



**LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL TERRITORY**

**STANDING COMMITTEE ON PLANNING, ENVIRONMENT  
AND TERRITORY AND MUNICIPAL SERVICES**

(Reference: [Vulnerable road users](#))

**Members:**

**MR M GENTLEMAN (Chair)**  
**MR A COE (Deputy Chair)**  
**MR A WALL**  
**DR C BOURKE**

**TRANSCRIPT OF EVIDENCE**

**CANBERRA**

**MONDAY, 2 DECEMBER 2013**

**Secretary to the committee:**

**Ms M Morrison (Ph: 620 50136)**

**By authority of the Legislative Assembly for the Australian Capital Territory**

Submissions, answers to questions on notice and other documents, including requests for clarification of the transcript of evidence, relevant to this inquiry that have been authorised for publication by the committee may be obtained from the Legislative Assembly website.

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## **Privilege statement**

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*Amended 20 May 2013*

**The committee met at 2.14 pm.**

**GAUDRY, MS TRACEY**, Chief Executive Officer, Amy Gillett Foundation  
**KATZ, DR ROD**, Director, Advanced Professional Education

**THE CHAIR:** Welcome to the first public hearing of the Standing Committee on Planning, Environment and Territory and Municipal Services inquiry into vulnerable road users. On behalf of the committee, I would like to welcome Ms Tracey Gaudry and Dr Rod Katz. May I remind you of the protections and obligations afforded by parliamentary privilege and draw your attention to the privilege statement before you on the table. Could you please confirm for the record that you understand the privilege implications of that statement?

**Ms Gaudry:** I do.

**THE CHAIR:** Thank you. And can I remind witnesses that proceedings are being recorded for Hansard for transcription purposes and are webstreamed and broadcast live as well. The committee has your submission, Ms Gaudry. I understand that you are making an opening statement for us. So it is over to you.

**Ms Gaudry:** Thank you very much, committee, and thank you, Chair. In my opening statement I have a presentation I would like to give to the committee, which has also been submitted as evidence for today's public hearing. We also request permission to submit three documents as part of today's presentation and for inclusion in the overall inquiry. The first one is the presentation of today. The second one is a submission that we made to the Queensland parliamentary inquiry, which is in process at the moment, and information specifically regarding driver responsibility, if we might submit that as evidence and talk to that briefly today. And the third one is the actual Queensland inquiry report, which was released last Friday. It is public knowledge as well, but we will refer to that in our presentation today.

**THE CHAIR:** Yes, of course.

**Ms Gaudry:** We will speak for maybe 15 minutes or so. I understand that we have 45 minutes. Hopefully that will give you enough time for questions. Most of our presentation will be building upon information in our submission as opposed to repeating that information.

I note that the focus of the inquiry is vulnerable road users. The tag line of the Amy Gillett Foundation is "Safe together", and that basically references all road users getting along safely in a road and path environment. Our organisation's priority is in regard to bicycle rider safety. Whilst most of our submission is about bicycle rider safety as one of the vulnerable road users in the road user hierarchy, we note that many of the recommendations and priorities actually will improve road safety for all road users, not just bicycle riders.

We base most of our work on the AGF manifesto for safer bike riding, which was in our original submission. We focus on the safe system, and we have condensed that for colloquialism into three factors: safe people, safer roads and speeds and safer vehicles.

Ultimately, it is about working together for a safer outcome and, quite clearly, the cornerstone of our submission and the one in Queensland is the introduction of legislation that has a minimum of a metre overtaking distance, and we will talk to that today. The outcome which we are all striving to achieve is a road toll of zero, and with our reference it is bike rider safety.

The inquiry terms of reference, so that we are all speaking on the same page, is quite a broad terms of reference. It gives a lot of liberty for the submitters. Thank you very much. I note that in our submission we refer not only to the work of the ACT as a whole but the work of some of the studies we are undertaking. One, in particular, is the study in conjunction with the NRMA ACT, which is a naturalistic cycling study. Dr Rod Katz is an author of that, as well as Linda over here. So that brings some currency and relevance to this particular environment of the work that we are doing on a national scale.

The opening element of our submission in terms of the introduction is: what is the state of play out there? As far as bicycle riders nationally are concerned, we are in what we call a tragic year. Any fatality is unacceptable, as we all know, and that is what we are here for. But nationally on average we lose 35 bike riders a year, and that is the average for the past 10 years. This year, as at 11 November, we had lost 43 around the country. And that basically demonstrates to us that across the nation there is not enough work being done.

In the ACT we have a much smaller catchment, a much smaller population. So we may have one, two or three fatalities every year. Each year you are saying it is 100 per cent up on last year or down. It is much more incidental—that is a harsh word to say—but the trends nationally are trends that we do not want to see anywhere. A lot of it is that there are a lot of cultural issues we need to overcome. So we will talk to that later.

We also note that there is a propensity for the media and the police not to report fatalities. We cannot sweep these fatalities under the carpet. We need to get on with it.

The structure of today is in line with our submission. It focuses on safe people and behaviours, safer roads, safer speeds, safer vehicles. The reason we focus on safer people and behaviours is that this is where there is not enough work being done. So we put less emphasis on where there is work already occurring and where there is a great level of investment in terms of time, effort, spend, research. So we are putting our effort where there is more work to be done.

Quite clearly—and we go through many of the recommendations in our report—the cornerstone, as mentioned before, of our submission and of our work around the country is about safe passing distance. And there is a reason for that. Research shows, and the work that is being done overseas shows, that when we analyse fatalities and serious injuries, many of those fatalities and serious injuries in relation to bike riders is because when they are being passed by a driver, they have been hit. That means that the bike rider is not able to protect themselves. They do not have a rear view mirror. That might be one of your recommendations. It was not intended. They cannot protect themselves. You cannot protect yourself from a fall that you do not always know is going to happen. And the single safest behaviour that a driver can undertake is to

leave some space when they are overtaking a bike rider. That is why it is the cornerstone of our submission, and we will go into that in more detail. So I will come back to that in a little while.

Under safe people and behaviours, we talk a lot in our submission about education, because awareness, understanding, education, training, enforcement are all part of that behaviour change spectrum. So let us start with education. We make a number of recommendations about the driving community being more aware of the legitimacy of bike riders in sharing the road, that they are legitimate road users and that our language in the guidance that we provide to the driving community conveys the legitimacy of bike riders and also the responsibility of a driver for the harm that can be caused when their behaviour is unsafe towards bike riders.

We spend quite a lot of time in our submission then moving into the formal part of education for drivers, and that is through the licensing process. It is the most formal part of a driver's life. Before their licensing, a lot of their awareness, knowledge and learning is through their parents and through other peers. But this is the time when they are actually required to learn for themselves, required to demonstrate their knowledge and required to demonstrate what they have learnt in terms of skills and experience in a very short period.

So we believe that this is a pivotal time in the driving life of a human being, to establish the right knowledge and learnings, to establish and change habits and attitudes if they are not in the right place already and to establish the skills and the way of driving which will set the scene for a safe driving culture but also a positive attitude and a positive way of driving with and sharing the road with other vulnerable road users.

Many of our recommendations relate specifically to the on-the-road training and the theory testing of learner drivers and P-plate drivers, in particular towards vulnerable users and, in particular, when sharing the road with bicycle riders. And I note that our submission in Queensland included this, and a number of the outcomes of the Queensland inquiry and recommendations refer specifically to a minimum percentage of questions in the driver theory testing and a minimum percentage of the practical learning dedicated towards sharing the road with bicycle riders, to improve the understanding of and experience in sharing that environment.

We also talk more broadly around driver learning and education because if drivers are safer on the whole, then all of the road users they are sharing the environment with are going to be safer. And we actually recommend an increase in the licensing age in the ACT back up to 16 years in order to obtain the learner driver permit and back up to 18 years of age for the provisional driver licence, because time, experience and maturity are key in our understanding.

There is awareness, there is knowledge, there is testing and how we actually provide ongoing education to the community. We recommend in our submission—and as we have recommended around the country—that there be an increased percentage of road safety communications directed towards awareness and education between drivers and bicycle riders. We have arrived at 18 per cent, and one might ask why that. Eighteen per cent in the latest analysis—and data collection is a problem that we all need to

overcome around the country—of all seriously injured road users are bike riders.

So if we want to find a way in which we can validate why we are spending money on vulnerable road users, let us actually look at where things are going wrong. If 18 per cent of serious injuries are to bike riders, we need to spend more time and effort in that space. It also represents the percentage of people who ride bikes at the moment. So that is our recommendation. That is a recommendation that came through in the Queensland inquiry that was released last Friday.

We also recommend increased mass campaigns to promote safe driving when sharing the road with bicycle riders, including the installation of permanent road signage in target areas, particularly in some of the rural areas around the ACT where bike riding is becoming more and more popular. You may not see someone every minute or two but, chances are, there is going to be a bike rider out there. So that regular reminder that you may see someone is very important. So it is front of mind, not just an afterthought.

It includes all different types of media, whether it be TV, print, digital or, indeed, radio. And here is a very simple example of the campaign:

*A video was then shown.*

**Ms Gaudry:** That is a campaign that we are currently running in New South Wales. I note that the Amy Gillett Foundation has been awarded the whole of New South Wales government's bike safety campaign contract to deliver across the whole state, across all mediums. And that is very important. You have heard how we can educate drivers, but it actually goes the other way. That is why the campaign is called a two-way street. If I might share a message for the other side, because we also have a small percentage of drivers who think that bike riders do not deserve to be on the road, and we need to educate those as well:

*A video was then shown.*

**Ms Gaudry:** Simple campaigns like that can calm down the temperature, can lower the temperature between various road user groups. If we can be demonstrating to both sides of the spectrum that we are working across the whole, then it is not about finger pointing so much. And if the message is positive, uplifting and educational at the same time, you can get the message across in a sensible way without causing further conflict, which is what we do not want. We want to lower that temperature.

In that same vein, we also recommend and wholly support maximum focus on skills and training for bicycle riders, because they are actually using the road. Many times a bike rider, particularly if they are a minor, does not have a drivers licence. So they are actually in an environment where they have not actually been taught how to use a road safely and how to get about safely, such as through driver training. We actually support and encourage that the government provide adequate and ongoing funding for bicycle rider skills and training for children and for adults alike. That has also come through in the Queensland inquiry. We also do not recommend that bike riders should have to get a licence to ride on the road. It is one of the few freedoms that we have left in life.

Ultimately, it is all about working together. We can all do this together and, again, in Queensland, one of the major findings was for the agencies to work with safety organisations for efficiencies, to maximise the value of the research that is being undertaken and to attain consistency. And we recommend a consolidated code of conduct which actually outlines how all road users can share the environment together. And if every agency and every road user group is actually endorsing a single resource, then it actually also stops the what-ifs and the buts and the he said, she said environment. We are all speaking from literally the same page.

**MR COE:** Could you please repeat what you just said about one of the few freedoms we have being about licensing. Can you repeat that.

**Ms Gaudry:** The Amy Gillett Foundation does not support licensing for bicycle riders. We will get to registration in just a moment as well.

**MR COE:** Sure.

**Ms Gaudry:** We actually get to it right now. We also recommend a review of all the road rules as they pertain to vulnerable road users, for the purpose of improving safety for vulnerable road users but, importantly, at the same time, not disrupting the efficient and effective flow of the transport system. We can actually compound the system. If we change the game so much that everyone is almost in a bullet-proof environment, then it might not work. We have got to look at how we can improve safety without making the transport flow less effective. There is a review that is being undertaken in Victoria at the moment; a similar review is recommended here.

We also recommend that penalties should reflect the relative safety risk to other road users and relative to the offender—the road user type of the offender. For example, driving through a red light may seem to be less of a risk for a bike rider than for other road users, but in effect, if you are a bike rider and you ride through a red light, you cause other cars or other vehicles to swerve and you are just as much a safety risk by conducting that offence as if you were a motor vehicle. A review of the penalties can act as a deterrent, because people do not like to be penalised—we move away from pain—and also reflect the relative safety risk that you are causing to others. That is something that is much needed. Different states have very different sets of penalties depending upon the road user type and depending upon the actual offence.

The Amy Gillett Foundation does not at this time recommend the registration of bicycles—or, as mentioned before, the licensing of bicycle riders. It is important that in any communication of that, if that is indeed the position that the committee holds, registration should not be confused with what is currently believed to be the right to use the roads that we pay for. Registration is not about paying for the right to use the road; it is about third-party insurance. There is a commonly held misconception out there amongst the driving community that registration is about rights. That is not the case at all. From our research, there is insufficient evidence to determine that there are safety benefits to be gained through bicycle registration or licensing. Indeed, if there are any benefits, would the cost of those outweigh economic, health, environment and participation losses? There is a body of work that has not been done to demonstrate that registration is viable in this country.



We would like to submit to this inquiry a new piece of material. This is a document that we were asked to submit to the Queensland inquiry only two weeks ago, which was after the date of submission here. It was based on a question that the Queensland inquiry put to us in regard to the growing conversation around default responsibility and default liability of drivers. Indeed, in some countries overseas, there is a default responsibility or strict driver liability concept in place. In other countries, such as the United States, there are vulnerable road user laws in place. We were asked to put forward a paper discussing those relevant elements and how they may or may not apply here in Australia. This is an interim or an introductory paper that we are tabling for discussion and your consideration. The basis of the paper is that in Australia the system too often allows a driver's actions to be deemed as an accident. We do not believe that a collision is an accident. We believe that fatalities, serious injuries and collisions are avoidable, and the road user system and safe system are designed to make collisions avoidable.

We found that drivers are too often not held accountable when their own actions seriously injure or kill a bicycle rider. The Pollett case in Queensland, where a verdict was handed down only in May this year, was a clear demonstration of that. The driver felt that they had left enough distance and it was safe enough when they were overtaking the bicycle rider. Their opinion of their own behaviour was part of how they were upheld. They received no charge or were not charged with any offence whatsoever, yet the bike rider was indeed hit and was indeed killed.

In Australia, we do not have a statutory driving offence to address circumstances associated with the injury or death of a vulnerable road user when hit by a car. There are such liability and vulnerable road user laws overseas. We have a big difference in Australia from other countries, and that is that the Westminster system which underpins our law has a presumption of innocence where the burden of proof rests with the Crown or the state. It is not possible, as with strict driver liability, to be guilty until you can prove yourself innocent. Our law does not support that approach.

We spent quite a bit of time with our research and policy lawyers looking at how road safety reform could place greater responsibility on the road users who have greater propensity to cause serious injury or fatality to others. We have looked at the work health and safety reforms that have been recently introduced in Australia, in 2011. They apply statutory duties where the offender, depending upon the category of the offence, can receive certain different penalties or different levels of penalties. So we have submitted a paper for your consideration. I am happy to take any questions either today or afterwards, because there is quite a lot to think about. It is important to note that in this approach the rights to civil action and criminal charges are still upheld and not affected. It is about statutory duties; it is not about civil law or criminal law. I invite your readership of that paper in your own time.

I turn to safe speed. We support a number of the other submissions in this inquiry, particularly in regard to the overall lowering of speeds. Slowing down provides greater ability to react and respond to changes in circumstances in the environment, particularly when it comes to interacting with vulnerable road users who are often travelling at lower speeds than drivers. We particularly support lower speed limits in local streets and in areas of high mixed modal road use—high pedestrian and high

bike rider usage. That is again in our submission.

I turn to safer roads and road signs. We support, in particular, the submission of Pedal Power ACT which talks quite a lot about road signs and infrastructure. The bulk of the work of the Amy Gillett Foundation is in safer people and safer behaviour. We recognise that a lot of time, effort and investment are going into the physical infrastructure and the road infrastructure. So we have again chosen to place our energy where we believe there is probably not so much work being done.

In addition to the submission that we have made, we support the continuing support for cyclists to travel on the footpath in the ACT, as a measure of safety for bicycle riders.

I would like to add an element to our submission in brief. This came through our work in Queensland over the last couple of months. In particular, I want to go to an assessment of the situation regarding roundabouts and the dangers that bicycle riders are subjected to, often being forced to the outside of the roundabout or not feeling that they actually have the right to use a lane in the roundabout. We recommend that bike riders be entitled to use a full lane when entering, progressing through and exiting a roundabout and be treated as a valid road user in that space—and that all other road users are giving way to any vehicle that has already entered into the roundabout.

We have identified in our NRMA ACT report that where there are intersections and sensors are not being alerted to bike riders—that that actually be reviewed and improved. One of the issues that bike riders often find is that the lights do not change. They could be sitting there for two, three or four minutes, almost being forced to cross a red light. We could overcome that by improving the situation. That is quite a mild one.

We also recommend the conduct of a trial called a left turn on red for cyclists when they stop at lights, they are red and it is safe to do so—and also at the top of intersections. And in Queensland, there was a recommendation for a trial for a rolling stop to allow bicycle riders to treat stop signs as give-way signs if it is safe to do so.

**THE CHAIR:** Ms Gaudry, can I just bring you back to something you mentioned. At the top of intersections, you want to be able to stop and then proceed?

**Ms Gaudry:** Correct.

**THE CHAIR:** Can you describe for us what you mean by the top of the intersection.

**Ms Gaudry:** For example, if you are heading into a T-intersection, you are the bicycle rider coming up to the intersection, but if you are rolling up to that, you could actually slow down without stopping if there are no cars or other vehicles coming and roll through slowly. Typically, a bicycle rider will slow to seven, six or five kilometres an hour without actually stopping. By virtually having stopped and having had enough time to peruse the surroundings, they could continue through the intersection to the left or to the right.

**THE CHAIR:** Okay.

**Ms Gaudry:** We also support the ongoing investment, particularly by the federal government, in fleet decisions and in vehicle safety standards to improve safety for vulnerable road users—ie, non-occupants of the vehicles. That is an ongoing body of work that is being done, and we support the continued investment in that.

We also recommend that there is a greater level of education around bicycle riders and their own maintenance of their bicycle as a vehicle. Too often, we forget that as a vehicle it is there for our own safety as well. And there are active and passive features in our submission.

Just before we conclude, we will go back to the minimum overtaking distance. There are some 60 pages in our submission, so we will not go through that in much detail except for some salient facts. Research in New South Wales released only a couple of months ago demonstrates that 75 per cent of bicycle rider injuries and fatalities occur when the bicycle and the rider are proceeding straight ahead in a lane. So they are just going about their own business, not doing anything other than riding straight ahead.

Most bicycle rider fatalities occur from a collision with a motor vehicle, not from the bike rider falling off by themselves. We find that at the 60-kilometre-an-hour speed limit, with a bike rider collision, the impact on the rider transitions from being a serious injury to a threat to life or a fatality. That is the speed of impact from research that is widely known throughout the world and demonstrated in New South Wales data.

And from the work that we did in Melbourne in Victoria with the naturalistic cycling study, which is being repeated here in the ACT, we find that in the urban environment, in 87 per cent of bicycle rider and driver incidents, the motorist is at fault. So we have a situation where serious injuries and fatalities are most often caused when there is a collision. When there is a collision, most of the time the motorist is at fault. And serious injuries and fatalities generally occur when the bike rider is simply riding along.

I turn to the precedent for a metre matters. As of Friday, Queensland has confirmed that it will implement a two-year trial requiring that drivers leave at least a metre when overtaking bicycle riders for speeds up to and including 60 kilometres an hour. For speeds over 60 kilometres an hour, the driver must leave at least a metre and a half. So the precedent, for the first time, in Australia has been set. We encourage the ACT to follow suit. I do not think I need to go through any more of that slide. There are many reasons why. In our submission, we have spent much time and energy responding to the reasons why not. We believe we have exhausted the reasons why not, and Queensland have supported that.

The rule when applied is pretty simple. It is in your submission. We see around the country that the nation is literally on notice with respect to this potential legislation. Not only is it a campaign that is currently endorsed by six out of eight states and territories; it was actually launched by the federal minister for transport four years ago. It is now about to become law in one state, and there is either a bill or a notice of a bill in four other states around the country. We are on the precipice of what we consider one of the single most significant reforms in cycling safety, and we would be

delighted if this inquiry supported that. That is what it looks like in practice.

We would also like to submit to the inquiry the whole of the Queensland report containing 68 recommendations. Here are just a few of those; we have been through them already in our presentation today. We note that we will also respond to the Queensland inquiry, and we would like to present our response to this inquiry, because we believe there are many relevant recommendations coming out of that that may be useful for the ACT inquiry to consider. If we may submit our response to this inquiry when we write it in a couple of weeks time, we would most appreciate that.

Ultimately, personally and professionally, the ACT is the most ideal region in Australia to cycle as far as topography, population, open spaces, population size and the ability to actually capture the whole community concerned. The newness of this region, not having to retrofit physical infrastructure—in reality, there is so much to gain with much less work relative to other regions around Australia. We applaud this inquiry, and we hope that our contribution is worthwhile.

**THE CHAIR:** Thank you very much, Ms Gaudry and Dr Katz. Do you have anything more to add, Dr Katz?

**Dr Katz:** We have probably taken up more than our allotment of time, but there are a couple of things that I would like to reinforce. On the licensing issue that you raised, it is a natural question to ask: should bicycle riders be licensed? Once universal training is available for people for riding their bikes, that is something we could revisit, but, unfortunately, we do not have the infrastructure to do the training to do the licensing. So I think that is a long way off.

On the metre matters, having it as law is really a great part of the education process as well. Rather than us having to run campaigns every year until time ends, it will be in the road rules and people will learn about it every year—every time that they become drivers. So that is a fundamental part of this move. It serves as a really valuable education piece as well as creating a sense of justice on the roads. That is all I would like to add, thank you.

**THE CHAIR:** We have still got a little bit of time left, so I might kick off. You have a view on protective clothing. On page 91 you talk about the government providing, I suppose, encouragement for members of the public on bikes to wear protective clothing. Does that include helmets as well?

**Ms Gaudry:** Yes.

**Dr Katz:** Yes.

**THE CHAIR:** We have a submission to the committee about an alternative view, of course, so I just wanted to get your opinion on that.

**Ms Gaudry:** We will be required to write quite extensively in our response to the Queensland inquiry on the recommendation to remove the helmet law for people riding bicycles on bicycle paths, off the road and on roads up to 60 kilometres an hour. In brief, our response is not going to be a flat outright no. Our response will be along

the lines of whilst the government—including this government—is going to be doing a lot of work to improve the environment around vulnerable road users, whether it be the physical environment, the legislative environment, education and training or vehicle standards, whilst we are improving the environment, that is a recognition that the environment is not yet safe enough. So the single thing we can do for bike riders is help them actually to keep the helmet on their head whilst we are improving the environment around them.

**THE CHAIR:** The other thing I wanted to ask you was about your recommendation in regard to ages for learners and for motor vehicle drivers. Can you go through for the committee a little bit behind that recommendation—why you want to increase the age limit for permits and licensing?

**Dr Katz:** As the father of a 17-year-old, I have gone through the driver training manuals in some detail and have had experience with road ready in the past as well. There is much lip service paid in that material to driving being a privilege and not a right. I think that is absolutely the case, but in order to move beyond lip service, we actually have to recognise that there are duties that come with that licensing process. I think it is unfair on 15-year-olds to take on a lot of those duties that should be in place for managing a significant mass capable of high speeds on our roads. That is a big lot of kinetic energy to manage with potentially lethal consequences. It is just a question of whether that duty can be safely placed on 15 and early 16-year-olds.

On that basis I think it is worthwhile thinking about pushing that age back, and it also reflects the experience in European countries where 18 is the standard learner age and in the safest countries in the world, such as Sweden, most drivers do not get their licences until they are well into their 20s, when a lot of the change issues that happen in that earlier period of life are out of the way and they are able to think more rationally and more clearly about their driving behaviours.

**THE CHAIR:** Questions, colleagues?

**DR BOURKE:** Ms Gaudry, with regard to the vulnerabilities that cyclists face with aggression and discourtesy from motorists, I note that the submission recommends that trial psychological tests, screening tests, should be used for driver licence applicants to find those ones whose attitudes might pose a serious danger to vulnerable road users. Could you tell us more about that concept, please?

**Ms Gaudry:** Yes. When we undertake driver licence testing, there are often a number of conditions placed on our licence that can relate to hearing and eyesight. These are things that can be measured in a way. But do we actually consider attitude when we are awarding someone a driver licence? You pass a road rules test. We can actually place conditions for eyesight, hearing and other disabilities, but in a way, our attitude and our behaviour can be the biggest threat to other road users.

We are not recommending that this be implemented holus-bolus, but to start to understand various road user types, various demographics, we can also possibly implement some additional training and additional testing to help to test some of those attitudes. We are ultimately looking for a change in attitude over time in all drivers. We are looking at drivers, when they enter a licence environment, driving with an

attitude of safety and driving with an attitude of shared respect for other road users. That is what we are trying to achieve, and I think that is often lost in the process of “tick the box” on the test that you are actually undertaking.

**DR BOURKE:** Do you have any examples in other jurisdictions or elsewhere in the world where that has been done?

**Dr Katz:** I do not at this point. I think it would be a case of the ACT possibly leading the country, certainly, in that area. Psychometric tests are possibly a difficult one and a big step, but it is one that is worth considering.

**Ms Gaudry:** If you do not mind, I can take that on notice. Dr Marilyn Johnson, who is our researcher, is on leave at the moment. If we are able, we can submit some commentary on that when she returns.

**DR BOURKE:** And, indeed, what sort of psychometric tests you might be using and examples of where it has been used, not necessarily for driver licences but elsewhere.

**Ms Gaudry:** We will take that on notice, thank you.

**MR COE:** I am not necessarily stating anything to the contrary, but do you believe that driving a vehicle is a privilege but riding a bike is a right?

**Dr Katz:** I have not addressed bike riding as to whether it is a right or a privilege, but certainly we have recognised in our road rules and in our driver manuals that driving a car is a privilege and not a right. I think that there are all sorts of reasons why we would want to encourage bike riding—for health and safety reasons, mainly for obesity and that sort of thing, so I think it is something to be encouraged. From a safety perspective, while driving a large mass vehicle, you are controlling a lot of kinetic energy, and that is a privilege that needs to be addressed through appropriate training and regulation.

**MR COE:** With regard to the possible give-way provisions at T-intersections or a rolling stop, is that sending a mixed message that, in actual fact, there are two sets of rules for cyclists and road users? And is that perhaps confusing the message that everyone has to obey the road rules?

**Ms Gaudry:** That is a good question. There are instances; indeed the left turn on red is a prime example. At the moment the road rules state that drivers come up, bike riders can filter on the left-hand side of a driver, and we are not recommending that that change in any way. If the driver and the bicycle rider are both attempting to turn left, if, indeed, the bike rider can turn left on red once it is safe to do so, they are actually making way for the driver when the light turns green for them to move off. They have actually moved away from the flow of traffic and they are creating a more efficient road system by moving away, and moving away from a potential cause of conflict. There often is conflict where the drivers are waiting for the bike riders to move away from the intersection. So that is one of the ways which can demonstrate that this can be an enhancement to overall road efficiency.

**MR COE:** But in terms of the actual messaging, though, do you believe it is

confusing, especially with regard to motorists' attitudes towards cyclists? You spoke about the potential frustration when you see a cyclist go through a red light or whatever. Is that potentially fuelling that issue?

**Dr Katz:** Potentially anything is, yes. I think that what we have seen in other jurisdictions, in many European jurisdictions, for instance, in the case of one-way streets, there will be a sign saying, "This one-way street doesn't apply to cyclists." They have done that deliberately to allow a network to be created for cycling that is permeable. So, yes, it is a different situation facing the cyclist from that for the motorist, but it does not necessarily create any confusion in that situation or appear to create any sense of injustice or outrage on the part of the motorists. I would hope that we would be culturally mature enough to be able to do the same thing here.

**MR WALL:** Ms Gaudry, do you or the foundation have a position on insurance for cyclists? You mentioned that registration was primarily focused around insurance for motor vehicle users. What is the position on insurance for cyclists?

**Ms Gaudry:** To be honest, we have not formed a formal policy position, and we can draft some words around our current thinking for you, if you like. In the marketplace there are a number of insurance products that cyclists can purchase—for them as a bicycle rider, accident and injury insurance and third-party insurance, indeed, as well as bicycle insurance.

We recommend that bicycle riders do have some form of insurance coverage to protect themselves in the event of a collision or, indeed, in the event where they fall off not as a result of a collision, because third-party accident insurance does not often apply if you fall off and you hit the gutter, for example. So our recommendation is that bicycle riders seek some coverage of their own. Often, as part of health and home contents insurance, that is happening now. Organisations such as Pedal Power provide bicycle rider insurance. At Cycling Australia, we do not mandate that as a policy position at this point in time. Do you have anything else to add, Rod?

**Dr Katz:** The focus of the foundation has been on preventing the crash from happening rather than cleaning up the mess afterwards. But it is a good point. We certainly encourage everybody to get out there and be insured, and there are other benefits associated with being members of a group that provides that insurance as well.

**THE CHAIR:** If I could bring you back to collisions, you mentioned in your submission and also here today that the majority of collisions that cause death or injury are those where a vehicle has come from behind and hit the cyclist. Are you aware of arguments on behalf of the vehicle operator as to why that has occurred? Is there any sort of pattern? Is there a loss of concentration or just a lack of awareness?

**Dr Katz:** I think there are multiple factors in many of these things, and it is hard to put a finger on one or another. In some cases it is hostility and people thinking that they will teach the cyclist a lesson, which is the far extreme and hopefully does not happen very often. But probably in most cases, it is a question of distraction or loss of concentration. That is something we want to address through safe system approaches of safer vehicles, safer roads and safer drivers.

**Ms Gaudry:** There, of course, have been tragic circumstances where a bicycle rider has simply fallen off and ended up in the path of a vehicle travelling in the same direction or swerving to avoid, for example, a pothole. The road system, a safe system, tries to address all of these risk factors. Indeed one of the reasons why we recommend a minimum overtaking distance is to also allow for movement by the bicycle rider from side to side so that they can actually avoid obstacles that are in their path as well. There is a buffer. So it is literally a safety lane between the bicycle rider and the driver.

**THE CHAIR:** There being no further questions, thank you very much, Ms Gaudry and Dr Katz, for your submission and your time here today. If there is anything else that the committee thinks of, we will let you know, and we will look forward to those extra documents from you.

**Ms Gaudry:** Thanks very much for your time.

**Dr Katz:** Thank you.



**JONES, MR STUART**, President, Canberra Cycling Club

**FITCH, MS ELIZABETH**, Committee member and Women's Coordinator,  
Canberra Cycling Club

**THE CHAIR:** Mr Jones and Ms Fitch, could you have a look at the parliamentary privilege statement on the table in front of you and confirm for the record that you understand the implications of that statement?

**Mr Jones:** I do understand.

**Ms Fitch:** Yes.

**THE CHAIR:** Would you like to make a statement to the committee?

**Mr Jones:** Yes, I have a very short opening statement. I am here on behalf of the Canberra Cycling Club members. With about 500 members, we are the largest competitive cycling club in the ACT. Our focus as a club is basically on racing and competition rather than on advocacy. As such, we leave that to organisations such as Pedal Power and the AGF. But we are concerned about the safety of our members who use the public roads for training, racing and, in some cases, employment.

The key points of the submission we made were around protection of cyclists, especially on rural roads, a minimum overtaking distance, for which we support the AGF's ongoing campaign, and driver education and training.

Just briefly, rider protection is something that is obviously very important. The establishment of a metre or a minimum overtaking distance is something that we strongly support. I think in a lot of cases drivers are unsure how much room they need to give a cyclist when overtaking. As there is no ruling, that can sometimes be half a metre, sometimes two metres. So having a distance there, I think, would help.

Education as well is something that we feel may alleviate some of the angst and the issues around cycling on the roads. I think that if drivers had a better understanding of cyclists needs and why they do have certain needs, it may just help them. It would help us all get along out there on the roads.

We are also concerned with cycling in bunches. Cycling is a sport pastime. People will ride in groups. It is part of the enjoyment; it is part of the fun and why people do it. Again, having that minimum overtaking distance just allows a group of cyclists to be on the road in safety. That was all I had to say.

**THE CHAIR:** Thank you for your opening statement. I will ask about the bunches and particularly the Uriarra loop. I had a very interesting discussion yesterday with a car driver who complained about cyclists bunching, particularly on the Brindabella Road. Do you have rules or do you have a code of practice in the club?

**Mr Jones:** We do. The code of practice or rules within the club are that we are aware that cyclists have the right to ride two abreast on a road. In a lot of cases with a small bunch it is actually safer to take the lane and to make the car wait behind. In a lot of

cases it is actually quicker for the car to overtake a bunch of cyclists riding two abreast rather than strung out over a long distance. Obviously, we do communicate with our club members to be courteous to all road users.

One thing I have found with that popular loop, having spent some time out there, is that a lot of the riders out there are not club members. They are people that we do not have access to, who we do not communicate with. They are recreational riders. Cycling over the last few years has seen a boom in popularity. A lot of people are getting into it and wanting to get out and do the longer rides. As I say, the club and Pedal Power—those sorts of organisations—have contact with a large number of these people but a lot of them we do not.

**THE CHAIR:** Thank you. Questions, colleagues?

**DR BOURKE:** Yes, thank you, chair. Mr Jones, the club suggested an education campaign for motorists, including clarification and promotion of how motor registration fees are spent in relation to road maintenance. Can you explain why it is important in reducing cyclists' vulnerability?

**Mr Jones:** It is important because a lot of motorists feel that cyclists do not have a right to be on the road because we do not pay registration. You hear that all the time as they drive past you. The safety issue is that they feel they may take that matter into their own hands and use their car to just kind of make you feel unwelcome on the road. It is so easy for even the slightest touch from a passing vehicle to send you off your bike and cause serious injury or even death. To remove that potential argument that cyclists do not pay registration or that registration goes towards paying for roads, which is what we hear through the car window, is one less thing to remove that angst between motorists and cyclists.

**MR COE:** With regard to communicating with recreational cyclists that are not necessarily affiliated to a club or linked in with the various cycling communities, firstly, what is the best way to communicate with those cyclists? Secondly, when there are instances of issues with cyclists where the cyclist is at fault that you are aware of, whether it be actual examples or anecdotally, do you feel that there is a way of getting your message across to those cyclists or is it inevitable that there are going to be perhaps newer cyclists that are giving all cyclists a bad name?

**Mr Jones:** Yes, that is always a possibility with a new cyclist hitting the road for the first time. Obviously, something like the AGF's advertising campaign where it is a two-way street, getting that sort of message out in a public medium is the best way to get to these new cyclists. Sure, cyclists have to understand that they have a responsibility to follow the rules and ride safely. Yes, outside of direct communication from clubs, it is TV, radio, print advertising, something similar to the AGF's campaign of motorists having rights and responsibilities, but so do cyclists. Perhaps advertising cycle training or that sort of thing is a way to go there to improve skills.

**MR COE:** With the boom in cycling over the last few years, has there been any impact on motorists' behaviour if there are more cyclists on the road? Or do you think that motorists' behaviour has been pretty consistent over the course of either of your

cycling careers?

**Mr Jones:** I personally would say that motorists' behaviour has been pretty consistent over the years. The relationships, from what I have seen, yes, are the same. I do not think there is an increase in angst because there are more cyclists on the road. I think the ratio is similar to what it has been. I would say that as a club it has become a little bit more difficult to organise events because there are more cyclists on the road.

A lot of the time it is perceived by the general public that there is a race going on whereas, in fact, it is just a lot of people out for a ride. When we come to try and organise a race, an event, on a public road, it can be a little more difficult and you may get a bit more resistance from the local community where we are looking to hold our events as a result. It is an interesting problem where you have got an increase in cycling. Obviously that is something we encourage. But, yes, I would say, to answer your question, that, no, the motorists' behaviour is the same.

**MR WALL:** In the submission you make a brief mention of protection for cyclists on rural roads. From the cyclists' prospective what are some of the improvements that could or should be made on rural roads within the territory?

**Mr Jones:** I think, as we said in the submission, something around some signage, some more signage indicating that there are cyclists on the road. There is the potential to reduce speed limits at peak times when cycling is taking place—say, over the weekends. Perhaps the variable speed message boards or that type of thing could be used. Even looking at increasing the width of the roads, although obviously that is a large ask for fairly quiet rural roads. But I think initially signage and potential speed reductions could be a solution.

**MR COE:** Do you see the same issues facing recreational cyclists as opposed to commuter cyclists?

**Mr Jones:** Not so much. I think with our competitive cyclists doing their training out on rural roads you can be a little more vulnerable, especially if it is outside of these peak times. You are often on your own or in very small groups of two or three. Motor vehicle travel is very low as well.

So confrontations between motorists and cyclists out on those rural roads can escalate to be quite serious because there is nobody else around to see what is going on. There was obviously an issue out on the old Federal Highway recently where somebody was prosecuted for threatening cyclists. But it pretty much goes unreported because it will happen and there are no witnesses. Yes, I think on those roads it is more of an issue for training cyclists.

**MR COE:** How common an occurrence is it that you might get someone who verbally abuses you on the way through?

**Ms Fitch:** Very.

**MR COE:** You would say weekly?

**Ms Fitch:** Personally, weekly.

**MR COE:** Yes.

**Ms Fitch:** It does depend where you ride. It does kind of happen in fluctuations with riders as well. For example, a group of riders will ride on a particular route for a while until maybe a couple of incidents occur and then they might change their usual training route based on fluctuations. Verbal abuse, things thrown out of cars—it happens a lot.

**DR BOURKE:** Thank you. We heard just before from the Amy Gillett Foundation. They suggested being able to left turn on red and no stopping at stop signs, doing a roll through the stop sign. What does your organisation think about those suggestions?

**Mr Jones:** I would support something like that. Cyclists are almost at their most vulnerable from a standing start. When you have got a row of traffic and you have got a bike rider, as they start, that is where they may wobble, they may move. Anything that allows them to get a slight head start on the traffic I think is an advantage and improves their safety rather than sort of competing with the car as everyone is moving away.

**DR BOURKE:** Of course, we have already got some left turn on reds for cars anyway.

**Mr Jones:** That is right, yes.

**DR BOURKE:** What about pedestrian crossings on cycle paths?

**Mr Jones:** That is an interesting one. There is a number of cyclists' behaviours—personally I do not think cyclists should have to stop and hop off their bike at a pedestrian crossing, but they should be slow enough to make sure that motorists have seen them. Obviously, that is very hard to put into practice or to make a law. But I guess at the moment that as the law states cyclists need to get off their bike and walk across a crossing, then that is what they should do.

**DR BOURKE:** Bit hard if they are on a recumbent.

**Mr Jones:** It is.

**THE CHAIR:** Any further questions for our witnesses, colleagues?

**MR COE:** No, all good, thank you.

**THE CHAIR:** Thank you very much, Mr Jones and Ms Fitch, for your submission and your time here today. If there is anything further, the committee will write to you and let you know. We are going to take a short break now and return at 3.45.

**Mr Jones:** Thank you very much for your time..

**Meeting adjourned from 3.14 to 3.46 pm.**

**FISHER, MR ROBERT**, President, Vikings Cycling Club of Canberra Inc

**THE CHAIR:** Welcome back to the committee's hearing for its inquiry into vulnerable road users. I welcome our next witness, Mr Rob Fisher, from the Canberra Vikings Cycling Club. Before I begin, Mr Fisher, may I remind you of the protections and obligations afforded by parliamentary privilege and draw your attention to the statement that is before you on the table. Could you please confirm for the record that you understand the privilege implications of the statement?

**Mr Fisher:** I do.

**THE CHAIR:** We have your submission. Would you like to make an opening statement?

**Mr Fisher:** Yes. Thank you for the opportunity to appear today. As I said, I am president of the Vikings Cycling Club. We are a bicycle racing club with about 300 members. We have been running in Canberra since 1996. We race and train on public roads and we have done since we were initiated back in 1996. We also run introductory road cycling programs for adults and older teenagers, which have brought hundreds of riders into the sport.

Personally, I have been cycling in Canberra for 30-odd years, since I was a kid. I have been a commuter, I have raced bikes, and now as the father of two kids, I am hoping to bring them into the cycling world as well.

One thing we do at the Vikings Cycling Club is that we have a core philosophy that we obey the law and we follow the road rules. In running our races on the roads, we make sure we have proper approval from TAMS, we have proper insurances, we have proper risk management plans. For training, we insist, largely by way of peer pressure, that our members follow the law. We do not run red lights. We do not run through stop signs. That behaviour is discouraged strongly in our club.

What I would like to talk about particularly is the sport of cycling in Canberra and how that relates to the environment and the infrastructure in Canberra. Between my club and the Canberra Cycling Club, who I believe you heard from earlier—over the past 20 years in my club alone we have had five world champions in road disciplines. We have multiple national champions. One of our members has won a Paralympic gold medal. We have two professionals riding in the world tour—the tour of Spain, the tour of Italy, some of the grand tours of Europe. The Canberra Cycling Club would double that if not add more than double those numbers to the Canberra track record. When you add in our off-road clubs and the BMX clubs, Canberra is almost certainly unrivalled in its production of top-class sporting cyclists.

In my view, that is a function of Canberra's history, where Canberra has been a smaller city with first-class infrastructure—great roads, a relatively small population, close proximity to rural areas with relatively quiet roads and, of course, some decent-sized hills to train on. So between those things, Canberra has been unique probably in the world in producing top-class cyclists.

That ability to continue to produce top sporting cyclists faces a few challenges. Those challenges come about through Canberra's growth. As you are all aware, we have a lot more people here. We have significantly increased volumes of traffic and we have a larger geographical spread, so we have larger numbers of people living out in the rural areas of the ACT using those areas, and using the roads at all times of the day.

My experience with the Vikings club is that we have found with that growth the interactions between cyclists and drivers, whether they be positive or negative, have increased. You see more bikes on the roads; you see more cars on the roads. What we seek in our submission is to address the challenges of growth in Canberra and particularly, where that concerns dangerous driving, road infrastructure and maintenance and the legal framework around vulnerable road users and cyclists in the ACT.

I particularly endorse the submissions made by Pedal Power, who you will hear from tomorrow, and the Amy Gillett Foundation as regards the legal framework and the road rules. We absolutely support what they have had to say.

In our submission we have talked about those road rules in regard to mandatory safe passing distances. We have talked about reduced speed limits, particularly on some rural roads in the ACT which are now heavily trafficked. We would like to see the ACT's very strong record in cycling infrastructure design and road design continued. The environment here has been really good for cyclists for some time now, thanks to the work of the ACT government, thanks to the work of Pedal Power and, before that, the federal government. Continuing to keep cycling as part of Canberra's lifestyle and culture is something that we think is worth supporting.

Finally, we think there is scope for improvement in maintenance of the roads. I think that is somewhere where, for once, we would agree with the motoring groups around the ACT. There is certainly an opportunity to improve the maintenance, sweeping and the like, of Canberra roads. I commend our submission to you as a way of maintaining the unrivalled cycling environment that Canberrans have enjoyed and perpetuating the sporting record that this city has had.

**THE CHAIR:** Thanks, Mr Fisher. I might kick off. You have mentioned throughout the report issues relating to the culture of drivers in the ACT. What would you recommend could be done to change those cultures?

**Mr Fisher:** I should say it is not just the ACT. Obviously that is the scope of the inquiry. I drive cars myself; I should note that. There are two ways to address that question. One is education. Under the current road legislation, cyclists are entitled to ride on the roads. We are entitled to be there. That is generally understood in Canberra. One of the observations I would make is that I am less likely to get run over by a blue Y number plate than I am by a yellow New South Wales number plate, because people in Canberra are conditioned to and used to cyclists on the road, and they understand that cyclists are allowed to be on the road, legally speaking.

Education for the small percentage of people who do not understand that is valuable and worthwhile. In the submission we have also talked about strict liability. That is the concept where, in the event of an accident that involves a cyclist and a driver, the

driver has to demonstrate that they were not at fault or doing the wrong thing. That is a fairly controversial suggestion, and one that I know has some challenges about it.

The logic behind that is about sending a signal to drivers. That signal is that you need to be attentive; you need to pay attention. You need to be aware that public road users are vulnerable and potentially seriously affected by your actions. And sending that signal is probably the only way to change behaviour and to change culture. There needs to be a tangible, clear message that is not just an ad in the *Canberra Times* saying, "Watch out for cyclists." It is not just a little bike symbol on the side of the road, because people do not see those. You see those every day, and they are invisible. What you need is a change in understanding and a change in people's thinking that says, "I must be careful. I must watch out for people who I can hurt with my motor vehicle."

**THE CHAIR:** Thank you. Questions, colleagues?

**DR BOURKE:** Yes, chair. As part of the awareness campaign that you have been talking about, in your submission you recommend promoting the benefits of cycling to drivers in terms of less congestion. Could you tell us how you think this will contribute to enhancing a shared road culture?

**Mr Fisher:** Certainly some drivers do not appreciate the value of having other people ride bikes. When I ride my bike to work, I am taking up—I am not quite sure what the space would be—a significantly smaller portion of the road than I would be if I was driving my car to work. If you have multiple people doing that, there are simply less cars, less space required, and for people who are still driving, particularly those who have to drive for whatever reason, whether it is professional or otherwise, there will be less congestion for them to be deal with. There are simply less cars on the road if more people are riding bikes. In Canberra, where those bikes are frequently on the main roads in their own lanes and not slowing traffic or interfering with the motorist traffic, there is an opportunity to really reap that benefit.

**DR BOURKE:** Given that you have talked a lot about changing driver attitude within what you have been talking about, how do you think that can actually be achieved in the Canberra context?

**Mr Fisher:** Again, I would refer you back to the idea of a legislative signal to drivers, which means, in my mind, a law that says if you run over a cyclist, you need to demonstrate that you did not do the wrong thing. That changes the perception of the law. It changes the onus of proof currently in the law, and it moves it on to the less vulnerable road user. It recognises that the more vulnerable road users are at risk and perhaps are less able to deal with the consequences that result afterwards. It is hard to turn up and argue the facts when you have been run over, as we have seen a number of times in the ACT. I think there needs to be a legislative signal to drivers that they must recognise cyclists and they must recognise their position as a powerful and potentially dangerous road user.

**DR BOURKE:** The Amy Gillett Foundation recommended a couple of changes to road laws, including cyclists not having to stop at stop signs and also turning left at red lights. What is your organisation's attitude to those suggestions?

**Mr Fisher:** For the time being, while the law says we have to, obviously we expect our members to do that. I spent some time in the United States and even as a driver there, you can turn left largely—or right in that case—on red lights, and that seems to work reasonably effectively. In the case of cyclists, who have a much wider field of view than motorists—they are not trapped inside a car with limited fields of vision—there is, in my view, a low risk attached to making those changes. You can improve traffic flow. Cyclists are able to see what is around them much more clearly than a motorist can. I would endorse that approach.

**MR COE:** Do you envisage any problems with having, in effect, two sets of rules—one set of road rules for cyclists and another for motorists with regard to that sort of turn left provision?

**Mr Fisher:** No.

**MR COE:** With regard to the three types of unsafe driving behaviour that you have mentioned in the submission—the lack of care, hostile driving and overtly aggressive driving behaviour—do you think this legislative signal is actually going to have an impact on those drivers as opposed to the mainstream drivers that are doing the right thing? Or is the problem actually going to be coming from drivers that are going to be doing the wrong thing regardless of the legislative signal that gets sent?

**Mr Fisher:** I would have to agree there are probably drivers who will do the wrong thing no matter what, and I think that applies with any road rules and road legislation. I do not think that is an argument for not acting as we have suggested. I think that is an argument for enforcing existing penalties that are out there and making sure that those rules are enforced. It is already illegal to aggressively drive your car around other road users. It is illegal to get out of your car and chase people with a machete or a big torch because they are on a bike. What needs to be done around those kinds of instances is firm, effective enforcement by the law enforcement agencies.

**MR COE:** With regard to the legislative signal and bringing about strict liability, who would you say it is targeted at if it is not those groups which are the primary causes of problems for cyclists?

**Mr Fisher:** I did not say they are the primary causes of the problems for cyclists.

**MR COE:** If they are.

**Mr Fisher:** Sorry, fair enough. I would distinguish quite clearly for the committee between drivers who are actively aggressive and drivers who are inattentive or careless. I think it is a really important distinction. With respect to what is needed to reach both groups or to have an impact on both groups, particularly those who are not paying attention, who are not thinking about cyclists or other vulnerable road users, that is the group that the proposed signal is targeted at. I think that needs to be accompanied by effective enforcement of existing laws around dangerous behaviour of all kinds in your motor vehicle.

**MR WALL:** Mr Fisher, in the submission you talk about road maintenance and the



condition of road surfaces. From a cyclist's perspective, what are some of the pros and cons of the road surfaces in the ACT?

**Mr Fisher:** On my way to work this morning, I did a little exercise. I counted all the broken bottles between Woden and the city on Adelaide Avenue that were scattered all over the bike lane. I recognise that it is Monday morning and we have had a weekend of drinking that seems to inspire the prevalence of glass on the roads, but there were no less than nine big patches of glass all over the bike lanes between Woden and the city. At night, that is a lot of glass and a lot of stuff to avoid. I suspect there is a simple solution that involves running a street sweeper down those bike lanes every now and then. I understand from the minister that that happens once a month or thereabouts. I suspect that could be done more often with a very positive result for cyclists. If nothing else, it means that you do not have to consider using the car lanes to ride in because you cannot actually ride in the bike lanes. We have got these great bike lanes; we need to be able to use them. But if they are full of glass and debris, it is very hard to do that.

The other question that comes up in regard to road surfaces, of course, is the chip seal surfacing that is done all over the ACT. That is a challenge for bike riders; there is no question about that. I know it is not popular with car drivers either, but when you are relying on the weight of the vehicle to seal the road and to squash the chips down into the tar, you need a lot of pretty heavy bikes to make a difference. Obviously cost benefits are a consideration for the government.

**THE CHAIR:** On page 5 of your report you have made a recommendation to reduce speed limits in the territory. Do you want to go into that for us?

**Mr Fisher:** Certainly. The recommendation is not to reduce all speed limits in the territory, just to be clear. What we would draw your attention to is specific roads in the ACT that have become more heavily used by both cars and bikes, particularly the Uriarra Road, with the new settlement out in Uriarra and with the sheer volume of traffic associated with recreational activities out there. If you go out there on a Saturday, there are a lot of bikes and a lot of cars. The current speed limit out there is 100 kilometres an hour for the bulk of that road. Our view is that with the sheer volume of traffic, that is inappropriate. It could be lowered significantly.

**MR WALL:** Referring to your submission, Mr Fisher, you mentioned that the Vikings Cycling Club organises training for its members. What kind of training do you as a club provide?

**Mr Fisher:** We run formal coached programs for small groups of up to 30 people. Those programs run on the criterion circuit at Stromlo forest park, and they also run on public roads very early in the morning. Typically, that will involve groups of 10 to 12 riders riding around the roads in Canberra. They are not racing; they are training. Often that means going up and down Red Hill half a dozen times or Black Mountain or one of the other hills around the place. But it does mean riding around the suburbs. I am sure members of the committee have seen many groups of riders out training on the roads. We do that under the insurance and risk management plans organised through Cycling Australia.

**THE CHAIR:** There being no further questions, thank you, Mr Fisher, for coming in and for your submission to the inquiry. If there are any further questions, the committee will get back to you, and we will keep in touch.

**Mr Fisher:** Thanks, gentlemen.

**CURNOW, MR WILLIAM JAMES**, President, Cyclists' Rights Action Group  
**GRIEVE, MR JAMES**, Vice-President, Cyclists' Rights Action Group

**THE CHAIR:** Good afternoon, Mr Curnow and Mr Grieve, from the Cyclists' Rights Action Group. I remind you of the protections and obligations afforded by parliamentary privilege and draw your attention to the statement in pink before you on the table there.

**Mr Curnow:** Yes.

**THE CHAIR:** Can you please confirm for the record that you understand the privilege implications in the statement.

**Mr Curnow:** Yes, Mr Chairman. I have read that and understand that.

**THE CHAIR:** Thank you. Would you like to make an opening statement?

**Mr Curnow:** Yes, thank you; I would like to make an opening statement. Our very first thing is: have all of the committee read the recent report of the Queensland parliament about cycling?

**THE CHAIR:** The committee has been provided with the report today. We will be reading through it in the course of the submissions.

**Mr Curnow:** That is quite an interesting development.

Thank you for the opportunity to appear before this committee and, hopefully, help it. In a nutshell, we urge repeal of the law that compels cyclists to wear helmets, because it would encourage more people to cycle and there would be less risk of serious brain injury.

The federal government adopted the policy of compulsory helmets in 1989 for the purpose of reducing deaths and chronic disability from head injury. It offered extra funding for roads, to coerce the states and territories to pass the necessary laws. The federal government's purpose was to reduce deaths and hospital costs. The ACT initially was pretty hesitant about it, because people argued that we had the best system of cycle paths in Australia and there were difficulties with enforcing a law on them. Even the Treasury raised a point of civil liberties. Despite all that, the ACT saw the money that was being offered and went ahead. CRAG was founded shortly afterwards, or around that time, to resist this move. CRAG is our acronym for the Cyclists' Rights Action Group.

At that stage, we accepted the official line that helmets protect. We argued that it compulsorily infringes longstanding rights to choose to protect one's own person—that goes back to the time of Thomas Aquinas—as long as other people are not harmed. The authorities argued back that for cyclists, helmets are the equivalent of seatbelts, and that other people are harmed because the public meets the hospital and other costs of casualties.

But the relevant comparison is not with seatbelts; it is with helmets for motorists. That might sound a bit bizarre, but among the papers in our submission there is an official media release from the department of transport urging motorists to wear helmets, which they say would save as much as 25 per cent of head injuries to drivers and passengers. There is a picture, if you can see it, of a gentleman who wrote the report. He is a scientist from Adelaide, and that is one of his associates. That study reckoned that bicycle helmets would be as effective as driver airbags in preventing head injuries; they said it would save \$1.5 billion a year. The bike helmet laws are supposed to save on costs, but they would be tiny compared to that sort of cost.

So it is discrimination, unjust discrimination, against cyclists. And the ACT discriminates further in enforcing the law. From time to time police conduct a blitz on students at the ANU, but they are not prepared to enforce the law against me and my colleagues. Do you want to say something about that?

**Mr Grieve:** We have invited the police to prosecute us on more than one occasion, and they have politely declined, telling us that the police have discretion to prosecute or not prosecute and also that it would cost far too much money.

**Mr Curnow:** One law for the rich and another for the poor, in fact.

Our helmet laws have discouraged cycling. In the ACT, cycling on bike paths in the first year of the law fell by a third on weekdays and halved at weekends. But the rate of injury, the costs of injury, did not decline; they stayed the same. In effect, the risk of injury per cyclist increased. The authorities obfuscated on these inconvenient facts and tried to argue that cycling has recovered from that decline in the first year. But a study in detail shows that it has not. That is a study which I can provide a copy of, of course. And the benefits of exercise for health were lost, making the helmet law counterproductive as well as unjust.

All that is bad enough, but there is worse. The helmet laws stem from fear of death and chronic intellectual disability. These are essentially due to severe injury to the brain. Its main cause is not direct impact to the head but an oblique impulse which causes the head to rotate very rapidly. The brain inside does not rotate as rapidly as that; therefore, it rotates in relation to the head. What can happen is that the brain strikes protuberances of bone inside the skull and people can be injured that way. Helmets are not designed and tested to protect from rotation, just from direct impact.

Worse, research on the Australian standard in 1987 showed in experiments that a helmet can increase rotation. Governments ignored this. Then, in 1994, the National Health and Medical Research Council carried out a study of football helmets. Following from that, they assessed helmets for cycling. They assessed cycle helmets. They stated: "Whilst helmets may reduce lacerations to the scalp and other soft tissue injury, there is the risk that they may increase diffuse brain injury." The worst of that diffuse injury is in relation to the brain's nerve cells, or axons. Diffuse axonal injury—I will repeat that phrase, because it is really very prominent in the literature in these matters: diffuse axonal injury—is the cause of dementia by head injury and is often fatal.

Therefore, it is highly likely that the helmet law increases the risk of death and

dementia. Comparison of numbers of deaths in Australia pre-law and post-law indicate this. So the Canberra cyclists mentioned in our submission might well have fared better without their helmets. You might recall, if you have read our submission, that one was killed and diffuse axonal injury was found. That comes from the pathologist's report, which we submitted. The other one suffered severe dementia and was still in quite a demented state after a year.

I suggest that it is unacceptable—indeed, a disgrace—for a civilised society to continue with such a harmful law. Since the federal government has abandoned its policy of compulsory helmets, repeal of the law would not even cost the ACT any funding for roads. That ends my opening statement, Mr Chairman.

**THE CHAIR:** Thank you, Mr Curnow. Can I pick up from your comments there that the diffuse brain injury, the axonal injury—

**Mr Curnow:** Sorry?

**THE CHAIR:** The injury that you described, diffuse axonal injury.

**Mr Curnow:** Diffuse axonal injury, yes.

**THE CHAIR:** Are you saying that is caused from rotation?

**Mr Curnow:** Yes.

**THE CHAIR:** Right.

**Mr Curnow:** Not from a direct blow. From the 18th century they thought that all head injuries were just caused by a direct blow that breaks the skull. Then there was a mystery about why a lot of people died with no obvious injury, no breaking of the skull at all. This is the so-called invisible injury. People were dying from it.

There was a theory advanced as long ago as 1766, would you believe, that this was caused by a mechanism called coup and contrecoup. For those who know French, and I do not know that much, that means a blow and a counterblow. The idea was that you get a blow to the head and the head moves towards the brain. The brain has inertia and does not move as quickly, but the head moves and the skull moves towards the brain. Then the brain bounces back from the other side. That was the theory, current until the 1940s or so, war time, when research was done in England on motorcycle helmets. That was carried out by a British physicist who hypothesised that diffuse injury to the brain was caused by rotation, not by this sort of contrecoup mechanism.

Then a lot of experimental work was done with animals in the 1960s, 1970s and so on. People found that they could induce diffuse axonal injury in animals by rotation but that a hard blow did not have any effect. The most important finding after that was this. As you probably know, in science people make theories, and they are tested and so forth in experiments. One of the tests of a theory is whether it can make predictions about what is going to happen. There was a lady in England who studied the brains of people who had died from closed head injury—no breakage of the skull. She discovered that the white matter—the axons, the white matter in the brain—was all

damaged. This fitted in with what the scientist before had thought—his theory of rotation or angular acceleration being the cause. So there was a further confirmation of the theory.

**Mr Grieve:** I could add that the forces that generate rotation within the skull, we must assume, are magnified by the increase in the mass of the head by the helmet, which is one good reason to suspect that helmets will, in fact, have a deleterious effect rather than a protective effect.

**THE CHAIR:** So if it is rotation that is the problem, would you support the use of something like a HANS device?

**Mr Curnow:** Like a which?

**THE CHAIR:** A HANS device. It limits rotation. It is a strap from your shoulder that limits the movement of the helmet and, therefore, the head.

**Mr Curnow:** That is an interesting thing. Yes, something like that has been proposed. At one stage there was a proposal that motorcyclists should have some sort of device embedded, actually, like a post that goes on their back and holds the head so that the head cannot spin any faster than the rest of the body. That was touted as a solution to the problem. But, of course, commercially it was not viable to produce it and so forth.

**DR BOURKE:** You say that laboratory experiments have shown that helmets can increase rotation?

**Mr Curnow:** Yes.

**DR BOURKE:** Is there any supporting evidence since the introduction of bicycle helmets to back that up?

**Mr Curnow:** Yes, this was evidenced originally in 1987. The commonwealth government is responsible for a mandatory standard for helmets. Obviously, if you are going to compel people to wear helmets, you have to have some sort of standard for them, some specifications. For years the idea was you just protect against a direct blow. But there was a federal parliamentary committee in the middle of the 1980s which investigated helmets for motorcyclists and cyclists. It was very concerned about fatal injury and intellectual disability from injury. So it commissioned this research to investigate. The researchers got dummy head forms and put helmets on them. They found that the increased weight of the helmet increased oblique rotation upon impact.

**DR BOURKE:** Were they motorcycle helmets or bicycle helmets? There is a sizable difference in the weight of the two.

**Mr Curnow:** Yes, it was both—motorcycle and bicycle helmets. Yes, I realise that motorcycle helmets are heavier. They also did studies particularly with soft bicycle helmets. These were test situations with dummies and so forth. When the dummy head struck a surface at an angle, it rotated more if the dummy head had a helmet attached because of the extra weight. What more could I say about that? That was in

1987. You asked me about since the law came in.

Studies were done in the USA in 2003 and in the UK in 2007 which made similar findings. They tried all sorts of helmets. They found in some that the addition of the helmet to a dummy head increased rotation. In others it decreased. There were ambiguous results. But once you have got ambiguous results like that, if that happened with any medical device, the Therapeutic Goods Administration would ban that sort of device from sale.

As you would know, any drug that is shown to have some bad effect somewhere or other anywhere in the world is banned. That did not happen. Governments just did not take this sort of knowledge seriously. I might say that the UK report, which found that rotation could be increased by the addition of a helmet, cited some of my work in their references. So I can think that I contributed in a very small way to that.

Talking about my work, I have got something here which I would like to submit for the committee's consideration. This is a chapter from a book called *Transportation accident analysis and prevention* published in the USA. I submit that to the committee.

**THE CHAIR:** Thank you, Mr Curnow. Any further questions?

**DR BOURKE:** Yes. I apologise, Mr Curnow. I have not really met you before. I am not sure I was introduced properly. You mentioned that you have written a chapter in a book, but do you have particular qualifications in road safety or head injuries?

**Mr Curnow:** No, I have a degree in science, considerable experience in scientific work. Not in this sort of field until after I retired, really. But I brought the skill of a scientist to this kind of problem.

**DR BOURKE:** Thank you.

**Mr Grieve:** I could add that Bill has also had articles published on these matters in peer reviewed journals overseas. So that chapter is not by any means everything that he has done.

**Mr Curnow:** No. That cites, I think, four of my five articles.

**THE CHAIR:** Further questions, members?

**MR COE:** Yes, I am keen to hear about the broader application of what could be described as a philosophy. Do you believe that this sort of laissez faire approach whereby individuals, in effect, take on the risk and the responsibility themselves with regard to helmets could or should extend to other areas of cycling? For instance, should cyclists in your view be bound by all the road rules?

**Mr Curnow:** Of course.

**MR COE:** Should they be bound by other rules and regulations?

**Mr Curnow:** Of course, yes. Our case is just against the compulsory wearing of

helmets. Why are motorists not compelled to wear helmets? We have even got a report with an official recommendation that they should wear helmets. It would save a lot of money. So there is discrimination there.

**Mr Grieve:** The report says it might save 17 times the amount of money that they saved by compelling cyclists to wear helmets.

**MR COE:** The time of this coming into effect, did you say that it was in 1989?

**Mr Curnow:** That was when Bob Hawke announced that the commonwealth would provide incentives for a range of road safety measures, including compulsory helmets.

**MR COE:** At the time, the cost of helmets would have been, I imagine, comparatively higher than the cost of helmets today whereby an Australian standard helmet can be purchased for, I think, less than \$10 now—

**Mr Curnow:** Could be.

**MR COE:** relative to people's income, whereas in the past there was a much more significant financial barrier applying to the use of a helmet. Do you think that that financial barrier still stands today?

**Mr Curnow:** It would be less important, I suppose. It is not something I have particularly looked into because our concern is simply that helmets do not work and that they likely aggravate severe brain injury.

**MR COE:** Do you know of any jurisdictions that have reversed a decision relating to compulsory helmets?

**Mr Curnow:** Other jurisdictions?

**MR COE:** That have actually reversed the decision.

**Mr Curnow:** Yes, Spain. Israel reversed the decision.

**Mr Grieve:** The Northern Territory, I believe, has also removed it from adults, I believe, under certain circumstances while maintaining it for children.

**Mr Curnow:** Adults on cycle paths.

**Mr Grieve:** Yes.

**Mr Curnow:** Yes.

**Mr Grieve:** And I know more recently that there is this recommendation from the parliamentary committee in Queensland.

**MR COE:** Yes.

**Mr Curnow:** And it has happened in Canada in the Province of Ontario, where they



brought in an all-ages helmet law. A case was made against that and they went back to making it just for adults.

**Mr Grieve:** I think it should be added that probably authorities in different parts of the world which have looked at the matter of compulsory helmet wearing for cyclists are not noted for paying attention to the evidence.

**Mr Curnow:** Yes.

**Mr Grieve:** If they did pay attention to the evidence, then they would probably not enact it.

**Mr Curnow:** An example of that, James, is Canada. In Canada about half the provinces have brought in helmet laws for cyclists. But the federal government is very critical of that. It argues that the laws discourage cycling. That is a bit of a reverse of the situation in Australia, where the federal government subsidised it.

**MR COE:** With regard to the psychology of cyclists wearing a helmet versus not wearing a helmet, do you believe, and is there evidence to support the view, that somebody who is not wearing a helmet is actually going to be more cautious and less complacent than someone who is wearing a helmet?

**Mr Curnow:** Yes, that is a fairly controversial area, risk compensation. There have been arguments both ways. There is one study I know of which was done in Victoria in which a psychologist interviewed teenagers about wearing helmets. A lot of them thought that a helmet would save them in an accident with a bus or a truck, which is just quite over the top. It was thought that with that belief, they would probably tend to ride less cautiously.

**MR WALL:** I have a brief question. Obviously, the core aim of your group is to remove the compulsory use of bicycle helmets. But over the years since it was legislated, there has been a vast improvement in the technology and different options of cycling helmets. Do you think there has been an improvement over the last 25-odd years?

**Mr Curnow:** In what respect?

**MR WALL:** In minimising the risk of injury?

**Mr Curnow:** Sorry, minimising?

**MR WALL:** Has the technology that has gone into developing bicycle helmets over the past 25 years improved or reduced the likelihood of some of the injuries that you have spoken about this afternoon?

**Mr Curnow:** I think not, because the basic design remains the same. It is just designed and tested to reduce the effect of a direct blow. They are not designed to reduce rotation. But some work has been done on different kinds of helmet which could reduce rotation. There is a helmet with a sort of sliding inner lining which twists around and imitates the human scalp. It imitates the human scalp, which does provide

some sort of protection against rotation particularly, I think, with women who have got a lot of hair. It just helps a bit there. There have been a couple of designs of helmet produced which claim to do that. But, of course, they are not viable commercially and so they are irrelevant in a sense.

**DR BOURKE:** In your submission to the committee, you stated that some studies actually show that falling over with a helmet on increases the risk of some brain injuries. Is that correct?

**Mr Curnow:** Yes.

**DR BOURKE:** Could you be a little clearer about which studies those are or provide the information to us?

**Mr Curnow:** I have given references to three of them. One is the study by Corner and others in Australia in 1987. The second was presented at a conference in Portugal in 2003. I have just forgotten the author. The third one is in 2007 by an organisation called TRL, which does a lot of that sort of research for the British government. By the way, Britain has resisted bringing in compulsory helmets largely on account of that kind of work. That was by Chinn. Chinn was one of the authors and StClair.

**DR BOURKE:** Could you provide those to the secretary?

**Mr Curnow:** Yes. Anyway, those are the three.

**DR BOURKE:** Thank you.

**THE CHAIR:** Thank you, Mr Curnow and Mr Grieve from the Cyclists' Rights Action Group. A copy of the transcript of today's proceedings will be available on the committee's web page in a few days' time. We will also send a copy to the witnesses to check for any typographical or other transcription errors. Our next public hearing will be tomorrow at 9 am in this committee room, 3 December. The hearing is now adjourned.

**Mr Curnow:** Thank you.

**The committee adjourned at 4.39 pm.**