

Our Ref: DW F18/88 D19/22584  
Contact: Damian Waight 5261 0600

28 February 2019

Anthony Pepi  
Productivity and Safety Team  
National Transport Commission  
Level 3/600 Bourke Street  
MELBOURNE VIC 3000

[www.ntc.gov.au](http://www.ntc.gov.au)

Dear Anthony

**Surf Coast Shire Council submission to the National Transport Commission issues paper: Barriers to the safe use of innovative vehicles and motorised mobility devices - January 2019**

Thank you for the opportunity to provide feedback on the regulatory barriers that prevent the safe use of innovative vehicles and motorised mobility devices. Our submission is drafted with input from Council's All Abilities Advisory Committee.

Surf Coast Shire Council supports the National Transport Commission (NTC) review of the Australian Road Rules (ARRs) that are preventing the safe and legal use of motorised mobility devices (MMDs) such as motorised wheelchairs and mobility scooters and innovative vehicles such as electric skateboards, scooters and unicycles.

We welcome the development of a consistent and efficient national framework that allows a clear understanding of the legal requirements and safety for all users of innovative vehicles and motorised mobility devices.

Surf Coast Shire Council would like the project to carefully consider pedestrian safety when developing new rules and regulations for road and pathway users. We therefore provide the following submission addressing the issues and questions presented in the NTC report:

The use of MMDs and innovative vehicles is likely to increase in the future. Increased use of these devices increases the risk of accidents, including accidents with pedestrians particular those with a disability such as people with vision or hearing impairments. While these devices present risks, many people experience positive impacts in their lives when using MMDs, so changes need to balance these different priorities.

There is a lack of local data regarding incidents related to MMDs and innovative vehicles; therefore, Council's submission contains data from other sources. Any changes to regulations should include improved data collection regarding MMDs and innovative vehicles.

Monash University conducted a study of Injury Data Involving Motorised Mobility Scooters published in 2011, which found:

- There were 62 identified fatalities related to motorised mobility scooters from July 2000 to August 2010.
- There were 442 hospitalisations involving motorised scooters in Australia from July 2006 to June 2008.
- 26% of injuries occurred on the road/street and highway.
- 13% of incidents were the result of a collision between a MMD and a motor vehicle.

**Issues Paper Key Point 1: Limitations may exist in the current Australian Road Rules (ARRs) that prevent the safe and appropriate use of new and existing innovative vehicles and motorised mobility devices (MMDs) on Australia's road and road-related areas.**

We would agree with this section of the issues paper which states:

- The current regulatory framework regarding the use of innovative vehicles and motorised mobility devices is outdated and does not accommodate the safe use of these devices.
- The design and capacity of the road system to cater for a diverse range of vehicles in Australia is increasingly being tested with additional demand for access by new categories of vehicles (Staysafe, 2014).
- The regulatory framework predates the general availability of innovative vehicles and motorised mobility devices and is based mostly on passenger vehicles.
- The result is a highly prescriptive set of ad-hoc road rules not specific to MMDs and innovative vehicles.
- The increasing use of innovative vehicles and MMDs impacts other vulnerable road and road-related area users, as well as the device users themselves (Staysafe, 2014).

The Australian Road Rules should:

- Be updated to improve safety (with particular regard for pedestrians), provide consistency and clarity about the use of innovative vehicles and MMDs.
- Refer to footpaths and pathways rather than 'road related areas'.
- Require that all retail suppliers of innovative vehicles and MMDs have a legal responsibility to provide a purchaser with evidence that the device complies with Australian Standards for safety for such devices.
- Provide clarity those MMDs assisting people with limited mobility may require priority above innovative vehicles used primarily for leisure when setting rules and a management framework.

**Key Point 2 - Public demand for the use of innovative vehicles and motorised mobility devices is expected to grow. Increased use of these devices may result in potential risks to both users and other road and road-related area users.**

- This issues paper focusses on users of these devices however pedestrians – especially those with a disability - warrant particular attention in revised ARR's.
- The State and Federal Governments should consider increased investment to construct and maintain better roads, footpaths, pathways and other infrastructure as a result of any new regulations or improvements that this review identifies.
- Along with updated ARR's, manufacturing standards require review to ensure safety is paramount now and as future design and technology changes.

**Key Point 3 - Enabling people of all ages and abilities with the freedom to be mobile, independent and socially-included is a priority.**

- MMDs, in particular, provide people of all abilities with the freedom to be mobile, independent and socially included. The primary purpose of many innovative vehicles does not deliver this benefit.
- Freedom needs to be maintained for pedestrians so they can be mobile, independent and socially included and this is only achievable when they are safe.

- Safety concerns are summarised by the Senate Standing Committee on Rural and Regional Affairs and Transport (2018) which identified 132 deaths involving mobility scooters between 2000 and 2017 – 129 were users; 3 were pedestrians.

**Key Point 4 - Risk of conflict between different road users due to the increased use of innovative vehicles.**

- This is a critical risk evidenced by Dr Edward Gibson (Royal Australasian College of Surgeons) who identified 15% of the 81 people hospitalised in South Australia from accidents involving MMDs were people not riding in them.
- Greater effort is required in enforcing rules and regulations. There is little data available of police charging users of innovative devices or MMDs with offences.
- Speed limits below 10km/h on footpaths and pathways need to be legislated and adequately policed.
- In February 2019, *The Consumer Reports* magazine counted 1542 cases of emergency medical treatment in the United States due to electric scooter use since late 2017 – less than 18 months. Many of these were caused by rideshare electric scooters.
- If electric scooter ride sharing is allowed to grow in Australia, close monitoring and tight regulation will be required to maintain safety and avoid issues such as those seen previously with bike sharing.

**Key Point 5 - The use of innovative vehicles is illegal in most jurisdictions.**

- Vehicle classifications and standards should be updated to provide clarity about what is legal for use on footpaths and therefore what is legal to be imported. Devices that exceed 200 watt power should not be allowed to be used on footpaths and pathways.
- A number of submissions to the Senate Standing Committee raised concerns about mobility scooter drivers being affected by drugs or alcohol when travelling on footpaths. Submitters noted that users cannot be breath or drug tested when travelling under a speed limit as they are classified as a pedestrian.

**Key Point 6 - A lack of national consistency could create confusion for industry and community.**

- A systematic and sustained approach to data collection regarding incidents and safety related to innovative vehicles and MMDs is needed to understand the issues properly.
- Data collection needs to focus on more than just users of the devices and needs to include and understand impacts on pedestrians and mental wellbeing even if physical injury is not sustained.
- Data collection should pay particular attention and engage directly with pedestrians who have a vision or hearing impairment.
- Improving the consistency of how these devices are managed is the first step. Greater education is then required so users and other community members are aware of the requirements. Appropriate resources should be allocated to make this effective.

**Key Point 7 - Limited understanding of the safety risks associated with innovative vehicle use.**

- It is difficult to find data on safety issues involving innovating vehicles. Consideration should be given that medical reporting includes these devices to understand the incidence of injuries related to their use.
- Retailers and health professionals advising on the purchase of these devices need to undergo accreditation to provide buyers with appropriate safety information.

***Surf Coast Shire Council response to issues paper questions.***

**What characteristics need to be considered when defining what an innovative vehicle is?**

- A distinction needs to be made between innovative vehicles as leisure devices and MMDs, which assist people with mobility issues. MMDs should be given priority and greater use above innovative vehicles, when reviewing the ARRs.

**What differences between motorised wheelchairs and mobility scooters need to be recognised by this project?**

- It should be recognised that motorised wheelchairs are designed for people who have a permanent disability, are unable to walk, and who use these devices as their primary or only mode of mobility.
- Motorised wheelchairs are used by people with a disability to support their independence and participation in their community. These wheelchairs are prescribed by a qualified professional.
- Mobility scooters are often used by people who have a disability or limited mobility but are able to walk short distances within their home environment or in the community. Mobility scooters are often used as a secondary means of transportation.
- Motorised wheelchair users and mobility scooter users rely on their mobility devices to access the local community. This project needs to formally recognise both devices as essential transportation for people with limited mobility to access their community.

**What key factors need to be considered when determining safe rules of operation (including speed) for innovative vehicles on roads and road-related areas?**

- The needs of people with a disability need to be carefully considered. People who are blind or have low vision may not be able to negotiate with a speeding vehicle on a path. Pedestrians who have a hearing impairment are placed at risk with a vehicle on a pathway.
- Innovative vehicles that are capable of speeds over 10km/h place all other footpath and pathway users at risk. Vehicles that can attain speeds in excess of 10km/h should not be allowed on footpaths.

As per the recommendations made in the RACV report: Assessment of New Recreational Transport Devices (2016), there is a need to:

- Develop Australian and NZ standards to define performance standards in relation to electrical or fuel safety, warning devices, light and reflectors, speed control and limiting, braking, and human capability to control the recreational vehicle;
- Develop training, testing and licencing for riders, including age limits for solo riding in different settings.
- Require conditions that should be attached to their use on different types of infrastructure.

**What are the practical and measurable outcomes required from a nationally consistent policy and regulatory framework for innovative vehicles?**

- Reduction in complaints from pedestrians about the safety risk from speeding innovative vehicles and MMDs.
- Reduction in deaths, injuries and incidents relating to conflicts between pedestrians and innovative vehicles and MMDs.
- Increased education and understanding for all users about the policies and rules governing the use of these vehicles.
- New policies relating to design, speed and safety requirements leading to changes in design standards being introduced.

**What barriers and health or safety risks are associated with the use of a motorised mobility device that does not meet the needs of a user because of the current restrictions?**

- Many MMDs for sale in Australia have been imported which exceed the weight and speed limits established in the ARR so are in effect being used on pathways illegally.
- This inconsistency is placing other path users - particularly people with a disability - at a significant disadvantage with regards to motorised mobility devices choice.
- The existing confusion in the regulations and rules for motorised wheelchairs places the users at a greater safety risk as they are less likely to understand their legal obligations.

- The motor of a motorised mobility device currently cannot exceed 200-watts, travel above 10km/h and must maintain an unladen mass limit of 110kg to travel on pathways. There are no restrictions on the length or width of these devices, so a user may purchase a device without knowing if the device will be able to access parts of infrastructure such as doorways, public transport and community facilities.
- The lack of guidelines and technical standards for MMDs place users at risk of purchasing and using a device that is not suitable for accessing their community in a safe manner or is illegal to use.

#### **How do current classifications of drivers of wheelchairs as both 'pedestrians' and 'vehicles' in the Australian Road Rules create confusion?**

- Currently, a motorised wheelchair that can travel faster than 10 km/h on level ground is considered a vehicle. Vehicles are currently not able to travel on pathways; therefore some users are travelling illegally on pathways.
- Motorised wheelchairs that do not have the capacity to travel over 10km/h are considered pedestrians. There are many times when a user may need to travel on the road if there is no footpath to travel along. Therefore a wheelchair user as a pedestrian may not understand their legal obligations as a road user.
- In many cases, law enforcement authorities are not able to judge the speed capacity of a motorised wheelchair.

#### **Is there a need for construction and performance requirements for motorised mobility devices to ensure safe use on public transport infrastructure?**

- Many innovative vehicles and MMDs have wheels with a small wheel radius which creates instability. Manufacturing standards should consider appropriate and safe wheel radii.
- MMDs and Innovative vehicles should be fitted with mandatory alert devices to notify pedestrians and other path users they are nearby.
- Innovative Vehicles and MMDs should not exceed 200-watt power output.

#### **Conclusion**

MMDs are an important device assisting people with limited or no mobility to provide them with the opportunity to remain socially connected and independent. MMDs and innovative vehicles however can present safety challenges for users and in particular pedestrians if used without proper regard to safety. The AARs should reflect that MMDs need to abide to a speed limit of 10km/h on footpaths and pathways and stricter enforcement be put in place. MMDs must have appropriate design controls that enable them to be used safely.

Innovative vehicles are leisure based and the core purpose is not to aid with mobility or provide social connectivity and independence for people with a disability or low mobility. As such, they should be subject to strict controls including restricted power that does not exceed 200-watt power output and restriction to their maximum speeds.

Import laws and regulations should ensure closer monitoring of the types of vehicles that enter the Australian market. Some innovative vehicles while in use can look similar to a pedestrian which can confuse other road and footpath users. Innovative vehicle use can be unpredictable and there is a risk for pedestrians from high watt power vehicles that have a larger mass and can travel at double or triple walking speeds. Innovative vehicles and MMDs must be fitted with alert devices to avoid these issues.

Pedestrians especially those with vision and hearing impairments may feel unsafe as a result of the increased use of innovative vehicles on footpaths and pathways.

Regulations about the design and safety performance of innovative devices and MMDs need to be established.

Any revised or new regulations need to be clear about which agency is responsible for:

- checking device safety and appropriateness for use on footpaths and pathways
- enforcement of new compliance rules
- education for users and
- signage of areas for use

Surf Coast Shire Council encourages the review of ARR and development of clear guidelines concerning the safe use of innovative vehicles and MMDs. This review needs to recognise the safety of pedestrians with a disability who are entitled to an environment that enables access and inclusion in the life of their community. The new regulations should seek to find a balance for the use of MMDs so that people can remain connected and independent and ensuring that other users of footpaths, pathways and roads feel safe.

Thank you again for the opportunity to present this submission. Please feel free to contact Community Relations Manager Damian Waight or me on 5261 0540 if you require further information.

Yours faithfully

A handwritten signature in black ink, appearing to read "R. Hodge".

**Cr Rose Hodge**  
Mayor