were made that increased penalties for cyclists for breaches of a number of road rules. A new rule was also introduced requiring adult cyclists to carry photo identification so that they can be fined if they breach the road rules.<sup>358</sup> Mr Carlon from the New South Wales Centre for Road Safety informed the Committee that this was designed to discourage people from the highest risk behaviours.<sup>359</sup>

In South Australia, at the same time as minimum passing distance rules were introduced, a rule was introduced permitting people of all ages to ride on the footpath.<sup>360</sup> This brings South Australia's rules in line with most other Australian states, although not Victoria.<sup>361</sup> On this matter, VicRoads and the Transport Accident Commission informed the Committee:

The Review of Victoria's Cycling Related Road Rules did not recommend that Victoria pursue an all age cycling on footpath policy, and when considering the needs of all pedestrians including people living with a disability, and the ageing population, increasing any cycling on footpaths needs careful consideration.<sup>362</sup>

In the Australian Capital Territory, cyclists were permitted to ride (at less than 10 kilometres per hour) across pedestrian and similar crossings.<sup>363</sup> In Queensland, fines were increased for cyclists breaching a number of road rules.<sup>364</sup>

As noted in Section 4.3.3 of this report, when the minimum passing distance rule was introduced in Nova Scotia, Canada, it was also accompanied by a number of other rules. These included a requirement for cyclists to ride in single file except when overtaking.<sup>365</sup>

Some submitters supported other rule changes being introduced in Victoria. Proposed rule changes included requiring bicycles to have number plates, allowing all cyclists to ride on footpaths, reducing speed limits on some roads and allowing cyclists to turn on red lights.<sup>366</sup> A number of people suggested

<sup>358</sup> Mr Bernard Carlon, New South Wales Centre for Road Safety, *Public Hearing*, 30 May 2016, pp.58-9

<sup>359</sup> Mr Bernard Carlon, New South Wales Centre for Road Safety, *Public Hearing*, 30 May 2016, p.59

<sup>360</sup> Ms Gemma Kernich, South Australian Department of Planning, Transport and Infrastructure, *Public Hearing*, 30 May 2016, p.48

<sup>361</sup> Road Rule 250

<sup>362</sup> VicRoads and Transport Accident Commission, *Submission 166*, 29 April 2016, p.41

<sup>363</sup> Shane Rattenbury MLA, ACT Minister for Justice, "New Cycling Rules to be Trialled from November" (media release), 21 September 2015

<sup>364</sup> Mr Mike Stapleton, Queensland Department of Transport and Main Roads, *Public Hearing*, 30 May 2016, p.43

<sup>365</sup> Nova Scotia, Chapter 59 of the Acts of 2010, *An Act to Amend Chapter 293 of the Revised Statutes, 1989, the Motor Vehicle Act*

<sup>366</sup> For example, see Joe Lenzo, *Submission 62*, 10 March 2016, p.1; Mr John Handley, *Submission 10*, 3 March 2016, p.2; Mr Ross Piper, *Submission 49*, 9 March 2016; Ms Jane Brownrigg, *Submission 57*, 10 March 2016, p.1; Mr Robert Cook, *Submission 67*, 12 March 2016; Mr John Myers, *Submission 121*, 31 March 2016, p.1; Yarra City Council, *Submission 134*, 1 April 2016, p.2

that Victoria should follow the example of some overseas jurisdictions where motorists are held liable in the event of a collision between a cyclist and motorist unless they can prove otherwise:

... an effective enforcement strategy would include the assumption of strict liability, in which a motorist is automatically assumed to be at fault in a collision with a vulnerable road user, unless they can prove otherwise ... Such strict liability laws operate with great effectiveness in many European countries such as The Netherlands.<sup>367</sup>

Enforcement is important if the law is to be respected. We are aware of other countries (e.g. the Netherlands), where the burden of proof is placed on the car driver when reported for dangerous driving involving a cyclist.<sup>368</sup>

A number of witnesses from bicycle groups spoke against other rules being introduced at the same time as specified minimum passing distance rules. As discussed in Section 5.2.1 of this chapter, some witnesses and submitters considered that introducing other rules in New South Wales had complicated the messaging to the public about the minimum passing distance rules.

The Committee considers that these other proposals are beyond the scope of this inquiry. However, the Government may wish to consider these points as part of its work on road safety.

## 6.6 Bicycle safety stakeholder group

The Amy Gillett Foundation recommended that the Government:

Convene a stakeholder advisory group including the Amy Gillett Foundation to provide expert advice and to monitor implementation of the minimum overtaking distance laws in Victoria and accompanying public awareness campaign and evaluation.<sup>369</sup>

The Foundation noted that such groups have been established in the Australian Capital Territory and Tasmania.<sup>370</sup> New South Wales has also established a *Cycling Safety Action Plan* implementation group “which includes all of the bicycle rider associations in New South Wales, the police, [the Department of] Justice and others” to ensure that ongoing messaging is communicated to both motorists and cyclists around safety and compliance issues.<sup>371</sup>

<sup>367</sup> Dr Tim Connors, *Submission 56*, 9 March 2016, p.1

<sup>368</sup> Eastern Vets Cycling Club, *Submission 118*, 30 March 2016, p.1

<sup>369</sup> Amy Gillett Foundation, *Submission 135*, 1 April 2016, p.2

<sup>370</sup> Amy Gillett Foundation, *Submission 135*, 1 April 2016, pp.2, 5

<sup>371</sup> Mr Bernard Carlon, New South Wales Centre for Road Safety, *Public Hearing*, 30 May 2016, p.60

In Queensland, a similar consultative forum has also been established to engage with the community. Queensland Police explained:

... we saw that we needed to be much better engaged with bicycle riders at a local level and also at a state level, so we have established a consultative forum. I chair that. We have Bicycle Queensland, Cycling Queensland, the RACQ, the National Heavy Vehicle Regulator and our partners from the Department of Transport and Main Roads. More recently we have brought in some people from the Queensland Police bicycle squad and a few other people. We sit down and in a consultative, proactive approach look to identify issues and points of concern amongst various groups ... If there are issues of concern by any party, we like to get those known, and we deal with them as quickly as we can rather than wait for them to escalate. I think that has been a really effective part of what we have seen.<sup>372</sup>

The Committee believes that there could be value in establishing a similar bicycle safety stakeholder group in Victoria. The group could assist with the introduction of specified minimum passing distance rules if passed by the Parliament. The group could also assist with the development of other road safety initiatives related to bicycles.

**RECOMMENDATION 17:** That the Government establish a stakeholder group including bicycle rider associations, other road user organisations, police and other stakeholders. This group could provide advice and assist with the implementation of specified minimum passing distance rules (if passed by the Parliament) and other initiatives to improve cyclist safety on the roads.

## 6.7 Conclusions

Bicycle safety initiatives such as specified minimum passing distances occur within a broader context of road use and road safety policy. It will be important to factor these into any rule changes. Tram infrastructure, centre-line barriers and separated bicycle lanes were all identified as matters which may interact with the proposed rules.

Whether specified minimum passing distance rules are introduced or not, the establishment of a bicycle safety stakeholder group may assist with the development and implementation of government policy in this area. The Committee hopes that initiatives to increase the level of safety for bicycle riders (and other road users) will continue into the future.

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372 Assistant Commissioner Mike Keating, Queensland Police, *Public Hearing*, 21 June 2016, p.19

# Appendix 1

## Submissions

1. Alex Mullins
2. Andrew Hollis
3. Geoff Holland
4. Peter Anderson
5. Robert Wenban
6. Rob Huddle
7. Michael Simon
8. Tim Gray
9. Andy Sheats
10. John Handley
11. David Birley
12. Cliff Bower
13. John Cook
14. Karen Webster
15. Bob Wes
16. Angelika Butler
17. Rebecca Skinner and Peter Milner
18. Alan Reid
19. The Addams Family Ride Group
20. Kahn Franke
21. Pro forma submission A (see A1.1)
22. Laurie Lyster
23. Liz Barr
24. Craig Lambie
25. Alan Tonkin
26. Ian Melton
27. Tomas Jahudka
28. Jeremy Hindell
29. Elise Gould
30. Megan Parnaby
31. Elaine Hopper
32. Dominic O'Dwyer
33. Sarah Dowling
34. Colin Smith
35. Catherine Pendrey
36. Harry Hook
37. John Curtis
38. Andrew Jeffery
39. Elizabeth Ellen
40. Steve Halliwell
41. Paul Webb
42. Alison Clarke
43. Ken Greene
44. Henry Gasko
45. Chris O'Connor
46. Ryan Akers
47. Margaret Churcher
48. David Shutler
49. Ross Piper
50. Paul Worden
51. Peter Robinson
52. Christine Banks
53. Bruce Rigg
54. Jacqui Salter
55. Mark Tregonning
56. Tim Connors
57. Jane Brownrigg
58. David Levin

59. Andrew Turner
60. Paul Klat
61. Sarah Quick
62. Joe Lenzo
63. David Charles
64. Glenn Osboldstone
65. Michael Weadon
66. Stuart Lamble
67. Robert Cook
68. Benjamin Sartori
69. Des Benjamin
70. Jacinta Cross
71. Libby Hanna
72. Larissa MacFarlane
73. Michael McIvor
74. Don Macrae
75. Troy Lourens
76. St Kilda Cycling Club
77. Benson Bannon
78. Paul Schofield
79. Jim Roelofs
80. Jenica Brooke
81. Saskia van Weel
82. Brad Collis
83. Susan Miller
84. Michael Havir
85. Alex Edney
86. Hamada Fayad
87. John O'Brien
88. Christopher Schultz
89. Bill Fish
90. Cycling Victoria
91. Sue Brown
92. Janis Munro
93. Malcolm Martin
94. Marcus Coghlan
95. Ian Morgan
96. Geelong Touring Cyclists Inc
97. Richard Bowen
98. Darren Taylor
99. Paul Yeatman
100. Janet Bennett
101. Port Phillip Bicycle User Group
102. Mark Bradley
103. Sue McKinnon
104. Gary Jaynes
105. Paul Garry
106. Adrian Dixon
107. Pro forma submission B (see A1.2)
108. Margaret Douglas
109. Paul Farren
110. Matthew Marques
111. Charlie Farren
112. Jeremy Haughty
113. Western Womens Bicycle User Group
114. Victorian Transport Association
115. Melbourne City Council
116. Christopher Holberton
117. Emma Barnett
118. Eastern Vets Cycling Club
119. RoadSafe Central Victoria
120. Bike Bendigo
121. John Myers
122. Will Fooks
123. Glennys Jones
124. David Reid
125. Wallis Market and Social Research

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| 126. John Perkins  | 156. Bridie O'Donnell  |
| 127. Victorian Motorcycle Council                              | 157. Meg A'Hearn   |
| 128. Macedon Ranges Cycling Club                               | 158. Simon Cannington  |
| 129. Andrew Kane   | 159. Simon Batterbury  |
| 130. Bike Safe Macedon Ranges                                  | 160. Alan Walker   |
| 131. BMW Motorcycle Club of Victoria                           | 161. Jeffrey Young   |
| 132. Graham Ellis  | 162. Lee Naish   |
| 133. Maningham City Council                                    | 163. Mark Lemmon   |
| 134. Yarra City Council  | 164. Garry McDonald  |
| 135. Amy Gillett Foundation                                    | 165. Robert Dunn   |
| 136. Maribyrnong City Council                                  | 166. VicRoads and TAC  |
| 137. Scott Gigante   | 167. Andrew Tytherleigh  |
| 138. Whitehorse City Council                                   | 168. Dennis Wollersheim  |
| 139. Ballarat City Council                                     | 169. Vicki Ward MP   |
| 140. Bicycle Network   | 170. Chris O'Donnell   |
| 141. Port Phillip City Council                                 | 171. Maxine Fowler   |
| 142. Alastair Douglas  | 172. South Australian Department of Planning, Transport and Infrastructure |
| 143. Melbourne Bicycle Touring Club Inc                        |  |
| 144. Yarra Bicycle Users Group                                 |  |
| 145. Kaye Trainor  |  |
| 146. Richard King  |  |
| 147. Stephen Williams  |  |
| 148. Safe Cycling Australia                                    |  |
| 149. James Steward   |  |
| 150. RACV  |  |
| 151. Adrian Vlok   |  |
| 152. Public Health Association Australia (Victoria)            |  |
| 153. Centre for Accident Research and Road Safety – Queensland |  |
| 154. Peter Campbell  |  |
| 155. Michael Walker  |  |

## A1.1 Pro forma A submitters

1. Eliza Metcalfe
2. Peter Gringinger
3. Phillip Nahed
4. Madeleine Legge
5. Phil Gray
6. Henry Travers
7. Liz Barr
8. Patrick McCabe
9. Daniel Palmer
10. Daniel Quin
11. Susan Hull
12. Christian Gorrie
13. Greta Gillies
14. Simon Braxton
15. Christine Slatter
16. Freya Robinson
17. Mark England
18. Nicholas Petrie
19. David Moreland
20. Khan Churchill
21. Chris Peters
22. George Ludlow
23. Fergus Henderson
24. Shawna McLarty
25. Lothar Arndt
26. Marika Andrews
27. Jocelyn Rolfe
28. Dale Bowerman
29. Sarah Garry
30. Brendan Phillips
31. Max Sargent
32. Jane Letinger
33. Rochelle Duke
34. Wolfgang Clemens
35. Damon Geeves
36. Brian Park
37. Abdy Sadri
38. Neil Head
39. David Kennedy
40. Carl Hemmings
41. Christopher Hamblin
42. Craig Taylor
43. Mark Horner
44. Cameron Frewer
45. John Neve
46. Maroondah Bicycle User Group
47. Errol Hunt
48. Igor Tesic
49. Alan Leenaerts
50. Rob Moss
51. Simon Crawford
52. Karen Dods
53. Steven Rolph
54. Felix Eve
55. Ahmad Rahimi
56. Faith Kaan
57. Adrian Smith
58. Alison Sutherland
59. Pat Thomas
60. Kathy Brunning
61. Kathryn Feldmaier
62. Lisa Fricke
63. Yvette Petersen
64. Lynn Plummer
65. Anita Feigin
66. Blake Raidal
67. Kemran Mestan



68. Timothy Anders
69. Janet Bennett
70. Matthew Shanks
71. Charlie Caruana
72. Martin Davis
73. Glenn Benedetti
74. Marion Weller
75. Paul Stephens
76. Anthony Styliano
77. James McLennan
78. Paul Cruse
79. Beryl Flower
80. Peter Signorini
81. Matthew Esler
82. Ian Ward
83. Grace McCaughey
84. Lu Cornwell
85. Mark Boyanton
86. Mary Lee
87. Alison Wallace
88. Tracey Esler
89. Joan Selby Smith
90. Jamie Raisbeck
91. Don Gorrie
92. Lucas Maddock
93. Amy Li
94. Jane Smith
95. Kyle Bartlett
96. Kathy Ethakada
97. Jason Caulfield
98. Gabriel Thomson
99. Steven Gagliardi
100. Sing Wong
101. Dan Purcell
102. Justine Smith-Clarke
103. Phillip Smith
104. Noel Smith-Clarke
105. Alfred Buatti
106. Karen Dacy
107. James Bridson
108. Roscoe Tsalacopoulos
109. Trang Nguyen
110. Rodney Williams
111. Paul Thomson
112. Warwick Burns
113. Gareth Evans
114. John Nicholson
115. Michael Durrant
116. Ben Hocking
117. Alan Francis
118. Keith Field
119. Michael Collin
120. James Tait
121. Darryl Wood
122. Sue Laughton
123. Daniel Walker
124. Annee Miron
125. Ed Biggs
126. Robyn Aldrick
127. Sarah Dam
128. Stephen Goodall
129. Mark Bullock
130. Craig Everard
131. Jeremie Bonneau
132. Simon Woodcock
133. Stuart Gordon
134. Craig Williams
135. Heather Hoggan
136. Glen Mason
137. Pete Ransome

## **A1.2 Pro forma B submitters**

1. Owen Bentley
2. Euan Pennington
3. Danya Driessen
4. Michael Hampton

# Appendix 2

## Public hearings

### Tuesday, 3 May 2016 – 55 St Andrews Place, Room G3

Name	Title	Organisation
Professor Narelle Haworth	Director	Centre for Accident Research and Road Safety (Queensland) (via videoconference)
Phoebe Dunn	Chief Executive Officer	Amy Gillett Foundation
Marilyn Johnson	Research and Policy Manager	

### Monday 30 May 2016 – 55 St Andrews Place, Room G6

Name	Title	Organisation
Professor Charles Brown MPA	-	Rutgers University, New York (via videoconference)
Mr Kipp Kaufmann	Chief Executive Officer	Cycling Victoria
Mr Rob Spence	Chief Executive Officer	Municipal Association of Victoria
Inspector Wayne Chatter	-	Victoria Police
Acting Senior Sergeant Ryan Burns	-	
Robyn Seymour	Director, Vehicle & Road Use Policy	VicRoads
Con Stasinos	Director, Network Policy and Standards	
Samantha Cockfield	Senior Manager, Road Safety	
Elizabeth Waller	Manager, Strategy and Programs, Road Safety	Transport Accident Commission (Victoria)
Michael Nieuwesteeg	Manager, Research, Road Safety	
Mike Stapleton	Deputy Director-General, Customer Services, Safety and Regulation	Queensland Department of Transport and Main Roads (via videoconference)
Darren Mulholland	Senior Manager, Safer Road Users	
Deborah Evans	Principal Advisor, Safer Road Users	
Gemma Kernich	Unit Manager, Programs and Planning Advice	South Australian Department of Transport, Energy and Infrastructure (via videoconference)
Craig Hoey,	Manager Road Safety	Tasmanian Department of State Growth (via videoconference)
Bernard Carlon	Executive Director	NSW Centre for Road Safety (via videoconference)

**Tuesday 31 May 2016 – 55 St Andrews Place, Room G6**

<b>Name</b>	<b>Title</b>	<b>Organisation</b>
Craig Richards	Chief Executive Officer	Bicycle Network
Tess Allaway	General Manager, Behaviour Change and Government	
Margaret Douglas	Board Member	RoadSafe Central Victoria
Samantha Dunn MLC (Bill sponsor)	-	-
Andrew Smeal	-	-
Robert Kretschmer	Treasurer	Bike Bendigo
Brett Ellis	President	Macedon Ranges Cycling Club
Sue Blakey,	Vice-President	Bike Safe Macedon Ranges
Dave Jones	Manager Roads & Traffic	RACV
Brian Negus	General Manager Public Policy	
Steve Spalding	Executive Manager Technical and Safety Policy	RACQ (via videoconference)
Genevieve Graves	Manager Sustainable Transport	
Phil Ayres	Chief Executive Officer	Cycling NSW (via videoconference)

**Tuesday 21 June 2016 – 55 St Andrews Place, Room G6**

<b>Name</b>	<b>Title</b>	<b>Organisation</b>
Rob Salvatore	Chair	Victorian Motorcycle Council
Professor Richard Huggins	-	
John Eacott	President	BMW Motorcycle Club Victoria
Assistant Commissioner Mike Keating	-	Queensland Police (via videoconference)

# Appendix 3 Road Rule 144

Victoria	Queensland	New South Wales	South Australia	Australian Capital Territory
Road Safety Road Rules 2009 (Vic)	Transport Operations (Road Use Management—Road Rules) Regulation 2009 (Qld)	Road Rules 2014 (NSW)	Australian Road Rules 2014 (SA)	Australian Road Rules 2012 (ACT)
<b>OVERTAKING</b>				
<p><b>144 Keeping a safe distance when overtaking</b></p> <p>A driver overtaking a vehicle:</p> <p>(a) must pass the vehicle at a sufficient distance to avoid a collision with the vehicle or obstructing the path of the vehicle; and</p> <p>(b) must not return to the marked lane or line of traffic where the vehicle is travelling until the driver is a sufficient distance past the vehicle to avoid a collision with the vehicle or obstructing the path of the vehicle.</p> <p>Penalty: 10 penalty units.</p> <p>Note: <i>Marked lane</i> and <i>overtake</i> are defined in the dictionary.</p>	<p><b>144 Keeping a safe distance when overtaking</b></p> <p>Subject to section 144A(1), a driver overtaking a vehicle:</p> <p>(a) must pass the vehicle at a sufficient distance to avoid a collision with the vehicle or obstructing the path of the vehicle; and</p> <p>(b) must not return to the marked lane or line of traffic where the vehicle is travelling until the driver is a sufficient distance past the vehicle to avoid a collision with the vehicle or obstructing the path of the vehicle.</p> <p>Maximum penalty: 20 penalty units.</p>	<p><b>144 Keeping a safe distance when overtaking</b></p> <p>A driver overtaking a vehicle:</p> <p>(a) must pass the vehicle at a sufficient distance to avoid a collision with the vehicle, and</p> <p>(b) must not return to the marked lane or line of traffic where the vehicle is travelling until the driver is a sufficient distance past the vehicle to avoid a collision with the vehicle or obstructing the path of the vehicle.</p> <p>Maximum penalty: 20 penalty units.</p> <p>Note: <i>Marked lane</i> and <i>overtake</i> are defined in the dictionary.</p>	<p><b>144 Keeping a safe distance when overtaking</b></p> <p>A driver overtaking a vehicle:</p> <p>(a) must pass the vehicle at a sufficient distance to avoid a collision with the vehicle; and</p> <p>(b) must not return to the marked lane or line of traffic where the vehicle is travelling until the driver is a sufficient distance past the vehicle to avoid a collision with the vehicle or obstructing the path of the vehicle.</p> <p>Offence provision.</p> <p>Note: <i>Marked lane</i> and <i>overtake</i> are defined in the dictionary.</p>	<p><b>144 Keeping a safe distance when overtaking</b></p> <p>A driver overtaking a vehicle:</p> <p>(a) must pass the vehicle at a sufficient distance to avoid a collision with the vehicle or obstructing the path of the vehicle; and</p> <p>(b) must not return to the marked lane or line of traffic where the vehicle is travelling until the driver is a sufficient distance past the vehicle to avoid a collision with the vehicle or obstructing the path of the vehicle.</p> <p>Offence provision.</p> <p>Note: <i>Marked lane</i> and <i>overtake</i> are defined in the dictionary.</p>

Victoria	Queensland	New South Wales	South Australia	Australian Capital Territory
<b>DEFINITION OF OVERTAKE</b>				
<p><i>overtake</i>, for a driver, means the action of:</p> <p>(a) approaching from behind another driver travelling in the same marked lane or line of traffic; and</p> <p>(b) moving into an adjacent marked lane or part of the road on which there is room for a line of traffic (whether or not the lane or part of the road is for drivers travelling in the same direction); and</p> <p>(c) passing the other driver while travelling in the adjacent marked lane or line of traffic;</p> <p>Note: <i>Marked lane</i> is defined in this dictionary.</p>	<p><i>overtake</i>, for a driver, means the action of:</p> <p>(a) approaching from behind another driver travelling in the same marked lane or line of traffic; and</p> <p>(b) moving into an adjacent marked lane or a part of a road where there is room for a line of traffic, whether or not the lane or part of the road is for drivers travelling in the same direction; and</p> <p>(c) passing the other driver while travelling in the adjacent marked lane or line of traffic.</p> <p>-</p>	<p><i>overtake</i>, for a driver, means the action of:</p> <p>(a) approaching from behind another driver travelling in the same marked lane or line of traffic; and</p> <p>(b) moving into an adjacent marked lane or part of the road on which there is room for a line of traffic (whether or not the lane or part of the road is for drivers travelling in the same direction); and</p> <p>(c) passing the other driver while travelling in the adjacent marked lane or line of traffic.</p> <p>Note: <i>Marked lane</i> is defined in this dictionary.</p>	<p><i>overtake</i>, for a driver, means the action of:</p> <p>(a) approaching from behind another driver travelling in the same marked lane or line of traffic; and</p> <p>(b) moving into an adjacent marked lane or part of the road on which there is room for a line of traffic (whether or not the lane or part of the road is for drivers travelling in the same direction); and</p> <p>(c) passing the other driver while travelling in the adjacent marked lane or line of traffic.</p> <p>Note: <i>Marked lane</i> is defined in this dictionary.</p>	<p><i>overtake</i>, for a driver, means the action of:</p> <p>(a) approaching from behind another driver travelling in the same marked lane or line of traffic; and</p> <p>(b) moving into an adjacent marked lane or part of the road on which there is room for a line of traffic (whether or not the lane or part of the road is for drivers travelling in the same direction); and</p> <p>(c) passing the other driver while travelling in the adjacent marked lane or line of traffic.</p> <p>Note: <i>Marked lane</i> is defined in this dictionary.</p>

Victoria	Queensland	New South Wales	South Australia	Australian Capital Territory
Road Safety Road Rules 2009 (Overtaking Bicycles) Bill 2015 (Vic)	Transport Operations (Road Use Management—Road Rules) Regulation 2009 (Qld)	Road Rules 2014 (NSW)	Road Traffic (Road Rules—Ancillary and Miscellaneous Provisions) Regulations 2014 (SA)	Road Transport (Safety and Traffic Management) Regulation 2000 (ACT)
<b>PASSING CYCLISTS</b>				
<b>AS PROPOSED IN THE BILL<sup>(a)</sup></b>	<b>144A Keeping a safe lateral distance when passing bicycle rider</b>	<b>144—NSW rule: keeping a safe distance when passing bicycle rider</b>	<b>11A Keeping a safe lateral distance when passing bicycle rider</b>	<b>38A Keeping safe lateral distance when passing bicycle rider</b>
<p>144 Keeping a safe distance when overtaking or passing</p> <p>(1) A driver overtaking or passing a vehicle—</p> <p>(a) must pass the vehicle at a sufficient distance to avoid a collision with the vehicle or obstructing the path of the vehicle; and</p> <p>(b) must not return to the marked lane or line of traffic where the vehicle is travelling until the driver is a sufficient distance past the vehicle to avoid a collision with the vehicle or obstructing the path of the vehicle.</p>	<p>(1) The driver of a motor vehicle passing the rider of a bicycle that is travelling in the same direction as the driver must pass the bicycle at a sufficient distance from the bicycle.</p>	<p>(1) The driver of a motor vehicle driving past to the right of a bicycle that is travelling on a road in the same direction as the motor vehicle must pass the bicycle at a safe distance from the bicycle.</p>	<p>(1) Despite anything in rule 144, a driver of a motor vehicle driving past to the right of the rider of a bicycle travelling in the same direction as the driver must pass the bicycle at a sufficient distance from the bicycle.</p> <p>(2) In this regulation, unless the contrary intention appears—<i>bicycle</i> includes—</p> <p>(a) the rider of the bicycle and any passenger on the bicycle; and</p> <p>(b) any bicycle trailer towed by the bicycle and any passenger in or on the trailer; and</p> <p>(c) any basket or pannier bags attached to the bicycle or any trailer,</p> <p>but does not include a flag or stick (whether or not flexible) attached to and projecting sideways from the bicycle or any trailer;</p> <p><i>bicycle trailer</i> has the same meaning as in rule 257(2);</p> <p><i>lateral distance</i>, from a bicycle that is being passed by the driver of a motor vehicle, means the distance between the following points:</p> <p>(a) the furthestmost point to the right on the bicycle; and</p> <p>(b) the furthestmost point to the left on the driver's vehicle or any projection from the vehicle (whether or not attached to the vehicle);</p>	<p>(1) The driver of a motor vehicle passing the rider of a bicycle that is travelling in the same direction as the driver must pass the bicycle at a sufficient distance from—</p> <p>(a) the bicycle; or</p> <p>(b) if the rider is riding alongside another rider—the bicycle furthest to the right.</p>
Penalty: 10 penalty units.	Maximum penalty: 40 penalty units.	Maximum penalty: 20 penalty units.	Maximum penalty: \$2,500.	Maximum penalty: 20 penalty units.
Note: <i>Marked lane</i> and <i>overtake</i> are defined in the dictionary.	Note: Section 129 generally requires the rider of a bicycle on a road, other than a multi-lane road, to ride as near as practicable to the far left side of the road.			Note: The Australian Road Rules, r 129 requires the rider of a bicycle on a road, other than a multi-lane road, to ride as near as practicable to the far left side of the road.
(a)	Incorporating the amendments which Ms Dunn advised the Committee that she would propose (see section 2.2.2 of this report)			



Victoria	Queensland	New South Wales	South Australia	Australian Capital Territory
<b>PASSING CYCLISTS (continued)</b>				
<p>(2) For the purposes of this rule, sufficient distance—</p> <p>(a) in relation to a driver of a motor vehicle overtaking a person who is riding a bicycle (whether or not the bicycle rider is in a bicycle lane) means—</p> <p>(i) if the speed-limit applying for the length of road where the driver is driving at the time of overtaking is not more than 60 kilometres per hour—a distance of not less than 1 metre from the bicycle;</p> <p>(ii) if the speed-limit applying for the length of road where the driver is driving at the time of overtaking is more than 60 kilometres per hour—a distance of not less than 1.5 metres from the bicycle;</p> <p>(b) in relation to a rider of a bicycle overtaking another bicycle means a distance that is a safe distance in the circumstances.</p> <p>(3) For the purposes of this rule, sufficient distance is measured by the lateral distance between the following points—</p> <p>(a) the furthestmost point to the left on the driver's vehicle or any projection from the vehicle (whether or not attached to the vehicle);</p> <p>(b) the furthestmost point to the right on the bicycle, any bicycle trailer towed by the bicycle, the rider or any passenger in or on the trailer.</p> <p>Examples:</p> <p>(1) A basket or pannier bags attached to the bicycle would be considered to be part of the bicycle.</p> <p>(2) A flag or stick attached to the bicycle, whether flexible or inflexible, would not be considered to be part of the bicycle.</p>	<p>(2) A sufficient distance from the bicycle is—</p> <p>(a) if the applicable speed limit is not more than 60km/h—a lateral distance from the bicycle of at least 1m; or</p> <p>(b) if the applicable speed limit is more than 60km/h—a lateral distance from the bicycle of at least 1.5m.</p> <p>(3) For subsection (2), the lateral distance is the distance between the following points—</p> <p>(a) the furthestmost point to the left on the driver's vehicle or any projection from the vehicle (whether or not attached to the vehicle);</p> <p>(b) the furthestmost point to the right on the bicycle, any bicycle trailer towed by the bicycle, the rider or any passenger in or on the trailer.</p> <p>Example of what is part of a bicycle for paragraph (b)—a basket or pannier bags attached to the bicycle</p> <p>Example of what is not part of a bicycle for paragraph (b)—a flag or stick, whether or not flexible, attached</p>	<p>(2) A safe distance from the bicycle is:</p> <p>(a) if the speed limit applying to the driver of the motor vehicle for the length of the road is not more than 60 kilometres per hour—a distance of at least 1 metre, or</p> <p>(b) if the speed limit applying to the driver of the motor vehicle for the length of the road is more than 60 kilometres per hour—a distance of at least 1.5 metres, measured laterally from the furthest right side of the bicycle to the furthest left side of the motor vehicle or any part of the vehicle (including anything attached to or projecting from the vehicle).</p> <p>(3) For the purposes of subrule (2), bicycle includes any bicycle trailer towed by the bicycle, the rider or any passenger on the bicycle or in or on the trailer and any basket or pannier bags attached to the bicycle or trailer, but does not include any flag or stick (whether or not flexible) attached to and projecting sideways from the bicycle or trailer.</p>	<p>sufficient distance, from a bicycle that is being passed by the driver of a motor vehicle, means:</p> <p>(a) if the speed limit applying to the driver for the length of road is not more than 60 kilometres per hour—a lateral distance from the bicycle of at least 1 metre, or</p> <p>(b) if the speed limit applying to the driver for the length of road is more than 60 kilometres per hour—a lateral distance from the bicycle of at least 1.5 metres.</p>	<p>(2) For this section:</p> <p>(a) a driver passes a bicycle at a sufficient distance from the bicycle if the driver passes at a lateral distance from the bicycle of—</p> <p>(i) at the applicable speed limit at the point the driver passes the bicycle is not more than 60km/h—at least 1m; or</p> <p>(ii) if the applicable speed limit at the point the driver passes the bicycle is more than 60km/h—at least 1.5m; and</p> <p>(b) the lateral distance between a motor vehicle passing a bicycle and the bicycle is the distance between—</p> <p>(i) the most distant point to the left—</p> <p>(a) on the driver's vehicle; or</p> <p>(b) on any projection from the vehicle (whether or not attached to the vehicle); and</p> <p>(ii) the most distant point to the right—</p> <p>(a) on the bicycle (or any part of the bicycle); or</p> <p>(b) on a rider of the bicycle; or</p> <p>(c) on any bicycle trailer towed by the bicycle; or</p> <p>(d) on any passenger in or on any bicycle trailer.</p> <p><b>Examples—part of a bicycle</b> basket, pannier bags</p> <p><b>Example—not part of a bicycle</b> a flag or stick, whether or not flexible, attached to the bicycle, that projects sideways from the bicycle</p>

Note: *Bicycle lane* is defined in the dictionary.

Victoria	Queensland	New South Wales	South Australia	Australian Capital Territory
PASSING CYCLISTS (continued)				
-	-	<p><b>144-2 NSW rule: exceptions for passing bicycle rider</b></p> <p>(1) The driver of a motor vehicle driving past to the right of a bicycle that is travelling on a road in the same direction as the motor vehicle may, if it is necessary in order to comply with rule 144-1 while passing the bicycle, do any of the following but only if the driver can do so safely and has a clear view of any approaching traffic:</p> <p>(a) if the driver is driving on a two-way road without a dividing line or median strip—drive to the right of the centre of the road,</p> <p>(b) if the driver is driving on a road with a dividing line—drive to the right of the dividing line,</p> <p>(c) drive:</p> <p>(i) on a dividing strip that is at the same level as the road, or</p> <p>(ii) on or over a single continuous line, or 2 parallel continuous lines, along a side of or surrounding a painted island,</p> <p>(d) if the driver is driving on a multi-lane road—drive so that the driver's vehicle is not completely in a marked lane,</p> <p>(e) if the driver is driving on a road with 2 or more lines of traffic travelling in the same direction as the driver, but without marked lanes—drive so that the driver's vehicle is not completely in a single line of traffic,</p> <p>(f) if the driver is driving on a multi-lane road—move from one marked lane to another marked lane across a continuous line separating the lanes.</p>	<p><b>11B—Exemption from certain rules when passing bicycle rider</b></p> <p>(1) Despite anything in rule 132, 137, 138, 146 or 147, a driver of a motor vehicle driving past to the right of the rider of a bicycle travelling in the same direction as the driver may, if it is necessary in order to comply with regulation 11A for the passing of the rider, do any of the following:</p> <p>(a) if the driver is driving on a two-way road without a dividing line or median strip—drive to the right of the centre of the road, provided that the driver has a clear view of any approaching traffic and can do so safely;</p> <p>(b) if the driver is driving on a road with a dividing line—drive to the right of the dividing line, provided that the driver has a clear view of any approaching traffic and can do so safely;</p> <p>(c) drive—</p> <p>(i) on a dividing strip that is at the same level as the road; or</p> <p>(ii) on or over a single continuous line, or 2 parallel continuous lines, along a side of or surrounding a painted island, provided that the driver has a clear view of any approaching traffic and can do so safely;</p> <p>(d) if the driver is driving on a multi-lane road—drive so that the driver's vehicle is not completely in a marked lane;</p> <p>(e) if the driver is driving on a road with 2 or more lines of traffic travelling in the same direction as the driver, but without marked lanes—drive so that the driver's vehicle is not completely in a single line of traffic;</p>	<p><b>38B Exceptions for passing bicycle rider</b></p> <p>(1) The driver of a motor vehicle passing the rider of a bicycle that is travelling in the same direction as the driver may make a permitted manoeuvre to pass the rider if—</p> <p>(a) the driver has a clear view of any approaching traffic; and</p> <p>(b) the permitted manoeuvre is necessary to comply with section 38A; and</p> <p>(c) the driver can do so safely.</p> <p>(2) In this section: <i>permitted manoeuvre</i> means—</p> <p>(a) if the driver is driving on a two-way road without a dividing line or median strip—drive to the right of the centre of the road; or</p> <p>(b) if the driver is driving on a road with a dividing line—drive to the right of the dividing line; or</p> <p>(c) drive on a dividing strip that is at the same level as the road; or</p> <p>(d) drive on or over a single continuous line; or</p> <p>(e) drive on or over 2 parallel lines; or</p> <p>(f) drive along a side, or surrounding, of a painted island.</p>

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<b>PASSING CYCLISTS (continued)</b>				
-	-	<p>(2) Subrule (1) has effect despite anything in rule 132, 137, 138, 146 or 147.</p> <p>(3) For the purposes of subrule (1) (c), a dividing strip does not include a painted island and is taken to be at the same level as the road even if the dividing strip contains 1 or more raised pavement bars or markers.</p>	<p>(f) if the driver is driving on a multi-lane road—move from one marked lane to another marked lane across a continuous line separating the lanes, provided that the driver can perform the movement safely.</p> <p>(2) For the purposes of subregulation (1) (c), a dividing strip does not include a painted island and is to be taken to be at the same level as the road even if the dividing strip contains 1 or more raised pavement bars or markers.</p> <p>(3) Subregulation (1)(a), (b) and (c) do not apply to a service road other than a service road to which a two-way sign applies (in which case they apply to the service road as if it were a separate road).</p>	<p>Note: An example is part of the regulation, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).</p> <p>Note: Australian Road Rules, r 46 or r 48 for the requirement to give left or right change of direction signal.</p>