

Whole of Government
response to
Inquiry into the Road
Safety Road Rules 2009
(Overtaking Bicycles)
Bill 2015

Executive summary

The Victorian Government thanks the members and staff of the Standing Committee on Economy and Infrastructure ('the Committee') Inquiry for their report into the Road Safety Road Rules 2009 (Overtaking Bicycles) Bill 2015 (the Bill). In this response to the Committee's report, the Government has carefully considered each recommendation and the context in which it was made.

The Government will respond to the report's recommendations through a two staged approach which reflects the primary intent of the Bill to reduce the crash rate among cyclists resulting from motorists travelling too close and to promote a 'safe zone' around cyclists. Victoria currently provides advice to motorists that they should leave at least a 1 metre clearance at speeds of up to 60 kms per hour and more in higher speed environments.

Stage One comprises a comprehensive year long community education campaign designed to change motorists' behaviours and attitudes towards cyclists. The education campaign will be evaluated to examine the community's response, its preparedness for a rule change and road safety outcomes, crash rates, road user behaviour and perceptions of safety. The education campaign will complement a number of communication efforts to promote safety around cyclists including the Travel Happy – Share the Road and the Cycling Road Rules Review social marketing campaigns.

Stage Two comprises a trial of a mandated minimum passing distance for motorists to leave when passing a cyclist. The regulatory response will only be trialled if the community education campaign is ineffective in achieving safety benefits for cyclists, equivalent to those achieved with regulatory overtaking distance changes in comparable jurisdictions.

Victoria's successful history in road safety behaviour change has been characterised by a commitment to community education campaigns, prior to the introduction of regulatory change. The two staged response is consistent with this approach.

The Government supports in principle many of the report's Recommendations, including [Recommendation 4](#) which recommends mandating motor vehicles to leave a minimum passing distance of 1 metre (≤ 60 km/h) or 1.5 metre (> 60 km/h). The support of these Recommendations is dependent on the outcome of Stage One, the community education campaign.

There are a number of complex legislative and road safety issues to be considered when weighing the benefits of mandating a minimum passing distance for motorists to leave when passing a cyclist.

If a trial of a mandated distance proceeds, the Government will ask Victoria's road safety partners to convene a Technical Working Group (TWG) to guide the drafting of the trial rules to minimise unintended negative consequences, and maximise safety outcomes for cyclists. The TWG will consider a range of technical and implementation issues to ensure that any changes take into account Victoria's unique traffic and road conditions.

If Stage Two is implemented, the TWG would be asked to examine the value and potential impact of exemptions to the road rules recommended by the Committee, including those allowing drivers to cross a variety of line markings. These exemptions, set out in [Recommendation 8](#), include allowing a motor vehicle to cross centre double-lines in order to pass cyclists and leave a mandated distance. The Government does not support this exemption, which potentially undermines the safety of other road users who may be put at risk of a head-on collision, or any other rule amendments that, when examined, reduce rather than enhance community safety.

A number of the recommendations relating to road design and intersections are issues of high importance to the Victorian Government. These are being addressed through increased investment in safe cycling infrastructure. The TWG would need to consider a range of infrastructure related issues including the impact of the rule change at intersections.

The Government acknowledges there has been significant discussion regarding the enforcement of a minimum passing distance and will work closely with Victoria Police to assess the enforcement issues related to potential changes to the road rules. Consideration will be given to the feasibility of deploying technology for enforcement purpose, as recommended in [Recommendation 13](#). However, at this stage, the Government believes that new technology to measure passing distance is best deployed as a tool to support data collection for evaluation purposes.

The Government supports in principle the development of a stakeholder group, as proposed by [Recommendation 17](#). Victoria's road safety agencies work collaboratively and engage external road user groups and representatives to ensure that the best community outcomes are achieved. A new stakeholder group would duplicate existing processes.

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Introduction

The Victorian Government is committed to improving the safety of all road users. As outlined in the *Towards Zero 2016-2020*, Victoria's Road Safety Strategy and Action Plan, Victoria has adopted a 'safe system' approach to road safety, accepting that people will make mistakes but that no one should die because of them. Cycling is a healthy and environmentally friendly mode of transport that can also contribute to reducing congestion.

Cyclists are a vulnerable road user group due to the limited physical protection afforded to them in a crash and therefore require additional protective measures. Victoria currently provides advice to motorists that they should leave at least a 1 metre clearance at speeds of up to 60 kms per hour and more in higher speed environments.

Several Australian jurisdictions are introducing or trialling minimum mandatory passing distances, requiring motorists to maintain a minimum lateral gap when overtaking cyclists. The intent of these laws is to reduce the crash rate among cyclists resulting from motorists travelling too close and to promote the concept of a 'safe zone' around cyclists to compensate for the minimal physical protections afforded to other road users. The rules are also intended to improve the community's perceptions of cycling as a safe transport option.

The Victorian Government has chosen to implement a staged approach to the Committee's recommendations. Stage One includes an education campaign to promote a safe overtaking distance and to assess the preparedness of the community for the introduction of a mandatory minimum passing distance. Stage One will also assess and review the outcomes of the education campaign along with results from trials of mandatory overtaking distances in other jurisdictions. If the level of behaviour change achieved by Stage One is unsatisfactory, Stage Two will deliver a trial and evaluation of a minimum mandated overtaking distance.

Implementation

Stage One	<ul style="list-style-type: none">• Development of a community education campaign with messages for motorists regarding the vulnerability of cyclists and the promotion of safe overtaking distances• Collection of baseline data including passing distances, road user attitudes and crash statistics• Review of outcomes from community education campaign• Review of trial results from international and national jurisdictions that have trialled mandatory passing distances• Assessment of combined outcomes from the above and decision on whether or not to implement Stage Two
Stage Two (dependent on Stage One outcome)	<ul style="list-style-type: none">• Trial mandatory minimum passing distances• Evaluate results from trial of mandatory minimum passing distances

Regulatory mechanism

If Stage Two, the trial of a mandatory minimum lateral distance for motorists to maintain when overtaking cyclists, is introduced, it will be introduced through changes to the Road Safety (Road Rules) Regulations 2009 (Vic) ("Road Rules").

A Technical Working Group (TWG) will be established to review the drafting of rule changes to ensure clarity and reduce the potential for unintended negative consequences, while maximising safety outcomes for cyclists. The TWG will consider a range of technical and implementation issues including key issues identified in the Recommendations including:

- Crossing single continuous centre lines
- Managing impacts in congested space and difficult terrains (e.g. mountainous narrow roads)
- Intersections, particularly CBD or inner urban
- Low speed and congested environments.

Response to the Recommendations

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".

Support in principle

As defined by the Australian Road Rules, the term 'overtaking', refers only to a specific three step manoeuvre. The Government recognises this is too narrow a definition to achieve the Committee's intent to provide a minimum lateral gap to bicycles when they are travelling in adjacent traffic lanes (including bike lanes).

However, it is the Government's view that applying the term 'passing' may not be the most appropriate means of providing cyclists with a lateral gap from motor vehicles while they travel in an adjacent lane. The government will ask the TWG to review the implications of adopting 'passing' and to consider how the application of the term will impact the integrity of other rules, other road users and circumstances where a motorist is adjacent to a cyclist for purposes other than overtaking.

It is possible that the rule change would trigger a review of the rules relating to designated bicycle lanes. The TWG will need to consider the application of the rule in a range of settings. For example, some local road designs have been modified to provide wider bicycle lanes, by reducing adjacent traffic lanes and therefore rendering it almost impossible for a motorist to provide a 1 metre or 1.5 metre buffer adjacent to the cyclist travelling on the right hand side of a bike lane.

To achieve the Committee's intended change, it may be necessary to introduce exemptions in the road rules to ensure driver and rider 'passing' requirements are differentiated. It will be necessary to resolve these concerns to ensure cyclist safety is supported and for members of Victoria Police to be able to enforce the rule.

Recommendation 2

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

Not Supported

Mandating the width of bicycle lanes is counter to Victoria's road design principles. The Austroads guidelines accompanied by VicRoads supplementary guidance materials provide best practice advisory widths for bicycle lanes. In newly constructed road environments these widths are applied. In circumstances where an existing road is upgraded or retrofitted with a bicycle lane, achieving adherence to the guidelines may not be possible. In these circumstances, road designers are provided with scope to assess the net safety

benefit of including a bicycle lane that may not meet the best practice widths. This allows designers flexibility to consider other road treatments, alternative cycling routes, or providing a narrower bike lane.

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.

Support in principle

In the event that a mandatory minimum passing distance is trialled in Victoria, the application of the rule at intersections, and other congested environments will be considered by the TWG (see [Recommendation 4](#)). The rule would be drafted with the emphasis on improving safety outcomes for cyclists and other road users, including pedestrians.

Victoria's road safety agencies are implementing a range of activities designed to improve cyclist safety, including implementing changes to intersection design, traffic light improvements and speed reduction treatments. Section 3.7.3. (p147) of the Committee's report includes a list of interventions that may assist to reduce conflicts arising from the interaction of cyclists and vehicles at intersections. These suggested interventions would be considered by the TWG in developing responses to reduce conflict.

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.

Support in principle

In Stage One of the response to the Committee's recommendation, the Government will implement an education campaign to increase motorists' awareness of safe distances to leave when overtaking a cyclist. Consistent with other significant road safety initiatives, community education is one of the most important aspects of achieving behaviour change and usually precedes a regulatory response. The effectiveness of this campaign will be evaluated in Stage One.

Stage Two of the Government's response to the Committee's report is the implementation of a trial of a mandatory minimum lateral distance that motorists must maintain when overtaking cyclists.

The Government will move to introduce a rule change only after considering the outcomes of trials in other jurisdictions and the impact of the community education campaign. It should be noted that Victoria currently provides advice

to motorists that they should leave at least a 1 metre clearance at speeds of up to 60 kms per hour and more in higher speed environments.

There are a number of regulatory complexities and enforcement challenges to address if the rule is to deliver improved safety outcomes for cyclists. If Stage Two is implemented, the TWG will examine how best to draft the rule to optimise safety outcomes while reducing negative unintended consequences.

Consideration will be given in particular to impacts of allowing the crossing of single continuous centre lines and the application of the rule in congested space, difficult terrains and intersections (particularly CBD or inner urban where space is confined). The TWG will also take into account discussions underway in relation to the mandatory minimum overtaking rules, at a national level.

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.

Support in part

VicRoads, with the support of the Transport Accident Commission, is developing a cycling road rules campaign which includes messaging to remind motorists it is legal for cyclists to ride two-abreast. This messaging aims to promote positive road sharing behaviour and motorists' tolerance of cyclists.

Recommendation 6

That, if specified minimum passing distances are introduced, the Government erect signage at relevant locations recommending that cyclists ride single file 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.

Support in principle

If a regulatory change is trialled, VicRoads will consider the best use of signage to support a mandatory minimum passing distance. While road signage is generally kept to a minimum, there may be specific locations where signage is required for safety purposes, for example on winding, mountainous roads.

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.

Support in principle

If Stage Two is implemented, the Government will ask the TWG to review the safety benefits and risks of the exemptions proposed under [Recommendation 8](#). This review will inform which exemptions, if any, are adopted. The government will not support allowing crossing double-centre lines.

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.

Support in part

The exemptions to road rules proposed in [Recommendation 8](#) are intended to increase the opportunities for motorists to pass cyclists and allow a safe lateral clearance. The Government considered this intent and supports those parts of the recommendation which are currently allowed under the road rules. In Stage Two (if progressed), the Government will ask the TWG to review those parts which are currently not allowed under the road rules, with the exception of double lines as referenced under Recommendation 8 (b). However the Government does not support any rule amendments that reduce rather than enhance safety outcomes.

The recommendation to allow motorists to cross over double lines in order to pass a cyclist would create unsafe situations for the vehicle crossing the double line and any oncoming vehicles, including motorcycles or cyclists. The purpose of double lines is to communicate it is unsafe to pass. Given this, the Government does not support allowing motorists to cross a double continuous line.

Motorists are allowed to overtake a bicycle, an obstruction or other vehicle under 8a, 8d (depending on the nature of line markings), 8e (depending on nature of line marking) and 8f (depending on nature of line marking).

The TWG will investigate all aspects of Recommendation 8 which are currently not allowed under Road Safety Road Rules (with the exception of 8b 'double lines') with a view to assessing the net impact on safety.

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.

Support in full

The Government supports the recommendation that VicRoads and the Transport Accident Commission develop an education campaign to increase motorists' awareness of safe distances to leave when overtaking a cyclist. Consistent with other significant road safety behaviour change, the Government believes that the delivery of an awareness campaign is one of the most important aspects of achieving behaviour change. The awareness campaign will complement a number of communication efforts to promote safety around cyclists including the Travel Happy – Share the Road and the Cycling Road Rules Review social marketing campaigns.

Recommendation 10

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

Support in principle

If a permanent regulatory change is introduced, the Government will ask VicRoads to review learner resources including tests, and where feasible and appropriate to learning outcomes, update or amend in accordance with rule changes.

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.

Support in part

Road signage is deliberately kept to a minimum as it creates increased visual clutter and increases cognitive demands on road users.

If a regulatory change is trialled, VicRoads will consider the best use of signage to support a mandatory minimum passing distance. VicRoads may identify situations where signage may be required for regulatory purposes to support a minimum mandatory overtaking distance.

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.

Support in principle

Victoria Police has existing processes in place for briefing and training of members regarding changes to the road rules, and should Stage 2 be implemented, the minimum passing distance rule will be addressed using those processes, including procedures for enforcement. It is noted that empathy and impartiality are already fundamental tenets of Victoria Police operations.

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.

Support in principle

The Government will ask the TWG to assess the most effective way of enforcing the rule if it is implemented. This would include assessing the viability of using technology, including bike mounted distance monitors and video capture technology, for enforcement purposes. The TWG will be asked to consider the outcomes of the Queensland Government's trial of technology for enforcement of the 1 metre rule in that state.

A number of requirements will need to be satisfied for the technology to be suitable for enforcement purposes:

- The *National Measurement Act 1960* (**Act**), which is supplemented by the *National Measurement Regulations 1999* (**Regulations**) would apply to any equipment used to measure distances that are to be relied upon for any legal purpose (Act, s 10).
- In addition, s43 of the Victorian *Interpretation of Legislation Act 1984*, states that “in the measurement of a distance for the purposes of an Act or subordinate instrument, the distance shall, unless the contrary intention appears, be measured in a straight line on a horizontal plane”. It may be difficult to establish that a measurement taken from a device attached to a bicycle meet these requirements, and
- evidentiary requirements of video recordings require a video to be recorded and submitted in a format that cannot be changed or manipulated.

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.

Support in full

The Victorian government is committed to evaluating the effectiveness of education campaigns and potential regulatory change, and their effectiveness in influencing road user behaviour and road safety outcomes.

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).

Not supported

The Government does not support allowing motorists to cross continuous yellow lines on the edges of tram lanes in order to overtake a bicycle rider. The road infrastructure within tramways is not designed for the public/motorists to travel in (i.e. tram stops, transitions to grade separated platforms etc.) and would create an unsafe situation for motorists.

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.

Support in full

As communicated in the *Toward Zero 2016-2020 - Victorian Road Safety Strategy and Action Plan*, the Government is committed to a range of actions to reduce Victoria's road trauma. Cyclists are one of the most vulnerable road user groups on our roads and are particularly vulnerable in busy areas. The Government is working to address the high rates of cyclist crashes occurring at Victorian intersections through initiatives including the Safe System Road Infrastructure Program. This investment program includes a commitment to prioritise signalling for bicycles at intersections on key cycling routes to give riders a safer and clearer crossing, without competing with cars.

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.

Support in principle

The Government agencies responsible for implementing this change, including Victoria Police, the Transport Accident Commission and VicRoads work collaboratively and engage external road user groups and representatives to ensure that the best community outcomes are achieved. A new stakeholder group would duplicate existing processes.