11 December 2019

Mr Tim Davern

National Transport Commission

Level 3

600 Bourke Street

Melbourne, VIC, 3000

Dear Tim,

**Barriers to the safe use of motorised mobility devices discussion paper**

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 motorized mobility devices discussion paper.

The discussion paper focuses on the two issues of maximum unladen mass for motorised wheelchairs and mobility scooters and their classification. These are relevant considerations for councils in their role of supporting community participation and pedestrian safety in public spaces. Changes proposed by the discussion paper which have been considered by the MAV are:

* to require the Australian Road Rules (ARR) to meet Australian Technical Standards (ATS) for the maximum unladen mass of motorised wheelchairs and mobility scooters
* to classify Motorised Mobility Devices (MMDs) as pedestrians, including remote operators.

MMDs are important devices that assist people who have limited or no mobility, providing them with the opportunity to remain socially connected, independent and actively participate in the community. The MAV supports the proposed regulatory changes to provide consistent national standards by aligning and increasing the unladen mass within the ARR with the ATS.

Under the Victorian Road Safety Act 1986 and the Road Safety Road Rules 2017, mobility scooters and motorised wheelchairs are not defined as motor vehicles (and therefore cannot be registered) and must have a maximum capable speed of 10 km/h on level ground and a maximum unladen mass of 110kg. MMD users are required to follow the same rules as pedestrians, including travelling on the footpath (unless this is impractical) and only using the road where an appropriate footpath or nature strip is not available. If there is no footpath available to use, users must travel facing oncoming traffic. MMDs are treated equally under Victorian regulations, rules and standards.

The MAV supports the proposed classification within the ARRs for MMDs as pedestrians. MMDs do present some challenges for users and pedestrians, if used without regard to safety or sufficient understanding of the device specifications and capability.

*In response to question 1 – do you agree with aligning the maximum unladen mass with the ATS or is there a more appropriate response to overcome the regulatory barriers identified*, the MAV supports the development of a national regulatory framework which has the potential to enable greater consistency between jurisdictions. It would provide MMD users with a clearer understanding of the legal requirements.   
  
The MAV supports in principle, alignment of the maximum unladen mass for motorised wheelchairs and mobility scooters in the ARR for use on paths, with the ATS developed by the AustRoads MMD project in 2012, noting the considerations outlined below.

As there is no specific historical data supporting the unladen mass restriction of 110kg for use on paths within the ARR for motorised wheelchairs and mobility scooters, the proposed alignment (to a maximum gross mass of 300kg and unladen mass of 170kg respectively) would address legal and safety barriers which currently exist for users. Increasing the unladen mass for motorised wheelchairs, would also recognise that no other mobility options exist for users on public transport.

The regulatory weight requirement in the ARRs does not reflect the fact that MMDs have become more sophisticated and larger, particularly when additional advanced equipment aids are required by a user. As the discussion paper acknowledges, many MMDs for sale in Australia have been imported. They may exceed the weight and speed limits established in the ARRs. As a result, some MMD users are unwittingly using their device illegally on footpaths and other public spaces.

Alignment between the ARR and ATS would provide greater clarity if there is a distinction between the unladen mass needs of people with greater mobility requirements using a motorized wheelchair, compared to users of a mobility scooter who can usually walk a short distance. The distinction outlined within the discussion paper, between users and type of MMDs would potentially enhance safety by enabling a clearer identification of a device’s compatibility with public infrastructure e.g. doorways and ramps into community facilities.

Although mobility wheelchairs are prescribed by a qualified health professional and custom fitted to meet specific needs, there is no current training, licensing or registration regime for users. Mobility scooters can often be purchased independently and from outside Australia, without the need for an assessment by a health professional.

The lack of guidelines and technical standards for MMDs, including their width and length and minimum operational performance requirements, places users at risk of purchasing and using a device that is not legal or suitable for safe use. This lack of guidelines and standards could contribute to confusion and misunderstanding amongst users about their legal obligations. Councils find a lack of guidance on the size and dimensions of MMDs a challenge, particularly relating to recent double seat models which can block a footpath when parked outside a shop.

It should be noted that in Victoria, the re-sale of MMDs is not controlled or regulated and devices can be sold on the internet. Feedback received by councils indicates that some devices are being sold that are not well maintained and without professional guidance.

There is a lack of research and evidence on the safety risks associated with the use of MMDs. A national database of crashes involving MMDs and details of the circumstances would be of significant value in improving the safety of MMD user behaviour and help prevent future accidents. The results of research recently commissioned by VicRoads to better understand the perspectives of MMD users, health professionals and retailers should be utilised by the NTC to further develop insight and inform future MMD regulation and standards.

*In response to question 2, and the proposed pedestrian classification within the ARRs, including whether it is appropriate that all MMD operators are required to follow the pedestrian road rules*.

Although there is little research on the safety of MMD on paths and road-related areas, the link between speed and safety is a key concern for councils.

Currently, the capability of a device, rather than the actual speed a device travels on a path determines whether an MMD is classified as a pedestrian or vehicle within the ARRs.  
  
Considering the capability of most MMDs is over 10km/h and some MMD users do not have high levels of balance or strength, the proposed pedestrian classification could support the awareness of users to operate their MMD legally and enhance both their safety and pedestrians. Councils support the slow-speed switch developed by the ATS for MMDs that can exceed 6km/h, as an additional control option to enhance safety.

Although the historical limit of the 10km/h speed restriction is not known, it is supported by road safety research in pedestrian areas (*Paine, M 2011, ‘Safety requirements for small motorised alternative vehicles’, Vehicle Design and Research, pp. 11-108*) and the Senate Inquiry (2018) into the *Need for regulation of mobility scooters, also known as motorised wheelchairs*.

Many councils across Victoria have shared-path infrastructure, with pedestrians sharing a path with MMDs, cyclists and increasingly, personal mobility devices. Councils are concerned that existing public spaces and infrastructure may not be suitable for some of the MMDs currently available on the market e.g. breaks in the path networks which can make transition difficult for MMD users.

Confusion around which road rules MMDs should follow means many users are not aware they may be classified as a pedestrian or vehicle, depending on the speed their device is capable of. Further discussion is required to address the practicalities of any enforcement regime. For example, how enforcement of the proposed pedestrian speed limit would be resourced and monitored and what penalties users may face for non-compliance.

*In conclusion*, MMDs are important devices to support community participation by assisting people of all ages with limited, or no mobility, to remain socially connected and independent. The role of MMDs is to support and enable mobility rather than replace motor vehicles.

The inconsistency between the ARRs and the weight of modern MMDs presents legal, safety and participation barriers for people with a disability. This limits the MMD choices available to them and potentially reduces their level of community participation.

MMDs can present challenges for users and pedestrians if used without proper regard to safety. The proposed regulatory changes to align and increase the unladen mass within the ARR with the ATS will provide consistent national standards and better enable people to legally use MMDs with safer technical specifications which suit their needs, without compromising safety. Further consideration of the dimensions of MMDs, similar to those included within the consultation Regulatory Impact Statement, for personal mobility devices, is necessary from a safety perspective.

The proposed pedestrian classification and associated regulatory changes within the ARRs, should be supported by an education program, so MMD users are more fully aware of their responsibilities and obligations. With the provision of additional capacity, councils may be able to support appropriate awareness raising though community links and the expertise of access and inclusion staff.

Changes to regulations should also include improved data collection and consideration of simple and low-cost licensing and registration arrangements.

Although out of the scope for this discussion paper, insurance implications and liability associated with MMD use of public infrastructure, are important considerations for councils.

If the unladen mass of MMDs within the ARR is increased to meet the ATS and enhance the mobility choices and safety of MMD users, classifying MMDs as pedestrians could be a reasonable balance and enhance the safety of other path users.

Kind Regards,

Kerry Thompson  
CEO