

# CORRECTED VERSION

## STANDING COMMITTEE ON ECONOMY AND INFRASTRUCTURE

### LEGISLATION COMMITTEE

#### **Inquiry into the Road Safety Amendment (Car Doors) Bill 2012**

Melbourne — 2 May 2012

#### Members

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Mr D. Drum  
Mr B. Finn

Ms C. Hartland  
Ms J. Pulford  
Mr S. Ramsay  
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#### Witnesses

Ms S. Marcus, director, legal services, and

Mr J. Holgate, director, road user safety, VicRoads.

**The CHAIR** — I would like to welcome everybody, particularly members of the public who have come to listen to our inquiry and hear what we have to say and the people who are going to be making submissions. It is a very late meeting time, and I apologise; that is the way this works. I thank you for coming to listen to this important discussion and debate. Tonight's hearing is in relation to the inquiry into the Road Safety Amendment (Car Doors) Bill 2012, and I welcome from VicRoads Ms Shelley Marcus, director of legal services, and Mr James Holgate, director of road user safety.

I would like to read out some practicalities first of all. All evidence taken at this hearing is protected by parliamentary privilege, as provided by the Constitution Act 1975 and further subject to the provisions of the Legislative Council standing orders. Therefore you are protected against any action for what you say here, but if you go outside and repeat the same comments, they may not be protected by this privilege. All evidence is being recorded, and you will be provided with proof versions of the transcripts within the next week. Transcripts will ultimately be made public and posted on the committee's website. We have allowed about 5 to 10 minutes for you to make any opening comments you would like, and the rest of the time is for questions. We anticipate that we will require the witnesses from Victoria Police at 8.45 p.m. Thank you for your written submission, and I am certain that the members of the committee have read your submission. I look forward to your presentation tonight, and thank you very much for your time.

**Mr HOLGATE** — Thank you, Chair. What I would like to do is to take the submission as read. I will just touch on the main recommendations we are making as part of that but perhaps start by way of background just to give the context of how we manage road safety, our road safety strategy and where enforcement and sanctions in particular fit into that structure.

Our road safety strategy is managed through what we call the safe system. The safe system has a couple of key principles. One is that we think that death or serious injury on our roads is unacceptable, and the users, managers and designers of the system need to do what we can to make sure that any mistakes by road users do not result in severe casualty. We do that in a number of ways to concentrate on initiatives and interventions that are proven by evidence to be effective.

The second is to look at the components of the system and how they work in concert. The components are vehicles or equipment, so in the case of cycling, clearly things like helmet wearing is a key plank of our safe system. The road environment and providing facilities for cyclists to separate them from larger road users is a key part of that strategy. Speed is a key plank in the safe system, so we look at areas where there are more pedestrians or cyclists at reduced speeds to reduce not only conflict but reduce the outcomes should incidents occur.

The last plank is behaviour. Clearly for this inquiry what we do to change behaviour is one of the key issues we need to face. We change behaviour in a number of ways. Through engineering we can encourage road users to use the road safely and effectively; knowing where pedestrians should cross the road and encouraging drivers to drive appropriately as part of what we are trying to get out of engineering. Encouragement or education is key, and we will talk a bit later about what we are doing to encourage and educate all road users to share the road. Lastly there is enforcement. These three components need to work together to ensure we have an effective system.

Sanctions are part of enforcement, but they are only part of the whole regime. What we are trying to do with enforcement and sanctions is change behaviour. That is changed by imposing sanctions that are a deterrent. The deterrent is not just determined by the size of the sanction but by the road user's perception that they are going to be caught and the likelihood that they are going to be caught. Clearly a sanction that is not enforced is not much use. A low sanction that is enforced clearly is also not of much use. You need to have the balance so that the sanctions and the road users' perception that they are going to be caught act together.

We determine the sanctions by a number of factors, but one of the key factors we look at is the influence that behaviour has on risk — how much it influences crashes. We also look at sanctions as a punishment. We also look at sanctions as a prevention of recidivism, so that it is about preventing the offence in the first place but also preventing repeat occurrences.

In terms of the enforcement process, it might be worth clarifying the differences between traffic infringement notices and court-based sanctions. With all offences there is the option for police to take a matter to court and

have it heard before a court to determine the particular situation that might then determine the appropriate sanction. For administrative efficiency, and also to ensure that penalties are applied swiftly — because another driver of improved behaviour is to have a sanction that is in place quickly — we have the traffic infringement notice system, which allows the police to apply a much more efficient enforcement process, a set fee and, if demerit points are applicable to that offence, set demerit points. There is no discretion on the amount of the demerit points — that is fixed — but there is discretion with the police to determine when they issue a traffic infringement notice or should they wish to go to court. Certainly the police might go into that later on in their evidence.

Perhaps I will move to our submission given that context. We will talk a bit about the trends in cycling safety and certainly the increasing trends in serious injuries or injuries generally. Probably they reflect the increasing use of bicycles on the road. I think generally the injury statistics are not increasing at the same rate, which indicates we are having some success in improving safety.

The committee has asked some specific questions in relation to this matter. Should the penalty for the offence of opening a car door or alighting from a vehicle unsafely be increased from 3 to 10 penalty units? Generally we would support that. The 10 penalty units would provide the court the ability to provide a greater penalty should the circumstances of the offence warrant it. It is potentially a high-risk action, though it must be pointed out that many instances of this offence are really quite low risk, and the court penalty would allow that to be taken into account.

Should there be demerit points to the offence? Our view is that there should not be demerit points. The statistics show that a sufficient number of injuries occurring from people exiting vehicles are in fact caused by the passengers. This is an offence that relates to the occupant of the vehicle, not necessarily the driver. We can explore this perhaps a bit later on in question time as to perhaps the reasons we think it is not appropriate to apply demerit points to this offence.

Should it be an offence under legislation rather than regulations? We understand that Mr Barber's only avenue for change is through legislation; I guess that was the catalyst for this bill. The fact remains that the offence is currently in regulations; I must admit we do not see any justification for moving it from a regulation into the act.

Should the offence be changed so it must be dealt with exclusively by the Magistrates Court? I will go back to what I said about the likelihood of enforcement and the perception that you are going to be picked up for an offence should you commit it. If traffic infringement notice is removed as an option, we believe it could discourage the police from enforcing the offence.

I think that has covered the main points of the submission, so I guess it is open to questions.

**The CHAIR** — Shelley, would you like to add anything to that presentation?

**Ms MARCUS** — No, I would be happy to assist with the questions if any are put. James and I will take them as they come.

**The CHAIR** — James, thank you very much indeed. You have gone to a lot of detail in this submission, particularly with detailing some of the statistics involved in enhanced enforcement. I think that is very handy for the committee to have. Can I also explain to the committee and get onto the record that we had a state budget yesterday, and the penalty units have now gone up. They are now \$140, up from \$120, so I think we should be keeping that in mind, because penalty units have changed since we asked you to submit. I will throw the questions open to the committee and start with Colleen Hartland.

**Ms HARTLAND** — I am particularly interested in the issue around demerit points, because the thing that would concern me is that if it is just a fine, then it does not seem to have the same severity as losing demerit points, because the loss of demerit points seems to me to be the thing that focuses people's minds, because they could end up losing their licence. Could you talk a bit more about why it is that you do not support the demerit point loss?

**Mr HOLGATE** — Generally demerit points are designed to discourage drivers from the higher risk activities they undertake while they are driving, typically speeding — every time you drive how much you are going to push your right foot down and what speed you are going to select. There is a constant decision making

the driver makes between how fast I want to go versus the perception of being caught and then the sanction. Quite typically offences like speeding or going through a stop sign or a red light are the ones that attract demerit points because they are potentially the behaviours that people do repeat and the ones that we want to have an accumulation of increasing sanction through demerit points as they repeat the offence, if they repeat the offence.

The offence that is the subject of this bill, as I said before, is primarily a vehicle occupant offence. A number of the injuries that have occurred have been from passengers exiting the vehicle. If there were demerit points applied, I guess an analogous penalty would be the penalty for seatbelt wearing. The drivers there incur demerit points for the seatbelt not being worn by the passengers. The difference there is that the drivers have the choice to stop and say, 'I am not driving until you have done your seatbelt up', so it is still part of that driving action. If we were to have demerit points for this, we would need to look through the regulation or legislation at how we apply those to people who are not licensed, people who are under-age and people who are licensed but are not sitting in the driver's seat.

Normally they would not incur demerit points just because they happen to have a licence. You would have the situation where a driver with a licence commits the offence and incurs demerit points and that same person the next day might be in the passenger seat and would not incur demerit points. There is an inconsistency about what the penalty would be whether you were sitting in one seat or the other seat. In our view probably the overriding reason is that it would provide that inconsistency in how it was applied. One of the features, I guess, of how we impose sanctions is to make them easy to communicate and some simple messaging to the community that if you are in a car, it does not matter where you sit, you should not do this action.

**Ms HARTLAND** — If I could just follow on, considering the serious nature of the injuries that have occurred with people who have been doored, it would seem to me that the offence of running a red light, when you can cause a terrible accident as well, is comparable to someone opening their door and you ending up either being harmed by that action or because you have been forced into traffic and someone else has run over you. We have seen a number of cases in the papers of shocking injuries. I am not quite sure why this is not comparable to running a red light and the potential for causing a serious accident.

**Mr HOLGATE** — We would say that maybe it is not necessarily the seriousness but the fact that it is not a driving offence. Demerit points target drivers.

**Ms HARTLAND** — But predominantly we are talking about drivers. You are saying if it is a passenger, but if it is a driver who has done it, there is the ability for demerit point loss. I am not quite sure —

**Ms MARCUS** — I think what we are probably saying is that while it would be possible to impose demerit points on drivers and not passengers, there is a position you could take that would be more consistent. That becomes a more complex legal proposal and one that is not as readily communicated and maybe not hit its target audience when the statistics would indicate that the conduct is committed by a non-driver — by a passenger. You are introducing a level of complexity which does not seem warranted.

**Mr HOLGATE** — Just to amplify that, I guess the offence, even if it is committed by the person sitting in the driver's seat, is not committed by someone in the act of driving. It is an occupant getting out of the car.

**Ms HARTLAND** — But that act can cause serious injury to someone on a bike who is on the road and who, you would think, should have the same protection as the person sitting in the car and opening their door.

**Ms MARCUS** — That is correct, but if you take that concept further, you could have something else in the road, like a barrier, which someone has put there negligently or otherwise which causes a cyclist or someone else to be injured. But we are not suggesting that is a demerit point offence either. I guess what we are saying is that conceptually we see the demerit points as being more closely linked to the driving activity. We recognise that people using the road can suffer harm from a range of things that happen on the road, be it the conduct of someone opening a door or be it other things that people do on the road that impede the safe passage of a bicycle.

**Ms HARTLAND** — It seems to me that there is not a lot of regard for the safety of cyclists; that is what you are saying, that drivers are more important than cyclists.

**Mr HOLGATE** — No, we are saying that the appropriate sanction for the occupant of a vehicle is a fine, and going back to what I started with, the deterrence effect is the amount of sanction that is defined combined with the probability that the occupant sees that they are going to be caught, and in our view, the demerit point, certainly for passengers, will not change that equation very much.

**Ms BROAD** — I am interested to follow on this issue as well, and I appreciate the technical distinctions you are drawing in terms of the design and intent of demerit points. I was surprised, though, at the statements in your submission about demerit points, which, at least on the face of it, appeared to be somewhat conflicting. There was the statement that demerit points aim to target risky driving behaviour, which I think you dwelt on just now, but there was also a statement that demerit points by themselves will not change the behaviour of drivers or passengers, which I found a very surprising statement, and I do not think it fits with the explanation you have given us about the intent of demerit points. Could you just explain the statement you made in your submission?

**Mr HOLGATE** — That demerit points on their own will not influence behaviour?

**Ms BROAD** — Yes. Will not change.

**Mr HOLGATE** — What will change behaviour is a sanction that will cause someone to think twice about having to pay the fine or incur demerit points should that be the case, combined with, as I said before, the likelihood of being caught. For passengers, demerit points are not appropriate and are not an appropriate sanction to change behaviour. The demerit points reflect the changes we want in driving behaviour as people are driving; it is not to change behaviour for all occupants of vehicles or, as Ms Marcus has said, some non-driving behaviour at all.

**Ms BROAD** — And yet I think you also gave the example of passengers and seatbelts where you acknowledged that demerit points can be applied to a driver because of the behaviour of a passenger.

**Mr HOLGATE** — They are applied in that case because the behaviour of the driver — that is, driving the vehicle — is something they can control and they can choose not to drive the vehicle if an occupant is not wearing a seatbelt. A driver cannot stop a passenger in the back seat getting out of the car just like that, so it would not be appropriate to apply those demerit points to the driver. The other factor is that in terms of the risks involved and the total harm of the behaviours incurred, not wearing a seatbelt is a very significant contributor to the road toll and it is something we need to take stronger measures to reduce.

**Ms BROAD** — So would you perhaps concede, contrary to the statement in your submission, that at least under some circumstances demerit points can change the behaviour of drivers and passengers?

**Mr HOLGATE** — They can change the behaviour of drivers in certain circumstances.

**Ms BROAD** — And passengers in circumstances where a driver — —

**Mr HOLGATE** — We do not apply demerit points to passengers.

**Ms BROAD** — Where a driver refuses to drive a vehicle unless a passenger belts up because they will cop the demerit points.

**Mr HOLGATE** — Yes, certainly the driver could impose some pressure on a passenger in those cases, and that is the intent.

**Ms BROAD** — Yes, so in some circumstances demerit points can change the behaviour of drivers and passengers?

**Mr HOLGATE** — In that situation it is one of the factors.

**Ms PULFORD** — Thank you for your presentation. I would be interested to know if you have any statistical information about the frequency of dooring incidents being caused by the actions of drivers versus passengers?

**Mr HOLGATE** — I have not got those figures with me; I can certainly provide them to the committee after the event. I think it is about 25 per cent of incidents that are due to passengers. But I will confirm that, and I will provide those figures separately.

**Ms PULFORD** — We would appreciate it if you could provide that information; that would be great. Also, you indicated that there are a whole lot of instances where drivers or passengers are injured in instances where there is a collision with a cyclist. Again, are you able to give us any information about the prevalence of that?

**Mr HOLGATE** — I will see whether we can. Certainly it would occur from someone alighting from a vehicle and being hit by a cyclist. We can look at getting that data to you.

**The CHAIR** — There is some data that has been included under the offence data, which says there were 187 infringement notices during 2010–11. That is not what you are referring to?

**Ms PULFORD** — No.

**Mr HOLGATE** — They are the offences issued, not the actual — —

**Ms PULFORD** — And that is the reverse. They are instances — —

**Ms MARCUS** — You want the breakdown.

**Ms PULFORD** — The opening of the door is the offending obstruction rather than the cyclist barrelling into the passenger, and you certainly indicated that that was a frequent cause of injury as well. We are obviously trying to weigh up the relative risks in these kinds of situations, so I was wondering what those statements were based on.

**Mr DRUM** — I think we are all in agreement that we need to do whatever we can to diminish the rate of dooring and to improve the safety of our cyclists. I do not think anybody is going to argue that. What some of us are struggling with is the question of what is the best way to do it. Have you got any data on the advertising campaigns that you have run in relation to motorcyclists and the awareness that motorists should have about motorcyclists? There was the trading places advertising campaign. Do you have data to show that that program worked or led to improvements?

**Mr HOLGATE** — We have not got data. The TAC runs those advertisements. They will have surveyed people's recall of those advertisements. We do not have that information.

**Mr DRUM** — Do you have evidence that would suggest that increasing fines works? I know you have probably half-answered this anyway. If you increase fines or demerit points but people think there is a minimal chance of being caught, are we going to get a result?

**Mr HOLGATE** — We may get a result from doing a number of things in combination. One is to have a sanction that reflects the potential risk of the offence. Second is probably to have increased enforcement or increased perception of enforcement. That might be achieved by how and where the police target actions. Third is promotion of the fact that there is a new penalty and that vehicle occupants need to do the right thing.

We are currently working on a campaign to put stickers out so that vehicle occupants can put them on their car doors or windows to remind them to do a head check or use their left hand to open the door so they are forced to look over their shoulder and to get into the habit of looking out for cyclists. That will then raise community acceptance and understanding of the offence. People will think, 'We understand why this is an offence because we have been told it is hazardous, and we have been told what to do to avoid it. If we do not do it, we will get caught'. That, in combination with an increased sanction, could have some effect.

**Mr DRUM** — As I listen to you I feel as though to increase either the penalty or the demerit points alone is going to be less than successful.

**Mr HOLGATE** — If we look at the enforcement data of 180-odd traffic infringement notices in a year, we can see it is a very small number. The likelihood is that the number of times people commit the offence is going to be many times more than the number of times they are caught, so there is going to be the perception that people can get away with it. Promotion, advertising and getting the message out there can help to create a

perception that the likelihood is much higher than it actually is. That is something the police would be able to comment on more than I can.

**Mr FINN** — I want to go back to touch on a point that Ms Broad made. This is a suggestion that was made at the last committee hearing regarding making drivers responsible for minors in the car and the actions of minors in the car in terms of demerit points and/or fines. I am interested in finding out from Ms Marcus what the legal position of such a move would be. Would holding one person responsible for the actions of another be a contravention of the Charter of Human Rights and Responsibilities?

**Ms MARCUS** — I do not feel competent to give a detailed answer on the charter; it is not something I have considered. I would have thought, as a matter of fairness, which is one of the principles of the charter, that it would not be fair to impose that obligation on a person unless they had some means of control. Not only would it not be fair, but logically it may not serve your purpose either. If you cannot practically control the activity, then making it a legal wrong to do it not only means there could be a breach but it also brings the rule into some measure of contempt. Laws that are not practical and do not seem reasonably sensible could be more often not complied with. That could lead to people feeling a sense that ‘the law is silly and I just don’t have to comply at all’. There are those practical legal considerations as well as the broader principle of fairness and the charter principle that you should not be convicted of an offence if you have not had a proper opportunity to defend yourself. If you had no opportunity to control the activity, that is something that, from a legal principle, would not seem right.

**Mr FINN** — Mr Holgate, on the issue of enforcement — and I do not want to jump in early on any evidence we might be getting later in the evening — there has been some suggestion that the police have not been as vigilant as perhaps they might have been in enforcing the current laws governing this issue. Has that been your experience? What is your feeling on what has been happening to this point?

**Mr HOLGATE** — No, we do not have evidence; they have not been vigilant. It is clearly an offence where a few factors have to line up for it to be enforceable. The police have to be there to see what happened, or they must have credible witnesses to give evidence to act on. We have had some discussions with the police about whether the actual wording of the offence could be amended to make it easier to enforce. Their view is no, probably not, but it is enforceable, which certainly they can talk further about later on, and that is probably worth mentioning.

Also, the other factor in terms of how the offence is worded is that this offence is part of the suite of road rules known as the Australian Road Rules, which Victoria has adopted. The offence itself has been through a certain amount of rigorous review nationally to ensure that it is part of the national scheme, and certainly it is one of the reasons that we would not support this moving from regulation to the act. It would then act as a chink in the wall of that national harmonisation we currently have. This book — the road rules — is basically the same across Australia. If we were to amend the act and the regulations for this reason, we would start to deviate from national uniformity.

**The CHAIR** — Ms Pulford has a question following straight on from that.

**Ms PULFORD** — I think we can all accept that there is great sense in national consistency. Do you believe then that Victoria should raise the penalty to a similar level as exists in New South Wales, which is a penalty of 20 units?

**Mr HOLGATE** — We think that 10 is about the appropriate level. Looking at offences that are at the 10-penalty units level, certainly there are a number of offences like failing to stop at a stop sign which is a 10-penalty unit maximum. It is a pretty significant fine of now about \$1400. It is an offence where there is a whole range of seriousness, and we think that that range from 0 to 10 is probably in the right scale. I mentioned at the beginning how we tried to align our sanctions to risk. Certainly if it were 20, it would put this offence quite above what we would see as the appropriate penalty for other offences of similar nature, similar risk.

**Ms PULFORD** — Is there much difference then? Obviously there is a desire to have nationally consistent legislation, but is there a great deal of variation in penalty regimes from state to state, to the best of your knowledge?

**Mr HOLGATE** — There are some differences. The road rules provide the consistent framework of what drivers should do but each state can introduce their own penalties, and certainly from time to time individual states will make changes, perhaps in response to some individual issue that has arisen. New South Wales, for example, has recently reduced its penalties for speeding offences, which we would not support, but they saw a need to do it. It also may relate to the amount of enforcement of an offence. If you have a lot of enforcement of an offence, you might be able to get away with a lower sanction, similarly.

**The CHAIR** — I am mindful of the time. Do you have a question, Mr Somyurek?

**Mr SOMYUREK** — I have a feeling you have already covered it so I think I should let my question go.

**Mr RAMSAY** — I apologise for being late. I was engaged in another committee activity. I suspect I am coming in and going over ground that you might well have covered, so I apologise for the question if it has been covered before. Reading the notes, a bit like Mr Drum, I am struggling to find a response to the issue around how to improve the safety of cyclists but also have a communication program where drivers — or those responsible in a car; it might not be a driver — are well informed about the dangers of car dooring. In my mind, I think you said there were 187 infringements or thereabouts, of which only half were related to car dooring, so 90 out of how many cyclists on the road, I would have thought, may not be a large number, therefore it may be a communication program rather than a belt over the head with a big stick which might be a more appropriate form to raise awareness and get the sort of response that we are looking for.

Again, I raised the issue in the previous committee meeting about how can the driver take full responsibility for those within the car, minors and otherwise, if they accidentally open a passenger door, assuming that now there is a push to have cyclists in left-hand-side lanes, so invariably you would expect car dooring to occur more in the left-hand lane — but that is only an assumption of mine — if in fact that is where we are getting cyclist lanes becoming more popular. I am still trying to understand how you could actually impose demerit points on the driver of a car when in fact it is the passenger, minor or otherwise, who was actually responsible for opening the door. At this stage I am yet to be convinced that the demerit point proposal in relation to car dooring is a satisfactory one.

In fact fines, as I understand the penalties that Ms Pulford talks about, are a national approach. My understanding is while offences may have a national approach, the actual fines attached to the penalty points are quite different in states. Again, I stand to be corrected on that. Those are some points I wanted to make, and I look forward to listening to the other witnesses at this committee hearing.

**The CHAIR** — Would you like to make a comment? Some of that I know you have commented on before.

**Mr HOLGATE** — I think we have covered demerit points in some detail. Just to reiterate, on their own sanctions will do nothing; they need to be combined with enforcement and promotion. We are doing some work with promotion through car stickers and various other avenues to try to improve that. One of the benefits of changing the sanction is that in fact it will provide a bit of an opportunity for communications about the change, which can have a benefit.

Chair, there is one other item I passed over, I must admit, in my summary of the submission in relation to the penalty units for the traffic infringement notice, which is not the subject of the bill, but if the maximum offence were to increase to 10 penalty units, we would support an increase in the traffic infringement notice penalty to 2 penalty units which is a doubling of where it is now. That is roughly in line with the guidelines we have that it is 20 per cent to 25 per cent of a maximum penalty. That 2-penalty unit traffic infringement notice would be what is normally then imposed by the police should they issue a traffic infringement notice, but 10 remains should they decide to send a matter to court for a particularly serious offence.

**The CHAIR** — Thank you for that addition.

**Ms MARCUS** — If I could add something to that, just on the point of infringement notices, the bill does not provide for this offence to be progressed by an infringement notice but it can be done by regulation, and it is our view that if the bill is to proceed, it is important that the offence can be progressed through an infringement notice because they are just so much easier to enforce. If our concern is enforcement, then by leaving this simply as a court-based offence, which is how it is currently provided, the bill would not assist.

**The CHAIR** — There are three more questions, two of which are quite brief. I am mindful of our time, so with your indulgence, could we ask those three questions?

**Ms HARTLAND** — I may have this wrong, but I understood that there was a problem with the budget for the stickers. These are the little stickers that people put on their mirrors, and they were to go out with people's registration.

**Mr HOLGATE** — They will not go out with people's registration, but we will make them available. We are currently finalising the design of the stickers. We expect to have them out this month, and they will be available free.

**Ms HARTLAND** — How will people know?

**Mr HOLGATE** — We will be promoting them largely through the inner city local government bodies. They are certainly very keen to avail themselves of that opportunity.

**Ms HARTLAND** — Would it not be better with people's registrations, because then everybody just gets them automatically?

**Mr HOLGATE** — We did look at that. One of the problems is that a lot of those will end up in the bin, and we really want to put them out to people who are going to use them.

**Ms BROAD** — Your submission refers to key comparable safety offences, and you state that it is important to retain relativities of offences. In particular you refer to what you describe as a comparable safety offence being cyclists not wearing helmets; so given your support for an increase in penalty units for the car door offence, would that suggest you would also support an increase in offence penalties?

**Mr HOLGATE** — I think if this change happens, it may be the catalyst for us to have a broader review of not just the helmet offence but of other offences that either apply to cyclists or apply to other road users that impact on cyclists and to look at how we review the whole regime to make sure it is consistent, provides the right deterrents and fits in with the other offences in the regime. Increasing this to 2 penalty units would increase the traffic infringement notice to more than for a helmet, which would be something we would need to look at. The detection of someone wearing a helmet is probably easier in this case, so that might support the case for the sanction being a bit less.

**Ms BROAD** — Would you see that as a logical second step?

**Mr HOLGATE** — Yes, but not just to look at that offence in isolation, but to look at a whole suite of offences to make sure we have got the best package.

**The CHAIR** — Thank you very much indeed. I understand that this bill was prompted by the really tragic death of James Cross, and in relation to that death the coroner made two recommendations following the inquest. One related to infrastructure and the other one related to education. The bill we have before us is quite silent on both of those issues, but what work has VicRoads done to respond to the coroner's recommendations? I do think it is important for us to understand what is happening as a consequence.

**Mr HOLGATE** — In relation to the infrastructure changes, we are looking at encouraging what is called a Copenhagen style of bicycle lanes where the bicycle lanes are on the left-hand side of the row of vehicles, such as in Albert Street, not far from here. We are now working with local councils to look at where it might be practicable to apply that. The design of bike lanes is always a compromise between how much pavement is available, the role of the road in the road hierarchy and what parking provision needs to be made. Trying to juggle all of those to some extent along with the other features determines the design of the bike lane.

We intend to develop a new series of cycle moats to provide design standards for cycling infrastructure, which is basically a design to try to increase the separation between cyclists and larger road users. In terms of awareness, we recently ran a six-week Facebook campaign called 'Road User or Abuser' to try to engage with cyclists in particular and also car drivers about the relationship between those two sets of road users, I guess to try to bring to the surface some of the issues that were in the media around that time in terms of some high-profile road users, to get ideas from those groups about how we might tackle some of those issues and

really to try to raise the profile of debate in that particular issue about different road users sharing the road. This is really central to what this bill is trying to do.

Coming out of that, the stickers I have mentioned are now being developed, and we used that Facebook campaign to get some feedback on the design of the stickers and some of the messages that might go on the material. We will be using that material and that input when we put out the stickers.

**The CHAIR** — Thank you very much indeed.

**Ms PULFORD** — A last one?

**The CHAIR** — No, I am going to finish it here. Thank you for answering so many questions tonight and for going over time. Ms Marcus and Mr Holgate, thank you very much indeed for presenting to the committee and for the substantial submission that you gave to our committee prior to coming tonight.

**Witnesses withdrew.**