

01 May 2012

Mr Robert McDonald  
Secretary  
Legislative Council Standing Committee on Economy and Infrastructure  
Parliament House  
Spring St, East Melbourne, VIC 3002

Dear Mr McDonald

## Road Safety Amendment (Car Doors) Inquiry 2012

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### 1 Preamble

The Parliament of Victoria's Economy and Infrastructure Legislation Committee is conducting an inquiry into the Road Safety Amendment (Car Doors) Bill 2012.

'Car dooring' (or dooring) in Victoria is currently an offence under the Road Safety Road Rules 2009. Subsection 269(3) states:

A person must not cause a hazard to any person or vehicle by opening by opening a door of a vehicle, leaving a door of a vehicle open, or getting off, or out of, a vehicle.

Penalty: 3 penalty units.

#### 1.1 Penalties and demerit points

Although 3 penalty units is the current maximum under the Road Rules, the Road Safety Regulations 2009 set an infringement penalty of **1 penalty unit**. 1 penalty unit is equal to \$122.14 in 2011-12. Most offences are dealt with through an infringement notice, that is an on the spot fine of \$122.14.

The Road Safety Amendment (Car Doors) Bill 2012 proposes to increase this penalty to 10 penalty units and a loss of three demerit points.

#### 1.2 Legislation versus Regulation and Enforcement

The offence of 'car dooring' is currently contained in the Road Safety Road Rules 2009, which are regulations made under the Road Safety Act 1994. The Bill proposes to create an offence of 'car dooring' within the Road Safety Act 1994 itself. This would mean that the offence and penalty would now be set by legislation.

## 2 Amy Gillett Foundation Response

### 2.1 Objective

The mission of the Amy Gillett Foundation (AGF) is safe cycling in Australia. Our vision is zero bicyclist fatalities.

Our work accords with the Safe System Framework endorsed by the National Transport Council and all state road transport/safety agencies. This inquiry directly addresses the Safer Road User quadrant of the Safe System Framework, that is 'safe behaviour' of all users of the Australian (in this case) Victorian road transport system.

The Foundation asserts that Safer Road Users is an under-emphasised component of the Safe System Framework. The Foundation also asserts that vulnerable road users (including bicyclists) are under-emphasised in road safety strategies Australia.

In Victoria, the number of police-reported cyclist 'dooring' crashes is increasing. From 2000 to 2010, 1,088 cyclist 'dooring' crashes have been reported to police, with a 125% increase from 2000 to 2010<sup>i</sup>.

Indeed numerous studies indicated that the major constraint for people taking up cycling is the 'lack of safety'. 62% of non-bike riders would ride if conditions were safer according to the Cycling Promotion Fund<sup>ii</sup>. In addition the true extent and cost of bicyclist crashes is under-reported in police data<sup>iii</sup> by a multiple in the order of ten times<sup>iv</sup>.

Safer Road Users seeks to realise a culture that supports and abides by behaviours which protect all road users (self, vehicle occupants, and non-occupants). Safer Road Users can be achieved through a combination of awareness, education, training/skills/experience, licensing, regulations and legislation and enforcement – the whole spectrum from 'carrot to stick'.

## 2.2 Education

In making this submission to the Inquiry we assert that awareness, attitude and education are fundamental to supporting legislative change in relation to 'Dooring'. A thorough communications campaign would:

- Clearly enunciate expected behaviour of vehicle occupants in relation to the opening of vehicle doors towards external road users especially vulnerable road users, and what constitutes an offence
- Increase awareness of all motorists of the offence and the impacts on vulnerable road users e.g. James Cross' tragic death, James fell under the path of a truck after being 'doored'
- Communicate that 'dooring' is an offence that will be penalised, and the penalty.

Ultimately we view the whole spectrum of behaviour change initiatives as being critical to reducing crashes between motorists and bicyclists, in particular the rising incidence of 'dooring'.

## 2.3 Penalties

Australian Law is based on the philosophy of self-regulation. Our recommendations uphold this philosophy and support that both regulations and summary offences have a role to play in upholding self regulation. In the instance of inadvertent unsafe/illegal behaviour (as determined by the Australian Road Rules), regulations (and the associated infringement) are relevant. In the instance where the behaviour causes harm to another party, we support summary offences under legislation.

### 2.3.1 Current Regulation status and infringement

As a Regulation under the Road Safety Act 1994, the AGF supports that the infringement associated with 'Dooring' is insufficient. The current penalty is 1 penalty unit out of a maximum of 3 units under the Australian Road Rules<sup>v</sup>.

The infringement should be increased to align with other offences which impact the safety of non-occupant vulnerable road users . For example<sup>vi</sup>:

- Drivers failing to obey traffic lights (2.5 penalty units)
- Fail to obey stop, stop here on red signal or stop here on red arrow sign (2.5 penalty units)
- Fail to stop and remain stationary at children's crossing (2.5 penalty units).

Given that a dooring crash can lead to a cyclist's death, we consider it to be a critical risk offence and a penalty of up to 10 demerit points is warranted. As per other critical risk offences, it is reasonable that for some dooring offences, such as actions that lead to a cyclist's death or serious injury that the driver's licence also be suspended<sup>vii</sup>.

The AGF recommends that:

1. *At a minimum*, 2.5 penalty units should apply to 'dooring' offences.
2. A person who incurs a penalty for dooring has demerit points allocated to their licence.
3. The penalty may be partially reduced by the offender taking part in education about the road rules relating to dooring and vulnerable road user safety.

### 2.3.2 Legislation under the Road Safety Act

The current law does not hold an offender liable for the serious injury or death of a victim of dooring, as in the case of James Cross.

The AGF proposes that the Bill is amended to create a new offence of 'car dooring' causing serious injury under legislation, **and** that the current offence is retained in regulations.

## 3 Conclusion

The AGF welcomes legislative change that addresses road safety issues faced by vulnerable road users, specifically initiatives to reduce the incidence of crashes between motorists and bicyclists – without impacting the efficiency and effectiveness of the Victorian road transport system.

The AGF recommends that:

- At a minimum, the regulation be amended such that the penalty units be increased to 2.5 points under the existing Road Safety Road Rules 2009, and demerit points be introduced
- Priority consideration should be given to create a new offence of 'car dooring' under the Road Safety Act 2004
- Education is included as a fundamental component to supporting any legislative change in relation to 'dooring'.

Yours Sincerely



Tracey Gaudry  
Chief Executive Officer

<sup>i</sup> VicRoads. *CrashStats*, <http://www.vicroads.vic.gov.au/Home/SafetyAndRules/AboutRoadSafety/StatisticsAndResearch/CrashStats.htm> Accessed 28 March 2012

<sup>ii</sup> Cycling Promotion Fund. *Two in three blame unsafe roads for staying off their bikes*, 1st June 2011

<sup>iii</sup> De Rome, L., et al., *The Pedal Study: Factors Associated with Bicycle Crashes and Injury Severity in the ACT*. 2011, The George Institute for Global Health, The University of Sydney

<sup>iv</sup> Heesch et al 2011.

<sup>v</sup> Authorised Version No. 005 Road Safety Road Rules 2009 S.R. No. 94/2009

<sup>vi</sup> Road Safety (General) Regulations 2009 S.R. No. 115/2009

<sup>vii</sup> VicRoads, Demerit point offences, <http://www.vicroads.vic.gov.au/Home/Licences/DemeritsAndOffences/DemeritPointsAndFines/DemeritPointOffences.htm>. Accessed 30 April 2012