

## SUBMISSION IN RESPONSE TO INQUIRY INTO THE ROAD SAFETY ROAD RULES 2009 (OVERTAKING BICYCLES) BILL 2015 by Paul Yeatman

### Introduction

The Parliament of Victoria currently seeks 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<sup>1</sup>:

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.

I have ridden over 150 000kms in the last 20 years and I have been clipped by a car's side mirror once. This was in the early 1990's travelling east on North road between the Nepean Highway and Hawthorn Road at around 10am. I was riding an adequately sized road shoulder. An elderly lady was driving her car. She did not stop and probably did not realise she hit me. I remained upright. A less experienced cyclist may have crashed. I put this down to an average day on the bike and noted it in my training diary and that was that. This sort of incident, and worse should be prevented by a mandated minimum passing distance.

I will address the bill<sup>2</sup> in terms of:

1. Cyclist safety
2. Education Campaign
3. Enforcement strategies

### 1. Cyclist Safety

As cyclists are not distracted (for the most part) by car radios, mobile phones, screaming kids in the back seat, fast food on their laps and not being surrounded by noise damped steel and glass, they tend to be more aware of their surroundings<sup>3</sup> and ride defensively. A heightened awareness of their surrounding makes cyclists inherently more attentive if not safer than other road users. Mandating a minimum passing distance could increase the safety of cycling and encourage more to get on a bicycle. Important considerations in regards to: increasing individual's health; metropolitan areas where we want to reduce congestion; reducing greenhouse gas emissions.

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<sup>1</sup>

[http://www.parliament.vic.gov.au/images/stories/committees/SCEI/Overtaking\\_Bicycles/TOR\\_Overtaking\\_Bicycles.pdf](http://www.parliament.vic.gov.au/images/stories/committees/SCEI/Overtaking_Bicycles/TOR_Overtaking_Bicycles.pdf)

<sup>2</sup>

[http://www.legislation.vic.gov.au/domino/Web\\_Notes/LDMS/PubPDocs.nsf/ee665e366dcb6cb0ca256da400837f6b/685537FBDB3FFD45CA257E0B001F530D/\\$FILE/581PM2bi1.pdf](http://www.legislation.vic.gov.au/domino/Web_Notes/LDMS/PubPDocs.nsf/ee665e366dcb6cb0ca256da400837f6b/685537FBDB3FFD45CA257E0B001F530D/$FILE/581PM2bi1.pdf)

<sup>3</sup> Personal experience.

The Amy Gillett Foundation has addressed the arguments for a mandated minimum passing distance already. I refer you to these<sup>4</sup>.

The ACT Legislative Assembly conducted an Inquiry into Vulnerable Road Users<sup>5</sup> for reporting by the last sitting day in April 2014. This inquiry covers similar ground to the Victorian bill and includes 61 submissions and 18 exhibits. These materials should be considered as part of this bill.

There are two benefits to cyclist safety that mandating a minimum passing distance will accomplish.

1. Less cyclist injuries
2. More people cycling

### 1.1 Less cyclist injuries

Minimum passing distances have not been mandated within Australia for a significant amount of time. This means data regarding the effectiveness of such a road rules change is not vast.

One thing that is known is that in at least 80% of cyclist injuries resulting from interactions with motorists, it is the fault of the motorist and that the most common cyclist fatality type is to be hit from behind by a motor vehicle travelling in the same direction<sup>6</sup>.

One would need to have at their disposal figures regarding passing distances for a significant number of cyclist/motorist interactions pre and post-dating road rule changes. At best, such data may exist only where there has been a reported incident. Big data sites such as Strava might be able to show a large number of rides<sup>7</sup> throughout Victoria. However, such data is reliant on the user base and does not record injuries or death. One could compare distances travelled on such a site as Strava with known figures regarding injuries and deaths and determine a base line deaths/injuries per distance travelled in order to review the impact on cyclist safety of mandating a minimum passing distance.

A 2014 study looking at *The Safety of bicycles being overtaken by cars: What do we know and what do we need to know?* was conducted by Centre for Accident Research and Road Safety Queensland concludes "The international studies show that while the average passing distance is more than one metre, significant proportions of passes occur at less than this distance. Average passing distances are greater with wider lanes, when bicycle lanes are present, for cars rather than vans or trucks, and (possibly) at higher speed limits. Perceived characteristics of the cyclist (other than gender) appear to have little effect on passing distances. The research questions the ability to judge lateral distance and whether nominated distances predict on-road behaviour. Cyclists have strong concerns about drivers passing too close but the extent to which this behaviour reflects deliberate intimidation versus an inability to judge what is a safe passing distance is not clear. Little is known about the potential effects of minimum passing distance laws on cyclist and motorist safety and the performance of the road system. The safety of bicycles being overtaken by cars is an important topic, and we still have much to learn"

<sup>4</sup> <http://www.amygillett.org.au/programs-resources/a-metre-matters>

<sup>5</sup> [http://www.parliament.act.gov.au/in-committees/standing\\_committees/Planning,-Environment-and-Territory-and-Municipal-Services/inquiry-into-vulnerable-road-users?inquiry=450639](http://www.parliament.act.gov.au/in-committees/standing_committees/Planning,-Environment-and-Territory-and-Municipal-Services/inquiry-into-vulnerable-road-users?inquiry=450639)

<sup>6</sup> [http://bicyclensw.org.au/wp-content/uploads/2015/02/Overtaking-Cyclists\\_web.pdf](http://bicyclensw.org.au/wp-content/uploads/2015/02/Overtaking-Cyclists_web.pdf)

<sup>7</sup> Heatmaps - <http://labs.strava.com/heatmap/#10/144.94191/-37.81707/blue/bike>

What a mandated minimum passing distance law here should do is deter (and penalise) those motorists who deliberately intimidate cyclists by passing too close. With allowances for crossing unbroken white lines when safe to do so, only motorists deliberately passing too close and motorists with poor judgement either as to the dimensions of their vehicles or in general will pass too close. Both of these types of motorists have no place on the road.

A 2015 study into Overtaking Cyclists' Road Safety Study – Minimum Overtaking Distance, conducted by the University of New South Wales<sup>8</sup>, in Tables 4 to 6 (pages 17 to 18) detail cyclists killed in road crashes in Australia from 1991-2004. Here, 21% of crashes can be considered as rear ending of cyclists. This reports concludes with "'Minimum Overtaking Distance' is an effective strategy to improve overtaking cyclists' road safety. "

A motorist passing a cyclist at a safe distance will reduce the likelihood of a cyclist deviating from their line and potentially crashing.

With regards to cyclists passing cyclists, a bicycle rider is in the best position to determine what a safe passing distance is in the circumstances.

## 1.2 More People Cycling

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, with no change in the percentage of deaths per kilometres travelled.

If it can be shown that a mandated minimum passing distance equates to safety cycling, it would contribute to less deaths/injuries per distance travelled.

Taking the long term view, more cycling and a more active population means an increase in more productivity<sup>9</sup> and saves the Government \$21 for every round trip<sup>10</sup>, and reduces the future health care tax burden on the population. Such a cost saving should be an important consideration given this bill is proposed by the Standing Committee on Economy and Infrastructure.

With an aging, fattening population, getting in early on keeping people fitter and healthier longer reduces the amount of money needed to support a population that suffers from medical ailments due to inactivity or obesity. An overweight individual has an increased risk of chronic disease<sup>11</sup> both now and later in life and an associated financial cost.

A 2011 helmet cam study/survey found that unsafe road conditions to be the single largest deterrent to would be cyclists<sup>12</sup>. One of these conditions was motorists passing too close to the cyclist. Even if a car does not pass "too close" it may unnerve a less experienced cyclist, causing them to lose control of their vehicle and potentially crash.

<sup>8</sup> [http://bicyclensw.org.au/wp-content/uploads/2015/02/Overtaking-Cyclists\\_web.pdf](http://bicyclensw.org.au/wp-content/uploads/2015/02/Overtaking-Cyclists_web.pdf)

<sup>9</sup> <http://activelivingresearch.org/making-case-designing-active-cities>

<sup>10</sup> [https://infrastructure.gov.au/infrastructure/pab/active\\_transport/index.aspx](https://infrastructure.gov.au/infrastructure/pab/active_transport/index.aspx)

<sup>11</sup> <https://www.betterhealth.vic.gov.au/health/healthyliving/obesity>

<sup>12</sup> <http://theconversation.com/helmet-cam-captures-bike-accidents-and-could-make-cycling-safer-3540>

## 2. Education Campaign

The RACV is reportedly opposed to introducing a minimum safe distance<sup>13</sup>. The argument by Mr. Negus is that “a cyclist slowly riding up a steep road in the Dandenongs will effectively block the road, with all following vehicles unable to safely pass them”. This is a misleading and potentially purposefully false argument. Such arguments should be shown to be false by the Government or Government agencies (Vic Roads) immediately they become aware of them. As the current law stands, it is illegal to overtake over a single or double unbroken white lines. A lawfully acting motorist would, at this time be breaking the law if they passed a cyclist at any point while crossing an unbroken line. I am sure the RACV would not encourage their members to act unlawfully. The introduction of a minimum passing distance and the addition of additional wording to rule 139 would make passing cyclists in such situations legal and reduce the need to wait for a break in the lines to pass. At the moment, the only vehicles that could legally pass “a slow cyclist on a steep hill” are other two wheeled vehicles: faster cyclists and motorcycles.

Another argument is that a cyclist may “swerve from bicycles lanes in order to overtake”. If this were true, the cyclist is causing a disruption to the flow of traffic, which is in contravention of the road laws (I cannot find the reference within the Road Safety Rules 2009<sup>14</sup>). It is unlikely that a cyclist would swerve into the path of motorised traffic unless it was an emergency avoidance situation. If cyclists are routinely moving from an on road bike lane into the next lane, one wonders as to the suitability of a bicycle lane for cycling. Using such an argument to justify not introducing a minimum mandated passing distance is an invalid argument. If it was shown that a cyclist moved closer to a motorist while being passed, enforcing such a minimum passing distance would be against the spirit of the law. Even the mythical rogue cyclists the media loves to report on are unlikely to put themselves in danger in order to entrap passing motorists.

### 2.1 Intimidation

A Vic Roads campaign showing the impact on the lives of cyclist’s families and the lives of irresponsible drivers’ families could be mounted. Perhaps state that intimidation is a form of bullying and this is socially unacceptable and that killing somebody totally unacceptable.

What is the impact of a motorist passing too close to a cyclist and clipping them or not? If this results in the cyclist crashing and subsequently being injured or killed, the root cause of this is the motorist. A slap on the wrist and a token community service order should not be the result. Killing somebody with a motor vehicle should be no different to stabbing or shooting them. All road users must take responsibility for their actions. Clip a Cyclist? We’ll Clip Your Wings.

Speaking to various cyclists, there are rumours that tradies play a “how close can you get to a cyclist without clipping them” game. If such rumours are true, it is doubtful a mandated minimum passing distance would alter this behaviour. Mandating the passing distance would however would enable cyclists with video evidence to press charges with the ultimate goal of removing such motorists permanently from the road.

<sup>13</sup> <http://www.themotorreport.com.au/61134/victoria-minimum-cyclist-passing-distances-proposed-racv-opposed>

<sup>14</sup>

[http://www.legislation.vic.gov.au/Domino/Web\\_Notes/LDMS/LTObject\\_Store/LTObjSt5.nsf/dde300b846eed9c7ca257616000a3571/a1ea37d8e6e0e200ca257761003ffbf/\\$FILE/09-94sr003.pdf](http://www.legislation.vic.gov.au/Domino/Web_Notes/LDMS/LTObject_Store/LTObjSt5.nsf/dde300b846eed9c7ca257616000a3571/a1ea37d8e6e0e200ca257761003ffbf/$FILE/09-94sr003.pdf)

## 2.2 “I did not see them”.

The defacto excuse used after running over cyclists or even cutting them off is “I did not see them”. I would argue that if a motorist is so unobservant to not see a cyclist, they are either incompetent or inadequately trained to operate their motor vehicle in a safe manner. Regardless of my form of road transport (bicycle, motorcycle, car), I can see birds and small animals on the road ahead, potholes, sticks, puddles, traffic on side streets approaching the main flow of traffic, read street signs etc. I find it absolute rubbish that motorists are not looking for and not seeing cyclists. If they are not, improve their road skills or get them off the road.

Here, as part of learner driver training, a compulsory 6 months of logged motorcycle riding or a day of bicycle safety training forming part of the learner *and* probationary licence tests would be valuable as this would give motorists a strong appreciation of vulnerable road users and improve situational awareness.

What needs to be conveyed here is that if you rear-end a cyclist, t-bone a cyclist when crossing traffic to enter a side street or entering one road from a side street, or even door a cyclist, you are the one at fault and it is the moral responsibility of road users to protect more vulnerable road users.

## 2.3 Vehicle Dimensions

Anecdotal evidence appears to indicate many road users do not know the dimensions of their vehicles. You can see this in car parks and in side streets with keep left signs. Motorists often drive slowly in case they hit other vehicles while parking. This mentality is disturbing, as it shows motorists are willing to cause damage to vehicles, as long as such damage is “minor” or “not serious”.

When it comes to kept left signs, there are many streets in Melbourne where every week, keep left signs are repaired and within 48 hours, they are clipped by passing traffic<sup>15</sup>. Is this due to passing too close or due to the motorist not knowing the dimensions of their vehicle? I cannot say. What it does indicate is that many motorists cannot operate their vehicles in a competent manner.

Out on the road, the number of SUV’s is increasing. These are large vehicles, often unable to fit fully in single marked lanes (more so on rural roads) or in allocated parking spaces. Many in the population were taught to drive in hatchbacks or family cars. When such drivers move to SUV’s, they often are unaware of their new vehicles’ dimensions and rely too much on “safety” features such as rear view cameras and rear ending avoidance mechanisms.

Perhaps a new class of licence needs to be introduced for this class of vehicle along with special education to ensure motorists know the size of their vehicle and take appropriate precautions, such as allowing more room when passing other roads users.

## 2.4 Cyclists Slowing Down Traffic

Within a metropolitan setting, this is untrue. Residential streets should have a speed restriction of between 40 and 50kph. A trained cyclist can easily reach and sustain 40kph. Peak hour traffic in

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<sup>15</sup> Personal observation

2013 was shown to be ~34kph (am), ~35kph (pm) and during all other times, a little over 41kph<sup>16</sup>. Long term trends indicate that such average speeds are decreasing.

The data speaks for itself. The public needs to be educated about the fact that cyclists are not slow, especially not when compared to average traffic speeds and the speed a cyclist can maintain.

Out on the “open road”, be it on a steep hill in the Dandenongs, or elsewhere, based on the distance travelled, the motorist’s vehicle speed and the time a cyclist may “hold up” the motorist, a 10-60 second hit to a trip is negligible.

From personal experience, if I am riding from The Basin to Olinda, along Mountain Highway, I will let motorists pass and not deliberately ride in the centre of a lane when motorists are behind me unless it is impractical for me to do otherwise. When riding two abreast and a motorist wishes to pass, I will move into a single file arrangement. This is courtesy. I try not to hold up motorists, as I know this can be frustrating. However, I am happy to wind down my window and enjoy the countryside when this happens to me.

### **3. Enforcement Strategies**

#### **3.1 The Police**

Presumably the highway patrol are trained sufficiently to determine, on observation when a vehicle has passed too close to another vehicle and whether or not either a cyclist or motorist has deliberately moved towards the other vehicle during the passing interaction.

#### **3.2 Action video cameras, forward and rear facing.**

These days, many cyclists are using action cameras to capture their rides<sup>17</sup>. Anecdotally, such footage has been used successfully to prosecute motorists or to show that a motorist has lied about what took place (either that or the Police have taken the word of the motorist against that of the cyclist – another issue that should be addressed).

Helmet cam footage has led to the arrest of offenders, both locally and overseas<sup>18</sup> and could become an important tool and/or deterrent to reckless motorist behaviour.

To allow the increased use of such cameras, legislation should be enacted to allow the mounting of action cameras on helmets to make this a legally sanctioned practice. This would prevent court cases such as the recent one regarding a motorcyclist being charged for using a helmet mounted camera<sup>19</sup>.

Perhaps vigorously persecuting the first few offenders who cause injuries or death to cyclists by passing too close and where action camera footage is of evidence quality would go far to altering motorist behaviour. For this to take place, specifying what constitutes evidence quality footage should be considered.

<sup>16</sup> VicRoads Traffic Monitor 2012-13

<https://www.vicroads.vic.gov.au/searchresultpage?q=Traffic%20Monitor%202012-13%20-%20VicRoads>

<sup>17</sup> <http://www.themorningbulletin.com.au/news/helmet-cam-films-drivers/1601879/>

<sup>18</sup> <http://www.roadhawkdownunder.com/news/helmet-camera-crash-footage-leads-to-arrest>

<sup>19</sup> <http://www.gizmodo.com.au/2015/09/putting-a-gopro-on-your-helmet-is-illegal-in-victoria-and-nsw/>

## Conclusion

Ultimately, what we want with the introduction of a mandated minimum passing distance is a change in motorist behaviour and increased road user safety, not an increase in paperwork and enforcement. The introduction of a mandated minimum passing distance will result in increased cyclist safety. With adequate education and some high profile enforcement action, the long term effect will be a reduced need to enforce such a law as motorist behaviour will be altered.

An education campaign is necessary to prevent the cyclist vs cars media reporting and reduce the them vs us mentality.

Before introducing a mandated minimum passing distance, I advise the Government establish metrics relating to the safety of cycling now (eg injuries and deaths per km travelled) in order to assess the impact of such a measure in 1, 5 and 10 years.