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TRANSPORT, HOUSING AND LOCAL GOVERNMENT COMMITTEE

Members present:

Mr HWT Hobbs MP (Chair)
Mr JB Grant MP
Mr DJ Grimwade MP
Mr CJ Judge MP
Mr A Shorten MP
Ms J Trad MP
Mr JR Woodforth MP

Staff present:

Ms K McGuckin (Research Director)
Ms D Cooper (Principal Research Officer)
Ms R Stacey (Principal Research Officer)
Ms K Longworth (Principal Research Officer)

ROUND TABLE DISCUSSION—INQUIRY INTO CYCLING ISSUES

TRANSCRIPT OF PROCEEDINGS

WEDNESDAY, 16 OCTOBER 2013

Brisbane

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Committee met at 10.03 am

CHAIR: Good morning all. I call this public round table discussion of the Transport, Housing and Local Government Committee to order. Thank you for your interest and for your attendance here today. My name is Howard Hobbs. I am the member for Warrego and chair of the committee. Mrs Desley Scott, the deputy chair of the committee and member for Woodridge, is unable to attend as she is attending another committee meeting. Other committee members are: Mr John Grant, the member for Springwood; Mr Darren Grimwade, the member for Morayfield; Mr Carl Judge, the member for Yeerongpilly; Mr Anthony Shorten, the member for Algester; Mr Jason Woodforth, the member for Nudgee; and Ms Jackie Trad, the member for South Brisbane.

Today's round table discussion with expert witnesses has been organised to assist us with our inquiry into cycling issues. The committee is to investigate and report on a range of issues to improve the interaction of cyclists with other road users including existing and alternative road rules, current penalties and sanctions and the potential benefits and impacts of bicycle registration.

The committee has held a number of public hearings throughout Queensland including here in Brisbane, on the Sunshine Coast, Cairns and Townsville. This public round table is a formal proceeding of the parliament and is subject to the Legislative Assembly's standing rules and orders. The committee will not require evidence to be given under oath, but I remind the panel of expert witnesses that intentionally misleading the committee is a serious offence. You have previously been provided with a copy of instructions to witnesses so we will take those as read.

Hansard will record the proceedings and witnesses will be provided with a transcript. Today's proceedings are being broadcast live on the parliament's website. I therefore ask you to please identify yourself when you first speak and to speak clearly and at a reasonable pace.

I remind all those attending the public round table discussion today that these proceedings are similar to the parliament to the extent that the public cannot participate in the proceedings. In this regard, I remind members of the public that under the standing orders the public may be admitted to or excluded from the briefings at the discretion of the committee.

Before we commence, I ask that mobile phones be turned off or switched to silent mode. Today's round table discussion will be run a little differently to the public hearings. This is an opportunity for the committee to seek further details and information on specific cycling issues. The committee will direct a specific question to a panel member or members and ask for a response.

BEAN, Dr Richard, Private capacity

FRENCH, Mr Paul, Co-convenor, Brisbane CBD BUG

JOHNSON, Dr Marilyn, Research and Policy Manager and Research Fellow, Monash University, Amy Gillett Foundation

JOHNSON, Mr Matt, Private capacity

KING, Dr Mark, Senior Lecturer, CARRS-Q

McKENZIE, Mr Andrew, Maurice Blackburn Lawyers/Safe Cycling Queensland

MURPHY, Mr Luke, Solicitor

POINTON, Acting Chief Superintendent Dale, Queensland Police Service

SPALDING, Mr Steve, Executive Manager, Technical and Safety Policy, RACQ

WILSON, Mr Ben, Chief Executive Officer, Bicycle Queensland

CHAIR: I would like to welcome the panel of expert witnesses who are here today to help the committee with the inquiry. We are in the hallowed halls of parliament. We probably should not feel free to interject the way things normally happen in this place. We will try to be a bit more orderly.

Ms TRAD: We are a bit tired.

CHAIR: We are a bit tired. We had a very late night last night. I understand, Mr Murphy, you have a statement to make?

Mr MURPHY: I wanted to point out that I am not an employee or principal policy solicitor with the Queensland Law Society. I am a solicitor in private practice but a member of society's accident compensation and tort law committee.

CHAIR: Thank you for that. Over the duration of our hearings so far we have had a number of suggestions made regarding changes—good changes. We would like to nail down some of those today if we can. I will start off with the issue related to the minimum overtaking distance. France has a minimum overtaking distance of a metre in urban areas and 1.5 metres in non-urban areas. What do you think is sufficient protected space to ensure the safety of cyclists? My view is that a fixed distance is probably a bit hard when there are obviously different speed limits, different locations and different circumstances. We probably need a safe lateral distance. Would somebody like to make a comment on that?

Dr JOHNSON: From the foundation's perspective, what we are seeing at the moment is that the current legislation as it stands does not work. It is already in legislation that we need to leave a sufficient distance. As we are seeing both in terms of crashes on the roads and what is happening in the courts, this is not protecting bike riders when they are out on the road. So what we would like to see is a minimum specified distance of one metre. That is in speed zones up to and including 60 kilometres an hour. In speed zones higher than that we would like to see a clearance distance of 1.5 metres. The change we really want to see is cars not hitting bike riders. The way to do that is for everyone to understand that they need to leave space on the road. That is what we would like to see changed.

Mr WILSON: We had a lot of issues in the paper so we are kicking off with probably one of the most feisty ones. The overtaking distance is the distance at which a person does not get hurt. I think that is explicit in the road rules at the moment. It is clearly not working as well as one would like. I know that there are a lot of road rules that are probably not working as well as various people would like. I think the crux of the problem is how to make it work better. For that reason we need to look at what examples have worked internationally. That is our major concern with whether we have a one-metre rule or not. We do not have evidence to show that it will work.

Mr McKENZIE: The push from Safe Cycling Australia in relation to a 1.5-metre rule was to make an allowance in relation to other contingencies on the road, not just visibility. It was also in relation to debris and other aspects on our roads which cause cyclists to move, avoid, all of those sorts of thing. One metre needs to be the absolute minimum for smaller roads and slower speeds. The greater the speed the greater risk there is to cyclists on our roads. Queensland had the most number of deaths last year of any state in the country. We have 800,000 cyclists on our roads every week. We need to take steps to make minimums for our vulnerable road users absolutely mandatory.

Dr JOHNSON: Just in terms of the idea that there is no evidence for this legislation internationally, I would like to refer the committee to a document that the Amy Gillett Foundation has prepared and presented to the committee and is also available online. This document is a compilation of all of the evidence that we have been working to collect over the last four or five years about minimum overtaking distances—what the precedent is in other countries, what evidence there is, how other countries are enforcing it and what is actually already happening outside Australia.

Mr JOHNSON: The discussion around a safe passing distance as opposed to performing an overtaking manoeuvre is something that the committee should consider. What are the indicators and what are the requirements of a driver to show that they are performing an overtaking manoeuvre? I believe some of the discussion around minimum passing distances leans towards that there is no requirement on a driver of a motor vehicle performing a legal passing manoeuvre such as turning on an indicator and communicating publicly through visual aids in their vehicle as to how they are going to pass, that they are about to undertake a manoeuvre—that is for oncoming traffic as well as traffic approaching the back of the cyclist.

Mr JUDGE: In relation to undertaking and overtaking, I saw a photograph—we have a copy here—of a truck with two cyclists beside each other. Could you take a look at that. A solicitor in Townsville made the comment that it was not unsafe to overtake because the truck did not strike the cyclists. He held the view that that would be a defendable position. The police did not prosecute that case. Their view was that it would not be able to be successfully prosecuted or there was not a reasonable likelihood of a successful prosecution. I would be interested to know from a legal services point of view for the QPS and from the other legal eagles in the room whether you think you could actually prosecute a case like that successfully.

Chief Supt POINTON: I would look at that case. At one stage of my career I was a police prosecutor. I guess some would not prosecute that. I certainly would have a go at prosecuting that case. I guess that is the difficulty you have. That does not look safe to me. As a matter of fact, if I were looking at that, and if I could get the evidence around it—I am just looking at a photo, but if I could get evidence from each of those people—I would probably be looking at whether or not you would go for an offence of something like at least driving without due care and attention or perhaps even dangerous driving. But that might be the fight in the prosecutor on the day.

Mr JUDGE: With regard to the one-metre rule, perhaps Dr Richard Bean could talk to that. Aerodynamics becomes of particular importance. It seems as a matter of fact that the evidence is undeniable that there must be a one-metre rule. So could you talk us through that and the speeds that need to be considered? Where is the cut-off for the one-metre rule and where does it need to be more than one metre, based on this research?

Dr BEAN: Sure. Here I have a diagram from the Transport and Main Roads website about the side force from a truck overtaking a cyclist. According to this diagram, the estimated tolerance limit for the side force on the cyclist is two kilograms. So, if you look at this line for the truck travelling at 100-kilometre per hour in Townsville which is passing here, the tolerance limit of two kilograms is reached at 1.5 metres. So based on this truck side force impact diagram, this is quite in line with the Amy Gillett recommendation of one metre up to 60 kilometres per hour and 1.5 metres beyond that. At 115 kilometres per hour it is actually two metres, but we do not anticipate that cyclists will be riding on those kinds of roads very often.

With respect to this picture here in Townsville, Mr Scholl, a witness in Townsville, mentioned that the truck was unable to be identified. But I have been in touch with the user who posted this on YouTube and he does have a licence plate. This was in March this year, so it is within the 12-month statute of limitations and it can be prosecuted if that is what is desired.

Mr GRANT: That information was very valuable because cyclists have told us of the actual experience that they go through when they are passed by a heavy vehicle, and it is horrifying. Does that research about the side force apply to relative speed, the differential speed between the two vehicles, or as if the cyclist were stationary?

Dr BEAN: No. This is just the speed of the truck as it is going past the cyclist. What this diagram is saying is that it is really just a matter of luck or skill—luck really—that the cyclist here was not sucked under the wheels of the truck, because it is just a matter of centimetres.

Mr GRANT: Could I just summarise that by asking: are you all satisfied that the best we could do is recommend one metre for up to 60 kilometres per hour and 1.5 metres for above 60 kilometres per hour?

Mr WILSON: Sorry, was that directed to everybody on the panel or was that inviting a response?

Mr GRANT: I was looking for an overall response to see if there was anyone who was unhappy with 1.5 metres above 60 kilometres per hour.

Mr SPALDING: I think there is no question there needs to be a safe passing distance. It is one of judgement and I think it comes back to good judgement based on good driver skills but also drivers having that appropriate, safe and courteous approach to what is really a sharing of the road network. To ask a driver to judge a distance, whether it be one metre or 1.5 metres, is very difficult because there are so many varied road traffic conditions. Our view is that it really goes to a matter of good driver behaviour which really requires good driver education, rather than just a simple distance that would be, for instance, enshrined in law. So we think that it is better approached by good training, good education and changing driver behaviour.

Mr WOODFORTH: Can I just see that photo again, if you would not mind? Are those two cyclists actually side by side?

Dr BEAN: At this point, yes, they are overlapping wheels a little bit.

Mr WOODFORTH: Firstly, just so you know, I am a fellow cyclist and I will be donning the lycra this weekend on the ride to the Gold Coast. But the bottom line is that, as a cyclist, I am all for an outcome that helps us but, on a highway such as that, cyclists need to understand that vehicles travelling at 100 kilometres an hour, even 80 kilometres an hour, creep up on you so fast and you have to take some own responsibility. So this has to be a two-way street here. Mr Wilson, I would like to know what you think might work considering you say that it does not work. But also to Dr Johnson, my question is: how do we get to three million drivers—and Mr Spalding can probably tell me how many Queensland drivers there are, but I am going to say three million out of 4.6 million? How do we get that information to them to be aware not just now but forever and a day?

Dr BEAN: Can I just respond to your first point. This came up in the Townsville transcripts. These riders are part of the Giant racing team, so they have to ride side by side because they are training that way—they are peeling off towards the end—and there is no other place for them to ride apart from this 100-kilometre-per-hour highway.

Mr JOHNSON: Can I also make a comment there that often the event of passing is occurring within a single lane or within a single lane with a shoulder to the side. It is not a passing manoeuvre on a multilane highway where two vehicles are in two different lanes, implying a safe pass to do so. They are legal vehicles all occupying the same lane, and that requires a different set of behaviours on the part of both road users.

Mr WOODFORTH: If I can just comment in regard to training in a specific way, maybe they should do a letterbox drop to all of Townsville to say, 'This specific set of cyclists have to train this way.' It is one thing to say they have to train that way; it is another thing to think of your own safety. So I think we have to be careful there which way we go.

Mr FRENCH: If I could just make the point that cyclists are on the receiving end of this sort of treatment and I think it is important that the emphasis is put on motorists to show more care towards cyclists. Research by CARRS-Q shows that crashes involving adult cyclists and motor vehicles are overwhelmingly caused by motor vehicles. So let us not turn the emphasis back on to what cyclists have to do. Yes, I recognise that all cyclists have to take care when they are out there, but the problem here is clearly caused by motorists, overwhelmingly. If I can also quickly reply to one other point about motorists having to judge distances, all road users have to judge distances and there are quite a number of quantitative requirements in the road rules. For instance, cyclists are not allowed to follow a motor vehicle closer than two metres for a distance of more than 200 metres. There are all sorts of other requirements about not driving in bus lanes. There are all sorts of quantitative requirements in the road rules already, so I do not see why this one is any different to any of the existing road rules.

Mr GRIMWADE: My question is to the panel but also to the police around the one-metre rule. My biggest concern in making a recommendation for a strict law that it is one metre up to 60 kilometres an hour and 1.5 metre over 60 kilometres per hour is: how do we enforce this? The concern that I have had raised with me by some of the local bicycle groups and the Queensland Police Service is that, if it is one metre and the police have to make a judgement on that—there are probably plenty of laws where the police do have to make a judgement and then it can be challenged in court, I suppose—how do they actually do that? How do we say it was 900 millimetres or it was one metre or it was 1.1 metres, where we are talking close distances? That is my concern in regard to mandating an exact one-metre rule rather than a lateral distance or an education campaign. So if anyone has some comments on that, that would be good.

Chief Supt POINTON: I guess when we talk about judgement and people who follow too closely, which is probably similar to this, it is right that you probably do not see us prosecute too often when people are 1.5 metres behind another vehicle. It is the obvious breach, where they have actually hit the back of the vehicle, that we will prosecute. While you can prescribe 1.5 metres or one metre, the reality is that it is probably going to be the obvious breach that we will prosecute.

Just going back to that example before, there is some evidence you can see straightforwardly because you have documentary evidence that you can look at. There is a photograph that you can look at. There probably still needs to be an investigation into that to try to identify who the owner of the truck is. To me this is not a deficient prosecution; it is probably a deficient investigation before the prosecution. So to me you can prescribe those distances, and I think it is good from the point of view that you educate people about having to leave those distances. One way of doing that is to enshrine it in law and people will know that that is what they have to do. But when it comes to investigating and prosecuting, I think in reality it will be those really clear-cut cases where it is obvious that they have breached that distance where you will probably find the successful prosecutions.

Mr WILSON: I just want to go back to a question that I was asked earlier. Firstly, regarding the photograph, it is simply staggering that that can occur, although it is a reality that if the riders were going two abreast and it was a road width—which we do not know from the photograph. Was it a 3.5-metre road or a three-metre road? Was it a double white line to the right? What influences are there? I would imagine that is a shocking photo but it has problems of evidence without some more detail, some context.

I do see the two riders there, so there is a witness at least. But we would like to know more. It is just staggering that that cannot be prosecuted as it stands at the moment, and that is actually the problem. When we are asked, ‘What is a safe distance?’, that is not a safe distance if, as it appears, the truck is overtaking. One could actually make a photograph like that with a stationary truck and the bikes might be overtaking the truck on the left within a metre, too. It really is a complex thing, and I do not envy the job of either the lawyers or the police who have to investigate these matters. But, as far as the overtaking rule is concerned, that cyclist should be able to be overtaken safely.

If it is a double white line then there is a requirement at the moment for a vehicle not to overtake on a double white line. We would suggest that is something that can be reviewed. Just as with an obstacle, it is quite normal for a vehicle to overtake momentarily to get around an obstacle. It is very different to a car overtaking a car or a truck overtaking a truck. For the brief overtaking manoeuvre it takes to leave and come back in, that probably should be the judgement. In fact, that is probably what is happening now. People are doing that when they are driving. That would go some way towards solving that problem.

I do agree with the member for Nudgee, though. There are contexts in which all of us as bike riders can find ourselves on a pretty hostile road like that. We do our best to avoid them, but if we are on them we do our best to not put ourselves in such a vulnerable position. But sometimes it cannot be helped and the law must respect that that truck appears to be doing something that is flagrantly wrong.

Ms TRAD: For those of you who do not know me, my name is Jackie Trad. I am not a standing member of this committee, so I am not across all of the details and I know that a number of organisations here have made submissions. So I am sorry if I ask you questions that seem irrelevant, but I am the shadow minister for transport and this is of keen interest to me. I want to explore further what seems to be a difference of opinion around the international experience. I understand, Dr Johnson, that you said that there were international examples of a prescribed passing distance working, and I note, Mr Wilson, that you do not agree with that. Having a quick glance at the CARRS-Q submission, there is some question about whether or not these laws overseas have worked. So I am wondering, Dr Johnson, if you could just summarise some of those international experiences that you allege or assert prove that a specified distance is actually a successful policy option.

Dr JOHNSON: The US is probably the country that is the most relevant, direct comparison to Australia. Unlike a lot of European countries where there is a high cycling participation rate, the land urban design is very different and in the US, like here, a lot of the times bike riders who do ride have to do so on the road. So it is not a matter of having a complete off-road network, much like a lot of the states in Australia. In the US we find that there are 23 states which already have a minimum passing distance law. For the majority of those it is three feet, which is just under a metre, and one of the states actually has a four-feet rule. If you go from the US to Europe, there are some longstanding laws that specify that there needs to be a minimum overtaking distance. Belgium has one and has had since 1975. As was mentioned earlier, there is a minimum overtaking law in France, there was recently one passed in Portugal and there is one in Nova Scotia in Canada. So they are just a few of the examples of laws that are actually already in place.

In terms of recent information in terms of enforcement, there is some really good information available online from the police in Austin, Texas in the US where they talk about how they actually need to train police officers to be able to enforce this law, what needs to happen in terms of education—that was raised earlier about making drivers aware of this change—and how that actually works in practice. So that information is available, and that has been included in our submission as well.

Dr KING: I should say that the person who put together our submission was Professor Narelle Haworth, who cannot be here because she is attending a conference in the US.

I guess the question about the one-metre rule in terms of whether it works is: work in terms of what? If you are looking at the impact on crashes, one of the things that we have said in our submission is that there are no evaluations of the impact on crashes. Instead, there are evaluations

of how it works in practice. We know that one of the things that happen is that it does promote awareness among motorists and among cyclists that there should be some space given, so in that sense it is effective. In terms of crashes, we do not know.

One of the things we did was look at the proportion of police reported crashes which might be subject to this rule, and they are about 20 per cent. That is just a notional figure, because we do not know for sure. But there are up to 20 per cent of police reported crashes where a one-metre rule might have been of assistance. There are a lot of other crashes where it seems that the cyclist was not even detected so that a one-metre rule would not have been effective in those cases. So we know with any rule that it is never going to be effective against 100 per cent of incidents and 100 per cent of crashes, but it is always a good idea to have an idea of the proportion that we are dealing with. So we are probably looking at 20 per cent of crashes at a maximum, and at this stage we know that there is an impact on awareness. We do not know for sure about crash numbers.

Ms TRAD: So just to be clear, Dr Johnson, you cited examples of where laws are in place but there are no evaluations as to the efficacy of the laws in terms of preventing crashes. That is what I really want to know. If it is about raising awareness, I remember Wayne Goss used to promote the One Metre Matters campaign in Queensland. Campaigns can run and public awareness can happen through a variety of mechanisms. What I really want to know is: has there been an international evaluation of a specified safe passing distance having reduced deaths and accidents?

Dr JOHNSON: The short answer to that is no. There are some research studies that have come out of Maryland in the US where there have been some early indications that the law in that state is working. But in terms of broader population based studies, no, there have not been. One of the difficulties in this area of research, speaking with my Monash University hat on as a research fellow there, is that it is incredibly difficult to get funding to do the type of research that looks into any kind of injury prevention and especially being able to have before-and-after crash situations in places where this law has been changed. No, it has really not been done systematically and not rigorously enough that we would be able to point to it. But certainly in terms of what is happening on the roads and what is happening on the roads in Queensland, in crash situations that involve drivers where the outcome is fatal for the cyclist it more often than not involves the driver not doing something to keep that cyclist safe. When it comes to driving up from behind a cyclist and overtaking, that really is the responsibility of the driver.

If I could just go back to the question that was asked of me earlier about how we make drivers aware of this, we have had education campaigns running nationally, including in Queensland, for a number of years, and people continue to die. There have been three fatalities in Queensland just this year where we know the circumstances of that crash involve the driver not giving one metre or at least not giving sufficient overtaking distance. So in terms of what we do to make drivers aware, we need a broad education campaign. That is part of it. We need to enforce the law amongst drivers when this happens—that is another part of it as well—but we also need to teach our drivers how to interact safely with cyclists on the road. That involves including this in our driver education handbooks and including this in our practical and theoretical testing. Currently we know that it is by random chance that a person who sits a theoretical test for their driver's licence in any state in Australia, not just in Queensland, actually has a question relating to cycling included in that test at all. So mandatory testing of at least one question on that test that relates to cyclists, that relates to sharing the road, which may relate to an overtaking distance, is a step that will lead to educating drivers.

In relation to the point that was made earlier about bikes overtaking vehicles or vehicles overtaking bikes, what we are proposing here in this minimum overtaking distance is about when vehicles overtake bicycle riders; it is not when bicycle riders overtake vehicles on the left. I just wanted to make that distinction really clear.

Mr SHORTEN: Just moving on from the minimum overtaking distance, a number of submissions have supported the introduction of a strict liability law which would place the emphasis on the vehicle of a greater mass, so basically saying that the cyclist is not liable until proven otherwise. If we were to move down that path—I guess this would be a question for the QPS—how could that law be implemented? I guess generically what practical and legal implications would that have, and ultimately do you believe that it would improve cycle safety?

Chief Supt POINTON: I guess a lot of that depends on how those statutory provisions would be drafted. I am just trying to envisage what you are suggesting, whether it is like perhaps a reversal of onus or something like that onto the truck driver. Whether it would be like a situation

where the bicycle rider believes that they have encroached upon that space and then they make the allegation, we then commence a prosecution and then it is up to the truck driver to defend their position.

Mr SHORTEN: If there was an accident between a cyclist and a motor vehicle, per se, then it would be up to the motor vehicle driver to prove that that person was doing everything they were doing right and that the cyclist was in the wrong, because the onus is on the person with the heavier vehicle.

Chief Supt POINTON: I guess I could say that I do not think it would come as any surprise that police always like reversal of onus provisions. It makes it a lot easier to prosecute those matters. I guess you still have a situation that when you go to court you are going to have probably two versions. Because once you put that reversal onto the driver, unless they plead guilty then they are still going to come and give evidence, so you are going to have probably contradictory statements anyway. It would be a matter for the court, I guess, at that point in time.

Mr GRANT: I would like you as a panel of experts to really tease this issue out, because I believe that we have in this instrument, strict liability, the capacity to eclipse multi-million dollar education campaigns. I as one individual member want to effect cultural change in our state. We need to hear your advice on why this would not work if we had vulnerable user laws, strict liability on the driver of the heavier vehicle—not just vehicle-cyclist, heavy vehicle-smaller vehicle-cyclist but the whole routine. I think it is a very powerful instrument to achieve the end of what we are all talking about. I would like to hear any alerts that you can give to us as a committee as to getting our head into the space of making this work well if cabinet supports such a recommendation.

Mr MURPHY: Can I start by saying that the Law Society's position in relation to any legislation that reverses the onus of proof is that it is not something that should be undertaken lightly. It is a significant change in the fundamental principles that underpin the legal system. If I can direct my comments primarily to civil cases—I think reversing the onus in a criminal case is not something that the Law Society would support in any circumstances—the support for the proposition that the reversal of the onus works is often drawn from a number of the European nations. There is, though, a fundamental difference in the systems of law: the European nations have primarily an inquisitorial system and not the adversarial system that the common law civil systems have. What that means in practical terms is that the judges in the inquisitorial systems have control of the evidence, so it is not the obligation in a civil claim of the party bringing the claim to establish the evidence. The judges in the inquisitorial system are able to direct that evidence be taken and direct that statements be investigated. That makes a significant difference to the ability of parties to respond to allegations that are made, because here in the adversarial system witnesses can be subpoenaed but they do not have to speak to either party prior to giving evidence. That makes it extremely difficult, both from a defence point of view and a plaintiff bringing a claim, to know with any certainty what the evidence will be. The inquisitorial system has a much sounder basis on which the reversal of onus can be justified.

In addition, there is already within the common law here a vulnerable road user acknowledgment in that the standard of care that is required of motorists in their interaction with vulnerable road users, whether that be pedestrians or cyclists, imposes a need for greater awareness and a need for better conduct just because of the disproportionate power balance.

Mr WOODFORTH: Just in relation to that, and also to the comment that Mr Grant made, I have a slogan that I actually gave to the minister's office not just in relation to cycling. Actually, it had nothing to do with it. But I think you mentioned then the standard of care because they are cyclists and pedestrians, but I think it goes across the whole spectrum of being in cars. At the end of the day, my slogan is 'do not just drive; think and drive'. I think that is what we have lost. We just get in the vehicle and we just shut off to everything, and that is not even including mobile phones. We are just lost in our cars and you see people just driving down the road, and I think that is probably one of our campaigns of actually working with the minister's office to see whether or not that could be.

I will move on. Dr Johnson, if you want to probably start with my response, but also including a response that you had missed, because I did see you there wanting to respond to a few other questions. But the Idaho stop law: I am certainly all for it as a cyclist. I think it makes sense. But what are your comments?

CHAIR: I think Mr Judge wants to go back to the previous strict liability law.

Mr JUDGE: In bringing up the differences in the legal approach taken between European nations and in the Commonwealth with the adversarial system, you spoke about the vulnerable road user. If we consider the hierarchy of vehicles on the road—from a truck down to a pushbike down to a pedestrian—it would seem that the system is not really achieving the desired outcome: the community is not changing its behaviour, resulting in these cycling injuries and deaths. There is the case of Pollett at Moggill, Karayan, and Sparling at Kallangur. These cases are perhaps examples of vulnerable road users. I acknowledge it is impossible to stop all road incidents, but what changes to the legal system do you think might facilitate driver behavioural changes and an acute awareness of the probability of successfully prosecuting cases—like the picture of the truck and the two bicycles? What would enable them to have a higher likelihood of successful prosecutions in our courts, do you think? Do our rules in terms of the way we drive and the evidence and prosecution of these matters need to be looked at? I would be interested in your point of view on that.

Mr MURPHY: I think it is essential that we separate the criminal prosecutions from the civil claims. The duty of care that is owed and, as you have correctly pointed out, Mr Judge, the onus and standard changing with the power ratio are relevant to the civil claims. A lot of the comments in relation to the liability I believe are driven more at the prosecution of drivers under the criminal legislation. I do not have—and I apologise—any expertise in the criminal field so I could not speak on behalf of the society in that respect. I am happy, if the committee wishes, to direct the criminal committee to look at that, and I would certainly defer to the acting superintendent's assessment on that. More broadly, in relation to what legal steps could be taken, I think awareness through the introduction of one metre or 1.5 metres and the prosecution of defending motorists for a breach of legislation of that nature would certainly assist in making people aware. I do not think, though, that a reversal of the onus of proof in civil claims for strict liability would have that same impact. I think the criminal implications have to be looked at separately from the civil.

Mr McKENZIE: Can I endorse the Queensland Law Society's comments. I am wearing two hats today—one for Safe Cycling Australia and one for Maurice Blackburn Lawyers—and the challenge of finding the middle line is always difficult. In terms of the strict liability you are talking about, I need to emphasise examples where people are hit or injured as a result. You also have to consider the element purely of making it safe in relation to vehicles passing cyclists and the fear factor in relation to these vehicles getting too close. I think everybody acknowledges at the moment that the laws are not working. The reasonable standard in relation to vehicles overtaking is insufficient. It is too grey. There needs to be a minimum standard in relation to it—something which specifies what is the rule. If it is made clear to the public that it is one or 1.5 metres, then you have something to enforce. Having it as 'reasonable' at the moment is insufficient. To take the step of changing it to a strict liability scheme when we have a common law process of fault based responsibility is very much different in relation to our system, and I would be concerned that the courts will be caught up in a lot more litigious matters with the reversal of the onus of proof.

Mr JUDGE: Thank you for that explanation. I presume the criminal prosecution view would be the same with the reversal of the onus on the driver. That would not appeal, I presume. Would that be the case?

Chief Supt POINTON: As much as police love to see a reversal of onus in legislation or the removal of the right to silence, lawyers hate to see it. That is the way it is always going to be. I think it is an important point that is coming through here. The law is only one solution. There are always other options. When it comes to measuring 1.5 metres where there is not an accident or some obvious evidence, there are always going to be complexities in those sorts of prosecutions. With the more obvious ones where you have some documentary evidence such as a photograph, that is always a good starting point because you have some evidence that you can refer to. With the current legislation as to what is a sufficient distance, you always get those sorts of arguments around what is reasonable, what is not reasonable, what is sufficient et cetera. At least in that case with the photograph that was shown earlier, straightaway anyone can look at that photograph and say, 'Well, you need to investigate it and find out who is passing who and what speeds they are travelling at,' and all those sorts of things. But you can look at that and say, 'That is a lot less than 1.5 metres or a lot less than one metre.'

Mr JUDGE: For the purposes of all the invited guests here today, what I understand from what we have spoken about based on the facts presented in this document about safe passing distances is for a speed limit up to 60 kilometres one metre and thereafter 1.5 metres being applicable to our roads in Queensland with speed limits ranging up to 110. If we set that legal framework in place and built an educational policy from that to present to the broader community—the three million motorists throughout Queensland—generally a question to everyone is: do you think that would be an ideal starting point or is there a better place to start than that?

Mr FRENCH: I think it is important to point out that, whilst the one-metre to 1.5-metre issue is critical, it will do more for people who are already confident on-road cyclists. There is a huge number of people out there—about 40-plus per cent of the population—who want to cycle but who are intimidated by the current road environment. The minimum passing distance is a good idea but there are other things that would go a lot further to encourage more people to leave their cars at home and do something healthy for themselves and something that is good for the entire community.

One must-have as far as the CBD BUG is concerned is a reduced default urban speed limit. We mentioned this in our submission. That would be 30 kilometres per hour on local roads. We are talking about quiet backstreets. I know there is a lot of concern that that is too slow and ‘I will not be able to get around anywhere’. In fact, that component of the journey to someone’s home on a suburban road where they can hit the 50- or 60-kilometre-per-hour speed limit is typically around about one kilometre. At the other end of their journey there is typically up to another kilometre. So you are talking about two kilometres at a reduction of 20 kilometres an hour from the current default urban speed limit. So you are looking at a few extra seconds on that journey. It is no big deal. What it does lead to is a 95 per cent chance that a crash will not occur and a 95 per cent chance that if a crash does occur—I am talking about a crash between a motorist and a cyclist or a pedestrian—the cyclist or pedestrian will survive that crash. For a few seconds out of each person’s journey when they leave their home to go to work or the shops or whatever, we are talking about massive implications regarding people’s lives and health. That is an absolute must-have. I am sure Dr Johnson can talk all day about the enormous amount of information that underpins the evidence for that.

Secondly, on roads above that speed limit we need physically segregated bikeways. It is a no-brainer as far as we are concerned. That is what the Danes and the Dutch have done. They have created a space for cyclists that is safely away from the motor vehicles. There is a whole range of approaches that could be taken. There could be bollards or median strips or putting parked cars out from the kerb between the cyclists and the moving traffic. They are two absolute must-haves. A minimum passing distance is a fantastic idea but we are missing the game here. We are falling behind a lot of other countries in getting people out of their cars. We all know we have this massive obesity problem and there is traffic congestion and pollution. I would not say that cycling is the silver bullet to solve all of our problems but it is a big part of the solution.

Ms TRAD: Mr French addressed where I wanted to take the next set of questioning and that is in relation to infrastructure or shared road zones. My husband is of Dutch descent and the Netherlands is fantastic in terms of its cycling amenity. It is a cultural shift. It is 30 years in the making and something we are lagging behind. But I did want some general comments from participants here today about dedicated cycling infrastructure. There has been a rollout, which I think has been significant but I am happy to take that as an arguable point, of infrastructure over the past 20 years. Something like 75 kilometres of dedicated cycleways have been put in place across the Brisbane metropolitan area, but obviously more needs to happen. So I want some feedback. Mr French, you have obviously given some views. Mr Wilson or Dr Johnson, can you give me some feedback in relation to dedicated infrastructure or reconfiguring or rethinking our roads and how we use them?

Mr WILSON: It is National Ride2Work Day this morning. I spoke to 200 to 300 bike riders who came from the north side in Roma Street Parkland for a coffee, a banana and a bun. I think we had more coming in from the south side at South Bank. I have been doing these events for nearly 20 years. Twenty-odd years ago everybody would come in on the road and there were far fewer people. Now we have people who are coming in purely on bikeways and they are complaining about the short time they have spent on a road and wanting that problem to be solved. So we are getting there in many parts of Brisbane. In other parts of Brisbane, I was speaking to a gentleman from Albany Creek who took an hour and a half to get in because he used bikeways and he had to go all over town to keep off roads. It is a situation that is a work in progress because people do not get killed on bikeways by trucks, buses or cars. They might have an accident but generally the safety record is vastly higher in a segregated bikeway.

I certainly agree with your comments and I certainly agree with Paul’s comments. It will not ever excuse or negate the situation we have, which is what we saw illustrated in the photograph, where you will have people riding on roads and that can be in an urban area. It looks like this is training in a non-urban area. If we have a look at some of the very high profile fatalities on Moggill Road, we have to say: how can we have that road there? How can we have a road which is not much more than a kilometre from one of the best bikeways in Australia, the Centenary bikeway, and

have nothing on the road? How is the decision made to make that road two lanes? Who is culpable for allowing that situation to happen—there is a lane which is 3.1 metres wide on the kerbside which is where a truck and a bicycle are expected to co-exist?

To get back to our original statement, what we said in our report is that we need reform to stop an impact incident happening with evidence that a person has been hit. There must be a stronger—a legal—reform of the Traffic Act, of legislation, to stop the situation that a rider can physically be hit. So it is not a question of whether they were a metre or within the metre; a rider is physically hit and still we are not having an outcome that is respecting the vulnerability of the bike rider. So whether it is a vulnerability reversal, which there are legal problems with, there is something drastically wrong that a person can be hit by a vehicle that is trying to share a lane and not taking the effort to move across and that is not seen to be driving with an intent to cause harm.

CHAIR: Thank you. There is a general agreement from everyone that infrastructure needs to be improved. I think we have probably got that covered pretty well. I want to go back, because Mr Woodforth asked a question about rolling stops and I think Dr Johnson was going to respond to that.

Dr JOHNSON: This was in relation to the Idaho stop law that was raised earlier and the idea that, for people who may not know, when cyclists approach a stop sign they are able to roll through after they have checked and seen that that space is clear for them to do so. One of the key tenets of the road rules in Australia is that we have a known level of predictability about road users. I know that if I come to a stop sign in my car I will stop, and I expect other road users to do the same. I do not know that we have as much evidence as we might like to have to have a widespread Idaho style stop law in Australia. I understand that the premise of the law is sound and I certainly know that in terms of the energy expenditure for you to stop and then start your bike again is something that impacts cyclists much more than other road users. But from the foundation's perspective, we do not have a position to say that we would support that law at this time.

Mr WOODFORTH: Before commenting further, Mr Wilson, would you have some comments on that? Also, can we include red lights where a lot of times you cannot get them to trigger for you? Can you include that, too, please?

Mr WILSON: I think that we trial things. We look for evidence and see whether there is an improvement, and there may be an improvement in accessibility. There might be a removal of the problem which some bike riders will have that they will not be able to trigger a light, because lights physically do not pick up the bicycle rider's presence, and it would solve those problems. So we have to balance improving accessibility for the bike with the safety outcomes, and the more important is the safety. So I guess it is a lot like the red-light trial, which I believe is going on in Queensland at the moment, where turning left at reds is allowed for all vehicles. That process may give some indication for bicycle riders—whether that is an advantage—whereas it may not be an advantage safety-wise for cars. The short answer is that we need to trial—to test—things before we go forward.

Dr JOHNSON: If I can just come back to it in terms specifically about red lights as opposed to stop signs—and the Idaho law is about the stop sign rather than the red light itself—we know that already in the UK they are trialling allowing cyclists to turn left on a red light, and that has come about as a result of the number of cycling crash fatalities between cars and trucks at intersections, particularly in the city of London. So certainly I know from my own research and watching hundreds and thousands of hours of video of people going through intersections that cyclists do feel quite safe to turn left on red. It enables them to clear away from the intersection ahead of that turning vehicle so they are not negotiating that turn at the same time. There need to be caveats around the safety of pedestrians who might be crossing that street that they are turning into. In terms of the cyclist's safety, they are not actually crossing over the path of the cross-traffic, so in that sense there is some theoretical benefit to at least trialling that. Not speaking on behalf of the foundation but certainly as a researcher, that would be something that I would be supportive of.

Mr WOODFORTH: Just by way of comment, as a cyclist obviously I see it happening all of the time. They are doing it anyway and it is not causing a problem. As a cyclist, if you can get out in front of the traffic, they get to see you, and that is the important point. Doing a rolling stop on a stop sign and stopping and then going through a red light makes a lot of sense, especially from someone who does it all of the time.

Mr JOHNSON: The cyclist taking any opportunity to remove conflict between themselves and other road users is a positive. In circumstances, for example, where there is a T-intersection and there is a separated bike path on the other side of that T-intersection, the cyclist should be able to

apply those types of opportunities to remove themselves from the conflict point. There is a significant advantage in Queensland in that cyclists can ride on footpaths. We can use the shared path, the footpath and the road in order to keep ourselves safe when moving through on our journey, and that is an important point to be made. This is an example of an individual taking responsibility for their own safety, not being flagrant to the law. The perception of some drivers that it is a 'one rule for them and one rule for us' scenario probably comes from that greater recognition of them as a vulnerable user, and the individual is a vulnerable user.

CHAIR: Thank you. Are there any further comments on the rolling stop?

Dr JOHNSON: Yes. If I could just finish by saying that I know from the research that I have done on cyclist safety and perceptions of drivers about cyclists on the road that bike riders going through red lights is the top annoyance for drivers. It is what they hate the most. It is what they think everybody is doing on the road. It is not the case. Certainly in my research I have found that at some intersections less than 10 per cent of cyclists will go through, although if you ask cyclists across their whole trip up to 30 per cent of people will say at some point they have gone through a red light—and it is things like they cannot trigger the inductive loop under the road to make those lights change to green. When there is no vehicle around to do it for them, they will eventually go through. But in terms of what we are talking about specifically here with turning left, if that was to change as the rule—or even if it was to trial at sites where that was clearly signed to other road users that that was permitted—I think that would also contribute to changing the perceptions that drivers have that there is this lawlessness amongst cyclists. So permitting an action that cyclists are already taking that they feel is safe and that potentially is improving their safety, as is seen in other parts of the world, I think is going to not only save the cyclist and improve their safety in that instance but also help to change that cultural perception from drivers.

Mr WOODFORTH: If I may just add that it is that perception to show the motor vehicle driver that we are actually trying to be safe and it is a safety thing. If we can get that message across, I think it will change that perception.

Mr GRIMWADE: One of the other issues that we heard a lot about in the submissions and as we travelled around the place was bicycle helmets—a bit of a controversial issue, I suppose. Both the Brisbane City Council and the Sunshine Coast council have suggested relaxing rules regarding mandatory helmet laws around low-risk areas or areas where there is no interaction or interface with traffic. To those at the round table today I ask the question: do you believe this approach would result in an increase in cycling participation? Do you believe it would increase cycling injuries?

Dr BEAN: The Brisbane City Council proposal was for a helmet law exemption for paths and bikeways. That exemption already exists in the Northern Territory and I have prepared some research on that which I would like to table, if that is okay, about the Northern Territory safety experience.

CHAIR: Is leave granted? Leave is granted.

Dr BEAN: Out of any of the states and territories, the Northern Territory has the highest cycling participation in terms of trips to work and the highest female participation, and I do believe that that is related to the helmet law exemption that they have there. They are not paying any safety penalty for that.

Dr KING: We put together a report a couple of years ago where we took a pretty comprehensive look at the research and statistics to do with helmet wearing and reasons for cycling. Let us talk about taking away the need for wearing a helmet on a place where you are not interacting with vehicles. Simply falling off your bicycle on to your head is a quite serious injury. You can actually have quite serious results from that. No car has to be involved. Secondly, it has often been argued that people are not cycling because they have to wear a helmet. When you look at the research about why it is that people do not ride, that really does not come up. Sometimes people mention it, but it is along with a whole range of other things where things like the infrastructure and the convenience are much more important than helmet wearing. I think there has been this false dichotomy set up which is an argument that if we did not require helmet wearing then suddenly the streets would be flooded with cyclists, and the evidence for that just is not there.

Dr BEAN: I just want to respond to that. My answer to that would be just look at the bike-sharing scheme in Brisbane. The word 'decimate' means cut in 10. The usage rates have been literally decimated compared to any of its international peers. CityCycle is in the 20 largest bike schemes in the world but it has less than a 10th of the average usage of its peers. All sorts of excuses are given for that like heat, hills and humidity, but none of them stack up.

Mr WILSON: I think there is no doubt there would be a few more people who would ride bikes if they did not have to wear helmets, but there would be more injuries. If we look at bikeways, the speed of a bike rider on a bikeway is frequently above 30 kilometres per hour. Bikeways are generally quite narrow. They are around the three-metre mark, if we are lucky. The Kedron Brook Bikeway, one of the most popular bikeways, is often two or 2½ metres. So if we have a bicycle heading in each direction doing 30 kilometres an hour or more, the impact speed is 60. As Mr French alluded to earlier, at that impact speed the likely outcome is around the 95 per cent chance of a fatality. So it is a serious concern just between bike riders. There is quite a different culture in off-road bikeways in Northern European countries. It is absolutely frowned on to go at a speed of anything like 30 or 40 kilometres an hour, which is quite common on our bikeways, so we do have a speed issue that we have to address.

Just to quickly comment on CityCycle, it is a bit of a hard one. We actually have a CityCycle scheme that was introduced to Brisbane. Culturally, to compare it to other countries that have some other strengths in why people do ride a bicycle has to be taken into account. It is a work in progress with CityCycle and we will see how it goes, but we know that it is doing very well in areas where there are safe off-road bikeways and not doing so well where people have to share roads. So the indication there is that one of the big answers for safety and for usage is infrastructure.

CHAIR: Just by way of comment, I think Mr Grimwade's question was more about the relaxing of the rules regarding mandatory use of helmets, not saying that you cannot wear them. I am sure the reality is that most people would wear a helmet. It is a matter of: in those particular areas is there a real need? That is more the point, so it is just relaxing it. Dr Johnson?

Dr JOHNSON: From an injury prevention perspective, no. As we mentioned earlier, there is not a shared bike path from everybody's front door to the destination they are trying to get to. At some point people will need to ride on the road and interact with vehicles. Fortunately in Queensland you can ride on the footpath, which is going to lessen that, which is great. But in terms of just the physics of it, falling from a distance—even just seated on a bike and on a bike path—having the helmet on your head means that there is something between your head and the ground to dissipate some of that impact. Whether you are travelling at a higher speed or not, quite serious injuries occur when people's heads strike the ground. So the helmet in all cases is going to protect a person from the injuries that are related to those kinds of crashes, and a significant number of bike crashes actually just involve a single rider. So it is the person falling—and there may not even be a car involved. So from an injury prevention perspective and from a safety perspective, the Amy Gillett Foundation's position is for definitely continuing the current mandatory helmet law.

CHAIR: Are there any further comments?

Mr JOHNSON: I think one of the views the committee could take here is that both councils argued on closed safe loops—fully separated environments—where the helmet laws could be relaxed. Perhaps an onus on the councils is to prove and put a case forward, for example, where they believe those circumstances and that criteria are met—that is, where a cyclist can safely leave their home environment without a helmet and ride their bike without a helmet. I visit the Gold Coast regularly and there are a number of people riding with the helmet attached to their bike. Perhaps there are examples where that could be allowed for, but I think councils need to, to a certain extent, back themselves in that space by providing those closed loops. In relation to CityCycle, it is certainly not the case with CityCycle that the majority of its parking bays are located in environments where you are not automatically forced into a riding on the road environment.

CHAIR: Just moving on perhaps to Dr King, in relation to injury statistics, is there some way that we can improve the data we have? I think we are a bit limited in relation to a lot of our bicycle injury data really. Can we improve that process to get better information so that in the future we can make better decisions based on some more facts?

Dr KING: Hopefully. The main problem we have in the cycling area is that a huge proportion of reportable bicycle crashes are not reported and it is largely the single-bicycle crashes. If a vehicle is involved, they do tend to be reported. The way that we find out about this is by picking up the statistics through the health system, not through the police system. That is good in a way, but it also means that we do not get some of the information that we would like to have. Sometimes we do not know for sure that they have had a crash on a road or a bike path versus some other location. We often do not know the specific location and there is no inquiry into the circumstances if it had been a police reported crash.

It has been a problem and it has been known about for a lot of years. There are attempts to try to link together the health system reporting process with the police reporting process. That would assist in some way if we could do it but, certainly, if we could find a better way of increasing our surveillance of bicycle injuries, yes, that would be good.

CHAIR: Excellent. Obviously, we are aware that cycling infrastructure has to get better, but in terms of education and awareness for road users—and we have touched on this—we really need to nail down some examples of where you think the committee should go. I think with education, obviously, starting with children at school and going right through from the children at school, are there some better ways that we can improve the education and awareness for road users?

Mr FRENCH: One thing that I would dearly love to see is educating the community on who actually pays for the roads. An accusation or a suggestion that is widely made online and in the newspapers is that motorists pay for the roads and cyclists do not so cyclists do not belong on there. That is a complete furphy. It is a myth. Motorists, like public transport users and cyclists, are all subsidised from general government revenue. While that mythology prevails, cyclists will probably continue to be on the receiving end of all sorts of unsavoury activities. So that is one thing that I would like to see the Department of Transport and Main Roads take up on a major scale.

I would have to say that they have done intermittent campaigns in the past, but unfortunately the intermittent nature of them means that they do not tend to carry forward. Just general behaviour—and I mentioned this at the public hearing—I see appalling behaviour every day on the road, even in my relatively short journey to the city and home. Of the campaigns that I am aware of interstate, there is a great one—I think the Victorians are doing it—targeting people who use mobile phones while they are driving. The slogan is 'Get your hand off it'. That is a really catchy slogan and there is a song that goes with it. I do not know how effective it is or if an evaluation has been done, but I tuned into it. So I think there are plenty of lessons that we can learn from other jurisdictions, basically.

CHAIR: Are there any further comments?

Mr McKENZIE: In terms of education, schooling is a great start but the second one and probably the most important is in relation to licensing for all road users—understanding that cyclists, motorcyclists and pedestrians are all vulnerable road users on our roads. There needs to be a greater emphasis in relation to the initial licensing process to make sure that people are aware of that and then following through from that in relation to a campaign and the campaign at the moment—'Share the roads; it takes two to tango'—is just not working. You need to emphasise that there are vulnerable road groups on our roads right now and the public needs to make sure that they are aware that they are vulnerable. The emphasis needs to be on a marketing and an advertising campaign in relation to that. It needs to be on the licensing. It needs to be in the schooling the whole way through the process.

CHAIR: Thank you, Mr Spalding?

Mr SPALDING: I think, aside from the obvious need to educate around safety, it is also important really to focus on the aspects of courtesy so that it cuts across all road user groups—and also on the aspect of legitimacy of cyclists as a road user group, because I think if you can tackle the perceptions of the legitimacy of any particular group using the road you will go a fair way to improving safety.

CHAIR: Thank you, Dr Johnson?

Dr JOHNSON: Definitely, bike skills training in children, and it was mentioned earlier about having skills training in the curriculum and road safety and having bikes as part of that. There are programs around AustCycle that definitely can do that for children within the curriculum. As more people ride, more of the people who are driving cars on the road are riders themselves. That will lead to a greater awareness of what it means when they are overtaking bike riders, when they are just interacting with them in general.

I think what is really important is that there is a percentage of our population who do not ride a bike, who will not ride a bike. They will never and do not want to get on a bike. So it is those people who we really need to target, because they are the people who are driving cars and they do not have that awareness of what it means to share the road from the bike-rider perspective. That comes back to having education that targets those people and in a meaningful way so that it is not just about the penalty side—although that is part of it and the laws do need to be enforced—but also about creating a greater sense of empathy and understanding from those drivers who will not ride. It really comes back to the notion from a legal perspective. Whilst I understand the comment

earlier about the practicalities of enforcing something like strict liability, I think shifting even the terminology to default responsibility is what we are talking about here. It is about making sure that the people who are driving the largest vehicles are conscious of their potential to do harm, and having that held to account I think is another part that education can change—to make people more aware of what it means to share the road with bikes.

Mr SHORTEN: I apologise, I just cannot recall which of the panel members raised the bicycle awareness zones. An overseas instance was mentioned where the vehicle is away from the kerb, so the vehicle is creating the buffer zone between the bicycle and the moving traffic. I have some real issues around bicycle awareness zones. I think they are a deathtrap. I think there needs to be better planning, particularly at a local level, around that. I apologise: I cannot recall who mentioned that in their conversation, but I would like to understand, if there is already that happening overseas, where that is happening. The issue is that we are just moving the interaction of bicycles from one side to the other, but we are creating that safety buffer. So if you could speak to that, Mr French, that would be great.

Mr FRENCH: Yes, it is a design approach adopted in a range of jurisdictions. At the moment, where you have parked cars on the kerb and cyclists are riding in that door zone largely, it is sort of a standing joke among cyclists that we are actually providing a barrier between the moving cars and the parked cars. It is simply a matter of moving the parked cars out from the kerb and creating that safe zone so that the parked cars are then in between the moving cars and the cyclists. Whilst you still can have some 'doorings', as they are called—where cyclists are hit by people opening doors—that only happens in the case of passengers rather than drivers opening the door. So the chance of that is greatly reduced. I cannot think of any jurisdictions off the top of my head but, as I say, it is a fairly wide practice. Dr Johnson probably has a few that she might want to talk about.

Dr JOHNSON: They are actually implemented in Melbourne. In Melbourne they are called Copenhagen lanes. The way that it has been done is that at the road level what has just been described by Paul has been made. So it is the cyclist on the road, then there is often some sort of buffer—it can be just paint, it can be a kerb, it can be an actual concrete barrier—then the parked car and then the vehicle lane. That has happened in some sections. It is mainly at the top end of Swanston Street they are just implementing it as you exit over the Princes Bridge on to St Kilda Road. It is different, though, from what is implemented in Europe.

This is a common sort of configuration in Amsterdam, in Copenhagen. What happens in those countries is that it is actually an extension of the footpath. It is at the same level as the footpath. So you have footpath and then there is normally some kind of barrier and then the space for the bike riders. Then that is a raised level all the way from the road. There are different examples around different places. What it does exactly is what Paul describes. It removes the cyclist as being the buffer to the parked car. What you see more in European examples, though, is that the parking has been removed entirely. So it allows for the same amount of space for the vehicles on the road whilst still providing the protection to the bike riders, whereas what we are seeing in Melbourne often means that the road itself to the moving traffic has been reduced so the vehicle lane will narrow from two to one during that section and then back out as that part finishes.

From a cyclist perspective, one of the great things is that when you are in it, it is fantastic. But then it will stop. It is quite expensive structure to implement and so connectivity at both ends is incredibly important. Another example of them in Melbourne is on Fitzroy Street, where it is bidirectional which, of course, is again what we have seen in Sydney. Again, it is great when you are on it, but connectivity at the end of that type of infrastructure is incredibly important so cyclists are not suddenly left at the end of that point on the wrong side of the road and nowhere to go.

Mr JUDGE: This is probably just a question more to the BUG people in the room. Would it be possible for you to put together, for lack of a better description, a booklet of incidents where cyclists typically commonly experience hazards on the road—with a car door opening and overtaking too close, within a metre, and other common experiences that people have riding their bikes? There might be 10 examples, five examples, 20 examples—I do not know—that you can put together conveniently and provide to us as a basis to work from to create an educational campaign to target the everyday experiences, the common experiences of cyclists on their way—commuting, recreational cycling or the middle-age-men-in-lycra experience that occurs out there in the community as well, which the member for Nudgee speaks about sometimes. These are all serious matters, and I say that in a friendly way. But would that be convenient? Would that be possible for you to do?

Dr BEAN: Yes, I would commend the submission of Mr Ben Stanley to this inquiry, No. 22. It has that all systematically laid out for you.

CHAIR: Thank you. Are there any further comments generally across-the-board?

Mr JOHNSON: Dr Johnson was referring to the road reassignment in the example that she just gave. We have talked about infrastructure and we have talked about BAZ. BAZ is not an example of road reassignment. BAZ is an example of raising an awareness of the presence of a cyclist—that you might see a bike. It is not network; it is not facility. I think there is an overuse of BAZ in circumstances where genuine networking facilities should be considered. The other thing is that when BAZ is used it is very rarely coming alongside an overall treatment. Have we reassigned road space? Have we considered speed environments? It has been used in some circumstances as a default where a reassignment of roads will not be accepted because it is not palatable to remove parking or to reassign parking spaces or, in some circumstances, where a safety audit has revealed that the bike path no longer meets a standard set by Austroads, so 'let's just cover the white decals with yellow decals'. There is a separated bikeway on the Gold Coast where there are examples of that right now. There has been a decision made to make a legal bike lane a BAZ zone. It is very disturbing as a cycling advocate and someone who has worked in this space to see BAZ being used as the default excuse and being implied that it is a facility, because it is not.

CHAIR: Thank you for that. Any further comments? Mr Wilson?

Mr WILSON: We had raised the issue of what seemed simple and that is to have segregation. We have segregation. We have it in George Street for a section. We have segregation at Kangaroo Point, where we have done something. We have given space and put a buffer on the road, not looking at taking up a park or taking up some riverbank; we have done it on the road.

It actually takes political will. The will must be there to say that the lives, the amenity and the health benefits of bike riding are such that we are willing to take the knocks that you, as politicians, will inevitably get to say that, in some locations for safety and to get people riding bicycles and to reduce congestion, we will be better to remove parking from one side of the road and to provide for segregation, to establish an on-road, segregated bikeway. That is the critical element here. We have to find the space. Currently, just moving the vehicles over will not give us the space. The road width is not there. We are using the yellow BAZ symbol to try to claw back something to have a bit of awareness. It probably has met its time line after 15 or 20 years of use to not really be relevant in the world going forward. We know that world's best practice is segregation. The world's best practice is probably to realign roads in a way that still allows a hierarchy where vehicles need to travel and where bicycles need to travel. Sometimes a compromise must go towards the needs of the bicycle rider for safety, for removing congestion and for health.

Mr GRANT: I want to pick up on a phrase that Dr Johnson has used, 'default responsibility', and ask for contributions to thoughts along these lines. We could recommend to cabinet the establishment of a concept of default liability and construct around that specified offences and specified penalties for those offences in such a manner that we gain real traction with drivers in their thinking without the downsides of some more negative aspects of strict liability. Could I have comment on those thoughts please, Dr Johnson?

Dr JOHNSON: 'Default responsibility' is really the wording rather than the strict liability. Default responsibility places the responsibility of any crash event with the operator of the larger mass vehicle, whatever that is—and we have discussed that, whether it is trucks and cars, cars and bikes or pedestrians. It is the potential of that larger mass vehicle to cause harm that is at the basis of this default responsibility. There is also the opportunity for people to prove that there were mitigating circumstances on the part of the smaller road user. It is not strict liability in the sense that 'a crash between a car and a bike occurred, therefore the driver is at fault'; but, rather, that we begin from a point that the responsibility is by default with the larger road user. So there are subtleties in the language that mean that it is really about a starting point and then whose onus it is to prove what those circumstances may or may not have been, which is a reverse of what we have at the moment where the onus is upon the smaller road user, in this case the bicycle rider, to provide evidence of those crash occurrences and the responsibility of the driver. That is the shift that that default responsibility would effect.

Mr GRANT: Is that articulated in any of your earlier submissions?

Dr JOHNSON: I am not quite sure. If it is not, we do have documentation on that that we can submit.

Mr GRANT: Committee, could I ask that that submission be prepared and sent to us so that that can be spelt out in as much fine detail as possible? My interest is to acknowledge that the solutions for the problems that we are discussing are broad and multifaceted. It has to be this and

that. It has to be ‘alter that law, that policy and this law over here’, not just one small part. I am looking to your organisation to give real, solid intellect to this particular aspect of default responsibility.

Mr MURPHY: I think it is very important that it is made clear as to whether the default responsibility is addressing a criminal or traffic offence or whether it is a civil matter that you are looking at. The Law Society’s position, I am confident, would remain the same—that is, they would take much convincing that a reversal of the onus of proof is a beneficial step. I will explain by reference to taking us back to the very start, where there was a general endorsement of the one-metre rule and the 1.5-metre rule. If in fact you have that rule in place and legislate it, then some of the difficulties that have arisen, for example in the Pollett unfortunate circumstances, would be overcome in that the circumstances speak for themselves. But that is in the criminal or traffic offence sphere. The civil litigation that may arise out of any fatality—and there are any number of actions that could arise—is where the duty of care owed to the vulnerable road users becomes applicable. I think it is very important in analysing the benefits of any default responsibility that that distinction be made. I would also ask the committee to allow the Law Society to provide submissions on both the criminal and the civil spheres if that indulgence could be extended.

Dr KING: I got a bit concerned earlier on when we were talking about the strict liability. If you look at the strict liability that is used in Europe, it is not criminal; it is civil. That is a really important point. It is not criminal; it is civil. There are quite a few countries that have it. The United Kingdom does not have it but Canada does, and Canada does have a similar system to us. If we start to look at the possibility of doing something on the criminal side, it would be interesting to know why it is that the Europeans have not adopted that but have stuck with the civil.

The other thing that I would throw in, which I really would prefer to do a bit more research on, is that I do a lot of work in the international area in other countries, mostly in the Asian region. This notion of the vehicle of heavier mass having default responsibility applies in some of those countries. I am not exactly clear on how well embedded it is in the legal system or whether it is just a practice by police. There is a concern expressed in government in those countries that it may foster hit-and-run incidents. Because they are in the larger vehicle—and you might have trouble proving that it was not your fault—you do not want to stop. Again, I do not know how well based this is, but it is certainly something we shall flag as requiring some consideration when you look at it.

Ms TRAD: I just want clarification as to whether Mr Murphy’s offer for advice to the committee would be accepted?

CHAIR: Is leave granted? Leave is granted. Are there any final comments?

Mr FRENCH: In terms of the default responsibility, CBD BUG first and foremost would like to see changes that would reduce the likelihood of crashes involving cyclists and any other road users. Our concern in this area was mainly driven by the fact that cyclists invariably are the ones who are arguing about who was at fault from a hospital bed or the family does it on their behalf because they cannot argue anymore. That is a critical matter of interest for us. That is the background from which we are coming. It really is an imbalance, as you recognise, and we would like to see some changes in that direction for sure.

There has been a lot of talk about research in this room today. Could I make the point that CBD BUG has been arguing for road rule changes and other systemic changes for a long time with various parties, including TMR officials. Invariably, the proposals that we put forward have always been met with the argument, ‘Where is your research to support this?’ Unfortunately, as Dr Johnson has pointed to in one case, the research just is not there. Of course, what we have seen is that changes that have been unfriendly to cyclists and other non-motorist users of the road are brought in without any basis other than, ‘This sounds like a good idea.’ It is just part of the whole car-centric policy paradigm that we are facing today. It would be nice if research was there, but at the same time let us have a go at some of these changes that, superficially at least—and on a best judgement basis—would make a difference and protect people’s lives and health. At least have a trial of some of these things. One area I would point to quite strongly, as would the CBD BUG—and we have had internal wrangling over this—is the helmet issue. We would like to see at least the Northern Territory’s rules put in, if not, at least a trial of helmet-free use of the CityCycle scheme.

Speaking personally, I went to Melbourne not that long ago. I did not have a helmet and so I could not use their system there. I would have had to go and buy one. It was just too much mucking around. So it certainly stops people opportunistically using it. Apart from being aimed at regular commuters, it is also aimed at the tourist market. That is probably at least one group that is missing

out because it is just one more barrier put in their way. We would dearly love to see at least a relaxation of the helmet laws. As you have already pointed out, it is not saying that people cannot wear helmets; it is just saying that you have the choice. Let us give people the choice.

Because of their vulnerability, cyclists are fairly clever in their self-regulation and their behaviour, and that has been recognised in terms of the issue around cycle path behaviour. I cannot quote it verbatim, but some unpublished work by TMR that I am aware of recognises the fact that, because of their vulnerability, cyclists are not crazy people. They do not want to go hurtling into anyone else or anything else, so they are quite careful in how they ride. That conflicts with the broader public perception that cyclists are child-like and irresponsible; we are not. We are regular people, we have jobs and we just want to go about our daily business. I commend the committee for their work. I recognise that people are trying very hard to find some resolution on this. I really appreciate your work. Thanks very much.

Dr BEAN: Very briefly, following on from that point, Bicycle New South Wales changed their policy this year so that they do recommend a helmet law exemption for the bike share schemes. When you are looking north to Brisbane and looking south to Melbourne at those failures maybe it becomes clear what to do there. I spent a few weeks in the Netherlands recently. The big difference between there and here is the number of children you see riding for one thing and the benefits of childhood freedom. You do not need to chauffeur them everywhere from the age of eight; that is unquantifiable. If we can have the infrastructure and the speed limits that would help children to travel independently, that would be a wonderful change.

CHAIR: Thank you for that. I want to thank everyone for attending today. The committee is very much aware of the need to improve bicycle laws here in Queensland. We are also aware of our responsibilities to get it right and to be fair and reasonable to all road users, and we will do that. The committee is due to report back to the parliament on this inquiry by 29 November and that report will be published on the parliamentary website. I want to particularly thank everybody today on the committee and the people participating in the round table discussion to nail down some of the issues. We are all getting it pretty clear in our mind as to where we want to go; it is a matter of finetuning. Your attendance today has helped us do that. Let us hope that we will get a report that is very satisfactory to the road users out there in Queensland. I declare the hearing closed.

Committee adjourned at 11.44 am