

Personal Submission to Vulnerable Road Users Enquiry

The Committee Secretary
ACT Government Standing Committee on Planning, Environment and Territory and
Municipal Services
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Thank you for initiating this very worthwhile enquiry into vulnerable road users, and for the opportunity to provide comments to the Committee to inform its recommendations to Government.

I have been a keen road cyclist for over 20 years, and a Canberra resident for the past 15 years. I ride between 300-400km per week, mostly in the early mornings and on weekends, either alone or in training bunches, and always on the road. I do not commute by bike. I have a husband (also a cyclist) and two small children, so when I go for a ride I prefer to get back home in one piece to see them again. This submission reflects my experiences and perspectives in this context.

Aggressive and irresponsible driver behaviour

Issues

I consider the single most dangerous issue that Canberra's vulnerable road users, including cyclists, encounter is aggressive and irresponsible driver behaviour.

I have recently returned from Europe, where I cycled nearly 2,000kms, across four countries, on a wide variety of roads including busy national roads and narrow mountain passes. Even though I was cycling on roads I had never ridden before, on the wrong (right-hand) side of the road, in sometimes very busy traffic conditions, I never once felt unsafe or threatened by the presence of vehicles.

This is in stark contrast to my experience cycling in Canberra, where barely a week goes by without me, or one of my cycling friends, having our health or lives put at risk by aggressive or irresponsible driver behaviour.

In Europe, road rules in a number of countries I visited include that motorists must not overtake cyclists:

- within mandatory minimum safe passing distances (up to 1.5m); and
- at passing speeds over 40kmph.

There are also strict liability provisions, whereby in the event of an accident between a motorist and cyclist, the motorist is assumed to be at fault unless they can prove otherwise (hence reversing the onus of proof).

And as a consequence, driver culture in Europe is very different to Australia. I found that motorists were respectful and considerate towards cyclists (and in fact towards all other road users). For example, on single lane roads motorists approaching from behind, without exception, slowed and remained behind me until it was safe to pass, then did so at an appropriately safe speed and distance.

Whilst a large number of Canberra drivers are similarly sensible, it is very common in my experience for a significant proportion of motorists to either not be aware of the ACT road rules as they apply to cyclists, such as the legality of riding two-abreast, or that motorists are required to interact with cyclists riding on the road in exactly the same way as they would another vehicle, for example, by giving way at intersections and roundabouts. Further, in some instances even if motorists are aware that cyclists have exactly the same rights and obligations on the road as they do, plus some additional rights like riding two-abreast, they don't see these rights as valid and thus choose not to adhere to them.

There is further resentment from the motoring community towards cyclists, on the basis that cyclists don't pay registration and 'therefore' don't contribute to the cost of maintain roads, so should not be allowed to use roads. This recent article in the Canberra Times, and the related discussion thread, illustrates the different perspectives of the two groups of road users <http://www.canberratimes.com.au/act-news/whos-at-fault-when-cyclists-and-cars-collide-20131015-2vjsp.html>. Even more galling for some motorists is that cyclists seem to enjoy additional rights on the road. What these perspectives fail to recognise is that:

- cyclists are afforded additional 'rights' on the road because the nature of the relationship between them and other vehicles is asymmetrical – one party is virtually in no danger and the other exposed to almost all of the danger;
- most cyclists also own cars, so do pay registration; and
- road funding in the ACT comes from consolidated revenue – registration fees are not quarantined in some special bucket and solely directed to road funding.

Most concerning of all, however, is that a small minority of Canberra drivers (and NSW registered drivers using Canberra roads) regularly abuse cyclists, drive dangerously close or too fast, and/or deliberately try to force cyclists off the road. This behaviour is not only illegal, but intolerable, completely unnecessary and requires immediate acknowledgement and action by both Government and the police.

A selection of recent examples of both aggressive and irresponsible driver behaviour that I, or my close circle of cycling friends have experienced, includes:

- a driver overtaking a cycling bunch at speed then slamming on brakes to try to cause the bunch to crash;
- a driver lining up his left-hand side mirror to deliberately hit a cyclist travelling in an on-road cycle lane;
- a cyclist suffering extensive fractures when a driver failed to give way at a roundabout;
- a driver throwing a full bottle of flavoured milk (at me) from a car, whilst riding downhill on the very wide Federal Highway shoulder, at in excess of 50kmph. The projectile narrowly missed my front wheel – had it hit, causing me to crash at that speed, my risk of serious injury or fatality would have been around 50%;
- a driver overtaking, then slowing suddenly to make a left turn, in front of a bunch;
- a driver (the same driver) menacing three different groups of cyclists in three separate incidents, trying to run them off the road, driving dangerously close behind and revving the engine, trying to intimidate them. In different incidents the same driver has exited the vehicle, and then attempted to assault the riders with a machete on one occasion, and an iron bar on another;

- a driver and passenger throwing eggs at a group of five cyclists (including me) whilst riding single file along Ellenborough St, Lyneham at approximately 7am, hitting one of the riders; and
- a driver and passenger deliberately menacing a small cycling group (including me) on a quiet country road, approaching from behind at speed, honking, yelling abuse, driving dangerously close and swerving into the cyclists to force them off the road. This incident resulted in one cyclist being hit by the offending vehicle, causing him to crash. The vehicle left the scene. The cyclist's injuries included a fracture and extensive lacerations. He is the father of four small children, all under 7 years old. This incident, which the police, to date, have been less than responsive towards, could have ended tragically.

A number of these incidents were reported to police. A much smaller number were followed up. None so far have resulted in any criminal sanctions against the offending drivers. The reasons for this are as follows:

- when an incident occurs at speed and your life is placed at risk, it is often not a cyclist's first thought to get vehicle registration details, let alone ID the driver;
- at best a vehicle description, plus time, place and circumstances of an incident, corroborated by a number of witnesses, is available;
- with the complainant (often someone who is also managing recovery from a range of injuries) having the burden of proof, so being required to show that the driver was there, and the time in question and did the things alleged, it is just too hard; and
- even if these evidentiary hurdles are overcome, the offender can simply state they didn't see the cyclist/were blinded by the sun/lost concentration for a moment when the CD skipped – in other words, they didn't mean it. And then they just get a slap on the wrist, lose a few points on their licence, pay a small fine, and are still on the road and back in business.

The current law provides little, if any, deterrent for less vulnerable road users to assume a greater duty of care towards more vulnerable road users, and clearly they should be required to do so.

The examples provided above reflect just my personal experience in the last 18 months. It is evident that there is a small, but extremely dangerous, minority of motorists who think it is OK, even fun, to put cyclists' lives at risk. Cyclists are people too, with families and hopes for the future, and positive and contributing members of our community.

It is this aggressive, menacing, criminal behaviour that requires the most urgent action, including reforms to the law to change the onus of proof and reduce the evidentiary burden on the complainant, imposition of tougher, immediate penalties and better enforcement.

Solutions

Only by strengthening the law, and its enforcement, and making penalties much more severe, will we achieve the cultural change required to eradicate the type of aberrant, anti-social, criminal behaviour described above.

The ACT has been very successful, indeed demonstrated national leadership, over time, in changing community attitudes towards important public health issues like smoking in public

places. But the foundation of this change was legislative reform – and a similar approach is required in relation to aggressive and irresponsible driver behaviour.

Consideration should be given to:

- reduction of speed limits on main arterial roads and popular cycling routes (key shared roads) during peak traffic periods and on weekends, when most cyclists use the roads;
- introduction of safe passing distance laws, requiring drivers to keep a minimum distance away from cyclists using the road;
- introduction of strict liability legislation so in the event of an accident between a motorist and cyclist, the motorist is assumed to be at fault;
- tougher penalties for endangering the well-being of vulnerable road users including immediate license suspensions pending investigations;
- provision of additional resources to the police to support regular periodic blitzes to enforce strengthened road rules concerning vulnerable road users (similar to current public holiday blitzes conducted targeting speeding and drink driving or Operation Halo in Victoria);
- standardising complaint systems for cyclists reporting an incident of aggressive driver behaviour; and
- an extensive public education campaign, targeting all road users to reinforce the importance of safe driving and riding behaviour, remind all road users of their responsibilities when using roads and convey the key message that they share the roads with a variety of other users, who all must be respected.

Infrastructure

Issues

The ACT is leading the nation in the provision of on-road and off-road cycling infrastructure, which, in my view, is first class. The Government has been continuously investing in enhancements, which is commendable.

In my experience, the existing on-road and off-road cycle infrastructure does not present any significant physical risks for users. Most riders, both commuters and road training groups, stick to regular routes, and thereby become quite familiar with road and traffic conditions and the availability of infrastructure on their preferred routes. This familiarity enables riders to: make choices about when they will ride on roads or paths; be aware in advance of more hazardous riding conditions (such as the need to exit an on-on road lane at a roundabout); and act accordingly. Riders can consciously manage their risk exposure using their knowledge and experience of available infrastructure, controlling their own actions and making deliberate decisions about what to do to stay safe in any given context.

In contrast to other, more dangerous, situations that cyclists face, including dealing with unpredictable and aggressive drivers, the infrastructure context is predictable and cyclists are in full control of the outcomes they experience in choosing to use it.

Solutions

That said, there are always areas for further improvement to Canberra's cycling infrastructure network. In this regard, priority should be given to further enhancement to the on-road cycling infrastructure for the following reasons:

- cyclists will continue (and are legally able) to ride on ACT roads, regardless of the existence of off-road cycle paths;
- on the road, physical separation of cyclists from other motorists where possible is an important element of managing the risk to these vulnerable road users;
- the existence of an extensive on-road cycle network provides a visible reminder to other road users that the roads are shared, and in that sense is a cue to look out for cyclists; and
- extensive on-road infrastructure reinforces the legitimacy of cyclists being able to use the roads, and so assists to support the cultural change required amongst some elements of the motoring community to take responsibility for the safety and wellbeing of all road users.

In terms of areas of immediate priority for further infrastructure enhancement, extending and connecting discontinuous on-road cycle lanes would achieve the greatest risk reduction for vulnerable road users, per dollar invested. Examples include Gungahlin Drive near Palmerston, Kings Avenue in Barton and Limestone Avenue in Ainslie.

Thank you for the opportunity to comment. I would be pleased to further discuss any aspect of this submission with the committee and look forward to seeing its recommendations to improve the safety and wellbeing of ACT's vulnerable road users.

Kind regards,

Stacie Hall

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