

**Submission to Barriers to the safe use of personal mobility devices**

In response to the National Transport Commission’s Consultation Regulation Impact Statement

**20 December 2019**

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1. **Introduction**

The Australian Local Government Association (ALGA) welcomes the opportunity to provide this submission to the National Transport Commission (NTC) in relation to the Consultation Regulation Impact Statement regarding the *Barriers to the safe use of personal mobility devices: discussion paper*.

ALGA is the national voice of local government in Australia, representing 537 councils across the country. In structure, ALGA is a federation of state and territory local government associations. ALGA was established in 1947 and throughout its history has been closely involved in issues of national significance affecting the local government sector as a whole.

This submission should be considered in conjunction with any submission made by State/Territory Associations and individual local councils.

**Background to Personal Mobility Devices (PMDs)**

ALGA notes that in May 2018, the Transport and Infrastructure Council (the Council) directed the NTC to review the Australian Road Rules (ARRs) and identify regulatory barriers preventing the safe and legal use of Motorised Mobility Devices (MMDs) and Innovative Vehicles (or personal mobility Devices; PMDs) on public roads and paths.

During the consultation and policy development process, the NTC identified that PMDs and MMDs are inherently different. That is MMDs are designed to assist people who have difficulties or are unable to walk. PMDs however, are designed for recreational use and commuting, offering a genuine alternative transport mode to more traditional travel modes. Therefore, MMDs and PMDs require separate analysis and solutions.

PMDs represent a specific category of micro-mobility transport systems and include electric skateboards and electric scooters. There are a variety of different types of PMDs and usually they are small, portable, and designed to carry one person over short to medium distances.

ALGA notes from NTC’s Consultation RIS paper that motorised wheelchairs, mobility scooters, power-assisted pedal cycles and motorised scooters which are not capable of travelling more than 10km/h on level ground, will be excluded from the proposed new PMD framework, as they are already covered by the ARRs.

While PMDs are still relatively new and emerging forms of transport, its likely their design and function will continue to evolve over time. As things stand, the Australian Road Rules (ARRs) have not kept pace with the rate of change and growth of PMDs.

ALGA notes that the ARRs predate the emergence of most new technologies relating to these devices, which has resulted in PMDs operating largely in an undefined regulatory environment, with a lack of consistency nationally. In states where there are no PMD regulations, there is anecdotal evidence that these devices are being used on roads and paths. As the NTC notes, it is also likely many device-users are not aware they cannot be used legally on roads and paths.

The Consultation RIS considers regulatory options that contemplate how PMDs can be integrated onto roads and/or paths, whilst also ensuring the ARRs are future proofed to account for the evolution in PMD technology and infrastructure design (e.g. road user separations).

1. **Policy objective of this project**

The policy objective of this project is to provide a nationally consistent approach to regulating PMDs that enables safe mobility and independence for all road users.

**Risk of conflict between PMDs and other road users**

A wide variety of new PMDs have entered the market in recent years, ranging from Segways to electric scooters, electric skateboards and more unique types of PMDs as outlined in Appendix F of the Consultation Regulation Impact Statement.

ALGA notes that submissions received by NTC on its initial Issues Paper reflected concerns about the potential conflict risk between PMDs and other road users, mainly pedestrians. Indeed, the speed differential with pedestrians could result in an increased risk of collision and injury. It is entirely feasible that permitting PMDs to operate in pedestrian areas will result in increased risk exposure and congestion in these areas. The risk may be particularly relevant for more vulnerable pedestrians, such as younger and older pedestrians, etc.

ALGA notes that despite the concerns raised above by most submissions responding to the initial discussion paper earlier this year, the parties that made these submissions agreed that PMDs should be permitted, albeit with a speed regulated to an absolute minimum, to reduce the safety risks to pedestrians.

We note that NTC has considered these issues in the context of Safe System principles and has undertaken a detailed safety impact analysis to assess the implications of allowing PMDs to be used across different types of roads and paths. We note that the only type of PMD recognised by the ARRs are low-powered motorised scooters, which are speed limited to 10 km/h on level ground.

We note that there is a currently no national harmonised approach to regulating PMDs to properly facilitate the safe operation of these devices. With out a national regulatory approach, there will be suboptimal outcomes for the management of these devices. We also note there has been a general accord from stakeholders’ submissions in response to the original discussion paper, on the importance of safe use of motorised mobility devices, and that compliance will be minimal unless rules are consistent across jurisdictions.

**Limited understanding of safety risks associated with PMDs**

ALGA notes that there is currently limited data available in terms of the level of safety risks, as well as the extent. While no national data on scooter injuries exists, NTC advises that the currently available biomechanical data is largely focused on passenger vehicle crash safety. Consequently, there is a lack of evidence to understand human limits to injury on impact with other road users.

It is clear that with the growth in demand for PMDs we need to acquire a greater understanding of energy management at low speeds on roads and road-related areas interacting with other diverse user types.

A key factor in developing a fit-for-purpose regulatory framework that provides safe and legal use of PMDs will be the careful balancing of the risks and benefits of travelling at a practical speed, which is also a safe speed. Data detailed in Appendix D of the Consultation RIS clearly show that there is the potential for serious injury or death to occur from e-scooter use, although generally injuries sustained are minor.

ALGA notes that many submissions to NTC’s initial Discussion Paper flagged the importance of considering the Safe System principles being developed as a road safety policy applied to PMDs. To do so properly, we need to consider the effect that the PMDs are having on the broad transport network so that we can develop consistent, performance-based regulations that facilitate compliance.

As a matter of course, this would need to include an analysis of the safety risks associated with other devices and vehicles that are likely to have similar risks, vulnerabilities, crash and injury profiles (e.g. bicycles, motorised scooters), having regard to the thorough safety review that is provided in Appendix D.

1. **Options to address the problem**

The NTC has identified a proposed regulatory framework that could be adopted (per Table 2, p18 in the RIS paper) into the ARRs, similar to those set out in the Queensland and South Australian road rules, as well as being similar to those currently used by the Department of Infrastructure, Transport, Regional Development and Cities (DIRDAC) to provide administrative ingress approval of PMDs.

ALGA notes the NTC’s proposed regulatory Framework for PMDs in the Consultation RIS paper, as well as the four new regulatory options for consultation, plus summarising the status quo position.

The options are:

1. Status quo – No change to the Australian Road Rules;
2. Permit the use of personal mobility devices on most pedestrian infrastructure and bicycle paths;
3. Permit the use of personal mobility devices on most pedestrian infrastructure, bicycle paths and **local roads**;
4. Permit the use of personal mobility devices on most pedestrian infrastructure, **bicycle infrastructure** and roads; and
5. Permit the use of personal mobility devices on bicycle infrastructure and roads.

The implementation of any of the new options depends on the preferred proposed framework being adopted into the ARRs. We note that the options focus primarily on permitting PMD access to road and path infrastructure, plus setting maximum speed requirements for the PMDs.

In regard to the three questions raised on page 19 of the RIS paper, plus a fourth question raised on page 24, ALGA’s responses are as follows:

**Question 1**: Are the requirements in the proposed regulatory framework appropriate?

Response: ALGA is comfortable with the requirements outlined in NTC’s Proposed

regulatory Framework for PMDs in Table 2 on page 18 of the RIS paper.

**Question 2**: Is 60kgs a suitable maximum weight for a PMD?

Response: ALGA believes that 60kgs for a PMD should be the upper limit for PMDs

to ensure that they are still manageable for the users to ride and control.

**Question 3**: Should children under the age of 16 years continue to be permitted to use

a motorised scooter incapable of travelling more than 10km/h on level

ground on roads and paths? Should they be able to use any device that

complies with the proposed PMD framework?

Response: Yes, ALGA supports continuing to permit children under 16 years to

be able to use a motorised scooter not exceeding 10km/h. However,

children under the age of 16 years should not be permitted to use any

device that fits the proposed PMD framework.

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**Question 4**: Do you agree with the Impact assessment criteria in Table 3 to assess the

Options and are there any key impacts not covered by these criteria.

Response: ALGA considers the four impact analysis criteria used in the Impact

assessment criteria box in Table 3, namely:

* Safety;
* Access and Amenity;
* Broader Economic Costs and Benefits; and
* Compliance and Enforcement;

are an appropriate and comprehensive set of criteria to apply to ensure

that all significant potential implications of each of the new options are

properly addressed in delivering a robust RIS impact assessment.

**Analysis of options and speed approaches**

The summary assessments of the four new options as well as the analysis of speed approaches are provided on pages 25 to 27 of the RIS paper.

ALGA acknowledges the challenge of establishing a common national approach to permitting access of PMDs onto public roads and paths through the use of the matrix at Table 4 Overall assessment of options on page 28.

1. **Determining a Preferred option**

Based on the analysis and assessment prepared in the NTC’s Consultation RIS paper,

ALGA supports the adoption of the Proposed PMD regulatory framework approach articulated in Table 2, page 18; and the Option 3 – Speed Approach 1 to be included in the ARRs.

ALGA notes that the benefits associated with PMD access, commercial opportunities and congestion reduction, outweigh the costs associated with minor increases in safety risks to pedestrians, compliance and enforcement challenges.

ALGA supports permitting PMDs to travel up to a maximum of 10km/h on pedestrian infrastructure is an acceptable maximum speed limit, appropriately reflecting safety considerations for pedestrians.

For bicycle paths and **local roads**, a maximum speed up to 25km/h is considered safe and appropriate. As such, ALGA acknowledges that there is little justification to further restrict PMD speed in these areas. Allowing PMDs to be used for their intended purposes with moderate speed restriction is likely to enable PMDs achieving close to their potential full economic benefits, e.g. congestion reduction and commercial opportunities.

ALGA also notes that based on average travel speeds of bicycle riders on bicycle paths (between 18 km/h and 30km/h), the frequency of passing at 25km/h is expected to be less than the alternative speed approach of 15km/h, and so should not be expected to increase safety concerns.

In regard to Question 8 listed on page 30 of the RIS paper, which is pertinent to the comments made in the section immediately above, ALGA’s response is as follows:

**Question 8**: Do you agree with the overall assessment that Option 3, Speed Approach 1 is the option that best balances mobility and safety?

**Response**: Yes, ALGA does agree with the overall assessment that Option 3, Speed Approach 1 is the option that best balances mobility and safety, for the reasons mentioned in the Determining a Preferred Option section immediately above.

On another aspect of implementing the Preferred Option, ALGA notes that NTC’s acknowledges that to minimise the safety risks for the preferred option, there will need to be a high level of compliance and a clear enforcement of the proposed new road rules, including minimising PMD speed around pedestrians.

ALGA would want to be kept abreast of developments in this area by NTC, to ensure that minimising the safety risks on bicycle paths and local roads is achieved.

1. **Comment on other road and path access options**

**assessed**

**Option 2: Permit access to most pedestrian infrastructure and bicycle paths**

ALGA understands the benefits of this option of not permitting access to roads which seeks to minimise the safety risks to PMD users, because of little interaction with motor vehicles. However, this approach would reduce PMD users’ ability to achieve wider benefits for these devices. With the caveats set out above, ALGA would prefer Option 3 over Option 2, which would be our second preference.

**Option 4: Permit access to most pedestrian infrastructure, bicycle**

**infrastructure and roads**

Permitting access to roads where PMD users would interact with motor vehicles at high speeds (e.g. arterial roads and freeways) unnecessarily exposes PMDs users to much higher risks of injury. ALGA does not support permitting access in such

circumstances.

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1. **Conclusion**

ALGA welcomes the opportunity to provide this Submission in response to the National Transport Commission’s (NTC) Consultation Regulation Impact Statement in regard to the *Barriers to the safe use of personal mobility devices: discussion paper.*

In terms of next steps, we note that NTC will analyse the submissions received in response to the Consultation RIS paper and undertake targeted consultation with the states, territories and industry peak bodies. ALGA also looks forward to an on-going dialogue and consultation with the National Transport Commission as this RIS process proceeds.

We note that NTC is scheduled to present policy and legislative amendments to the

Transport and Infrastructure Council in May 2020 for consideration.

Thank you for considering ALGA’s submission.

ALGA Secretariat

20 December 2019