Australian Government

Department of Infrastructure, Regional Development and Cities

Issues paper on the barriers to the safe use of innovative vehicles and mobility devices

Submission by the Department of Infrastructure, Regional Development and Cities to the National Transport Commission

February 2019

Introduction

1. In January 2019 the National Transport Commission (NTC) published a issues paper on the barriers to the safe use of innovative vehicles and mobility devices. The purpose was to investigate the extent to which regulatory barriers exist in the Australian Road Rules (ARRs) and other relevant legislation that may inhibit the safe use of innovative vehicles and motorised mobility devices (MMDs).
2. The NTC issues paper:
   - seeks to reach a complete and common understanding of the problem
   - reviews the current ARRs and other relevant legislation that affect the ARRs regarding the safe use of innovative vehicles and motorised mobility devices
   - recognises recent work completed by various parties relating to the use and safety of motorised mobility devices, and
   - identifies and provides an analysis of the key issues to consider as part of the project, prior to developing potential solutions.
3. This submission to the NTC issues paper provides feedback from the Commonwealth Department of Infrastructure, Regional Development and Cities (the Department) on questions asked within the paper. It reflects the role that the Department has in the importation and certification of road vehicles to the national standards, the Australian Design Rules (ADRs), as well as oversight of the Disability Standards for Accessible Public Transport 2002

Road vehicle legislation

The importation and certification of road vehicles (Q5, 7 of the NTC Issues Paper)

4. The Department administers the Motor Vehicle Standards Act 1989 (MVSA) and its future replacement, the Road Vehicle Standards Act 2018 (RVSA), on behalf of the Commonwealth. The MVSA/RVSA applies/will apply to new and used imported as well as locally manufactured road vehicles.

5. The NTC issues paper sets out the background to these Acts and their impact on innovative vehicles (page 14 NTC Issues Paper). The Department would like to provide further information. The RVSA will provide greater clarity and flexibility in the treatment of innovative (and other) vehicles when compared to the MVSA, because:

   a) The categorisation of a vehicle as a road vehicle will no longer include whether it is permitted to be used on a public road. The physical design features of the vehicle will be the only consideration;

   b) A vehicle or class of vehicles may be categorised as a road vehicle or not a road vehicle through a legislative instrument separate to (a) above; and

   c) A vehicle that is categorised as not a road vehicle may nonetheless be certified as a road vehicle, at the option of the importer/manufacturer, provided the applicable ADRs are met.

   These changes means that implementing a national agreement on the use and performance requirements (if any) of innovative vehicles should be more straightforward under the RVSA (it

should be recognised that performance requirements in terms of the ADRs can only be prescribed for a vehicle that is categorised as a road vehicle).

6. It is important for there to be agreement on the categorisation and performance requirements of innovative vehicles on a national basis, as the importation and certification of vehicles through the MVSA/RVSA can only be carried out on a national basis. While the subsequent use of a vehicle will always remain a matter for individual jurisdictions, the NTC issues paper identifies the disadvantages if use is not also on a consistent basis as set out in the ARRs. For example, the recent allowance of the use of Personal Electric Transportation Devices (PETDs) by Queensland has required a change to national importation requirements to reflect this decision. However, the national requirements for importation cannot be applied differently based on the destination of a particular vehicle. This may lead to confusion amongst importers and users and difficulties for enforcement agencies.

The scope of the project (Q1, 3 of the NTC Issues Paper)

7. The scope of the project as described in the NTC issues paper is for vehicles that are characterised as a form of transport that differs from conventional vehicles such as cars, motorcycles and bicycles. Typically, these devices are small, portable and designed to carry one person (page 11 NTC Issues Paper). While there are international classifications for conventional road vehicles such as cars and motorcycles, there are no international classifications or standards for the smaller innovative vehicles mentioned. There are some national and even major market classifications and standards but there is little consistency on definitions or performance requirements. To some extent, this eases the path for regulators in Australia to classify and set requirements tailored to Australia's own infrastructure and vehicle fleet and use characteristics.

8. The Department would like the NTC issues paper and subsequent work to recognise that there is a small group of vehicles sitting between the portable devices mentioned above and conventional vehicles. These are quadricycles and heavy quadricycles (also Neighbourhood Electric Vehicles). They are different to quad bikes (which are discussed briefly in the NTC issues paper) in that they are designed for road use and they may carry more than one person. In Australia there is no national certification path solely for them and no specific jurisdictional allowances for their use on roads.

   Internationally, there is a framework that defines quadricycle characteristics (United Nations category L6 and L7), but there are only regionally-based standards for them, as only some countries allow them to be used on roads and there are differences between major markets both how the vehicles are defined and their safety requirements. Australian infrastructure and transport ministers have previously assessed the overseas safety performance of these vehicles and agreed that in Australia they need to meet conventional vehicle safety requirements. This means that in Australia they are classed as normal passenger cars.

Construction and performance requirements (Q3 of the NTC Issues Paper)

9. Regarding the regulation of innovative vehicles that are not also considered to be road vehicles, the Department acknowledges (as explored in the last NTC workshop) that there is a difference between mobility for necessity and mobility for choice and that there could be different requirements set both on the vehicle and its use for each of these uses. Mobility for necessity could allow for heavier vehicles and greater access but as a consequence slower speeds. Mobility for choice could instead restrict access and mass of vehicles but allow greater speeds. The Department also supports the basic grouping by infrastructure type and speed capability in line with Austroads work a number of years ago that identified three types; pedestrian based, bicycle based and road based. Each infrastructure type then leads to separate consideration of vehicle registration (including performance standards), insurance and licensing:

Infrastructure Type	**Characteristics of infrastructure**	**Examples**	**Appropriate maximum powered speed limit**
A. Pedestrian Based	Design primarily based on pedestrian use	Footpath, shared path	10km/h
B. Bicycle Based (includes most minor roads)	Design primarily for bicycle use or for conventional vehicles at low speeds	Shared path, off-road cycle path, roads < 50km/h	25km/h
C. Road Based	Designed primarily for conventional vehicles	On-road marked bicycle lanes, roads > 50km/h	25km/h (but human power required above this speed)

10. The resulting matrix could be used in this project as a framework to capture and explore the different combinations of users, manufacturers and regulators. There has already been a lot of work completed on mobility by necessity by Austroads and others (including as discussed below) so this may already be close to being able to be finalised.

Safe use on public transport infrastructure (Q9 of the NTC Issues Paper)

11. Section 4.3 of the NTC issues paper concerns the compatibility of motorised mobility devices (MMDs) with public spaces and transport infrastructure. The accompanying Question 9 enquires as to whether there is a need for construction and performance requirements for motorised mobility devices to ensure safe use on public transport infrastructure?

    The Department does see the need for construction and performance requirements for MMDs to ensure safe use on public transport. In responding to Question 9 the Department would like to specifically address the use of MMDs on public transport conveyances.

    The Department administers on behalf of the Commonwealth, the Disability Standards for Accessible Public Transport 2002 (Transport Standards). As part of legislative requirements specified in the Transport Standards, the Department undertakes 5 yearly reviews to ascertain the effectiveness and efficiency of the Transport Standards in eliminating disability discrimination on Australia's public transport systems.

    Both the first and second Transport Standards reviews highlighted issues surrounding the use of MMDs on public transport and called for the development and introduction of a national labelling scheme to provide guidance to public transport operators and the disability community on which devices fit within the dimensions of allocated spaces, boarding devices, access and manoeuvring areas on conveyances, as specified in the Transport Standards.

    In April 2018 the Department highlighted these concerns in its submission to the Senate Standing Committee on Rural and Regional Affairs and Transport References Committee inquiry into the need for regulation of mobility scooters, also known as motorised wheelchairs (see Attachment A).

    As detailed on page 5 of the Department's submission to the Senate inquiry, the development of a labelling scheme was included as part of an Austroads project to develop a national framework for motorised mobility aids (discussed pages 18-20 NTC Issues Paper).

    The Senate inquiry subsequently delivered two recommendations (page 21 NTC Issues Paper) calling on the Australian Government to support Austroads in continuing its work and Austroads to take account of the inquiry findings as part of its deliberations.

    In consideration of the extensive project work already undertaken by Austroads and its continuing ongoing work, the Department recommends that rather than reopening the need for construction and performance requirements for debate (as per Question 9), Austroads' work, including the development of a national motorised mobility device labelling scheme should be strongly supported.