



The Hon. Duncan Gay MLC
Minister for Roads and Freight
Leader of the Government
Leader of the Nationals
Legislative Council

Ms Rhonda Miller
Clerk of the Legislative Assembly
Parliament House
Macquarie Street
SYDNEY NSW 2000



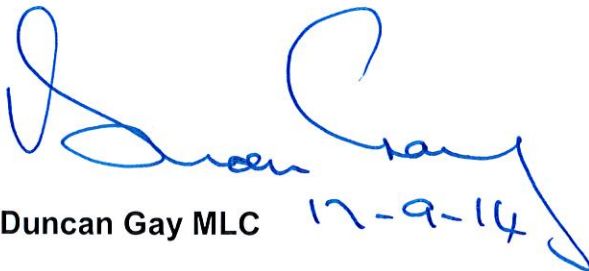
Dear Ms Miller

I refer to the Joint Standing Committee on Road Safety's (Staysafe) report into Non-Registered Motorised Vehicles which was published on 18 March 2014.

Please find attached the NSW Government response, due 18 September 2014.

I hope this information has been of assistance. For more information please contact Margaret Prendergast, General Manager, Centre for Road Safety on (02) 8265 7510.

Yours sincerely


Duncan Gay MLC 17-9-14

NSW Government response to recommendations in the Staysafe Inquiry Report into Non Registered Motorised Vehicles

Recommendation 1

The Committee recommends that an interagency working group, comprising Transport for NSW, the Ministry of Health, NSW Police Force and WorkCover NSW investigates ways to improve data collection and research on injuries and deaths caused by non-registered motorised vehicles, as well as relevant risk factors.

Position

Supported.

Proposed Action

Transport for NSW will reconvene the data exchange interagency working group, which will include representatives from the Ministry of Health, NSW Police Force, WorkCover NSW and the Motor Accidents Authority to investigate better data collection to improve understanding of the risk factors in crashes that involve non-registered motorised vehicles, particularly crashes occurring off-road. Transport for NSW will use data collected to consider target areas for further research on injuries and deaths caused by non-registered motorised vehicles.

Since January 2014, Transport for NSW's crash data capture system, Crashlink has been upgraded to allow for better classification of non-registered motorised vehicles to be captured in crash records. Transport for NSW is also working with NSW Health and the Motor Accidents Authority to link crash data with health and emergency data, to enable a better understanding of crash outcomes from road traffic crashes including those involving non-registered motorised vehicles. This work will allow for a regular and routine data exchange (through data sharing and linkage) that can:

- improve road safety decision making and provide information about the impact of road trauma; and
- provide a mechanism for determining the cost of injury (as incurred by the Compulsory Third Party (CTP) Scheme) to influence road safety priorities.

Transport for NSW and the NSW Police Force will work together to determine how to improve coding for non-registered motorised vehicle road crashes in the NSW crash database. The working group will need to consider the legislative definitions of some unregistered motorised vehicles as they can be inconsistent, which may be an impediment to improving data collection. For example, mobility scooters and motorised wheelchairs may fall under the definition of pedestrians under the Road Rules 2008 and motor vehicle under the *Road Transport Act 2013*. They are also defined as "other road motor vehicle" under the national guidelines for Reporting and Classifying Road Vehicle Accidents.

Recommendation 2

The Committee recommends that the interagency working group examines means by which to improve coding in the Admitted Patient Data collection to differentiate between vehicle types.

Position

Supported.

Proposed Action

Please see response to Recommendation 1 above.

Improvements in the coding of Admitted Patient Data to differentiate between vehicle types will be examined by the interagency working group.

NSW Health's Admitted Patient Data Collection currently uses the *International Statistical Classification of Diseases and Related Health Problems, Tenth Revision, Australian Modification* (ICD-10-AM) to classify diseases and external causes of morbidity and mortality.

Coding in the Admitted Patient Data collection currently differentiates between many vehicle types, including different categories of non-registered motorised vehicles. However, should the interagency working group consider this needs to change; a public submission including a cost-benefit analysis would need to be made to the Australian Consortium for Classification Development (ACCD) for modification to the ICD-10-AM classification.

If approved by the ACCD, the implementation costs of incorporating changes to the classification that need to be considered include the additional cost of policy development, staff training and changes to hospital information system, central data warehouses and reporting systems.

Recommendation 3

The Committee recommends that the interagency working group also consider the provision of training for police on vehicle type recognition, in order to improve the accuracy of crash reporting.

Position

Supported in principle.

Proposed Action

Transport for NSW will provide the NSW Police Force with improved training resources on vehicle type recognition to improve police crash reporting.

It is noted that the NSW Police Force already trains police officers in relation to the identification of power assisted pedal cycles. However, identifying vehicle types is made difficult by the absence of the requirement for markings on auxiliary motors identifying their power output. As this is a Commonwealth responsibility NSW will make representations to have a requirement for motors on power assisted pedal cycles to identify their power output. The NSW Police Force considers that in the absence of this information they will continue to have difficulty discerning motor vehicles from power-assisted pedal cycles.

Recommendation 4

The Committee recommends that Transport for NSW collaborates with local councils to encourage better reporting of crashes and incidents involving non-registered motorised vehicles through developing a smart phone application.

Position

Supported in-part.

Proposed Action

The role of Local Government is important in improving safety and amenity for the use of non-registered motorised vehicles. Transport for NSW will work with local councils to identify better reporting systems and road safety interventions for crashes involving non-registered motorised vehicles. Transport for NSW is currently working to provide improved access to crash information for local councils.

However, the Committee's specific recommendation to develop a smart phone application to allow reporting of crashes is not supported. Reliance solely on crowd sourced information on the reporting of crashes and incidents is not robust enough to make decisions about road safety interventions.

A lack of regulatory onus to report incidents involving non-registered motorised vehicles would lead to biased data collection and may exclude vulnerable users who do not have access to smart phones.

Recommendation 5

The Committee recommends that the NSW Government continues to progress the work being conducted with Austroads and other Australian jurisdictions to develop standard Australian Design Rule classifications for non-registered motorised vehicles.

Position

Supported.

Proposed Action

Non-registered motorised vehicles are not registered because there are no Australian Design Rules (ADRs) for them. Once ADRs are established, the vehicle is subject to the Identification Plate Approval process and become registrable.

The Road Transport (Vehicle Registration) Regulation 2007 allows for vehicles without applicable standards to be conditionally registered. Typically, these are vehicles that are primarily items of plant that require access to the road network for the purposes of being used as plant (e.g. certain types of construction equipment).

Transport for NSW will continue to work with Austroads to develop specific standards for non-registrable, alternative vehicles. This also relates to Recommendations 6 and 14 below.

Recommendation 6

While not pre-empting the current Austroads review, the Committee recommends that the Design Standards for mobility scooters be considered separately from those applying to motorised wheelchairs.

Position

Supported.

Proposed Action

The Austroads review is currently in progress and due to be completed by 2016.

Transport for NSW is involved in the Austroads working group researching standards for all types of mobility devices and will request that Austroads considers this recommendation in its review.

Recommendation 7

The Committee recommends that the NSW Government examine the feasibility of requiring manufacturers of electric bicycles to affix a label indicating the vehicle's power output to assist in enforcement and prosecution of illegally operated electric bicycles.

Position

Supported in principle.

Proposed Action

The Commonwealth Government is responsible for setting labelling requirements for products such as bicycles. Since 1 January 2011, the Australian Consumer Law (ACL) has provided a national approach to consumer laws in NSW and other Australian States and Territories. The ACL enables the Commonwealth Minister responsible for consumer protection to issue mandatory safety and information standards.

Power assisted pedal cycles must either comply with:

- the pedelec standard (European Standard, *EN 15194: 2009 or EN 15194:2009+A1:2009: Cycles – Electrically power assisted cycles – EPAC Bicycles*) or
- the auxiliary motor/s must not be capable of producing a combined maximum power output exceeding 200 watts, whether or not the motor/s is operating.

Pedalecs are already required to have a label affixed indicating the vehicle's power output under EN15194, which is a mandatory standard under the Australian Design Rules. They are therefore approved for use on Australian roads, must be certified by the manufacturer, and labelled as complying with EN 15194. The label must include the manufacturer's name, the motor's cut-off speed in km/h and its continuous rated power in watts.

Other types of power assisted pedal cycles are not currently required to have a label affixed indicating the vehicle's power output.

The Australian Competition and Consumer Commission (ACCC) has advised that it intends reviewing its Consumer Protection Notice No. 6. *Consumer product safety standard: pedal bicycles: safety* (the Safety Standard), which is a mandatory standard under Australian Consumer Law.

As part of this review, Transport for NSW will write to the ACCC to recommend that power assisted pedal cycles be included in the scope of the Safety Standard, and to recognise EN 15194 as the applicable standard for pedalecs. Transport for NSW will advocate for mandatory power output labelling for all new power assisted pedal cycles.

This would assist in the enforcement of new power assisted pedal cycles entering the market. Further, Transport for NSW will also advocate for stricter controls on the sale

of other types of motorised bicycles that do not meet the necessary performance standard of power assisted pedal cycles, as outlined in Vehicle Standards Information 27 *Mopeds and power assisted pedal cycles*.

Recommendation 8

The Committee recommends that Transport for NSW produce a list of legal bicycle models that meet the 200 watt output limit for enforcement purposes and illegal bicycle use be recorded on a person's driving record.

Position

Not supported.

Proposed action:

Bicycle offences currently do not attract demerit points and as a result would not be recorded on a person's driving record even if that person held a NSW licence as Roads and Maritime Services does not generally record non demerit point offences.

Transport for NSW will work with the NSW Police Force to improve training resources on vehicle recognition to improve police crash reporting (see response to Recommendation 3 above). This includes circulating Vehicle Standards Information 27 *Mopeds and power assisted pedal cycles*, which provides information on these pedal cycles.

Transport for NSW will also work with bicycle user organisations to encourage better communication to the public on what power assisted pedal cycles are legal.

The NSW Police Force does not consider that a list of bicycle models that meet the 200 watt output limit would assist with enforcement. Police need to be able to identify the size and output of the engine that is actually fitted to a bicycle, not just the engine capacity of the bicycle as sold. Engines may be modified after purchase to increase their power output, or auxiliary motors retro-fitted to any type of bicycle; so a list of bicycle models that meet the 200 watt output limit would not necessarily identify bicycles with engines that exceed the limit. There are many imports available for purchase through the internet and other mail order sources that are unknown to police, and auxiliary motors that exceed the 200 watt limit may be purchased online or made at home.

Recommendation 9

The Committee recommends that the NSW Government gives consideration to mandating the use of safety equipment, such as helmets and protective clothing, when operating a quad bike.

Position

Noted.

Proposed action:

The NSW Government is giving further consideration to this issue and WorkCover is currently progressing a research project that examines the links between the wearing of helmets and fatal and serious crashes involving quad bikes.

WorkCover will continue to work with Transport for NSW, the Department of Police and Justice and Roads and Maritime Services to consider options for helmet use on quad bikes.

In particular, consideration will be given to the interaction of the Road Transport and the Work Health and Safety legislation, noting that quad bikes are mostly used off-road with limited access to road networks, or in workplaces. Quad bikes are currently regulated as "plant" under the Work Health and Safety Regulation 2011, which requires that a person conducting a business or undertaking provide a suitable combination of protective devices for the operator of a quad bike in a workplace. Other safety requirements for motor vehicles, such as motorbikes, are contained in the Road Rules 2008, which regulate road users and road transport.

Further, there will need to be consideration of helmet standards, penalties and community education activity to raise community awareness of the importance using a helmet and the impact of any new laws.

Recommendation 10

The Committee recommends that the NSW Government reviews the WorkCover project on quad bike safety with a view to implementing a star rating system for quad bikes, if this proves feasible.

Position

Supported.

Proposed Action

WorkCover supports this recommendation.

Recommendation 11

The Committee recommends that local and state governments take account of powered mobility device safety when designing or upgrading public infrastructure. To this end, the characteristics of non-registered motorised vehicles such as mobility scooters should be factored into the design of public places, as reflected in local and state government planning guidelines, including the Long Term Transport Master Plan, the State Road Safety Strategy, as well as local infrastructure plans.

Position

Noted and supported in principle.

Proposed Action

Local councils are best placed to address the way urban design can meet the needs of non-registered motorised vehicles users in their own communities. It is noted that while desirable, designing and upgrading infrastructure that takes into account the characteristics of non-registered motorised vehicles can present practical problems and place burden on council resources.

The Department of Planning and Environment is currently working to prepare "Centres Design Guidelines" to support councils and to provide tools for the design of public places, including streets within existing and planned new centres. The Department of Planning and Environment will consider how the needs of non-registered motorised vehicles can be included into these guidelines, before they are finalised.

Transport for NSW has also identified the importance of mobility scooter safety and access in the NSW Road Safety Strategy 2012-2021 and the Transport for NSW Disability Action Plan 2012-17. Further, the Transport Access Program aims to provide improved access to public transport facilities for people with a disability and the ageing.

Recommendation 4 of the 2012 Review of the Disability Standards for Accessible Public Transport states that the Commonwealth Government jointly with State, Territory and Local governments, develop guidelines for a whole-of-journey approach to public transport planning. This will incorporate design of accessible streetscapes by local councils.

Recommendation 12

The Committee recommends that the NSW Government examines the viability of establishing an accreditation system for mobility device retailers in order to ensure that consumers are provided with material containing safety warnings and user information as part of the sale process.

Position

Not supported.

Proposed Action

The Government is committed to ensuring better information is provided to consumers prior to, and at the point of sale of mobility scooters and other mobility devices. However, the Government does not support an accreditation system for personal mobility device retailers.

NSW Fair Trading has legislation that imposes certain obligations on motor dealers (*Motor Dealers Act 1974* and the *Motor Dealers and Repairers Act 2013*). However, non-registered motorised vehicles are not captured under these Acts, nor should they be.

There is no relevant legislation covering an accreditation system for retailers of non-registered motorised vehicles, stand-alone legislation would need to be introduced. The introduction of an accreditation system would require clear evidence that the benefits of the scheme would outweigh the costs. There is insufficient evidence at this stage, given the potentially high regulatory costs associated with creation of an accreditation system, that it is the best policy option to deliver improved information for consumers to make safer purchasing decisions.

Recommendation 13

The Committee recommends that any accreditation system for mobility device retailers include a requirement to ensure that potential purchasers satisfy basic motor skills based competencies before purchasing such a vehicle.

Position

Not supported.

Proposed Action

The NSW Government acknowledges the importance of people having sufficient motor skills to operate mobility devices and will look to provide better safety information to help people make safe decisions when selecting the appropriate device for their skills and competencies.

As advised under Recommendation 12, non-registered motorised vehicles are not captured under the *Motor Dealers Act 1974* and the *Motor Dealers and Repairers Act 2013* and nor should they be. It is noted that there is no requirement under these Acts for dealers to determine the competencies of the person purchasing the vehicle. Accordingly, the Recommendation requiring a mobility device retailer determine a purchaser's competency for motor skills, imposes a greater obligation on mobility device retailers than on motor vehicle dealers. This is despite motor vehicles posing a higher safety risk to the public than non-registered motorised vehicles. Further, it is arguable whether the responsibility for assessing a customer's medical condition including their fitness to control a mobility device should be placed on retailers.

Recommendation 14

The Committee recommends that the NSW Government investigates the feasibility of imposing a requirement for mobility scooters to be fitted with compliance plates or road worthiness certificates, prior to their sale. Vehicles would not be able to be imported for sale unless this condition is met.

Position

Supported in principle.

Proposed Action

This is a Commonwealth issue and is currently being considered by the Austroads working group developing the standards for mobility devices. Labelling of mobility devices that are safe for use on public transport conveyances is also being addressed as part of this Commonwealth process.

Recommendation 15

The Committee recommends that Transport for NSW and the Motor Accidents Authority investigate the insurance liability and insurance coverage options for mobility devices.

Position

Supported in principle.

Proposed Action

In New South Wales, Compulsory Third Party (CTP) injury insurance is required for any vehicles requiring registration. The type of vehicles which are classified as motor vehicles for registration purposes, and the inclusion of any new vehicle classes, is principally a matter for the Minister for Roads. Such insurance is not available for mobility devices, however claims can still be made against the Nominal Defendant for injuries caused by mobility devices where injuries are incurred on roads or road related areas.

Due to the market structure and operation of the CTP market, there would be considerable pricing uncertainty with any new vehicle class entering the CTP Scheme due to the shortage of data relating to that vehicle class' actual claims experience. The CTP price for a new vehicle class could be volatile for several years until the claims data has stabilised. As such, the Motor Accidents Authority recommends consideration and analysis of the potential costs to owners and motorists in creating new vehicle classes for the purpose of registration.

It is noted that mobility devices are used in a wider range of places than roads and road related areas, such as inside shopping centres, buildings and other pedestrian areas. As such, an extension of the CTP Scheme to include them would not be sufficiently broad enough to cover all uses of many mobility devices. There are currently various types of insurance available to owners of mobility devices, although consumers may be unaware of the limitations of such insurance products.

In relation to off-road motorcycles, the use of designated legal off-road areas would enable users to use the identified area with a level of insurance cover. Under such an arrangement, the rider could pay a fee for a permit to ride, which would meet the cost of the rider's public liability insurance and an amount to offset any environmental damage or maintenance to the area.

The Motor Accidents Authority is willing to work with the Insurance Council of Australia to identify appropriate options for the insurance of mobility devices and provide this information and options to Transport for NSW.

Recommendation 16

The Committee recommends that Transport for NSW undertakes a public education campaign to inform the community of the risks of injury associated with the use of non-registered motorised vehicles and of the need for appropriate insurance to cover potential liability.

Position

Supported.

Proposed Action

Transport for NSW and the Motor Accidents Authority will work to develop community education materials and utilise various communications channels to adequately reach communities.

The Motor Accidents Authority notes in the findings of the Staysafe Report on Non-Registered Motorised Vehicles that many operators of these types of vehicles have not considered the risks involved and the insurance available to them. While claims can still be made against the CTP Nominal Defendant for injuries caused by mobility devices where injuries are incurred on roads or road related areas, this is insufficient for the range of risks involving the use of mobility devices. Point of sale information recommending insurance is often unavailable, given the widespread resale of mobility devices such as mobility scooters through eBay or classified advertising.

Transport for NSW will work with the Motor Accidents Authority and other road safety stakeholders to develop and disseminate public education materials on:

- Mobility scooters (as part of a larger project developing communication materials for older road users)
- Safety issues regarding illegal motorised bicycles
- Safety issues regarding personal mobility devices.

Recommendation 17

The Committee recommends that Transport for NSW examines the effectiveness of the scooter education and training pilot program implemented in British Columbia with a view to improving similar training programs delivered in NSW.

Position

Supported in principle.

Proposed Action

Transport for NSW is developing a communication, information and education strategy involving the development of an education program and resources for older road users which also includes users of motorised wheelchairs and mobility scooters.

Transport for NSW will examine the British Columbian program to determine the applicability of such a program to improve mobility scooter training in NSW.

Recommendation 18

The Committee recommends that Transport for NSW and WorkCover NSW design specific road safety campaigns to increase community awareness of the safety risks of different classes of non-registered motorised vehicles and the importance of skills and competency based training.

Position

Supported.

Proposed Action

Transport for NSW will work with other government agencies to explore the best options available to improve community understanding of the skills required to operate non-registered motorised vehicles and their safety risks.

The research project currently being progressed by WorkCover examines linkages between training and fatal and serious crashes involving quad bikes.

As mentioned in Recommendation 17, Transport for NSW will be developing a communication and education strategy to develop an education program and resources that will cover a broad range of road safety issues for all older road users including mobility scooter riders. This will be developed in collaboration with the NRMA Motoring and Services, Roads and Maritime Services and the Department of Family and Community Services.

Recommendation 19

The Committee recommends that non-registered motorised vehicle awareness also be included in pedestrian and road safety campaigns, such as Road Rules Awareness Week.

Position

Supported.

Proposed Action

Transport for NSW will work with other government agencies to explore various communication channels to raise awareness of non-registered motorised vehicles, including during Road Rules Awareness Week. Another possible communication channel to raise awareness of non-registered motorised vehicles is through the dissemination of Family and Community Services' seniors card resources.

Recommendation 20

The Committee recommends that Transport for NSW updates relevant road safety publications, such as 'A Guide to using motorised wheelchairs', to make clear that advice on road rules and road safety also applies to mobility scooters.

Position

Supported.

Proposed Action

Transport for NSW will review and make any necessary updates to safety publications about the safe use of motorised mobility devices, including on public transport.

Transport for NSW will also update any relevant website and face-to-face presentation material.