

13 December 2019

Tim Davern  
National Transport Commission  
Submission – Barriers to the safe use of personal mobility devices  
Level 3, 600 Bourke Street  
Melbourne VIC 3000

By Online Submission and By Email To [tdavern@ntc.gov.au](mailto:tdavern@ntc.gov.au)

Dear Mr Davern

### **NTC's Discussion Paper: Barriers To The Safe Use of Personal Mobility Devices (PMD)**

Suncorp welcomes the opportunity to respond to your October 2019 discussion paper *Barriers To The Safe Use of Personal Mobility Devices*. Suncorp is Australia's largest private personal injury insurer, operating in all competitively underwritten personal injury schemes nationally. We provide compulsory third-party insurance and workers compensation in many Australian jurisdictions under our GIO, AAMI, Suncorp and Apia brands.

Suncorp strongly supports the public's right to mobility and welcomes the opportunities presented by electric vehicles of all sizes, including personal mobility devices (**PMDs**) such as electric scooters (**e-scooters**) for their ability to provide cost-effective, carbon-neutral transport. However, with these potential benefits come financial and social costs. The experience shown in different Australian and International jurisdictions has demonstrated that personal mobility devices like e-scooters cause accidents that could range from being severe, catastrophic or even fatal<sup>1</sup>.

Currently managing over 34,000 open personal injury claims nationally, Suncorp has a deep understanding of the enduring impact an injury can have on an individual, their family and their community, on top of the significant costs incurred in treatment and care.

Any legislative framework needs to consider the implications of these injuries and adopt a design that allocates the cost to support injured people in a fair and efficient manner. It can be expected that injuries will occur to both the operator of PMDs and to third-parties, such as pedestrians. In the absence of an appropriate legislative framework, adverse consequences could result from these injuries as well as the possibility of community hostility to users of these scooters.

#### **Injuries to the operator**

Those people who choose to operate PMDs have a heightened risk of significant injuries if an accident occurs, due to their capacity to travel at high speeds and limited safety features. Those who rent an e-scooter but are unfamiliar with how to ride them are at higher risk of an accident. Injuries will impact their financial wellbeing and add to public health costs, as well as impacting employers if an injured employee is forced to take leave due to injury.

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<sup>1</sup> ABC News – *Man dies in hospital after crashing off Lime Scooter in Brisbane*, 9 May 2019  
(<https://www.abc.net.au/news/2019-05-09/man-dies-in-hospital-critical-lime-scooter-crash-brisbane/11098060>)

## Recommendation

Suncorp recommends consideration be given to applying a surcharge on every e-scooter rental, with these funds being directed towards e-scooter injury health costs. Rather than create a separate scheme, these funds could be directed to the public health budget. The surcharge would be charged by the provider (e.g. Lime) and passed onto the government with the rate being guided by actuarial analysis of the anticipated cost.

### **Injuries to third parties:**

The most problematic aspect of the introduction of PMDs is when an innocent third party, such as a pedestrian is injured due to the negligence of the operator. Due to the PMDs capacity for high speed and the increased momentum they generate, there is a greater risk of significant injury to a third party than a traditional scooter or bicycle.

Innocent parties who are injured are entitled to have all medical costs and lost income provided by the negligent party or their insurer. The assertion that innocent victims are fully protected by the public liability insurance of e-scooter providers fails to recognise the significant barriers faced by a victim if they wish to access compensation through the mechanism of this insurance policy.

It generally requires the innocent injured party to commence common law proceedings, with the onus being on them to prove the negligence of the operator and to prove they have suffered a loss. For moderate and minor injuries (as most commonly occur), it is frequently not worth the time, effort and financial risk associated with initiating such action.

### **Legal liability cover (Home Insurance)**

Although not widely understood, many domestic home insurance policies include a legal liability component that may cover the policy holder if their negligence causes injury to another person within Australia. Innocent third parties who are injured by an PMD operator may be able to pursue a common law claims for damages through this component of the home insurance cover of the operator.

However, this carries the costs and risk inherent in pursuing a common law claim. Further, many operators do not have home insurance. This leaves the operator personally exposed and potentially renders the injured third party unable to recover their loss even if they initiate a successful common law damages claim, due to the operator having insufficient assets.

### **Fair and efficient framework**

As we see the use of PMDs on shared pathways escalate in the coming years, Suncorp considers that it would be appropriate to work together as an industry to build a fair and efficient regulatory framework. Once a threshold is reached, a clear mechanism should be triggered to allow for defined benefits to innocent third parties. As well as providing clear recourse, the framework should also reduce risk of accidents and the severity by minimising interactions between these devices and pedestrians, enforcing safety procedures (such as helmets) and limiting maximum speeds.

If you would like to discuss our submission, please feel free to contact Anita Yau, Senior Advisor – Policy and Regulation Development on [anita.yau@suncorp.com.au](mailto:anita.yau@suncorp.com.au).

Kind regards,



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