13 December 2019

Mr Tim Davern
Project Manager
National Transport Commission
Public submission – Barriers to the safe use of personalised mobility devices
Level 3
600 Bourke Street
Melbourne, VIC, 3000

Dear Mr Davern

Barriers to the safe use of personalised mobility devices consultation regulatory impact statement

The Municipal Association of Victoria (MAV) welcomes the opportunity to make a submission to the National Transport Commission (NTC) *Barriers to the safe use of personalised mobility devices (PMD) Consultation Regulatory Impact Statement* (RIS).

PMDs are usually small, portable and individualised modes of transport, designed to carry one person over a short to medium distance. PMDs are sometimes also referred to as micro-mobility. The regulatory framework proposed by the consultation RIS defines a PMD as having one or more wheels, propelled by an electric motor with an effective stopping system controlled by using brakes, gears or motor control, which cannot reach a speed greater than 25km/h on level ground. A PMD is not more than 1250mm in length by 700mm in width by 1350mm in height and does not weigh more than 60kg. A PMD is not equipped with any object fitting not technically essential to the device that protrudes from any part of the vehicle, that would increase the risk of bodily injury to any person.

The consultation RIS focuses on a series of eight questions across two broad issues:

- the proposed regulatory framework and key requirements, including motor type, braking, dimension and weight to be adopted into the Australian Road Rules (ARR), and
- analysis of options and speed approaches such as safety risks, access, amenity impacts and related challenges, including compliance and enforcement, to permit PMD access on public roads and path infrastructure.

The consultation RIS recommends option 3, speed approach 1 as the preferred regulatory option (*permit the use of PMDs on most pedestrian infrastructure, bicycle paths and **local roads**, with PMDs not permitted to travel at a speed faster than 10km/h on a footpath or shared path or faster than 25km on a separated footpath, designated for the use of bicycles, bicycle path or road*). The MAV supports the NTC's preferred option in-principle, with the exception of access to footpaths, noting the comments outlined in further detail below. If footpaths are not removed from option 3, the MAV's preference would be option 5 'permit the use of personal mobility devices on bicycle infrastructure and roads' with the addition of shared paths.

PMDs have the potential to play a valuable role in Australia's transport mode mix, particularly in the first and last mile of travel for people using public transport. In Victoria, PMDs are currently operating within an undefined regulatory environment and there has not yet been a formal trial of electric scooter devices, unlike in Queensland and South Australia.

Some PMD users do not realise they are currently using devices illegally on Victorian roads and paths. Safe infrastructure and speed are key considerations for councils to support pedestrian safety and amenity in public spaces.

User awareness education for PMD users is important when considering the options and speed approaches outlined in the consultation RIS. Supporting PMD users' awareness of where and how they can use PMDs, including their responsibilities to others sharing roads and paths (especially in a highly urbanised environment) is an important consideration in the development of regulations.

Question 1 – are the requirements in the proposed regulatory framework appropriate? Are there any requirements that should be removed, included or modified?

The MAV supports in principle the requirements outlined for the proposed regulatory framework. The requirements would benefit from further consideration of PMDs that cannot be touched or guided by the user's hands e.g. onewheels, solowheels, electric skateboards and e-skates. Should the proposed framework classify hands-free PMDs the same as PMDs with handlebars?

The MAV considers the hands-free PMDs pose a higher risk to public safety, due to the additional balance required to use them and suggests additional requirements to guide their use would benefit public and user safety.

In response to question 2, is 60kg a suitable maximum weight for a PMD? If not, what is a more suitable weight and what other factors should be considered?

The weight of PMD devices that are likely to be used in close proximity to pedestrians, is an important safety consideration for councils. Mobility scooters, for example, can weigh up to 150kg, but their purpose is to assist people with limited mobility, rather than a personal mobility or leisure-based choice.

The consultation RIS would benefit from further information on the research that informed why the 60kg PMD weight limit identified by Queensland and subsequently included in South Australian regulations.

Considering the weight of the heaviest device listed by the RIS is 37kg (Segway), the MAV agrees that the 60kg unladen weight limit is acceptable. It is likely that as technology improves the weight of devices may decease as their charging and battery requirements change.

In response to question 3, should children under the age of 16 years old continue to be permitted to use a motorised scooter incapable of travelling more than 10km/h on level ground on roads and paths? Or should they be able to use any device that complies with the proposed PMD framework?

The ARRs currently allow individuals of any age to use a motorised scooter that is incapable of travelling more than 10km/h on level ground on roads and paths. Since PMDs have the capacity to travel faster than 10km/h, the MAV supports the approach taken by the jurisdiction of Queensland, with similar regulatory frameworks for PMDs that require a person to be at least 16 years old, or at least 12 years old if supervised by an adult. The

MAV would support further consideration of a minimum age of 18 years old for PMDs that are capable of exceeding 10km/h and may be utilised on roads. This age requirement would also enhance the ability to enforce regulations for the potential misuse of devices.

It would be helpful to share the research used by Queensland regulations to inform the age requirements and the subsequent enforcement of the regulations.

In response to question 4, do you agree with the criteria selected to assess the options? Are there any key impacts not covered by these criteria?

The impact assessment criteria used – safety, access and amenity, economic costs and benefits, compliance and enforcement – are all key considerations for councils, particularly the first three criteria.

In response to question 5, when considering the safety risk assessment, access and amenity impacts, broader economic impacts, as well as compliance and enforcement impacts, has the impact analysis sufficiently considered all relevant variables and available evidence? What other factors could be included in the analysis?

Two significant variables which have not been sufficiently considered within the impact analysis of safety risks for PMDs are:

Condition of local roads and road-related areas - councils are concerned that from a design and condition perspective, existing public spaces and infrastructure may not be suitable for some PMDs currently available on the market.

Footpaths are designed, inspected and maintained by councils for use by pedestrians, not PMDs. There may be a risk in relation to how appropriate the surface of footpaths is for small wheels, typical of some PMDs, and related maintenance implications for councils. Another suitability issue is the shorter width of a footpath, in comparison to a bike or shared pathway. Additionally, the clearance space overhead on a footpath from vegetation, may not meet the needs of PMD users.

Other related challenges include debris on paths from trees, tree roots and uneven surface from edges of cement pavers. Considering some PMDs such as electric scooters, can be hard to manoeuvre and are easier to control if driven in a straight line, the safety of PMD users and pedestrians could be compromised by the current condition of path and local road infrastructure. In regional and rural areas, the continuity of footpath infrastructure can significantly reduce, once you leave the main street and road.

Regulatory option 3, suggested as the preferred option by the consultation RIS, includes permitted access for PMDs to local roads. From a maintenance perspective, there are safety concerns about the suitability of local roads. For example, the intervention levels for potholes on roads, is higher than intervention levels on footpaths and shared pathways, as local roads are assessed for use by motor vehicles.

The precinct structure plan design guidelines currently used by Victorian councils have been created primarily for pedestrians and bicycles. Without additional funding to upgrade and change local path infrastructure, it will be difficult to safely cater for a more diverse range of users.

Parking implications of PMDs – dockless and commercial nature of some PMDs e.g. electric scooters, has an impact on safety, amenity and space on road-related infrastructure resulting from where they are left. The investment by commercial operations in technologies

such as geo-fencing to lock-in recommended parking areas, is essential to help avoid the risks of bunching of electric scooters.

Whilst the consultation RIS has explored many variables based on available evidence, the lack of comprehensive Australian research and evidenced data on an international level associated with the use of PMDs is challenging. To develop an accurate picture of the impact of PMDs across Australia, a measurable evidence base including details of the circumstances is required e.g. via a standard crash or incident data collection template, relating to injuries and incidents involving PMDs. Only primarily anecdotal evidence currently exists and is based on perceptions and interests.

The link between speed and safety of PMDs is a key concern for councils. Support for further research into the impact of the use of PMDs on different road infrastructures, conflict and independent evaluation trials would be invaluable to informing amendments to the ARRs.

In response to question 6, what do you believe is the most appropriate road infrastructure for PMDs to access: footpaths, separated paths, bicycle paths and/or roads?

It is challenging to assess the most appropriate infrastructure given the range, size, speed capacity and design differentials for PMDs and the inextricable link to the speed they would be permitted to travel across public infrastructure.

PMDs will generally be best utilised as a transport option if permitted to travel at speeds that are greater than walking speed.

The MAV does not support the access of PMD on footpaths and is concerned with the implications for preserving the safety of pedestrian, particularly vulnerable pedestrians such as the visually impaired, elderly people or children. The risk of pedestrian and PMD conflict has instigated the banning of devices such as electric scooters on footpaths and pavements in other cities, such as Paris and Singapore. Many councils across Victoria have shared-path infrastructure, with pedestrians already sharing a path with cyclists and motorised mobility devices.

The consultation RIS assumes that bicycles are permitted to be used on footpaths without restrictions. Victoria does not permit bicycles on footpaths, unless the rider is 13 years or under, or 13 years and over accompanying and supervising a child under 13. It is therefore not appropriate that a PMD (some of which are capable of travelling at faster speeds), should be allowed access to certain footpaths.

Not all footpaths are the same and councils need effective mechanisms to manage use in different contexts. For example, Swanston street footpaths in the CBD of Melbourne, moves more people each day than most freeways and there is no capacity for PMDs in such locations. Footpaths in middle and outer urban areas, have lower (but increasing) pedestrian volumes and provide a safer place for micro-mobility, away from busy roads.

Physically protected bike lanes are the most appropriate place for PMDs to operate, due to their comparable weight, power, speed and acceleration to bicycles. When considering the use of some PMDs for commuting purposes, physically protected bike lanes are likely to provide a safer alternative transport option for potential users, compared to a bike lane separated with only paint.

Local roads with speed limits of 30km/h are more appropriate for PMDs, although most have a speed limit of 40km/h. The speed limits on local roads, subjects the PMD user to a higher risk of harm when operating alongside larger motor vehicles.

In response to question 7, what is an appropriate and safe maximum speed that PMDs should be permitted to travel across the various infrastructure including pedestrian areas, bicycle areas and roads?

The MAV supports a speed of no more than 10km/hr on shared paths should be regulated to prioritise and protect the safety of pedestrians (subject to further consideration of issues summarised in question 8).

Within bicycle related areas, including bike paths and bike lanes, up to but no faster than 25km/h to reduce the risk of conflict with other users (cyclists) travelling in this designated area and enabling PMD users who are utilising the device for commuting purposes, greater connectivity options, while preserving pedestrian safety.

In response to question 8, do you agree with the overall assessment that Option 3, speed approach 1 is the option that best balances mobility and safety? If not, which option and speed approach do you prefer?

With the exception of PMDs being allowed access to footpaths, the MAV agrees in principle, with the assessment that option 3, speed approach 1 has the potential to be the best approach to balance mobility and safety. Access to public infrastructure included in Option 3 such as shared pathways and bicycle paths (with speed regulation) is more appropriate than footpaths. Shared pathways are more prevalent across municipalities than separated pathways or designated bike paths. Allowing PMD access to shared pathways would enable PMDs to be used for commuting short distances.

It is considered that the use of PMDs on footpaths would present too great a risk for pedestrians, even with the speed limit of 10km/h. Footpaths are designed and maintained at levels appropriate pedestrian use. They are generally not to a standard to allow for other users, such as bicycles and PMD users. This will include the width of the footpaths for multiple users as well as the standards of repair. For example, most councils within their Road Management Plan, under the Road Management Act, will have an intervention level for footpaths of approximately 20mm to 30mm. Under those plans, defects in footpaths are only required to be rectified when the defect exceeds the intervention level.

The allowance of PMDs on footpaths is likely to result in an increase in incidents involving footpaths. This may result in increased claims being made against councils where the footpaths are not maintained to a standard that is reasonable for all permitted uses. The option of maintaining footpaths to a higher standard is unlikely to be feasible for councils due to their limited resources.

The only other option presented by the NTC which the MAV would support, is option 5 which would allow PMD access to separated footpaths, bicycle paths and roads (except where a no bicycle sign indicates otherwise) at a speed not faster than 25km/h.

As the NTC acknowledges, ensuring the safety risk to pedestrians on paths is minimised will require a high level of compliance and enforcement. The following issues need to be addressed further:

- Although out of the scope of the consultation RIS, insurance and liability implications associated with PMD use on public infrastructure, particularly footpaths, are

significant considerations for councils and need to be clarified before the ARRs are amended

- How would compliance with regulated PMD use on footpaths and shared paths be enforced?

- The suitability of path and local road infrastructure (see question 6 response)

- Bicycles are currently not permitted to be ridden on footpaths by persons over 13 years of age in Victoria (unless accompanying a child aged 13 or under), therefore it is not appropriate that PMDs (which are capable of travelling at faster speeds) should be allowed access to footpaths

In conclusion, the MAV supports the need for a nationally consistent regulatory framework to avoid the current confusion among users, industry and government.

The design and capacity of the road system to cater for a diverse range of vehicles and devices in Australia is being increasingly tested, with additional demands for access from new categories of vehicles.

With the exception of PMDs being allowed access to footpaths, the MAV agrees in principle, with option 3, speed approach 1. The MAV does not support the inclusion of access to footpaths for PMDs which should instead be on low speed roads, shared paths and bicycle paths. The MAV is concerned with the implications of PMD access to footpaths for preserving the safety of pedestrian, particularly vulnerable pedestrians such as the visually impaired, elderly people or children.

Without the removal of access to footpaths for PMDs, the MAV supports option 5 as outlined within the NTC consultation RIS, because the carriage way is designed and maintained for wheeled devices and vehicles, where the pavement has uneven and variable material surfaces.

PMDs are low speed in a vehicular environment and high speed in a pedestrian environment, which can create conflict in both. One of the biggest challenges for councils is the speed regulation of PMDs and the associated compliance and enforcement responsibilities. The police are the only authority that can regulate speed in these areas - councils have no authority to enforce compliance. The capacity of the police to effectively enforce PMD speed regulation to protect the safety of pedestrians, is therefore a significant consideration for councils.

While PMDs have the potential to increase mobility choice, the main concern of councils will remain the safety and amenity of pedestrians in public spaces.

Education and better data will play a key role in supporting the regulatory awareness and support the safe and responsible use of PMDs across public infrastructure. The experience of other highly populated international cities that have allowed PMD access to footpaths, should continue to be monitored and utilised to inform the developing regulatory environment in Australia.

Assessment of option 3 by the NTC should be re-visited after the consultation RIS exercise, to consider the proposed approach within the context of issues raised by stakeholders.

Kind regards,

Kerry Thompson
CEO