

The Senate

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Rural and Regional Affairs  
and Transport  
References Committee

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Need for regulation of mobility scooters, also  
known as motorised wheelchairs

September 2018

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# Abbreviations

ACCC	Australian Competition and Consumer Commission
AHRC	Australian Human Rights Commission
AIHW	Australian Institute of Health and Welfare
ACL	Australian Consumer Law
ARRs	Australian Road Rules
ARRU	[University of the Sunshine Coast] Adolescent Risk Research Unit
ARTG	Australian Register of Therapeutic Goods
ASTS	Australian Standard Technical Specification [for Motorised Mobility Devices]
Austrroads	the Association of Australian and New Zealand road transport traffic authorities
COTA	Council on the Ageing Australia
COTA Victoria	Council on the Ageing (Victoria)
CPSA	Combined Pensioners and Superannuants Association
CRPD	[United Nations] Convention of the Rights of Persons with Disabilities
Department of Health	Commonwealth Department of Health
Department of Infrastructure	Commonwealth Department of Infrastructure, Regional Development and Cities

DFM	[Monash University] Department of Forensic Medicine
MAIC	Motor Accident Insurance Commission
MDQ	Muscular Dystrophy Queensland
MMD	motorised mobility device
MMS	mobility scooters and motorised wheelchairs
MVSA	Motor Vehicle Standards Act
NCIS	National Coronial Information System
NCOSS	NSW Council of Social Service
NDIS	National Disability Insurance Scheme
NHMRC	National Health and Medical Research Council
NRMA	National Roads and Motorists' Association
NTC	National Transport Commission
OPA Victoria	Office of the Public Advocate (Victoria)
OTA	Occupational Therapy Australia
RAA SA	Royal Automobile Association of South Australia
TGA	Therapeutic Goods Administration
UN	United Nations
UNSW	University of New South Wales
USFDA	United States Food and Drug Administration
VISU	Victorian Injury Surveillance Unit

# **List of recommendations**

## **Recommendation 1**

**4.44** The committee recommends that the Australian Government ensure that Austroads has adequate funding to undertake research and consultation activities to inform the establishment of a nationally consistent regulatory framework for motorised mobility devices.

## **Recommendation 2**

**4.46** The committee recommends that Austroads take into account this report, and the evidence provided to the inquiry, for the purposes of establishing a nationally consistent regulatory framework for motorised mobility devices. As part of its deliberations, Austroads should consider simple and low-cost licencing and registration arrangements and third party insurance.



# Chapter 1

## Introduction and background

### Referral of inquiry

1.1 On 6 December 2017, the following matters were referred to the Senate Rural and Regional Affairs and Transport References Committee (the committee) for inquiry and report by 20 September 2018:

The need for regulation of mobility scooters, also known as motorised wheelchairs, including:

- (a) the number of deaths and injuries attributed to accidents involving mobility scooters in Australia since their introduction;
- (b) the causes of these accidents;
- (c) any current regulations governing the use of mobility scooters throughout Australia;
- (d) comparison of Australian regulations with international standards;
- (e) what support structures are in place to ensure the safe operation of mobility scooters;
- (f) the regulatory role of government and non-government bodies; and
- (g) any related matter.<sup>1</sup>

### Conduct of the inquiry

1.2 The inquiry was advertised on the committee's webpage. The committee also wrote to relevant Commonwealth and state government departments and agencies seeking submissions. The committee also wrote to disability service organisations and lobby groups, groups representing older consumers, academic and research institutions, mobility device suppliers, health and ageing professionals and rehabilitation providers, to invite submissions.

1.3 Details regarding the inquiry, and associated documents are available on the committee's webpage at [https://www.aph.gov.au/Parliamentary\\_Business/Committees/Senate/Rural\\_and\\_Regional\\_Affairs\\_and\\_Transport](https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Rural_and_Regional_Affairs_and_Transport).

1.4 The committee received 133 public submissions. A list of submissions is included at Appendix 1. Public submissions to the inquiry are also published on the committee's webpage.

1.5 The committee held one public hearing in relation to its inquiry. The hearing was held in Melbourne on 23 July 2018. A list of witnesses who appeared at the hearing is included at Appendix 2.

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<sup>1</sup> *Journals of the Senate*, No. 78, 6 December 2017, p. 2494.

## **Acknowledgements**

1.6 The committee would like to thank all the organisations and individuals who provided written submissions to the inquiry, or provided evidence at the public hearing held in Melbourne. Your efforts greatly assisted the committee in its deliberations.

## **Note on references**

1.7 References in this report are to individual submissions as received by the committee, not to a bound volume. References to the committee Hansard are to the proof Hansard transcript and page numbers may vary between the proof and the official Hansard transcript.

## **Structure of the report**

1.8 This chapter provides some background to the committee's inquiry and clarifies some of the terminology that is commonly used in relation to mobility scooters and motorised wheelchairs.

1.9 In undertaking this inquiry, the committee has become aware of the efforts currently being made by a number of organisations – including Australian road transport and traffic agencies – as they work toward the development of a nationally consistent approach to mobility devices. This chapter outlines the committee's approach to the inquiry, which is informed by evidence provided by these organisations, and other key stakeholders.

1.10 Chapter 2 provides an overview of recent inquiries, including those undertaken by the Australian Competition and Consumer Commission (ACCC), and the NSW Parliament. The chapter also examines the issue of both historic and current reporting of accidents, injuries and deaths attributed to mobility scooters. The chapter also examines the findings of a recent national survey of mobility scooter users, jointly undertaken by a number of stakeholder groups, including the ACCC, the National Roads and Motorists' Association (NRMA), CHOICE, EnableNSW and Flinders University.

1.11 Austroads and the National Transport Commission (NTC) are currently involved in developing a consistent, national framework focused on informing the use of motorised mobility devices and improving the safety of both mobility scooters and motorised wheelchairs. The process currently being undertaken by these two organisations is also outlined in Chapter 2.

1.12 Chapter 3 describes the current regulations governing the use of mobility scooters throughout Australia, and summarises the state and territory road rules which determine which mobility devices are permitted to be used on roads, footpaths and bike-paths. Also outlined in this chapter is the process by which Australian Transport Standards and Australian Road Rules (ARRs) are developed, maintained and administered.

1.13 Chapter 4 provides a summary of the committee's inquiry, including the key issues raised by stakeholders. The chapter also provides a summary of the committee's key findings, its primary views and its recommendations.

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## Terminology

1.14 From the very early stages of this inquiry, it was obvious that the terminology used in relation to mobility devices is less than clear. Mobility scooters – or motorised mobility scooters – are also frequently called 'buggies', 'scooters', 'motorised mobility devices' or 'gophers'. They are also at times classified and grouped together with other motorised mobility devices under generic terms such as 'motorised wheelchair', 'motor chair' or 'power chair' by the various state road authorities and transport organisations.

1.15 Adding to this general confusion is the fact that mobility scooters, motorised wheelchairs and other mobility devices can also be categorised as either 'medical devices' or 'therapeutic goods'.

1.16 A number of Commonwealth and state jurisdictions have established their own definitions in relation to 'mobility scooters' and 'motorised wheelchairs' for the purpose of administering their individual regulatory frameworks. The Commonwealth Department of Health (Department of Health) and the Commonwealth Department of Infrastructure, Regional Development and Cities (Department of Infrastructure) indicated that:<sup>2</sup>

- **The Australian Competition and Consumer Commission (ACCC)** – defines a mobility scooter as having three or four wheels attached to a frame, supporting a chair and steering wheel.
- **New South Wales regulations** – classify mobility scooters or 'gophers' as motorised wheelchairs. The NSW regulations also describe motorised wheelchairs as mobility aids with two or more wheels, which have a top speed of 10 km/h on level ground. (Under NSW regulations, a motorised wheelchair does not include a wheeled recreational device such as a motor scooter, pram, stroller, trolley or any other motor-assisted machine).
- **Western Australian regulations** – motorised wheelchairs under WA regulations include electric mobility devices for people with physical disabilities such as electric wheelchairs and devices formerly referred to as 'gophers' or 'scooters'. Under the WA Road Traffic Code 2000, motorised wheelchairs and other mobility devices used by people with a physical disability fall within the single definition of 'motorised wheelchair'. To be considered a 'motorised wheelchair', the device must be designed so it is not capable of a speed exceeding 10 km/h. Under WA legislation, people with a physical disability, who operate motorised wheelchairs at or below the limit of 10 km/h, are classified as 'pedestrians'.

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2 The following section is based on information provided in Department of Health, *Submission 98*, and Department of Infrastructure, Regional Development and Cities, website *Importing Vehicles into Australia: Import options*, [https://infrastructure.gov.au/vehicles/imports/import\\_options/orneao.aspx](https://infrastructure.gov.au/vehicles/imports/import_options/orneao.aspx) (accessed 2 July 2018), p. 5.

- **The Australian Human Rights Commission (AHRC)** – defines mobility scooters as battery powered three or four wheeled mobility devices, for one user only, that are specifically designed to travel on footpaths. They are simple vehicles with few working parts which require a relatively low level of maintenance. They are also referred to as 'motorised mobility devices'.<sup>3</sup>
- **The Department of Infrastructure** – controls the importation and supply of road vehicles to the Australian market and administers the *Motor Vehicle Standards Act 1989* and the Motor Vehicle Standards Regulations 1989. The Department of Infrastructure has its own set of definitions, and defines a motorised scooter as a device that:
  - is designed to be used by a single person;
  - has two or more wheels and a footboard supported by the wheels;
  - is steered by handlebars; and
  - is propelled by a motor or motors having a combined maximum power output not exceeding 200 watts.

The Department of Infrastructure indicated that if the maximum output of a motorised scooter exceeds 200 watts, it is then considered to be a 'moped' or a 'motorcycle' under Australia's national standards (and must comply with additional import requirements).<sup>4</sup>

### ***Differences between mobility scooters and power wheelchairs***

1.17 A significant number of submitters were keen to stress the importance of clarifying the terminology around mobility scooters, with many arguing that the major differences between mobility scooters and power wheelchairs needed to be more properly understood.<sup>5</sup> During the initial stages of its inquiry, the committee acknowledged the views put forward by key stakeholders and noted – via the inquiry's webpage – that while in some states and territories, 'motorised mobility scooters' and 'motorised wheelchairs' are grouped together, they are in fact two different vehicles.

1.18 In order to avoid confusion, the committee accepted evidence in relation to both types of vehicles, and they were regarded as separate devices for the purpose of the inquiry.

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3 Department of Health, *Submission 98*, p. 4.

4 Department of Infrastructure, Regional Development and Cities, website Importing Vehicles into Australia: Import options, [https://infrastructure.gov.au/vehicles/imports/import\\_options/orneo.aspx](https://infrastructure.gov.au/vehicles/imports/import_options/orneo.aspx) (accessed 2 July 2018), p. 5.

5 See, for example, Mr Sean Corcoran, *Submission 5*, Mr Peter Mitchell, *Submission 13*, Mr Ray Jordan, *Submission 23*, Mr Kevin Finlayson, *Submission 27*, Ms Marg Bell, *Submission 41*, and Ms Stacey Christie, *Submission 66*.

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### *Mobility scooters*

1.19 Although there are obviously a range of views regarding specific definitions, there is, however, some common ground. There was general agreement, for example, that mobility scooters are often used by people who have a disability, but have sufficient mobility to walk short distances (within their own home environment). These people use mobility scooters to access their local community: including visits to their local shopping centre, attending medical appointments, making use of sporting and recreational facilities and visiting friends and neighbours. Mobility scooters provide these people with a means to access their local community otherwise denied to them by the longer distances required to walk.

1.20 It was noted that, in contrast to power wheelchairs, mobility scooters are often classified as a 'mode of transport', with some state and territory government authorities not permitting the use of mobility scooters on public transport, or in wheelchair accessible taxis.

1.21 The ACCC's survey of mobility scooter usage, conducted in 2012, identified two separate user groups:

- those who use their mobility scooter as a secondary means of transportation – as an adjunct to walking; and
- those for whom a mobility scooter is a primary means of transportation – a 'lifeline' for maintaining their independence.<sup>6</sup>

### *'Power' or 'motorised' wheelchairs*

1.22 There was also some consensus around the definition of 'power' or 'motorised' wheelchairs. Submitters agreed that, generally, power wheelchairs are mobility devices 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. It was noted that power wheelchairs are often compact enough to be used at home as well as on public transport, and in private vehicles and wheelchair accessible taxis.

1.23 Motorised wheelchairs are mobility devices used by disabled people to support their independence and participation in their community. These wheelchairs are prescribed by a qualified professional, fitted to meet specific needs and are often expensive.<sup>7</sup>

1.24 Ms Stacey Christie, who has used a motorised wheelchair since she was a child (and is now in her mid-20s) explained that her latest motorised wheelchair was funded through the National Disability Insurance Scheme (NDIS):

It was prescribed by a qualified physiotherapist and custom-fitted for my needs. It's got a backrest fitted for my back, a reclining backrest, moveable

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6 Australian Competition and Consumer Commission, *Mobility scooter usage and safety survey report*, September 2012, pp 7–8.

7 See for example, Ms Marg Bell, *Submission 41*, Ms Helen Mikolaj, *Submission 46*, Council on the Ageing (Victoria), *Submission 49*, Mr Joanne Berry, *Submission 51*, and Ms Stacey Christie, *Submission 66*.

leg rests and other features – all customised to make the wheelchair comfortable for me because I spend many hours in my wheelchair each day. It's also got advanced safety features that makes the wheelchair virtually impossible to tip over e.g. the wheelchair automatically slows down when turning a corner. My wheelchair costs close to \$30,000.<sup>8</sup>

1.25 In its submission, the Tasmanian Department of Health and Human Services noted that whilst in Tasmania motorised scooters and power wheelchairs are both a form of powered mobility, they are considered to be different devices, with different intended purposes. The difference between the two devices was summarised particularly well:

A mobility scooter is a battery powered three or four-wheeled mobility device designed to travel on footpaths. They are activated by a simple throttle, operated with finger controls, which controls both speed and braking. Steering is via centrally located handlebars. In Tasmania, mobility scooters are commonly used by the ageing population and people with declining physical capacity, often as a vehicle replacement.

A powered wheelchair is a four to six wheeled powered mobility device designed to replace independent ambulation. Typically they are controlled by a unilateral steering mechanism such as joystick or toggle. Generally, in Tasmania, powered wheelchairs are most often used by people with a higher level of disability and are more likely to be prescribed by a therapist.<sup>9</sup>

1.26 For the purposes of this report, where appropriate, the general term 'motorised mobility device' is used and where relevant, the committee has distinguished between 'mobility scooters' and 'motorised wheelchairs' in accordance with the following diagram.



Figure 1: Motorised Wheelchair



Figure 2: Mobility Scooter

### ***Classification of mobility scooters***

1.27 The Department of Health noted that the "risk based classification system for medical devices is based on the intended purpose of the device".<sup>10</sup> Under current

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8 Ms Stacey Christie, *Submission 66*, p. 1.

9 Tasmanian Department of Health and Human Services, *Submission 50*, p. 1.

10 Department of Health, *Submission 98*, p. 6.

regulations, it is a requirement that all medical devices comply with the 'Essential Principles',<sup>11</sup> which relate to the "safety and performance characteristics of the medical device, as well as classification rules and conformity assessment procedures".<sup>12</sup> Under the classification system, unless there are risks which warrant a higher classification, (for example: the device stores, channels or modifies blood, or has contact with injured skin), non-invasive devices are usually categorised as Class 1. Currently, in Australia, mobility scooters are routinely classified as low risk – Class 1 – medical devices. Higher risk medical devices on the other hand, require independent certification to support their inclusion on the Australian Register of Therapeutic Goods (ARTG) (and approval for supply in Australia) with these requirements increasing in line with the risk of the device.<sup>13</sup>

1.28 In the case of Class 1 medical devices, manufacturers self-certify the device's compliance with the relevant provisions of the 'Essential Principles', the classification rules and the conformity assessment procedures. Effectively, this means that there is no further assessment of the application by the TGA prior to the device being included in the ARTG, which, according to the Department of Health, typically occurs overnight.<sup>14</sup>

1.29 To comply with ongoing obligations under the medical device regulatory framework, sponsors<sup>15</sup> must:

- report any serious adverse events (which resulted, or could have resulted, in serious injury or death);
- report any overseas regulatory actions;
- report the results of investigations undertaken by the manufacturer (such as further clinical studies and reviews of adverse events);
- obtain information requested by the TGA from the manufacturer; and
- maintain distribution records.<sup>16</sup>

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11 The Essential Principles set out the design and manufacturing requirements for medical devices. The manufacturer must apply appropriate conformity assessment procedures to ensure compliance of their devices with the Essential Principles, to ensure – and be able to demonstrate – that the device is safe and performs as intended.

12 Department of Health, *Submission 98*, p. 6.

13 Department of Health, *Submission 98*, p. 6.

14 Department of Health, *Submission 98*, p. 6.

15 The sponsor is the person or entity in Australia importing, exporting or manufacturing the device and is responsible for the inclusion of the device in the ARTG. It may be the case that, in practice, a sponsor may not have a direct relationship with the end user of the medical device. A sponsor's responsibility is a result of their role in importing, exporting or manufacturing the medical device, which can then be supplied through distribution chains in the medical or consumer sectors.

16 Department of Health, *Submission 98*, p. 6.

1.30 The Department of Health indicated that the TGA uses adverse event reports to monitor the safety of medical devices. The committee was advised that that since 2012, 13 adverse event reports for 11 devices have been received for mobility scooters and motorised wheelchairs.<sup>17</sup> It was also noted that the TGA has also undertaken recall actions for mobility scooters and motorised wheelchairs – one in 2002 and two in 2009 – but none have been identified after July 2012.<sup>18</sup>

### ***International regulations***

1.31 Akin to Australian regulations, similar devices are also generally classified as Class 1 in both Europe and Canada. In Europe, conformity of Class 1 medical devices is self-assessed by the manufacturer. In Australia, the sponsor includes the device on the ARTG, while in Europe they must register their operation with the medical device regulator in the relevant European member state prior to supplying within Europe. In Canada, manufacturers or importers of Class 1 products must have an 'establishment' licence for their operation, but individual Class 1 devices are not assessed by the regulator.<sup>19</sup>

1.32 In the United States, mobility scooters are either Class 1 or Class 2 devices requiring pre-market approval based on a comparison to other already approved devices. Assessment is undertaken by the US Food and Drug Administration (USFDA) prior to approval.<sup>20</sup>

1.33 It is noted that in each of these international jurisdictions, "additional requirements, such as speed limits, may apply under regulatory regimes separate to medical device regulations".<sup>21</sup>

### **Medical Devices Regulatory Framework**

1.34 As previously noted, mobility scooters and motorised wheelchairs can also be categorised as 'medical devices' or 'therapeutic goods'.

1.35 The regulation of medical devices, including mobility scooters, is required under the *Therapeutic Goods Act 1989*, and related regulations, including the Therapeutic Goods (Medical Devices) Regulations 2002.<sup>22</sup> The Department of Health, through the Therapeutic Goods Administration (TGA), regulates the supply, import, export, manufacturing and advertising of therapeutic goods – including medical devices.

1.36 The *Therapeutic Goods Act 1989* defines medical devices as including:

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17 The Department of Health's submission stressed that an adverse event report does not mean that the medical device is the cause of the adverse event.

18 Department of Health, *Submission 98*, p. 7.

19 Department of Health, *Submission 98*, p. 7.

20 Department of Health, *Submission 98*, p. 7.

21 Department of Health, *Submission 98*, p. 7.

22 Department of Health, *Submission 98*, p. 4.

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...any instrument, apparatus, appliance, material or other article ... intended ... to be used for human beings for the purpose of ... alleviation of or compensation for an injury or disability (s.41 BD, (1)(a)(ii)).<sup>23</sup>

1.37 The Department of Health submitted that mobility scooters are routinely classified as low risk (Class 1) medical devices in Australia, but also argued that:

...they are also potentially captured by the Therapeutic Goods (Excluded Goods) Order No. 1 of 2011, which intends to exclude *personal aids for people with disabilities* from the operation of the *Therapeutic Goods Act 1989*.<sup>24</sup>

### ***Approval to supply medical devices***

1.38 The Department of Health advised that, unless a specific exemption applies, for a medical device to be supplied in Australia it must be included on the ARTG. Prior to an approval to supply, the regulation of medical devices includes:

- classifying the medical device based on different levels of risk to the user (based on the intended purpose of the device);
- assessing compliance with a set of internationally agreed Essential Principles for their quality, safety and performance; and
- implementing appropriate regulatory controls for the manufacturing processes of medical devices.<sup>25</sup>

1.39 It was also noted that once medical devices are available for supply, they are subject to ongoing obligations and monitoring by the TGA, which includes the reporting and analysis of adverse events.<sup>26</sup>

1.40 While some mobility scooters are included in the ARTG, it was submitted that many mobility scooters supplied in Australia may not in fact be included on this register. The Department of Health noted that as a consequence of this anomaly, the scope of medical device regulation for mobility scooter products was currently being reviewed "in an effort to ensure appropriate boundaries for the regulatory framework, and clarity of requirements for suppliers of these products".<sup>27</sup>

1.41 It was also noted that a review of the Excluded Goods Order is part of broader reform in relation to low risk medical devices, which has come about as a result of the 2015–16 *Expert Panel Review of Medicines and Medical Device Regulations* which advised at Recommendation 23 that:

...the Australian Government undertake a review of the range of products currently classified as Class 1 medical devices, with a view to reclassifying products as consumer goods in circumstances where the product poses little

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23 Cited in Department of Health, *Submission 98*, p. 5.

24 Department of Health, *Submission 98*, p. 5.

25 Department of Health, *Submission 98*, p. 5.

26 Department of Health, *Submission 98*, p. 5.

27 Department of Health, *Submission 98*, p. 3.

or no risk to consumers should it not perform as specified, or malfunctions.<sup>28</sup>

1.42 The committee was advised that the Government had accepted Recommendation 23, and that in addition to assessing low risk medical devices, the proposed review would assess the scope of the exclusion of 'aids for people with disabilities', including considerations of the NDIS. It was also noted that the review, which would involve consultation with consumers, industry, health professionals and other Commonwealth regulatory bodies, is expected to be completed by the end of 2018.<sup>29</sup>

1.43 It was noted that the medical devices regulatory framework recognises these products as therapeutic goods. While the TGA regulates the import, export, manufacturer and advertising of therapeutic goods, it does not regulate their operating parameters or use. These operational aspects are outside the TGA's scope, while specific design issues or equipment failures which impact safety are within its remit.<sup>30</sup>

### ***Excluded goods***

1.44 Under the Therapeutic Goods (Excluded Goods) Order No. 1 of 2011, a number of items are declared not to be therapeutic goods or medical devices. These include 'household and personal aids' or 'furniture and utensils for people with disabilities'. The Department of Health submitted that, depending on the intended purpose, for a person with a disability, a mobility scooter may be considered a 'personal aid'. In that situation, the requirements under the medical devices regulatory framework do not apply.

1.45 A review of the range of scooters supplied in Australia revealed that many of the mobility scooters currently on the market may not be included on the ARTG. It was argued that this situation reflects a level of ambiguity (in the interpretation of this aspect of the regulatory framework) and also a lack of awareness on the part of companies selling mobility scooters.<sup>31</sup>

1.46 The Department of Health also raised questions about the way various 'personal aids' are categorised:

At present the performance of a range of disability aids are regulated as medical devices, but it is not clear where is it appropriate to draw a line between medical devices and 'personal aids'. For example, products such as can openers and tap turners for people with severe osteoarthritis might also be considered medical devices (in that they compensate for a disability), but regulating them as medical devices may be unnecessary (and so they would appropriately be excluded from the purview of the TGA).<sup>32</sup>

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28 Department of Health, *Submission 98*, p. 3.

29 Department of Health, *Submission 98*, pp 3–6.

30 Department of Health, *Submission 98*, p. 3.

31 Department of Health, *Submission 98*, p. 5.

32 Department of Health, *Submission 98*, pp 5–6.

### ***Exempt goods***

1.47 Custom-made medical devices are exempted (not excluded) from being included on the ARTG. The requirements of the medical devices regulatory framework still apply for exempt medical devices, but it is not a requirement that they be included on the ARTG prior to supply. Commercially supplied mobility scooters – even those modified for a specific user – would not usually be considered custom made. There are, however, some motorised wheelchairs which are more likely to be considered custom made.<sup>33</sup>

### **Transport and Infrastructure Regulatory Framework**

1.48 In addition to ensuring compliance with the regulatory framework for medical devices, sponsors and manufacturers are also required to comply with any other applicable legal requirements. This includes Australian corporations law and consumer law, as well as any Commonwealth, state, and local government health and safety requirements.

1.49 The department responsible for the design and implementation of the Commonwealth government's transport, infrastructure and regional development policies and programs is the Department of Infrastructure. In its submission, the Department of Infrastructure specifically addressed term of reference (c) – any current regulations governing the use of mobility scooters throughout Australia.<sup>34</sup>

1.50 The Department of Infrastructure used the term 'motorised mobility aids' to encompass both 'mobility scooters' and 'motorised wheelchairs' and explained that motorised mobility aids are not road vehicles, but devices primarily intended to assist those with disability and/or limited mobility, to travel off the road network. Further, it was noted that because motorised mobility aids are not classified as road vehicles, they do not fall under the scope of the *Motor Vehicle Standards Act 1989* (MVSA).<sup>35</sup>

1.51 The use of mobility scooters and motorised wheelchairs is regulated by state and territory governments. States and territories have their own road rules which govern – amongst other things – the type of devices that are permitted to be used on footpaths and bike-paths. The Commonwealth does, however, work in partnership with the states and territories to develop and support 'national model laws'. The model laws – or Australian Road Rules (ARRs) – are administered by the NTC. The Department of Infrastructure advised that it is the ARRAs which set mass and speed restrictions on mobility scooters when they are used on footpaths.<sup>36</sup>

### **Moving toward a national framework**

1.52 As Australia's population ages, the ability for older people to remain mobile, and retain both their independence and connections with the community will become

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33 Department of Health, *Submission 98*, p. 6.

34 Department of Infrastructure, Regional Development and Cities, *Submission 125*, p. 2.

35 Department of Infrastructure, Regional Development and Cities, *Submission 125*, p. 2.

36 Department of Infrastructure, Regional Development and Cities, *Submission 125*, p. 2.

increasingly more important. Motorised mobility devices have become one way older Australians, and those with a disability are able to access services and maintain their links with the community. Mobility scooters and motorised wheelchairs allow independent travel and a way for people to access shopping centres and recreational facilities, attend medical appointments and maintain social networks.

1.53 Motorised mobility devices, the committee was told, can (and do) provide a range of benefits for users. They provide a relatively inexpensive way for people to maintain their quality of life and enhance their overall health and wellbeing, and their feeling of social inclusion.

1.54 Balanced against these positives, however, the committee received a number of submissions which raised concerns about the increasing use of motorised mobility devices – particularly mobility scooters. A number of submitters questioned the safety of these devices and provided specific examples of accidents, incidents and near-misses involving both mobility scooters and motorised wheelchairs. Concerns were raised about motorised mobility devices – particularly mobility scooters – being used by people under the influence of drugs or alcohol, or being driven at inappropriately high speeds. To counter such misuse, a number of stakeholders argued that mobility devices should be licensed, registered and appropriately insured.

1.55 Unfortunately, the rules in relation to motorised mobility devices are inconsistent, complex, and frequently difficult to access. There is limited understanding of the extent to which these devices are used, the nature of their use, or the safety implications of their use – particularly by older Australians.<sup>37</sup>

1.56 From the very early stages of the inquiry, submissions from road transport and traffic agencies, community organisations and individuals expressed clear support for the development of a nationally consistent approach to motorised mobility devices. Submitters stressed the importance of finding a way to achieve both consistency and clarity in relation to the use (and safety) of both mobility scooters and motorised wheelchairs.

1.57 A number of organisations – particularly those representing people with a disability – expressed support for clear, accessible, and straightforward regulations. Muscular Dystrophy Queensland (MDQ) submitted that all users of pedestrian spaces need to have clear and consistent regulations, and argued that any regulations should be inclusive of the rights of people with disabilities as well as those of pedestrians.<sup>38</sup>

1.58 While there was clear support for developing a nationally consistent approach to the regulation of mobility scooters and motorised wheelchairs, stakeholders acknowledged that achieving this outcome represents a challenge, from both a policy

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37 Johnson, M., Rose, G. and Oxley, J., Australasian Transport Research Forum 2013 Proceedings, *Motorised mobility scooters – understanding a growing transport mode for older Australians*, October 2013, p. 1.

38 Muscular Dystrophy Queensland, *Submission 121*, [p. 3].

and legislative perspective.<sup>39</sup> The area of motorised mobility device regulation and safety is, in itself, complex. The sheer number of stakeholder groups, including academic institutions, road transport authorities, state and federal government departments, aged care and disability groups, local councils and consumer groups makes the task even more complicated.

1.59 Fortunately, there has been an increasing awareness over the past decade that any new policy framework in relation to mobility scooters and motorised wheelchairs needs to be based on a solid, evidence-based foundation.

1.60 Over recent years, organisations such as the ACCC, Monash University, Flinders University and the University of the Sunshine Coast have recognised the need to collect appropriate data in relation to mobility devices, and have conducted several very useful research projects.

1.61 Valuable research is also currently being undertaken by Austroads and the NTC: organisations which have specific expertise in the areas of transport, safety, policy development and the drafting of road rules. The work currently being undertaken by these organisations is outlined in Chapter 2. This research should form the basis of a national framework.

1.62 The committee's report provides a valuable summary of the views expressed by the wide range of stakeholders who provided evidence to the inquiry. The committee provides its report in the hope that the views expressed by stakeholders and the recommendations made by the committee will supplement the information available in relation to motorised mobility devices – their use and their safety.

1.63 The committee also recommends that its report is taken into consideration by Austroads and the NTC as they work toward a nationally consistent set of regulations which govern the use of motorised mobility devices – including mobility scooters and motorised wheelchairs.

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39 Johnson, M., Rose, G. and Oxley, J., Australasian Transport Research Forum 2013 Proceedings, *Motorised mobility scooters – understanding a growing transport mode for older Australians*, October 2013, p. 1.



## Chapter 2

### Motorised mobility devices and the issue of safety

2.1 The inquiry's terms of reference required that the committee investigate the safety of motorised mobility devices. Specifically, the number of deaths and injuries attributed to accidents involving mobility scooters in Australia (since their introduction). The committee was also asked to investigate the causes of these accidents.

2.2 This chapter provides an overview of the issues raised by submitters and evidence provided by stakeholders regarding the causes of accidents, deaths and injury that are attributed to mobility devices.<sup>1</sup> The chapter also provides an overview of the data that is currently available, and the studies that have been undertaken in relation to accidents involving mobility devices – including mobility scooters and motorised wheelchairs.

2.3 As discussed in the previous chapter, to describe the use of terminology in relation to mobility devices as 'complex' would be an understatement. Submitters to the inquiry used a range of terms when referring to mobility devices, including 'motorised mobility devices', 'motorised scooters', 'buggies', 'gophers', 'scooters', 'motorised wheelchairs', 'motor chairs' or 'power chairs'.

2.4 To provide a level of clarity and consistency, the general term 'motorised mobility device' is used where relevant, and the terms 'mobility scooter' and 'motorised wheelchair' are used where appropriate – in accordance with the diagram on page 6. The committee notes, however, that a number of the submitters who raised concerns about the safety of mobility devices, described them as 'mobility scooters' rather than 'motorised wheelchairs'.

#### Accidents involving mobility devices

2.5 The committee received a number of submissions which raised concerns about the use of mobility devices and questioned their safety.<sup>2</sup>

2.6 Ms Jacqueline Walling for example, described how her elderly father had – on two separate occasions – been hit from behind while walking on the footpath by "mobility scooters driven by people who haven't taken enough care".<sup>3</sup> Ms Walling advised that on the first occasion her father had received a skin tear on his leg which did not heal well. The injury, because of his age, has become a recurrent problem. On

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1 Various submissions to the inquiry raised concerns about the safety of mobility devices in general. However, a number of submissions which refer to specific accidents, incidents, or near misses (involving themselves or a family member) tend to identify the device involved as a 'mobility scooter'.

2 See, for example, Mr Ian Keith, *Submission 6*, Dr Colin Sheppard, *Submission 8*, Dr Trevor Hodson, *Submission 15*, Mr Frederick Charles, *Submission 21*, Ms Annette Philpott, *Submission 34* and Ms Kathryn and Mr Mark Rorke, *Submission 45*.

3 Ms Jacqueline Walling, *Submission 1*, p. 1.

the second occasion, her father suffered a broken ankle. Ms Walling told the committee that the impact of these types of accidents goes beyond the initial pain and suffering of the individual:

In my father's case he was unable to get up the stairs and my parents' only living room became his sick room for weeks which was highly inconvenient. My parents don't drive so transport was required to many hospital appointments – they spent a lot of time waiting around and then there were medical costs – not all covered by the public purse. And, of course the whole family was terrified that (as often happens with the elderly) the injuries caused by his being struck by the mobility scooter would start a downward spiral.<sup>4</sup>

2.7 Mr Frederick Charles described for the committee a 2017 accident in which his wife was hit from behind by a mobility scooter and knocked to the ground. Mr Charles noted that while his wife was not seriously hurt, she had received severe bruising and grazing to her legs and head. He argued, however, that the situation could have been much worse:

...when my wife was hit she landed on grass beside a concrete path, had she hit the concrete the potential was there for a fatality.<sup>5</sup>

2.8 Mr Patrick Whitton, the owner of a family business in NSW, told the committee that his mother (employed by the family business) was "the victim of a severe collision with a mobility scooter within a shopping centre" that resulted in her sustaining a significant fracture to the femur.<sup>6</sup>

2.9 It was submitted that the collision had come about as a direct result of the uncontrolled speed of the mobility scooter in the shopping centre. Mr Whitton argued that due to the lack of regulation in NSW, the operator of the mobility scooter was uninsured, and the shopping centre had no duty of care to safeguard pedestrians against mobility scooters whilst on their premises.<sup>7</sup> Mr Whitton advised that, as a direct result of the accident, his mother:

- has had surgery to have a titanium rod and screws inserted in her leg and hip (and has been advised by her surgeon that her prospects for a full recovery are limited);
- is unable to walk or stand properly;
- is unable to work;
- is required to undergo a life-long pain management program;
- has borne significant medical costs; and

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4 Ms Jacqueline Walling, *Submission 1*, p. 1.

5 Mr Frederick Charles, *Submission 21*, p. 2.

6 Mr Patrick Whitton, *Submission 62*, p. 1.

7 Mr Patrick Whitton, *Submission 62*, p. 2.

- 
- has been forced to sell her property.<sup>8</sup>

2.10 Mr Whitton expressed frustration about the situation his mother now finds herself in, noting that she is unlikely to ever fully recover from the collision mentally, or physically. Mr Whitton added that as no one is 'liable' under the current circumstances, the financial impact of the accident has also been "catastrophic".<sup>9</sup>

2.11 Submitter Dr Colin Sheppard called for an examination of the expanding use of mobility scooters and argued that, by definition, the users of mobility scooters frequently suffer from a combination of mental, physical and visual disabilities. Dr Sheppard submitted that:

These vehicles with a weight of over 200 kg (including driver) can be seen driven erratically or at excessive speeds on footpaths, roads, in shopping centres and through public parks. The risk of death or severe injury to pedestrians of all types, but particularly children, dogs and the elderly are obvious. Anyone who has been confronted by one of these monstrosities hurtling around a blind corner on a footpath in a public park will know what I mean.<sup>10</sup>

2.12 Dr Sheppard argued that given the increasing prevalence of mobility scooters, there is an urgent need for their regulation, and suggested that, at the very least:

- users of mobility scooters should be assessed in relation to their ability to operate the device;
- motor governors should be fitted to mobility scooters to prevent them travelling at more than a safe walking speed – about 5 km/h;
- mobility scooters should be fitted with a warning device such as a horn or a bell;
- mobility scooters should be registered and fitted with licence plates (so that dangerous users can be identified and held responsible for damage to property or persons);
- there should be some form of mandatory insurance for mobility scooters; and
- there may be a need to introduce penalties for people who use a mobility scooter while under the influence of alcohol or other drugs.

2.13 Dr Sheppard's submission reflected the views of a number of other submitters who raised issues such as the lack of a medical assessment for users of mobility scooters, the speed of mobility scooters, the need for licencing, registration and

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8 Mr Patrick Whitton, *Submission 62*, p. 1.

9 Mr Patrick Whitton, *Submission 62*, p. 2.

10 Dr Colin Sheppard, *Submission 8*, p. 1.

insurance and the problems associated with operating a vehicle while under the influence of drugs or alcohol.<sup>11</sup>

### **Research undertaken in relation to motorised mobility devices**

2.14 The evidence of the ACCC provided valuable background information for the committee's inquiry. The ACCC, which has been involved in a variety of projects relating to the use and safety of motorised mobility devices, furnished relevant historical information and provided context in relation to research that has been undertaken by Australian institutions over recent years.

2.15 In addition, several academic institutions responded to the committee's request for submissions. These institutions, which have undertaken research in relation to the use of motorised mobility devices in recent years, include:

- the Monash University Department of Forensic Medicine (DFM);
- the University of the Sunshine Coast Adolescent Risk Research Unit (ARRU); and
- CQUniversity Australia, School of Medical, Health and Applied Science.

2.16 The submissions provided by these academic institutions included the most current data and expert analysis of injury data (involving motorised mobility devices) which had been taken from a variety of sources.

### ***Australian Competition and Consumer Commission (ACCC)***

2.17 The ACCC is Australia's primary competition and consumer protection agency. The ACCC is responsible for administering and enforcing the *Competition and Consumer Act 2010*, which includes the Australian Consumer Law (ACL). In the majority of situations, motorised mobility devices deemed to be for personal use would be considered 'consumer goods', which means that the consumer guarantees and recall provisions of the ACL apply. The ACCC also plays a role in ensuring products are marketed in a way that is truthful, and encourages the supply of safe consumer products in Australia.<sup>12</sup>

2.18 As part of its responsibilities, the ACCC may also undertake research or advocacy to:

- gain a better understanding of the nature of product safety issues;
- determine whether it should intervene in the market; or

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11 See, for example, Mr Ian Keith, *Submission 6*, p. 1, Mr Richard Bunting, *Submission 9*, p. 1, Dr Trevor Hodson, *Submission 15*, p. 1, Mr Ray and Ms Judy Taylor, *Submission 16*, p. 1, Mr Nigel Caswell, President, People with Multiple Sclerosis Victoria, *Submission 18*, p. 2, Ms Annette Philpott, *Submission 34*, p. 1, Ms Kathryn and Mr Mark Rorke, *Submission 45*, p.1, Mr Patrick Whitton, *Submission 62*, [p. 3], Ms Jenny Linton-Webb, *Submission 67*, p. 1, Ms Nancy Capel, *Submission 69*, [p. 2], Pedestrian Council of Australia, *Submission 115*, [p. 2] and Ms Linda McDouall, *Submission 119*, p. 1.

12 Australian Competition and Consumer Commission, *Submission 87*, p. 2.

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- determine whether it should introduce mandatory safety standards or bans under the ACL.<sup>13</sup>

2.19 The ACCC has undertaken a variety of work in relation to the safety of motorised mobility devices. From 2009–2013, the ACCC was the lead agency for a reference group of interested parties which was established to identify issues, and take action to address safety concerns, associated with motorised mobility devices. The parties involved in the reference group included injury research organisations, business representatives, representative groups for older consumers as well as federal, state and territory government agencies.

2.20 The ACCC's reference group included three working parties:

- **the People and Users Working Party** – which worked to develop and conduct Australia's first national survey in relation to motorised mobility devices;
- **the Regulators Working Party** – which reviewed laws relating to motorised mobility devices and identified overlaps, inconsistencies and conflicts; and
- **the Equipment Working Party** – which included representatives from industry, and people with technical and standards development backgrounds.<sup>14</sup>

2.21 Using agreed requirements provided by the Regulators Working Party, the ACCC also surveyed the brands and models of motorised mobility devices available in the Australian marketplace.

2.22 It was noted that the results from the ACCC's survey were provided to Austroads to inform its current project, and that the ACCC's reference group was disbanded in March 2013 (following the commencement of an Austroads project to develop relevant mandatory requirements under the ARR's).<sup>15</sup>

2.23 Over recent years, the ACCC has also initiated research in relation to user behaviour, undertaken an analysis of injury data and developed a variety of educational and guidance material.

#### *Study of injury data by Monash University*

2.24 In its role as a consumer product safety regulator, the ACCC commissioned Monash University to undertake a targeted study of injury data to gain a better understanding of the risks and harms associated with motorised mobility devices.

2.25 The study, undertaken by the Monash University DFM, involved consultation with a range of stakeholders, including:

- researchers of motorised mobility devices;

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13 Australian Competition and Consumer Commission, *Submission 87*, p. 2.

14 Australian Competition and Consumer Commission, *Submission 87*, p. 4.

15 Australian Competition and Consumer Commission, *Submission 87*, p. 3.

- road safety and transport experts;
- health and ageing professionals and rehabilitation providers;
- suppliers of motorised mobility devices; and
- independent living group members.

2.26 The study, which was published in March 2011, found:

- 442 hospitalisations related to motorised mobility device fall injuries, during the two years between July 2006 and June 2008 (with suggestions that this number would be larger if collision data was included); and
- that the increasing use of motorised mobility devices may see hospitalisations related to motorised mobility devices grow by approximately 250 per cent over the next decade (in Victoria alone).<sup>16 17</sup>

2.27 The 2011 study also found that from July 2000 to August 2010, there were 62 identified fatalities related to motorised mobility scooters (and another 14 cases were under investigation). The largest proportion of deaths occurred in those aged 80 years and over, and were the result of individuals being struck by a motor vehicle. In contrast, the largest proportion of deaths in those younger than 80 years were as a result of falls.<sup>18</sup>

2.28 Importantly, a number of the stakeholders consulted as part of the study reported that there was confusion across all levels of the community about the appropriate use of motorised mobility devices. The study found strong support for a standardised set of regulations which would provide clear and consistent operating rules, and help reduce confusion and conflict between users of motorised mobility devices and other community members.<sup>19</sup>

*ACCC Survey*<sup>20</sup>

2.29 Between February and June 2012, the ACCC, the NRMA, CHOICE, EnableNSW, Flinders University and a number of other stakeholders collaborated on Australia's first national survey of motorised mobility device users.

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16 Australian Competition and Consumer Commission, *Submission 87*, p. 3.

17 The ACCC noted in its submission that it had only received a small number of reports relating to motorised mobility devices since 2010, so it was not possible to provide any updated trend analysis in relation to injuries.

18 Monash University, Department of Forensic Medicine, *Targeted Study of Injury Data Involving Motorised Mobility Scooters: A report commissioned by the Australian Competition and Consumer Commission*, March 2011, p. 5.

19 Monash University, Department of Forensic Medicine, *Targeted Study of Injury Data Involving Motorised Mobility Scooters: A report commissioned by the Australian Competition and Consumer Commission*, March 2011, pp 43–44.

20 This section of the report is based on information contained in *Mobility scooter usage and safety survey report: A collaborative project involving the Australian Competition and Consumer Commission, NRMA Motoring and Services, CHOICE, EnableNSW and Flinders University*, September 2012.

2.30 The survey included a randomly selected sample of 2406 people aged over 18 years<sup>21</sup> (who were asked to complete a short version of the survey) and 515 current users of mobility scooters who volunteered to complete an extended survey.<sup>22</sup>

2.31 The purpose of the survey was to further develop the work undertaken by DFM in relation to injury data and provide a clearer understanding of the demographics of motorised mobility device users, and patterns of use across the Australian population.

2.32 The survey found that over 51 per cent of motorised mobility device users were aged 60 years or less which, it was noted, is inconsistent with the idea of users being older Australians, aged 60 years or over. The survey also revealed that only a small number of users actually received safety training or advice from mobility specialists and that:

- just over half (51 per cent) of mobility scooter users sought advice or assessment from mobility specialists when purchasing a scooter;
- only 25 per cent had safety training or tuition on their current scooter; and
- the key providers of safety training and tuition included occupational therapists or other health professionals, or retailers (sales persons and suppliers).

### ***Monash University Department of Forensic Medicine***

2.33 The Monash University DFM told the committee that "there are few reports in Australia or elsewhere on deaths and injuries associated with motorised mobility scooters".<sup>23</sup> The DFM also acknowledged the difficulty of sourcing accurate data in relation to deaths and injuries (attributed to motorised mobility devices) and noted that its submission was based on the limited data that is currently available in relation to motorised mobility device-related<sup>24</sup> deaths.<sup>25</sup> Specifically, the Monash DFM submission was based on:

- data from the National Coronial Information System (NCIS);
- previous research conducted by the Monash University DFM; and

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21 Those participants aged 18 years and over (who were asked to complete the shorter version of the survey) were weighted by age, gender, location and highest level of schooling completed to represent the Australian adult population.

22 *Mobility scooter usage and safety survey report: A collaborative project involving the Australian Competition and Consumer Commission, NRMA Motoring and Services, CHOICE, EnableNSW and Flinders University*, September 2012, p. 2.

23 Monash University Department of Forensic Medicine, *Submission 92*, p. 1.

24 The data provided by the Monash University Department of Forensic Medicine relates to mobility scooters, or as the Monash DFM refers to them, motorised mobility scooters – abbreviated to MMS. The information provided by the Monash DFM excludes electric wheelchairs.

25 Monash University Department of Forensic Medicine, *Submission 92*, p. 1.

- a collaborative research proposal submitted to the NHMRC by the University of New South Wales (UNSW) in 2018.<sup>26</sup>

2.34 It was noted that given the various complexities involved in obtaining data on MMS-related deaths and injuries – including substantial costs and delays – Monash researchers had combined data from a range of time periods to compile the MMS-rider death and serious injury data estimates. The data estimates focused on the 60 years and above age group which, it was argued, encompasses the greatest proportion of deaths and injuries and appears to largely represent frail elderly MMS-users.<sup>27</sup>

2.35 In summarising the DFM's submission, Professor Joan Ozanne-Smith, Head of Injury Prevention, told the committee that there had been:

132 deaths between 2000 and 2017, which included only three pedestrians or just over two per cent. Of the 129 scooter users who died, more than 90 per cent were aged 60 years or over. In addition, we estimate – based on old data; 2006 to 2009 data – that at least 350 older scooter users are admitted to hospital for injuries – serious injuries – each year and there are likely considerably higher incidents in recent years due to the increasing number of motorised scooters.

The medical cause of death was available only for the period 2000 to 2011. Almost 40 per cent of the deaths were due to head injury and another 15 per cent due to multiple injuries, which might have included head injuries. Of the 77 deaths in that period, 39 were due to being struck by a motor vehicle and 29 fell from a motorised scooter. Most deaths were of older people.<sup>28</sup>

2.36 DFM questioned the results of the ACCC's national survey regarding the distribution of scooter users by age group, which found that 51 per cent of users were aged less than 60 years and noted that the ACCC's survey was "based on very limited data". At the same time, however, it argued that "in any case, older persons appear to be the most vulnerable users according to the fatal injury data".<sup>29</sup>

### ***CQUniversity Australia***<sup>30</sup>

2.37 CQUniversity Australia indicated that in 2016, its research team had surveyed 67 mobility device users from Victoria and Queensland to gain an understanding of how people use public transport and to determine whether public transport has an influence on their choice of mobility device. The survey found that:

- 42 per cent of respondents used two or more seated mobility devices;

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26 Monash University Department of Forensic Medicine, *Submission 92*, p. 1.

27 Monash University Department of Forensic Medicine, *Submission 92*, pp 1–2.

28 Professor Joan Ozanne-Smith, Monash University Department of Forensic Medicine, *Committee Hansard*, 23 July 2018, p. 26.

29 Professor Joan Ozanne-Smith, Monash University Department of Forensic Medicine, *Committee Hansard*, 23 July 2018, p. 26.

30 This section of the report is based on information contained in CQUniversity Australia, *Submission 97* and Professor Carolyn Unsworth, CQUniversity Australia, *Committee Hansard*, 23 July 2018, pp 23–35.

- the most important features when choosing a mobility aid were reliability, turning ability and size; and
- 52 per cent of respondents strongly agreed that public transport is generally accessible.

2.38 Researchers also concluded that motorised mobility device users, vendors and health professionals needed to work together to identify mobility devices that best fulfilled users' needs, and were reliable and safe.

2.39 Following on from the 2016 study, CQUniversity Australia has been working with Public Transport Victoria to investigate the suitability of motorised mobility devices to access, move within and egress public transport – specifically buses. This latest research is being undertaken in direct response to the proposed introduction of *Technical Specification DR SA TS 3695.3:2017 CP Requirements for designation of powered wheelchairs and mobility scooters for public transport and/or road-related area use*.

### ***NSW Parliament Inquiry***

2.40 The committee notes that the increasing use of non-registered vehicles such as electric bicycles, segways, quad bikes and motorised mobility devices prompted a recent inquiry in the Parliament of New South Wales.

2.41 On 14 November 2012, the NSW Standing Committee on Road Safety (Staysafe) resolved to undertake an inquiry into the increasing use of non-registered motor vehicles<sup>31</sup> on public roads, footpaths and public land and their impact on road safety. The Staysafe Committee's inquiry focused on:

- the current status of these vehicles under the road rules;
- road safety problems associated with their use;
- data collection on injury and death rates; and
- vehicle standards (including design, engine capacity, mass and speed controls).<sup>32</sup>

2.42 In undertaking its inquiry, the Staysafe Committee also assessed the availability of road safety education, the need for skills and competency training for vehicle users, and the insurance implications of injuries and deaths related to their vehicle use.

2.43 The Staysafe Committee's report was tabled in the NSW Parliament in March 2014. The report acknowledged that the trend toward alternative modes of transport has obvious benefits "for groups in the community who for reasons of age or infirmity

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31 For the purposes of its inquiry, the Staysafe Committee defined 'non-registered vehicles' as vehicles which are mechanically powered and which are not required to be registered on NSW roads.

32 Parliament of New South Wales, Joint Standing Committee on Road Safety (Staysafe), *Report on Non-Registered Motor Vehicles*, Report 3/55, March 2014, p. 1.

would otherwise be house bound". The report also acknowledged that the use of alternative forms of transport:

...also presents a challenge for road safety practitioners and transport planners, who voice concerns about the potential conflicts and risks these vehicles may pose for riders and other road users.<sup>33</sup>

2.44 The Staysafe Committee's full report – which can be found on the NSW Parliament's website<sup>34</sup> – contains a number of findings which are of particular relevance to the committee's current inquiry into motorised mobility devices. These findings are summarised below:

#### *Data collection*<sup>35</sup>

2.45 A consistent theme running through the inquiry was the lack of data concerning the use of non-registered motorised vehicles and their involvement in accidents. The report noted that the problems associated with lack of data are compounded by the current vehicle coding system, which does not allow precise differentiation between vehicle classes. Under the current system, some registered vehicles generally used on public roads (such as mopeds) are included with non-registered vehicles (including electric bicycles and quad bikes). It was also noted that the classification of mobility scooter users as pedestrians creates another layer of confusion.

2.46 The Staysafe Committee recommended that an interagency working group investigate ways to improve data collection and research on injuries and deaths caused by non-registered motorised vehicles, as well as relevant risk factors.

#### *Road infrastructure*

2.47 The report noted that inadequately maintained footpaths and ramps can create safety hazards, particularly for mobility scooter users. These problems often leave users with poor options for route choice, including being forced on to roads, gutters and nature strips. The Staysafe Committee recommended that local and state governments take account of powered mobility device safety when designing and upgrading public infrastructure.

#### *Manufacturers and distributors*

2.48 The report considered the role manufacturers can play in vehicle design and safety improvements. A range of views were summarised, including the suggestion

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33 Parliament of New South Wales, Joint Standing Committee on Road Safety (Staysafe), *Report on Non-Registered Motor Vehicles*, Report 3/55, March 2014, p. 98.

34 Link to NSW Staysafe Committee's report: Parliament of New South Wales, Joint Standing Committee on Road Safety (Staysafe), *Report on Non-Registered Motor Vehicles*, Report 3/55, March 2014, <https://www.parliament.nsw.gov.au/ladocs/inquiries/2009/Non-registered%20Motorised%20Vehicles.PDF>

35 This section is based on information contained in Parliament of New South Wales, Joint Standing Committee on Road Safety (Staysafe), *Report on Non-Registered Motor Vehicles*, Report 3/55, March 2014, pp 98–107.

that manufacturers should provide safety information to consumers, or that they should be required to fit improved safety equipment to devices. Accreditation of suppliers was also supported by some participants. The report included a recommendation that the NSW Government examine the viability of establishing an accreditation system for mobility device retailers to ensure that consumers are provided with material containing safety warnings and user information as part of the sale process.

### *Regulatory reform*

2.49 It was noted that a proposal to establish a registration scheme was presented as a potential solution to some of the issues identified throughout the inquiry. In support of this proposition, the case was made that such a scheme would improve safety, enable assessment of the competency of vehicle operators, improve data collection on vehicle use and prevent illegal use of such vehicles. On the other hand, it was also claimed that registration was not required; that it would be costly, as well as difficult to implement and enforce.

2.50 As part of its recommendations, the Staysafe Committee recommended that the NSW Government investigate the feasibility of imposing a requirement for mobility scooters to be fitted with compliance plates or road worthiness certificates, prior to their sale.

### *Vehicle insurance*

2.51 The report indicated that while there was some support for mandatory insurance, other evidence suggested that it should not be made mandatory until more evidence was gathered to support the need for such a scheme. The Staysafe Committee made two recommendations in relation to vehicle insurance:

- that Transport for NSW and the Motor Accidents Authority investigate the insurance liability and insurance coverage options for mobility devices; and
- that Transport for NSW undertake 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.

### *Road safety education*

2.52 The report noted that two key strategies to improve road safety awareness were education and training, and the targeted assessment of users' skills and competency to operate their vehicles. The Staysafe Committee made a number of recommendations in relation to road safety education, including:

- that Transport for NSW examine the effectiveness of the scooter education and training pilot implemented in British Columbia, with a view to improving similar training programs delivered in NSW;
- that Transport for NSW and WorkCover NSW design specific road safety campaigns to increase community awareness of the safety risk of

different classes of non-registered motorised vehicles and the importance of skills and competency based training; and

- 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.

2.53 The Staysafe Committee acknowledged that at the time its report was being prepared, Austroads was involved in a number of projects in relation to motorised mobility devices. The Staysafe Committee indicated that it was supportive of the projects being undertaken by Austroads – particularly its work toward harmonising separate state and territory policies in relation to motorised mobility devices.

2.54 The NSW Government Response to the report, which was tabled in September 2014, indicated its support for a number of the recommendations, including:

- improved data collection and research on injuries and deaths caused by non-registered motor vehicles, as well as relevant risk factors;
- improved data collection and improvements to coding for non-registered motorised vehicles involved in road accidents;
- work to improve the coding of 'Admitted Patient Data' to differentiate between vehicle types;
- the work being undertaken by Austroads (and other Australian jurisdictions) toward standard Australian Design Rule classifications for non-registered motor vehicles; and
- 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.<sup>36</sup>

2.55 The NSW Government provided in-principle support for a number of the report's recommendations, including:

- an investigation of the feasibility of imposing a requirement for mobility scooters to be fitted with compliance plates or road worthiness certificates, prior to their sale;
- an investigation of the insurance liability and insurance coverage options for mobility devices (to be undertaken by Transport for NSW and the Motor Accidents Authority);
- a Transport for NSW examination of the scooter education and training pilot program implemented in British Columbia, with a view to improving similar training programs delivered in NSW; and

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36 NSW Government response to recommendations in the Parliament of New South Wales, Joint Standing Committee on Road Safety (Staysafe), *Report on Non-Registered Motor Vehicles*, 17 September, 2014.

- local and state governments taking account of powered mobility device safety when designing or upgrading public infrastructure.<sup>37</sup>

### **Causes of accidents and injury**

2.56 The ACCC's research indicated that the majority of serious injuries and deaths (in relation to mobility devices) were associated with collisions with cars, trucks or trains rather than any specific feature of the devices themselves. Research also determined that a large proportion of deaths occurred when users of motorised mobility devices were crossing a road, attempting to alight from the scooter or when entering or approaching intersections. The ACCC argued that its research had demonstrated that interventions available under consumer law would not solve the key issues relating to user behaviour.<sup>38</sup>

2.57 The ACCC submitted that, as a result of its earlier work, in 2013 Austroads commenced work toward the development of a national framework to improve the safety of motorised mobility devices. The ACCC noted that the Austroads project, which is ongoing, is being led by the Queensland Department of Transport and Main Roads, and aims to introduce mandatory construction and labelling requirements for motorised mobility devices, that will be included in the ARR's. The project being undertaken by Austroads will be described further, later in this chapter.

### **Issues raised by stakeholders**

#### ***The balance between safety and independence***

2.58 The Council on the Ageing Australia (COTA) argued that before any changes were made to policies and regulations as they relate to mobility scooters, consideration needed to be given to the broader policy context – rather than simply safety regulations within the status quo. COTA argued that:

This should include ensuring that we develop age-friendly cities and develop policies that enhance social inclusion and healthy ageing – that is to say: we urge the committee to ensure its recommendations do not inadvertently inhibit older Australians from moving about freely, including through the use of mobility scooters when they cannot do so without assistance.<sup>39</sup>

2.59 A number of submitters stressed the positive impacts that mobility scooters and motorised wheelchairs can have on people's lives. It was argued that these devices can provide people with independence and allow them freedom of movement to do their own shopping, undertake recreational activities, attend sporting and cultural

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37 NSW Government response to recommendations in the Parliament of New South Wales, Joint Standing Committee on Road Safety (Staysafe), *Report on Non-Registered Motor Vehicles*, 17 September, 2014.

38 Australian Competition and Consumer Commission, *Submission 87*, p. 1.

39 Mr Corey Irlam, Council on the Ageing Australia, *Committee Hansard*, 23 July 2018, p. 10.

events, visit family and friends, attend appointments as well as participate in the workforce.<sup>40</sup>

2.60 Stakeholders argued that participation in the community is critical to a person's quality of life and mental health. Mr Peter Mitchell, for example, told the committee that he is currently restricted to walking about twenty or thirty metres at a time, so his scooter provides a "lifeline to a normal existence, allowing me to shop, socialise, and attend functions, sporting events, etc".<sup>41</sup>

2.61 Miss Stacey Christie told the committee that the majority of people who use motorised wheelchairs typically spend the majority of their lives in their wheelchair, and argued that:

My motorised wheelchair is essentially my legs. Without my wheelchair I would not be able to leave my house or even move around my house. I wouldn't be able to work and have a fulltime job or access my community.<sup>42</sup>

### ***Speed***

2.62 A large number of stakeholders raised 'speed' as an issue that required serious consideration.

2.63 COTA told the committee that there was a lack of clarity around the issue of speed limits:

Speed is a crucial consideration in the safe use of mobility scooters, both for the user and other pedestrians. A 'fast walk' speed limit of 8-10 kph offers a reasonable guide, but it is unclear to COTA whether this is the limit required and enforced in all jurisdictions. The prevalence of mobility scooters in the community able to exceed a limit of 10 kph is also unknown.<sup>43</sup>

2.64 A number of submitters raised concerns about the safety of current speed limits and pointed to the dangers of increasing the permitted speed limits.<sup>44</sup> Ms Jacqueline Stalling, for example, argued that travelling at walking pace allows the user of a motorised mobility device more time to understand what is happening around them, and allows other footpath users more time to take evasive action, should it be required. Ms Stalling also suggested that halving the speed limit would "reduce the severity of injuries if the scooter hits a person".<sup>45</sup>

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40 See, for example, Ms Judi Potts, *Submission 2*, Ms Robyn Hall, *Submission 19*, Mr Peter Fraser, *Submission 28*, Council on the Ageing Australia, *Submission 101*, p. 3, Multiple Sclerosis Australia, *Submission 96*, p. 3, Combined Pensioners and Superannuants Association, *Submission 65*, p. 4.

41 Mr Peter Mitchell, *Submission 13*, p. 2.

42 Miss Stacey Christie, *Submission 66*, p. 1.

43 COTA Australia, *Submission 101*, p. 5.

44 See, for example, Dr Colin Sheppard, *Submission 8* and Mr Paul Brand, *Submission 55*.

45 Ms Jacqueline Stalling, *Submission 1*, p. 2.

2.65 A large number of submitters raised strong objections to the introduction of any regulations which would decrease the permitted maximum speed from 10 km/h.<sup>46</sup> The Youth Disability Advocacy Network told the committee that it had concerns about the safety of reducing the maximum allowable speed, and argued that:

There are many situations where a person has to run quickly to escape danger, just as there are many situations where a powered wheelchair user has to drive quickly to escape danger. Limiting the speed means limiting users' safety, users' ability to cross roads quickly and safely, and the freedom to go at the same speed as other pedestrians.<sup>47</sup>

2.66 There was, however significant consensus for maintaining a 5 km/h minimum speed and a 10 km/h maximum speed.<sup>48</sup> Mr Ray Jordan advised that the safe speed for a motorised mobility device will vary depending on the specific situation, but noted that "there must be a balance between safety and how long it takes to get somewhere". He argued that:

Many of us do not have the luxury of being able to jump in a car and drive to the office, train station, local café or the shopping mall. A mobility scooter or a wheelchair is all we have unless the distance is such that a taxi becomes a viable option. I think the Australian Standard AS3695.3 has the balance about right at 10km/h.<sup>49</sup>

2.67 The committee suggests that this evidence should be taken into consideration by Austroads as part of its future deliberations.

### **Weight**

2.68 While the issue of weight was raised during the inquiry, stakeholders did not identify it as a key issue of concern.<sup>50</sup>

2.69 The Darebin Disability Advisory Committee observed that the maximum unladen mass of an average motorised wheelchair generally exceeds 110 kg, and that the road rules, standards and guidelines that impose a 110 kg limit have not kept up with changes to wheelchair weights over the years. It was suggested that if the "federal government does indeed create regulations that enshrine the 110 kg weight limit, most power wheelchairs would become essentially illegal".<sup>51</sup>

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46 See, for example, Ms Judi Potts, *Submission 2*, Youth Disability Advocacy Network, *Submission 7*, Mr Arthur Comer, *Submission 17*, Mr Pete Reed, *Submission 32*, Mr Ron Henney, *Submission 42* and Miss Stacey Christie, *Submission 66*.

47 Youth Disability Advocacy Network, *Submission 7*, p. 1.

48 See, for example, Mr Peter Mitchell, *Submission 13*, Dr Colin Sheppard, *Submission 8*, Dr Trevor Hodson, *Submission 15*, Ms Judy and Mr Ray Taylor, *Submission 16* and Mr Jim Ashenden, *Submission 59*.

49 Mr Ray Jordan, *Submission 23*, [p. 3].

50 See, for example, Youth Disability Advocacy Network, *Submission 7*, Miss Erin Condrin, *Submission 52*, Mr John Moxon, *Submission 56* and Miss Stacey Christie, *Submission 66*.

51 Darebin Disability Advisory Committee, *Submission 102*, p. 2.

2.70 The NSW Council of Social Service (NCOSS) noted that the current inquiry represents an opportunity for stakeholders to "explore broader change to improve the lives of people with mobility impairments".<sup>52</sup> It was also suggested that any proposal to restrict the speed and weight of motorised mobility devices would undermine choice and control for many users, and effectively limit their freedom of mobility.<sup>53</sup>

2.71 NCOSS argued that Australia already has tight controls on motorised mobility devices, and pointed to the European standards, which have been adopted by most international manufacturers, and which have:

- no weight restrictions on motorised mobility devices; and
- speed limits dependant on location: typically 12 km per hour with a slow switch to 6 km per hour for high pedestrian traffic areas.<sup>54</sup>

2.72 NCOSS also argued that imposing additional regulations – including speed and weight restrictions – would place Australia out of step with international standards, drive up costs for Australian users, and decrease their choice and control.<sup>55</sup>

### ***Drugs and alcohol***

2.73 A small number of submitters raised serious concerns about mobility scooter users affected by drugs or alcohol when travelling on roads or road-related areas such as footpaths. Anecdotal evidence suggested that some users of mobility devices deliberately use a scooter to travel to hotels or registered clubs to drink alcohol and travel home on a footpath under the belief that they will not be stopped or breathalysed by police.<sup>56</sup>

### **Collection of data**

2.74 Initial searches conducted at the commencement of the inquiry revealed that information and research about the use of mobility devices – including mobility scooters and motorised wheelchairs – is difficult to find. There is a lack of available, up-to-date, factual information about the number of mobility devices in Australia, the different ways these devices are used – both inside and outside the home – their safety, and their compatibility with urban infrastructure.

2.75 In responding to the committee's request for submissions, a number of individuals and various organisations pointed to the fact that there is a limited amount of data available in relation to motorised mobility devices – including mobility scooters and motorised wheelchairs. The Combined Pensioners and Superannuants Association (CPSA) for example, cited a 2016 review of "the extant empirical

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52 NSW Council of Social Service, *Submission 78*, p. 1.

53 NSW Council of Social Service, *Submission 78*, p. 2.

54 NSW Council of Social Service, *Submission 78*, p. 2.

55 NSW Council of Social Service, *Submission 78*, p. 2.

56 See, for example, Mr Richard Bunting, *Submission 9*, p. 1, Dr T. Hodson, *Supplementary Submission 15*, p. 1, Mr Charles Nicholson, *Submission 44*, p. 5.

research regarding mobility scooters" which had identified that there were as few as 28 studies worldwide.<sup>57</sup>

2.76 Austroads observed that the registration scheme used by the Queensland Government provides some insight into the prevalence and growth of motorised mobility devices in Australia over recent years. Austroads pointed to figures which show that in 2002, there were a total of 5894 motorised mobility devices registered in Queensland. Since then, there has been a steady annual growth in registrations, and by 2017, the figure had increased to 31 294.<sup>58</sup>

2.77 Given that Queensland represents approximately 20 per cent of Australia's total population, Austroads speculated that there are currently more than 156 000 motorised mobility devices in use nationally. Austroads argued that Australia's ageing population, and the roll-out of the NDIS means there is likely to be a significant increase in this number over the coming years.<sup>59</sup>

2.78 Austroads noted, however, that current accident rates for motorised mobility devices are still not well documented in Australia, and the records kept by emergency services and hospitals may not capture the details of accidents or incidents (or the causes of accidents) accurately.<sup>60</sup>

2.79 The ACCC acknowledged that although incidents (including accidents involving motorised mobility devices and pedestrians) are not regulated by the ACCC, it does receive a small number of reports on these types of incidents. The ACCC submitted that since 2010, it has received 27 reports, from various sources, including mandatory reports from suppliers, and consumer complaints. The majority of these reports relate to incidents involving motorised mobility devices and collisions with motor vehicles. Other reports describe incidents where the rider has fallen from their mobility device, for example, when leaning to pick up an item.<sup>61</sup>

2.80 Based on the small number of reports it had received, the ACCC submitted that there was no obvious pattern which would indicate that a particular type of device or brand was more susceptible to performance and/or safety issues.<sup>62</sup>

2.81 The ACCC argued that this is also evidenced in the small number of voluntary recalls notified by suppliers of motorised mobility devices. The ACCC advised that since 2002, suppliers have notified only five voluntary recalls of motorised mobility devices:

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57 Mortenson, B. and Kim, J., *Scoping Review of Mobility Scooter-Related Research Studies*, Journal of Rehabilitation Research and Development 53, No. 5, 2016, cited in Combined Pensioners and Superannuants Association, *Submission 65*, p. 5.

58 Austroads Ltd, *Submission 64*, p. 2.

59 Austroads Ltd, *Submission 64*, p. 2.

60 Austroads Ltd, *Submission 64*, p. 3.

61 Australian Competition and Consumer Commission, *Submission 87*, pp 2–3.

62 Australian Competition and Consumer Commission, *Submission 87*, p. 3.

- Monarch Buzz Mobility Scooter (2014) – the rear and front sections could separate if the scooter was driven over a gutter kerb, an obstacle greater than the scooter's clearance, or dropped from a height.
- Breeze C Mobility Scooter (2013) – an internal electric contact could become disconnected due to extensive wear.
- Mini Crosser Scooters (2009) – the controller could require adjustment of its settings in order to avoid a potential fire hazard.
- Victory Scooters (2004) – there was a remote potential for the electronic power harness connection to short-circuit causing the scooter to stop functioning.
- Voyager, Columbus and Traveller 3 and 4 Wheeled Mobility Scooters (2002) – a limited number of these scooters could experience premature failure of the drive mechanism.<sup>63</sup>

2.82 In 2006, the Victorian Injury Surveillance Unit (VISU), a project of the Monash University Accident Research Centre, reported on research it conducted in relation to the use of motorised mobility scooters. The report noted that motorised mobility scooters were "growing in popularity in Australia as older and disabled people strive to maintain active, independent lifestyles".<sup>64</sup>

2.83 The VISU explained that as a result of the increased popularity of motorised mobility devices, it had received numerous requests for data on injuries related to motorised mobility scooters. It was also noted that:

The difficulties we faced identifying these injury cases on fatality and hospital injury surveillance databases provide a good illustration of the shortcoming of available hospital-based injury datasets for the identification of emerging injury issues relating to newer consumer products.<sup>65</sup>

2.84 The VISU also indicated that the only comprehensive source of data on the number of motorised mobility scooters in use in Victoria was that of the 1998 and 2003 ABS Survey of Disability Ageing and Carers. While each of the surveys reported data (regarding scooter use by people with a disability) differently, researchers were able to use the data to conclude that there had been a three-fold increase in the use of mobility scooters by adult Victorians between the 1998 and 2003 surveys.<sup>66</sup>

2.85 A review of the Australian Standards was also referred to in a 2006 article about the project published by the VISU. The article noted that a major revision of

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63 Australian Competition and Consumer Commission, *Submission 87*, p. 3.

64 Cassell, E. and Clapperton, A., *Consumer product-related injury (2): Injury related to the use of mobility scooters*, Hazard, Edition No. 62, 2006, p. 2.

65 Cassell, E. and Clapperton, A., *Consumer product-related injury (2): Injury related to the use of mobility scooters*, Hazard, Edition No. 62, 2006, p. 2.

66 Cassell, E. and Clapperton, A., *Consumer product-related injury (2): Injury related to the use of mobility scooters*, Hazard, Edition No. 62, 2006, p. 6.

Australian Standards for wheelchairs was being conducted for public comment at the end of 2006, and with a projected release date of mid-2007. The VISU article noted that the new Australian Standards, would be based on the requirements of the European Standards (EN12183:1999 – Part 1 *Manual wheelchairs* and EN 12184 – Part 2 *Electrically powered wheelchairs scooters and their chargers*). It was argued at the time that it was unlikely that new Standards would "deal sufficiently with the user-device interface issues identified by our research".<sup>67</sup> Further, the VISU argued that a lead agency needed to be identified to co-ordinate a national approach to deaths and injuries associated with motorised mobility devices.

2.86 It would seem that, as far back as 2006, organisations such as the VISU were drawing attention to the need for a coordinated approach to data collection, as well as the need for improvements to injury surveillance data systems.

## Safety

2.87 The DFM pointed to the lack of a coordinated national approach to the safety issues associated with scooters, and described it as a "flaw in the Australian product safety system".<sup>68</sup> The DFM also raised concerns about a situation in which the regulation of new products is considered "only as a reaction to deaths and injuries".<sup>69</sup> It was argued that:

In this case, 12 years after scooter deaths and injuries were first reported and published, we are now considering regulation. This [issue] is compounded for motorised mobility scooters by the multiple jurisdictions involved and the lack of an overarching authority.<sup>70</sup>

2.88 The DFM stressed the importance of protecting the community and recommended that Australia's product safety system adopt a more coordinated and proactive approach to identify unsafe products, preferably prior to them entering the marketplace, and to regulate them accordingly.<sup>71</sup>

2.89 Given the lack of evidence in relation to the safety of motorised mobility devices – including mobility scooters and motorised wheelchairs – a large number of submitters called for a systematic and sustained approach to data collection in this area. It was argued that new research is needed in relation to the design, safety performance, user experience and needs, and the rates and causes of accidents, injuries and deaths involving mobility devices. It was also argued that the areas of road design,

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67 Cassell, E. and Clapperton, A., Consumer product-related injury (2): Injury related to the use of mobility scooters, *Hazard*, Edition No. 62, 2006, p. 2.

68 Professor Joan Ozanne-Smith, Monash University Department of Forensic Medicine, *Committee Hansard*, 23 July 2018, p. 26.

69 Professor Joan Ozanne-Smith, Monash University Department of Forensic Medicine, *Committee Hansard*, 23 July 2018, p. 26.

70 Professor Joan Ozanne-Smith, Monash University Department of Forensic Medicine, *Committee Hansard*, 23 July 2018, p. 26.

71 Professor Joan Ozanne-Smith, Monash University Department of Forensic Medicine, *Committee Hansard*, 23 July 2018, p. 26.

regulatory interventions to improve user safety and user-behavioural risk factors merit further research and analysis.<sup>72</sup>

### **Research required**

2.90 Researchers from the DFM made it clear that a lack of up-to-date data makes it very difficult – if not impossible – to determine exactly what the problems are. The DFM stated that there was an urgent need for further research to include:

- a comprehensive epidemiological study in relation to MMS deaths and serious injuries (to include the use of some new codes that have recently entered some data systems) to specify MMS injuries;
- an in-depth study of fatal and serious head injuries to scooter users to determine the potential for protection by helmets, such as bicycle helmets;
- a systems approach applied to MMS safety relating to the machine, the rider and the environment, including continued development and implementation of user assessment programs and training; and
- ongoing data collected nationally on numbers of MMS and of users, including at least the age and sex of users, to inform monitoring and research and to provide denominator data so researchers can examine the rates of injuries and determine whether trends are changing.<sup>73</sup>

### **Development of a nationally consistent approach to the use of motorised mobility devices<sup>74</sup>**

2.91 In 2012, Austroads initiated a project to develop a nationally agreed framework for the safe interaction of motorised mobility devices (MMDs)<sup>75</sup> with other road users (on roads and road-related areas). The Austroads project also aims to improve both the construction and performance requirements for motorised mobility devices.<sup>76</sup>

2.92 Austroads noted that the objectives of the project are to:

- introduce improved construction and performance requirements for MMDs, so that they are less likely to result in unsafe outcomes when using footpaths and other public infrastructure;

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72 See, for example, Combined Pensioners and Superannuants Association, *Submission 65*, p. 5, and Monash University Department of Forensic Medicine, *Submission 92*, p. 5.

73 Professor Joan Ozanne-Smith, Monash University Department of Forensic Medicine, *Committee Hansard*, 23 July 2018, p. 26.

74 This section of the report is based on information provided in Austroads Ltd, *Submission 64* and Mr Nick Koukoulas, Chief Executive, Austroads Ltd, *Committee Hansard*, 23 July 2018, pp 45–57.

75 Austroads abbreviates the words 'motorised mobility device' to MMD in its submission.

76 Austroads Ltd, *Submission 64*, p. 4.

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- encourage designs of MMD that are more harmonious with infrastructure, so as to minimise the consequences of user error or misjudgement;
  - address existing inadequacies in the ARRs related to MMDs;
  - make it easier to control the importation and sale of non-complying MMDs; and
  - make it easier to identify devices that are suitable for conveyance on public transport.<sup>77</sup>

2.93 A forum, facilitated by Standards Australia, was held in July 2015, to discuss the development of an Australian Standard Technical Specification for Motorised Mobility Devices (ASTS). In late 2016, Standards Australia consulted with key stakeholders and a draft ASTS was prepared.

2.94 Austroads advised that the ASTS is a construction standard based on infrastructure capability, and that where appropriate, the ASTS uses the requirements and test standards contained in AS/NZS 3695.2 *Requirements and test methods for electrically powered wheelchairs (including mobility scooters)*.

2.95 Austroads indicated that motorised mobility devices that meet the technical specification will be issued with a permanent, tamper-proof label that will be affixed to the device. A white label will indicate that the device is suitable for use on public infrastructure such as roads, footpaths and shared paths. Further, it was noted that if a device meets additional requirements, it may be eligible for a blue coloured label. In addition to being able to access public infrastructure, a blue-labelled device may also be suitable to access specific passenger transport conveyances.

2.96 Austroads advised that the ASTS has, as its focus, collision avoidance. It also sets out requirements for both construction and performance, including:

- 170 kg maximum unladen mass for motorised mobility scooters;
- no maximum unladen mass for motorised wheelchairs;
- a maximum laden mass of 300 kg for motorised mobility devices (for a blue label);
- 10 km/h maximum speed;
- for devices capable of exceeding 6 km/h, a low speed switch that will restrict the speed of a device to 5 km/h (a functionality which is common on many European devices);
- other requirements based on Australian and international standards such as stability on slopes, braking performance and electrical safety;
- maximum dimensional limits;

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77 Austroads Ltd, *Submission 64*, p. 4.

- optional requirements for public transport compatibility (stricter limits on width, static and dynamic stability and manoeuvring within an allocated space); and
- a blue or white permanently affixed label that displays key device characteristics including make, model, length, width, unladen mass, maximum safe slope, year of production and a unique identifier.

2.97 The committee was advised that increasing the maximum unladen mass for motorised mobility scooters will allow larger people to purchase a mobility device that is able to support them. In recognition that users of motorised mobility devices have no alternative for mobility on public infrastructure, the maximum unladen mass for traditional motorised wheelchairs has also been removed. It was noted that it would be discriminatory to prevent these users lawful access to paths "where their motorised wheelchair must weigh in excess of 170 kg when fitted with batteries, powerlifts and other equipment essential to the effective use of the wheelchair".<sup>78</sup>

2.98 The primary safety improvements expected from implementation of the ASTS are that:

- the slow switch will provide a practical mechanism to help ensure users do not accidentally reach unsafe speeds; and
- the improved engineering design of motorised mobility devices used on public infrastructure will make them safer for users as well as other pedestrians.

2.99 Austroads noted that the use of the low speed switch will be encouraged in areas of high pedestrian activity, or other locations where there may be dangers – for example on a train platform. It was also noted that the changes are consistent with the safe systems approach to improve road safety:

Maintaining a maximum speed of 10 km/h, with the addition of a mandatory low speed mode if the device is capable of exceeding 6km/h will help to ensure users travel at safe speeds. Changes such as the requirement for MMDs to be able to negotiate slopes and obstacles also means the safety of these vehicles will be improved.<sup>79</sup>

2.100 The committee was advised that the Austroads project aims to improve the information available to consumers at the point of sale, to ensure that purchasers of motorised mobility devices are better informed and can purchase a device that is fit for purpose. It was noted that:

Reliance will be placed on industry for manufacturers/suppliers to self-certify MMDs against the ASTS. Compliance with the certification scheme will be attained through control of sales and enforcement of consumers' rights through Australian Consumer Law.<sup>80</sup>

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78 Austroads Ltd, *Submission 64*, p. 5.

79 Austroads Ltd, *Submission 64*, p. 5.

80 Austroads Ltd, *Submission 64*, p. 5.

2.101 The committee was also advised that a comprehensive education program will be implemented, to cover:

- the responsibilities of manufacturers, suppliers and retailers;
- dates from which compliance is required;
- key information for consumers and users;
- recommendations for other infrastructure users; and
- guidelines for passenger transport operators.<sup>81</sup>

2.102 Following the publication of the ASTS, Austroads is proposing to approach the NTC and seek amendments to the ARR's which recognise the ASTS. This will require the unanimous support of all Australian jurisdictions, and will be subject to a Regulatory Impact Assessment. It is proposed that under the new arrangements it will be an offence to use a non-compliant motorised mobility device on public infrastructure.<sup>82</sup>

2.103 Austroads noted that if the proposed changes to the ARR's are supported:

...jurisdictions will then need to make amendments to their local legislation to give legal effect to the model legislation. This will likely take 12 months to two years and industry will also need sufficient time to turnover existing stock and implement the labelling scheme.<sup>83</sup>

2.104 Austroads also advised that the successful implementation of the changes will:

- provide customers with better information at the point of sale (about the appropriateness of motorised mobility devices for their intended use);
- improve safety for users and other pedestrians (by improving the design of motorised mobility devices being used on public infrastructure); and
- assist users and passenger transport operators to better understand the devices that are likely suitable for conveyance on passenger transport (through the use of the labelling scheme).

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81 Austroads Ltd, *Submission 64*, p. 6.

82 It is noted that there are, however, provisions to ensure that existing motorised mobility devices, manufactured prior to the introduction of the ASTS certification scheme can continue to be used safely in public areas or on public transport (if DSAPT compliant) and if deemed fit for purpose prior to the implementation of the ASTS.

83 Austroads Ltd, *Submission 64*, p. 6.



# Chapter 3

## Regulations governing the use of motorised mobility devices

3.1 This chapter outlines the current regulations that govern the use of motorised mobility devices – including mobility scooters and motorised wheelchairs – throughout Australia. The chapter also summarises the state and territory road rules which determine which motorised mobility devices are permitted to be used on footpaths, roads, bike-paths and in other public spaces.

3.2 Also outlined in this chapter is the process by which the ARR's are developed, maintained and administered.

### **Australian Road Rules**

3.3 The ARR's contain the basic rules of the road for motorists, motorcyclists, cyclists, pedestrians, passengers and others. The ARR's were first approved in 1999 by the former Australian Transport Council (now known as the Transport and Infrastructure Council).<sup>1</sup> The ARR's have been designed as model laws (or template legislation) and have no legal effect. State and territory governments do have the ability to adopt the ARR's in ways that suit their own specific, local conditions. For the most part, states and territories have introduced the ARR's into their own laws. However, no state or territory has introduced every provision contained in the ARR's into legislation, and there are a number of provisions in the Rules that specifically leave certain matters to state and territory governments to determine.<sup>2</sup>

### ***Motorised mobility devices***

3.4 The ARR's regulate the use of 'motorised wheelchairs'<sup>3</sup> on roads or road-related areas such as footpaths. A motorised wheelchair which is not able to travel faster than 10 km/h on level ground is recognised under the ARR's as a pedestrian.<sup>4</sup> This means that users are subject to the general road rules applying to pedestrians, including rules which:

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- 1 The Transport and Infrastructure Council is made up of the ministers responsible for road safety matters in each state and territory, and the Commonwealth minister responsible for transport matters.
  - 2 Parliamentary Counsel's Committee, *Australian Road Rules*, as at 19 March 2018, Austroads Ltd, *Submission 64*, p. 2 and National Transport Commission *Submission 68*, p. 2.
  - 3 Under the Australian Road Rules, the term 'motorised wheelchair' refers to a chair that is mounted on two or more wheels, which is built to transport a person who is unable to walk or has difficulty walking, and which is propelled by a motor.
  - 4 Parliamentary Counsel's Committee, *Australian Road Rules*, as at 19 March 2018, Part 14, Rule 18.

- require pedestrians to use the footpath or nature strip adjacent to a road where there is one which can be used safely, and not travel on the road in these circumstances;
- prohibit pedestrians from causing a traffic hazard by moving into the path of a driver; and
- regulate the use of shared paths with bicycles.<sup>5</sup>

3.5 A motorised wheelchair that can travel faster than 10 km/h on level ground is treated as a vehicle,<sup>6</sup> which means that the person using the device is treated as a driver,<sup>7</sup> who is subject to all of the road rules applying to drivers of vehicles.<sup>8</sup>

3.6 Under the ARRs<sup>9</sup> vehicles are prohibited from being driven on paths (including footpaths, bicycle paths and shared paths). There is, however, an exception for a driver of a motorised wheelchair, provided that he or she complies with the following requirements:

- the unladen mass (or TARE) of the wheelchair is not over 110 kg;
- the wheelchair is not travelling over 10 km/h;
- because of the driver's physical condition, the driver has reasonable need to use a wheelchair; and
- the driver gives way to all other road users (including pedestrians) and animals on the path.<sup>10</sup>

### **State regulations governing the use of motorised mobility devices**

3.7 As previously noted, states and territories are able to use the ARRs as the framework for their own legislation, or can adapt them to meet specific, local conditions. While to a large degree Australian states and territories have used the ARRs as a basis for their own laws, identifying any subtle differences is not a simple task. The rules in relation to motorised mobility devices are complex and there is a lack of consistency in relation to whether a transport, health or disability agency has responsibility for administering the system or providing guidance on the rules.

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5 Parliamentary Counsel's Committee, *Australian Road Rules*, as at 19 March 2018, Part 14.

6 Parliamentary Counsel's Committee, *Australian Road Rules*, as at 19 March 2018, Rule 15.

7 Parliamentary Counsel's Committee, *Australian Road Rules*, as at 19 March 2018, Rule 16.

8 Parliamentary Counsel's Committee, *Australian Road Rules*, as at 19 March 2018, Parts 3–13, 16 and 18.

9 Parliamentary Counsel's Committee, *Australian Road Rules*, as at 19 March 2018, Rule 288.

10 Parliamentary Counsel's Committee, *Australian Road Rules*, as at 19 March 2018, Sub-Rule 288(3).

### ***New South Wales<sup>11</sup>***

3.8 Under the NSW Road Rules, a person using a mobility device<sup>12</sup> is defined as a pedestrian. Under NSW law, users of a mobility device are not required to register the device, but must comply with NSW Road Rules which state that:

- the user must not travel faster than 10 km/h on level ground;
- the mobility device must not exceed 110 kg unladen;
- the user must not travel on the road unless it is impractical to travel on the footpath or nature strip next to the road;
- the user must keep as far to the side of the road as possible and face oncoming traffic if no footpath is available;
- the user must not use the mobility device with a blood alcohol concentration of 0.05 or more.

3.9 In NSW, there is no test or requirement for a special licence. Users must, however, be unable to walk or have difficulty in walking to be able to lawfully use a motorised wheelchair on a footpath, public road or in a road related area.

### ***South Australia<sup>13</sup>***

3.10 South Australia's regulations are based on ARRs, which state that a person using a motorised mobility scooter<sup>14</sup> is classed as a pedestrian if the maximum speed on level ground cannot exceed 10 km/h. As such the user:

- must observe the same road rules that apply to pedestrians;
- must not obstruct the path of any driver or other road user;
- must not travel along a road if there is a footpath or nature strip adjacent to the road, unless it is impracticable to travel on the footpath or nature strip;
- must keep as far to the side of the road as possible if travelling along the road and travel facing the approaching traffic (unless it is not practicable to do so);

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11 Based on information provided in *Current NSW Road Rules and Laws in NSW*, website <https://www.advancedscooters.com.au/current-nsw-road-rules-and-laws> (accessed 14 August 2018) and NSW Government, *Submission 106*.

12 The term mobility device is used by the New South Wales Government to vehicles, including motorised wheelchairs and mobility scooters that are specially constructed as a mobility aid for people with a disability and meet the classification of a 'non road' motorised wheelchair under the *Motor Vehicle Standards (Road Vehicles) Determination 2017*.

13 South Australian Department of Planning Transport and Infrastructure, Information Sheet 8, Version 6, *Motorised mobility scooters*, website [https://dpti.sa.gov.au/\\_data/assets/pdf\\_file/0014/141620/Info\\_Sheet\\_8\\_June\\_2015\\_Web.pdf](https://dpti.sa.gov.au/_data/assets/pdf_file/0014/141620/Info_Sheet_8_June_2015_Web.pdf) (accessed 27 August 2018).

14 The South Australian Department of Planning, Transport and Infrastructure note that motorised mobility scooters are also known as mobility scooters, motorised wheelchairs or gophers.

- can use shared paths, off-road bike paths, and shopping malls.

### **Victoria<sup>15</sup>**

3.11 Under the *Road Safety Act 1986* and the *Victorian Road Safety Road Rules 2017*, motorised mobility devices, including mobility scooters and motorised wheelchairs:

- are not defined as motor vehicles (and therefore cannot be registered);
- must have a maximum capable speed of 10 km/h on level ground and a maximum unladen mass of 110 kg;
- are to be used only by a person with an injury, disability or medical condition which means they are unable to walk or have difficulty walking.

3.12 Users of a vehicle defined as a motorised mobility device, are required to follow the same rules as pedestrians. These rules include 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.

3.13 Currently, under Victorian regulations, rules and standards, mobility scooters and motorised wheelchairs are treated equally.

### **Tasmania**

3.14 The *Tasmanian Vehicle and Traffic Act 1999*, defines a motor vehicle as a vehicle that is built to be propelled by a motor that forms part of the vehicle if the power output is greater than 200 watts and can reach a speed greater than 10 km/h. This definition includes power wheelchairs and mobility devices capable of exceeding 10 km/h. This type of vehicle must be registered if used in an area defined as a 'public street' – recognised as both private and public land, and including recreational areas, parks and beaches.<sup>16</sup>

3.15 A mobility scooter that is not classified as a motor vehicle under the traffic regulations – that is one which is restricted to travel less than 10 km/h – is classified as a pedestrian and is required to obey pedestrian laws. Specifically, the scooter is required to be driven on footpaths and is subject to pedestrian rules for crossing roads.<sup>17</sup>

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15 Based on information provided in Royal Automobile Club Victoria (RACV), *Motorised mobility devices*, website, <https://www.racv.com.au/on-the-road/driving-maintenance/road-safety/road-rules/motorised-mobility-devices.html> (accessed 27 August 2018) and Darebin Disability Advisory Committee, *Submission 102*, p. 1.

16 Tasmanian Department of Health and Human Services, *Submission 50*, p. 1.

17 Tasmanian Department of Health and Human Services, *Submission 50*, p. 1.

3.16 The Tasmanian Department of Health and Human Services noted that there is currently no legal requirement for education surrounding the safe use of non-registrable vehicles, including powered mobility devices.<sup>18</sup>

### ***Western Australia***<sup>19</sup>

3.17 Western Australia's Road Safety Commission notes that mobility scooters or devices give independence to people who have difficulty walking due to a physical condition. While the Road Safety Commission stresses that mobility scooters are not meant to be used as a replacement for a motor vehicle, it also notes that there are currently no laws prohibiting or governing the use of mobility scooters by people who do not have limited mobility.

3.18 Under Western Australia's current traffic laws, users of mobility scooters and motorised wheelchairs are classed as pedestrians, provided the maximum speed of the equipment is 10 km/h. Those devices capable of travelling faster than 10 km/h must be registered as vehicles.

3.19 Mobility scooters and motorised wheelchairs are allowed to travel on:

- footpaths;
- shared paths; and
- the sides of roads if there is no footpath.

### ***Queensland***<sup>20</sup>

3.20 The Queensland Government requires that if a mobility scooter or motorised wheelchair is being used outside of the home – for example on a footpath – the person using the device is considered to be a pedestrian under the Queensland Road Rules.

3.21 Under the Queensland Road Rules, a person using a mobility scooter or motorised wheelchair, or any other pedestrian must:

- use the footpath or nature strip where available;
- [if there is no footpath or nature strip available, or there is an obstruction that needs to be avoided] the person must travel as close as possible to the left or right hand side of the road – and should face oncoming traffic if possible;
- cross a road by the most direct route and use a crossing where available.

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18 Tasmanian Department of Health and Human Services, *Submission 50*, p. 1.

19 Based on information provided in Government of Western Australia, Road Safety Commission, website, <https://www.rsc.wa.gov.au/Your-Safety/Safety-Topics/Seniors> (accessed 27 August 2018).

20 Based on information provided in Queensland Department of Transport and Main Roads, *Registration*, website, <https://www.qld.gov.au/transport/registration/register/wheelchair> (accessed 14 August 2018) and Brisbane City Council, *Submission 53*.

3.22 In addition to these general rules, a person using a mobility scooter or a motorised wheelchair must also exercise due care and attention for the safety of others at all times, including travelling at an appropriate speed.

### ***Northern Territory***<sup>21</sup>

3.23 Under Northern Territory legislation, motorised mobility devices are treated as pedestrians (in accordance with the ARR) provided that the device cannot travel at a speed of more than 10 km/h. Under these regulations, the user of a motorised mobility device may ride on the footpath where available, and can only travel on the road to cross by the most direct route.

3.24 Under Northern Territory legislation, a motorised mobility device cannot legally be driven on a road. It was noted, however, that in remote areas, where there is a lack of footpath infrastructure these devices are frequently used on roadways, where technically they are not permitted to be used. It was acknowledged, however, that users have few other options to access services in the community if they are not able to use a motorised mobility device.

3.25 The Northern Territory Department of Infrastructure, Planning and Logistics noted that one of the key issues raised during its consultation with the Northern Territory community had been the lack of clear definitions in relation to motorised mobility devices, including where they can be legally used.

### ***Australian Capital Territory***<sup>22</sup>

3.26 The Australian Capital Territory (ACT) Government has adopted the ARR, through the application of the *Road Transport (Safety and Traffic Management) Regulation 2000*. While mobility scooters and motorised wheelchairs are usually differentiated by both construction and users, they are generally treated equally under existing ACT regulations, as 'motorised wheelchairs'.

3.27 In the ACT, a pedestrian includes a person driving a 'motorised wheelchair' that cannot travel at over 10 km/h (on level ground). As such, the user of a mobility scooter or motorised wheelchair is provided the same rights and responsibilities as an ambulant pedestrian.

3.28 The ACT regulations provide that a person may use a motorised wheelchair on a path if:

- the unladen mass of the wheelchair is not over 110 kg;
- they are not travelling at over 10 km/h; and
- because of their physical condition, the user has a reasonable need to use a motorised wheelchair.

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21 Based on information contained in Northern Territory Department of Infrastructure, Planning and Logistics, *Submission 70*, p. 2.

22 Based on information provided in ACT Government, *Submission 103*, [p. 2].

3.29 In responding to concerns from the community, the ACT was the first jurisdiction in Australia to provide an exemption to the above mass limit for motorised wheelchairs used on a path. The exemption increased the allowable mass of the unladen wheelchair to 150 kg.

3.30 The ACT Government advised that the ARR's treatment of the users of motorised wheelchairs (that cannot travel at more than 10 km/h) is supported by the *Motor Vehicle Standards Act 1989*. The Motor Vehicle Standards (Road Vehicles) Determination 2017 under the MVSA, provides that a motorised wheelchair is designed to be used by a single person, is self-propelled, is not capable of exceeding 10 km/h on level ground, and if not propelled solely by one or more electric motors, has an unladen mass of 40 kg or more.

3.31 It is the understanding of officers within the ACT Road Transport Authority, that under the MVSA, mobility scooters and motorised wheelchairs that can travel at more than 10 km per hour on level ground are considered to be non-standard motor vehicles. The ACT Government advised that because it is an offence under the MVSA to import or supply to market such devices, an offender would be liable to a penalty for each such offence.

## Human Rights

3.32 The issue of human rights was raised by a large number of submitters who suggested that any tightening of the regulations for mobility scooters and motorised wheelchairs would discriminate against both older people and those with a disability.

3.33 Ms Marg Bell expressed concern that any proposal to further regulate motorised wheelchairs would "have the effect of condemning a community already struggling to cope with the normal activities of everyday life".<sup>23</sup> She continued:

It's seeking to limit the movement of already limited people who in many cases need their wheelchairs simply to function, not to go down the road in, but to get to the toilet and the washbasin. They need a wheelchair to compensate for what their body cannot achieve on its own. I am not suggesting that they need to go to the toilet at 10kph. I am trying to point out that their wheelchair is a vital supplement for their legs.<sup>24</sup>

3.34 The sentiments expressed by Ms Bell were echoed by a number of submitters who argued that users of mobility scooters and motorised wheelchairs should not be treated differently, or discriminated against.<sup>25</sup> Mr Ray Jordan for example, argued that:

We have laws that limit the speed at which people are allowed to drive their cars. Those speed limits vary depending on the circumstances. Yet we do

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23 Ms Marg Bell, *Submission 41*, p. 1.

24 Ms Marg Bell, *Submission 41*, p. 1.

25 See, for example, Mr R. Fountain, *Submission 12 and Supplementary Submission 12*, Ms Joanne McWatters, *Submission 30*, Ms Saverina Cardamone, *Submission 36*, Mr John Moxon, *Submission 56* and Ms Stacey Christie, *Submission 66*.

not limit the maximum speed of the cars themselves. We rely on drivers obeying the rules which, generally, they do.

Should the riders of mobility scooters and power wheelchairs be treated differently to car drivers? Should their devices be physically limited to a slow walking pace as some have suggested? I say no, this would be seen as discriminatory by many in the community.<sup>26</sup>

3.35 Ms Erin Condrin submitted that able bodied people have the right to make decisions about how fast they move in a variety of situations – including playing soccer with their children, walking their dog, or when running late for an appointment. Further, Ms Condrin argued:

As a walking person, you can decide when it's appropriate to walk and when it's appropriate to jog or run. Your proposed legislation takes away my right to choose. Not only is this belittling to suggest that all users of mobility scooters and motorised wheelchairs are incapable of using common sense and deciding what speed we move at, it is unfair to impose restrictions on the mobility of people with disabilities when those who are able bodied do not face the same standards. Is this not discrimination?<sup>27</sup>

3.36 There are a number of conventions that have been ratified by the Australian Government, the principles and articles of which are reflected in Australian legislation and in public policy and programs. These include Commonwealth, state and territory anti-discrimination legislation, the *National Disability Strategy 2010–2020*, and the NDIS.<sup>28</sup>

3.37 A number of submitters, including the Office of the Public Advocate (Victoria) (OPA Victoria), pointed to the central role that human rights should play in any discussions around the use and regulation of mobility devices.<sup>29</sup> OPA Victoria pointed to the United Nations Principles for Older Persons (1991) and the United Nations Convention on the Rights of Persons with Disabilities (2006), and argued that these instruments are part of the framework within which "policies affecting older people and people with disabilities should be considered".<sup>30</sup>

3.38 OPA Victoria also argued that:

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26 Mr Ray Jordan, *Submission 23*, [p. 2].

27 Ms Erin Condrin, *Submission 52*, [p. 1].

28 As the NDIS continues to roll out across Australia, it will be the agency responsible for the provision of mobility devices, such as mobility scooters, motorised wheelchairs and other mobility equipment. Older Australians who are not eligible for the NDIS will also be able to obtain mobility devices from schemes which are currently in place.

29 See, for example, Mr R. Fountain, *Submission 12 and Supplementary 12*, Ms Joanne McWatters, *Submission 30*, Ms Saverina Cardamone, *Submission 36*, Mr John Moxon, *Submission 56*, Ms Stacey Christie, *Submission 66*, NSW Council of Social Services, *Submission 78*, Physical Disability Council of NSW, *Submission 79* and Queenslanders with Disability Network, *Submission 82*.

30 Office of the Public Advocate (Victoria), *Submission 63*, p. 3.

In an ageing society, it is vital that older persons with mobility impairments are supported to participate actively in Australian society, whether that is through involvement in education, employment, volunteering or other activities with family and friends.<sup>31</sup>

3.39 With this in mind, it was noted that the instruments being referred to by OPA Victoria were not based on a medical model of disability or ageing (which often seek to emphasise a specific medical diagnosis or focus on what people are not able to do). Rather, these instruments are based on a human rights model which encourages active participation and inclusion.

### ***United Nations Principles for Older Persons***

3.40 On 16 December 1999, the United Nations Principles for Older Persons were adopted by a resolution of the General Assembly. In adopting the principles, the United Nations (UN) acknowledged that in all countries, individuals are "reaching an advanced age in greater numbers and in better health than ever before". Under the principles, the UN declared that in addition to basic human rights in relation to food, water, shelter, clothing and health care, older persons also have the right to:

- maintain their independence;
- participate in the community;
- access social and legal services to enhance their autonomy, protection and care;
- access educational, cultural, spiritual and recreational resources; and
- be treated fairly regardless of age, gender, racial or ethnic background, disability or other status, and be valued independently of their economic contribution.<sup>32</sup>

### ***United Nations Convention on the Rights of Persons with Disabilities***

3.41 The United Nations Convention on the Rights of Persons with Disabilities (CRPD) applies to people with disabilities of all ages. There are two articles contained within the CRPD which are of particular relevance to the issues around regulation of mobility scooters and motorised wheelchairs.

#### ***Article 3 – Guiding principles***

The guiding principles of the Convention are:

- (a) respect for inherent dignity, individual autonomy including the freedom to make one's own choices, and independence of persons;
- (b) non-discrimination;
- (c) full and effective participation and inclusion in society;

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31 Office of the Public Advocate (Victoria), *Submission 63*, p. 3.

32 United Nations Human Rights, Office of the Commissioner, website: <https://www.ohchr.org/en/professionalinterest/pages/olderpersons.aspx> (accessed 21 August 2018).

- (d) respect for difference and acceptance of persons with disabilities as part of human diversity and humanity;
- (e) equality of opportunity;
- (f) accessibility;
- (g) equality between men and women; and
- (h) respect for the evolving capacities of children with disabilities and respect for the right of children with disabilities to preserve their identities.<sup>33</sup>

#### *Article 20 – Personal mobility*

Article 20 of the Convention, states parties shall take effective measures to ensure personal mobility with the greatest possible independence for persons with disabilities, including by:

- (a) facilitating the personal mobility of persons with disabilities in the manner and at the time of their choice, and at affordable cost;
- (b) facilitating access by persons with disabilities to quality mobility aids, devices, assistive technologies and forms of live assistance and intermediaries, including by making them available at affordable cost;
- (c) providing training in mobility skills to persons with disabilities and to specialist staff working with persons with disabilities; and
- (d) encouraging entities that produce mobility aids, devices and assistive technologies to take into account all aspects of mobility for persons with disabilities.<sup>34</sup>

#### ***Disability Discrimination Act***

3.42 Section 23 of the *Disability Discrimination Act 1992* prohibits discrimination against a person on the grounds of their disability. This includes refusing to allow a person access to premises or use of facilities (that the public is entitled or allowed to enter or use). The Act covers circumstances in which discriminatory terms or conditions are imposed on a person's access or use of premises or facilities. It also covers situations in which a person imposes discriminatory requirements as to the manner of a person's access to premises or use of facilities, on the basis of disability.

3.43 The term 'premises' is defined in the Act to include both a structure and a place (whether it is enclosed or not). The Australian Human Rights Commission

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33 United Nations, Department of Economic and Social Affairs, Division for Inclusive Social Development, website <https://www.un.org/development/desa/disabilities/convention-on-the-rights-of-persons-with-disabilities/guiding-principles-of-the-convention.html> (accessed 23 August 2018).

34 United Nations, Department of Economic and Social Affairs, Division for Inclusive Social Development, website <https://www.un.org/development/desa/disabilities/convention-on-the-rights-of-persons-with-disabilities/article-20-personal-mobility.html> (accessed 23 August 2018).

(AHRC) has determined that the term 'premises' can include public footpaths; and states that barriers to using footpaths could potentially constitute unlawful discrimination. Barriers could, for example, include:

- the placement of street furniture, poles, bollards or equipment in locations that cause a barrier to access;
- poor maintenance that prevents the safe use of a footpath by persons with disabilities, including wheelchair users – such as, overhanging vegetation or uneven surfaces caused by pot-holes or tree roots; and
- encroachment by occupants or users of adjacent premises – including encroachments by nearby businesses, or building works that do not provide users with an alternative, safe route.<sup>35</sup>

3.44 It is noted, therefore, that any measures taken which limit the ability of people using motorised wheelchairs to use public footpaths could potentially constitute unlawful discrimination on the grounds of disability.<sup>36</sup> Section 29 of the Act contains a limited exemption for cases in which avoiding the discrimination would impose an 'unjustifiable hardship' on the discriminator.<sup>37</sup>

#### ***Disability (Access to Premises – Buildings) Standards 2010***

3.45 The Disability (Access to Premises – Buildings) Standards 2010 are made under the Disability Discrimination Act and set out a number of legally binding design standards for buildings. The AHRC has determined that public footpaths are not subject to the Standards, but has recommended that government authorities with responsibilities for footpaths adopt certain technical specifications, which the AHRC considers to be good practice. These include specifications for width and clearance heights, gradient, surface finish, kerb heights and tactile indicators at crossings. The AHRC does, however, also acknowledge that the requirements adopted at individual locations will also need to take account of local conditions, including the needs of the community, historical practice and any unique heritage or environmental issues.<sup>38</sup>

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35 Australian Human Rights Commission, Frequently asked questions: Access to premises, website <https://www.humanrights.gov.au/frequently-asked-questions-access-premises#footpath> (accessed 23 August 2018).

36 Australian Human Rights Commission, Frequently asked questions: Access to premises, website <https://www.humanrights.gov.au/frequently-asked-questions-access-premises#footpath> (accessed 23 August 2018).

37 The Australian Human Rights Commission has determined that in these circumstances, an assessment would be required in relation to what is fair and reasonable in the circumstances, taking into account issues such as financial costs, and weighing the potential benefits of access or use to persons with disabilities against the detriment to the discriminator in providing that access or use.

38 Australian Human Rights Commission, *Guidelines on application of the Premises Standards*, website <https://www.humanrights.gov.au/guidelines-application-premises-standards> (accessed 14 August 2018).

### ***Disability Standards for Accessible Public Transport 2002***

3.46 The committee was advised that there is currently no clear way for a person intending to purchase a motorised mobility device to know whether it will be suitable or safe to use on public infrastructure, including footpaths. It was also noted that determining whether a device can be used to access passenger transport can also be difficult. Problems arise when a mobility device is found to be too heavy to use passenger ramps, too wide to access doorways, or unable to access allocated spaces.<sup>39</sup>

3.47 Given the risks this situation poses to users of mobility devices, other commuters, passenger transport workers, and to infrastructure, the Disability Standards for Accessible Public Transport 2002 were reviewed in 2013. Austroads noted that one of the recommendations from that review was for the Commonwealth, in collaboration with state and territory governments, to develop and implement a national labelling scheme for motorised mobility devices. The Federal Government noted the recommendation, and indicated its support for an Austroads project to develop a labelling system to better inform customers about the suitability of different mobility devices for use on public infrastructure, such as footpaths, and passenger transport conveyances.<sup>40</sup>

### **Licensing, registration and third-party insurance**

3.48 The issue of licensing, registration and insurance for motorised mobility devices was raised by a number of submitters, with many supportive of a licensing, registration and insurance scheme.<sup>41</sup> Ms Stacey Christie, for example, suggested that perhaps a licensing system would offer a good solution:

That way the thousands of people with permanent disabilities, who use their motorised wheelchairs every day and are very safe, are not penalised for the errors of a select few irresponsible individuals. People who use their wheelchairs the majority of the time would easily pass a licence test and people who are unsafe wouldn't be able to purchase a mobility scooter.<sup>42</sup>

3.49 Mr Terry Flower informed the committee that an industrial accident saw him purchase the first of many mobility devices in 1998. Mr Flower, a South Australian, indicated that he currently owns several scooters (which he uses for different purposes) and which are all covered for comprehensive insurance by the Royal Automobile Association of South Australia (RAA SA). Mr Flower noted that his mobility scooters are also covered for third party insurance by the Motor Accident Insurance Commission (MAIC).<sup>43</sup>

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39 Austroads Ltd, *Submission 64*, p. 3.

40 Austroads Ltd, *Submission 64*, p. 3.

41 See, for example, Ms Jacqueline Walling, *Submission 1*, Mr Ian Keith, *Submission 6*, Dr Colin Sheppard, *Submission 8*, Mr Peter Mitchell, *Submission 13*, Ms Judy and Mr Ray Taylor, *Submission 16*, Mr Ron Henney, *Submission 42*, Ms Helen Mikolaj, *Submission 46* and Mr Paul Brand, *Submission 55*.

42 Ms Stacey Christie, *Submission 66*, [p. 3].

43 Mr Terry Flower, *Submission 60*, p. 1.

3.50 Mr Flower pointed to the fact that in South Australia, the rules have recently been changed to allow adults to ride their bicycles on the footpaths. He observed that bicycles are frequently ridden at speeds in excess of 10 km/h. Noting these changes, Mr Flower made the following suggestion in relation to a registration system:

An option that is available would be to make every mobility scooter and pushbike have an identification number that is a registration number. If this idea was adopted irresponsible users of mobility scooters and pushbikes would be readily identifiable by the police.<sup>44</sup>

3.51 It is noted that, given motorised mobility devices which cannot travel faster than 10 km/h are classified as pedestrians, they are not subject to driver licencing requirements in any state or territory.

#### ***New South Wales***<sup>45</sup>

3.52 The NSW vehicle registration system generally requires all motorised vehicles (that meet national design and safety standards) be registered for use on a road or road-related areas. There are certain vehicles, however, that are specifically exempt from registration and do not require CTP insurance.

3.53 The nominal defendant provisions under the NSW motor accident scheme can (subject to some conditions) provide insurance cover for personal injury claims arising from accidents on roads or road-related areas, where a motorised wheelchair that is not required to be registered is at fault.

#### ***South Australia***<sup>46</sup>

3.54 In South Australia, mobility scooters do not require registration. The MAIC provides users of mobility devices with third-party insurance cover at no cost, in cases where an incident occurs on the road or on a footpath in which the user of the mobility scooter or motorised wheelchair was at fault. Potential purchasers are advised to contact an insurance company or broker to check personal liability and insurance cover for mobility scooters.

#### ***Victoria***

3.55 Under Victorian legislation motorised mobility devices – including mobility scooters and motorised wheelchairs – are not defined as motor vehicles and therefore cannot be registered.<sup>47</sup>

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44 Mr Terry Flower, *Submission 60*, p. 2.

45 Based on information provided in *Current NSW Road Rules and Laws in NSW*, website <https://www.advancedscooters.com.au/current-nsw-road-rules-and-laws> (accessed 14 August 2018) and NSW Government, *Submission 106*.

46 Based on information provided in South Australian Department of Planning, Transport and Infrastructure, Information Sheet 8, Version 6, *Motorised mobility scooters*, website [https://dpti.sa.gov.au/\\_data/assets/pdf\\_file/0014/141620/Info\\_Sheet\\_8\\_June\\_2015\\_Web.pdf](https://dpti.sa.gov.au/_data/assets/pdf_file/0014/141620/Info_Sheet_8_June_2015_Web.pdf) (accessed 14 August 2018).

47 Darebin Disability Advisory Committee, *Submission 102*, p. 1.

### **Tasmania**

3.56 Under Tasmanian regulations, mobility scooters or motorised wheelchairs only need to be registered if they are used on public streets (including footpaths) and can exceed a speed of 10 km/h. If mobility scooters or motorised wheelchairs require registration (that is, if they are able to travel at more than 10 km/h) they are registered as a light vehicle or a motorcycle with conditions, depending on how they are constructed.<sup>48</sup>

### **Western Australia<sup>49</sup>**

3.57 The Western Australian Department of Transport uses the term 'motorised wheelchair' to include wheelchairs driven by petrol, diesel or electric engines, as well as vehicles referred to as gophers. Under Western Australian legislation, these vehicles must be designed so that they cannot exceed a speed of 10 km/h.

3.58 Users of these vehicles are not required to hold a driver's licence and are not required to pay compulsory Motor Injury Insurance (MII). Interestingly, the Western Australian Department of Transport indicated that where a genuine need is demonstrated, vehicles that are more suitable for higher speeds (for example, quad bikes) can be conditionally licensed as 'motorised wheelchairs'.

### **Queensland<sup>50</sup>**

3.59 In Queensland, a motorised wheelchair<sup>51</sup> used on a footpath or road area must be registered. To be registered, the motorised wheelchair must:

- have an electric motor;
- be designed and built for use by a seated person with mobility difficulties;
- not be capable of travelling at more than 10 km/h;
- have a maximum TARE (or unladen weight) of 150 kg; and
- not be propelled by an internal combustion engine.

3.60 Provided the applicant complies with specific procedural requirements (including supplying a medical certificate confirming their medical need to use a wheelchair due to mobility impairment) there is no cost for registration in Queensland.

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48 Tasmanian Department of State Growth, Transport, *Registration: Wheelchairs*, website <https://www.transport.tas.gov.au/registration/information/wheelchairs> (accessed 27 August 2018).

49 Based on information contained in Western Australia Department of Transport, website *License a motorised wheelchair*, <https://www.transport.wa.gov.au/licensing/license-a-motorised-wheelchair.asp> (accessed 27 August 2018).

50 Based on information contained in Queensland Department of Transport and Main Roads, website <https://www.qld.gov.au/transport/registration/register/wheelchair> (assessed 14 August 2018).

51 The Queensland Department of Transport and Main Roads refers to motorised mobility devices as 'motorised wheelchairs' rather than 'mobility scooters'.

Users of registered motorised wheelchairs also receive compulsory third-party insurance free of charge. This provides coverage in the event that a user causes injury to another person while on a road-related area such as a footpath.

3.61 After a motorised wheelchair is registered, the user receives:

- a number plate;
- a registration certificate; and
- an information sheet explaining Queensland Road Rules relating to motorised wheelchairs.

### ***Northern Territory***

3.62 The Northern Territory does not operate a registration, licensing or compulsory third-party insurance system for motorised mobility devices.<sup>52</sup>

3.63 The nominal defendant provisions in the Northern Territory's motor accident scheme can (subject to some conditions) provide insurance cover for personal injury claims arising from accidents on roads or road-related areas, where a motorised wheelchair that is not required to be registered is at fault.

### ***Australian Capital Territory***

3.64 The nominal defendant provisions in the ACT's motor accident scheme can (subject to some conditions) provide insurance cover for personal injury claims arising from accidents on roads or road-related areas, where a motorised wheelchair that is not required to be registered is at fault.

## **Stakeholder views**

### ***Licensing, registration and insurance***

3.65 The Brisbane City Council advised that through its *Brisbane Access and Inclusion Plan 2012–2017*, it has been working to improve pathways and ramps, as well as accessibility for mobility scooters and wheelchairs on Brisbane's bus network.

3.66 It was noted that the current Queensland system – which includes registration and free third-party insurance for motorised mobility devices – is effective. The Brisbane City Council also argued that the Queensland system, which ensures that mobility scooters are only registered to people who require them, is something that other states and territories could consider implementing.<sup>53</sup>

3.67 The Brisbane City Council submitted that there are currently a number of gaps in regulatory and licensing processes for mobility scooters which could be remedied for the benefit of both footpath and public transport users. The Council pointed to the lack of consistency between states in relation to standards, licensing, education and accessible public transport and made the following recommendations to rectify this situation:

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52 Northern Territory Department of Infrastructure, Planning and Logistics, *Submission 70*, p. 2.

53 Brisbane City Council, *Submission 53*, [p. 2].

- an Australian standard should be put in place for design and manufacture of mobility scooters with speed limiters for footpath use;
- the Austroads standard for footpaths should be amended to include reference to mobility scooters;
- given the increasing number of mobility scooters, consideration should be given to the need to revise the standard pathway width (which is currently 1.2 metres);
- the states and territories consider implementing a basic licencing scheme to ensure that users have the ability to use a mobility scooter safely; and
- basic training for mobility scooter users should be provided by mobility scooter retailers or certified companies – with eligible users able to access funding through the NDIS.<sup>54</sup>

3.68 Brisbane City Council noted that the gaps "include consistency of standards between states, licencing and education".<sup>55</sup> As one of the largest public transport operators in Australia, it emphasised the point that particular attention needs to be paid to mobility scooter access onto public transport.<sup>56</sup>

3.69 In terms of licencing, the OPA Victoria indicated that it does not consider the licencing of all motorised mobility devices a workable solution, on the basis that:

It would create an unworkable, costly system that would further stigmatise and discriminate against people with mobility disabilities. It would only create additional barriers to people with disabilities, of whatever age, participating and contributing to society. Furthermore, it would do little to reduce accidents.<sup>57</sup>

3.70 The NSW Government argued that, without compelling evidence to suggest that it would improve road safety, implementing a registration scheme for mobility devices would be contrary to the state's Better Regulation policy.<sup>58</sup> It was also argued that requiring mobility devices to be registered could potentially create a significant financial and regulatory burden, "the costs of which would either have to be met by the users themselves or absorbed by government".<sup>59</sup>

3.71 Mr Charles Nicholson, a submitter from NSW, noted that in that state, provisional registration is already in use for vehicles described as 'non-complying

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54 Brisbane City Council, *Submission 53*, [pp 2-3].

55 Brisbane City Council, *Submission 53*, [p. 1].

56 Brisbane City Council, *Submission 53*, [p. 1].

57 Office of the Public Advocate (Victoria), *Submission 63*, p. 4.

58 In June 2008, the NSW Government released its Guide to Better Regulation. The Guide outlines the requirements for best practice regulation-making across government, with agencies required to apply the seven 'better regulation principles' to avoid the creation of red tape in new regulatory proposals and reduce existing red tape (as legislation is reviewed).

59 NSW Government, *Submission 106*, p. 4.

vehicles'.<sup>60</sup> Non-complying vehicles include tractors, equipment used by councils to carry out roadside mowing, as well as those used for roadworks, beach cleaning and shopping trolley collection.<sup>61</sup> Mr Nicholson suggested that it would be possible for mobility scooters to be included in this category, be required to have provisional registration and be required to be fitted with a small, readily identifiable, registration number plate. Mr Nicholson also argued that all motorised mobility scooters should be covered by compulsory third-party insurance and that this could be achieved by users paying a nominal amount, for example, ten per cent of the cost of car CTP.<sup>62</sup>

3.72 The committee was advised that, in the past, South Australia did have a low-cost registration scheme for motorised wheelchairs, which provided insurance, but did not require a number plate to be issued. It was also noted that currently in South Australia, the MAIC does provide free third-party insurance cover for mobility scooters (in cases of accidental injury).<sup>63</sup>

3.73 It is also noted that third-party insurance arrangements provided by state and territory governments appear to be limited to the use of motorised wheelchairs on a road, or a road-related area, such as a footpath. It would seem that they do not cover injuries caused on private premises, such as in a shopping centre or a local club (which would need to be covered by a separate public liability insurance policy).

3.74 Ms Helen Mikolaj advised that, as a mobility scooter user in South Australia, she has been able to obtain comprehensive insurance for her current scooter through the RAA SA. In terms of appropriate regulation, Ms Mikolaj also argued in favour of:

- a system of registration for those mobility scooters which have third-party insurance cover (for which a nominal fee is charged);
- the introduction of a number plate or identity plate for mobility scooters and bicycles (to identify the user);
- a Certificate of Competency for users of mobility scooters (for which basic training is required);
- retailers of mobility scooters to offer appropriate advice to purchasers (before they buy); and
- medical assessments of a person's ability to use and control a mobility scooter (including eyesight checks).<sup>64</sup>

3.75 Similar views were expressed by Dr Gary Musselwhite, a mobility scooter user who has lived in NSW, Queensland and now Victoria. In addition to suggesting

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60 Mr Charles Nicholson, *Submission 44*, p. 3.

61 NSW Department of Roads and Maritime Services, website <http://www.rms.nsw.gov.au/roads/registration/get-nsw-registration/vehicle-sheets/tractor.html>, (accessed 20 August 2018).

62 Mr Charles Nicholson, *Submission 44*, p. 3.

63 Ms Helen Mikolaj, *Submission 46*, [p. 1].

64 Ms Helen Mikolaj, *Submission 46*, [p. 1].

that the conditional registration of all mobility scooters and power chairs should be mandatory across all states (in line with the Queensland system), Dr Musselwhite suggested that:

- users of a mobility device should be required to undergo an assessment conducted by an occupational therapist (to ensure that the device is required to assist with mobility and that the user is capable of operating the mobility device in a safe manner);
- based on an occupational therapist's assessment, a person with a significant impairment may require their mobility device to be speed limited as a condition of registration; and
- mobility scooters should have an attached registration plate (which acts as a means of identifying the user in the event of an incident or police involvement).<sup>65</sup>

3.76 Further, Dr Musselwhite recommended that all states adopt "consistent policy and legislation in respect to the registration of motorised mobility scooters and power chairs", and that consideration be given to the introduction of regular assessments for users of mobility devices.<sup>66</sup> The assessments, which would be conducted by an occupational therapist (and funded using an aged care package, Medicare or NDIS) would go some way to ensuring that individuals were safe to continue using a mobility device.<sup>67</sup>

#### ***Assessment by a medical professional***

3.77 A number of submitters raised the issue of medical assessments for users of mobility devices. Many argued that while they were not in favour of making it unduly difficult for users of mobility devices to get around, they were of the view that users of should be required to be assessed by a medical professional prior to purchasing (or being prescribed) a mobility device.<sup>68</sup> A number of stakeholders also argued that assessments of an individual's ability to control a mobility device should be checked on a regular basis – with many people suggesting assessments be undertaken annually.<sup>69</sup>

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65 Dr Gary Musselwhite, *Submission 61*, [p. 4].

66 Dr Gary Musselwhite, *Submission 61*, [p. 4].

67 Dr Gary Musselwhite, *Submission 61*, [p. 4].

68 Some submitters suggested that these assessments should be undertaken by a general practitioner or other medical specialist, while a number recommended these assessments could be undertaken by an occupational therapist.

69 See, for example, Ms Jacqueline Walling, *Submission 1*, p. 2, Mr John McQuiggin, *Submission 11*, Mr Peter Mitchell, *Submission 13*, Mr Nigel Caswell, President, People with Multiple Sclerosis Victoria, *Submission 18*, Mr Kevin Finlayson, *Submission 27*, Ms Liz Black, *Submission 39*, Ms Margaret Bayley, *Submission 48*, Mr Paul Brand, *Submission 55* and Ms Jenny Linton-Webb, *Submission 67*.

3.78 Ms Anita Volkert, National Manager, Occupational Therapy Australia (OTA) told the committee that the organisation supported the idea of a standardised assessment tool for mobility scooter and motorised wheelchair use. OTA also agreed that an occupational therapy assessment should be a requirement for people with identified health issues, which result in functional limitations. OTA warned however, that the further regulation of motorised mobility devices may disadvantage some users – particularly if increased assessment, licensing and insurance costs create delays in obtaining a mobility device. Ms Volkert explained that OTA encourages:

...careful consideration of the impact this may have on the ability of people with chronic health conditions and disabilities to effectively participate in society, which we know increases people's health and wellbeing.<sup>70</sup>

3.79 Professor Carolyn Unsworth representing CQUniversity Australia, told the committee that, in terms of assessment and education for mobility device users, she has recently been involved in the development of the Powered Mobility Device Assessment and Training Tool – PoMoDATT. The training tool, which has been researched over a period of five years, has recently been published and:

...it's widely used by occupational therapists to assist them to make sure that people who are using scooters and wheelchairs are safe to do so. In addition, if they're not safe, then there's a training mechanism incorporated so that we can work with people to get people safe. I believe that this is a very important tool that we can use. It's only one aspect of the entire problem, but it does contribute to helping make people safe.<sup>71</sup>

3.80 OPA Victoria also raised the issue of assessments for users of mobility devices. OPA Victoria expressed the view that in some situations it may be appropriate for an individual to undergo testing to determine if using a mobility scooter or a motorised wheelchair is appropriate for them (or remains appropriate for them). It was submitted, however, that there are existing systems of assessment which can be used in these situations.<sup>72</sup>

### ***Education and training***

3.81 A number of stakeholders argued that in Australia, children are educated about road safety in an attempt to keep them safe when they are walking or riding bicycles. Australians also consider education and training to be an important step in learning to drive and being granted a licence to drive a vehicle. It was submitted that more should be done to educate people in the use of motorised mobility devices and

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70 Ms Anita Volkert, National Manager, Professional Practice and Development, Occupational Therapy Australia, *Committee Hansard*, 23 July 2018, p. 24.

71 Professor Carolyn Unsworth, CQUniversity Australia, *Committee Hansard*, 23 July 2018, p. 25.

72 Office of the Public Advocate (Victoria), *Submission 63*, p. 2.

operating them in a manner that is safe for users and others, while at the same time educating the broader community about safety around motorised mobility devices.<sup>73</sup>

3.82 Mr Nigel Caswell, President, People with Multiple Sclerosis Victoria, suggested that there is a need for a minimum level of training and information to be provided to all people who purchase (or are prescribed) a mobility scooter or motorised wheelchair. Mr Caswell argued that:

This training and information should be provided before the purchase is completed and should cover safe use, courtesy and safety for other people and basic maintenance (if the user is not capable of the maintenance this information should be provided to the user's carer or similar). In my view the provision of this training and information should be an obligation of the retailer supplying the machine, and desirably retailers should offer regular half day courses for persons proposing to purchase a machine.<sup>74</sup>

3.83 The issue of shared roads, paths and other spaces was raised by a number of submitters. A number of stakeholders also pointed to the fact that there are frequently a range of vehicles which share roads, paths and other spaces, particularly in cities.<sup>75</sup>

3.84 A number of submitters also made it clear that safety is not the sole responsibility of those who use motorised mobility devices. Stakeholders argued that pedestrians not watching where they are going, people texting or talking on phones, bicycles and skateboards travelling too fast, and vehicles blocking footpaths can also pose a danger.

3.85 For example, whilst acknowledging that while some people can be "uncaring and reckless" on a scooter, Mr Russell Anderson argued that the general public also need to be more aware of their surroundings:

The general public need to be also made aware of the dangers they pose to themselves. I have had many occasions where people just stop dead in front of you for no reason and it is not that easy to stop dead [on a scooter]. Or they just walk out straight in front of you or they block your path with shopping trolleys.<sup>76</sup>

3.86 Ms Robyn Hall expressed similar frustrations and told the committee:

Scooters are not the only things used on pavements and it's unfair to target just those who use them. I am sick to death of going down the shopping strip in Richmond, Melbourne and adults are riding their pushbikes (illegal by the way) on the footpath. I have seen people hit and nearly hit by these

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73 See, for example, Ms Jacqueline Walling, *Submission 1*, Mr John Halford, *Submission 10*, Mr Peter Mitchell, *Submission 13*, Mr Trevor Hodson, *Submission 15*, Mr Ray Jordan, *Submission 23*, Ms Liz Black, *Submission 39* and Miss Joanne Berry, *Submission 51*.

74 Mr Nigel Caswell, President, People with Multiple Sclerosis Victoria, *Submission 18*, [p. 4].

75 See, for example, Mr R Fountain, *Supplementary Submission 12*, Ms Yvonne Sartori, *Submission 14*, Mr Arthur Comer, *Submission 17*, Ms Robyn Hall, *Submission 19* and Miss Stacey Christie, *Submission 66*.

76 Mr Russell Anderson, *Submission 3*, p. 1.

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irresponsible idiots and yet when I complained to our local council I was told it's nothing to do with them.<sup>77</sup>

3.87 Mr Peter Fraser also raised the problem of pedestrians not being aware of their surroundings:

In my local shopping centre....one has to be very careful as so many people are texting or talking on their mobiles instead of looking where they are going. This is a daily problem that I encounter.<sup>78</sup>

3.88 OPA Victoria acknowledged the increased use of motorised mobility devices, and noted that in addition to those people who have their own mobility scooter or motorised wheelchair, motorised scooters are often available for temporary hire at shopping centres, educational facilities and recreational facilities. It was argued, therefore, that at any one time across Australia, there "will be hundreds or thousands of motorised mobility devices in use".<sup>79</sup>

3.89 OPA Victoria also acknowledged that as a result of the sheer numbers of devices, accidents are going to happen. It argued however, that:

...it is wrong to blame the driver of these devices solely for these accidents. Accidents often happen because of the physical environment in which the users of motorised devices find themselves. For example, poorly maintained footpaths, steep and uneven terrain, kerb ramps (or kerb cuts), inadequate street lighting and the failure of other people to look where they are going.<sup>80</sup>

3.90 OPA Victoria suggested that rather than additional regulation, community education is a better solution to the problem of incidents and accidents involving motorised mobility scooters, motorised wheelchairs, bicycles and skateboards. OPA Victoria indicated its support for community education designed to remind people to be more aware of what is going on in the environment around them, and to be more mindful of others, particularly when they are using headphones and mobile phones.

3.91 Community education, it was argued, should focus on the rights and responsibilities of users of motorised mobility devices, members of the general public as well as the agencies responsible for community infrastructure, without condemning or excluding those people who need mobility devices.<sup>81</sup>

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77 Ms Robyn Hall, *Submission 19*, p. 1.

78 Mr Peter Fraser, *Submission 28*, p. 1.

79 Office of the Public Advocate (Victoria), *Submission 63*, p. 4.

80 Office of the Public Advocate (Victoria), *Submission 63*, p. 4.

81 Office of the Public Advocate (Victoria), *Submission 63*, p. 3.



# Chapter 4

## Conclusions and Recommendations

4.1 Motorised mobility devices – including mobility scooters and motorised wheelchairs – have become increasingly important to a growing number of older Australians. The issues around their use and their safety are, however, equally important to younger Australians – particularly those who live with a disability.

### **The importance of motorised mobility devices for Australians living with disabilities**

4.2 Many Australians will have a disability at some stage of their lives. For some people the disability will be temporary, but others may be affected for a lifetime. According to statistics cited by the AHRC, approximately 6.8 million Australians aged 18 years and over report having a disability, or a long-term health condition. Most people with disabilities – 87 per cent – are restricted in their ability to carry out at least one everyday activity, such as self-care, mobility or communication.<sup>1</sup>

4.3 The AHRC also notes that people with disabilities are more likely to experience poverty, live in poor quality or insecure housing and have low levels of education. They are often socially isolated and have fewer opportunities to take part in community life. Progress has been made towards fulfilling the Disability Standards for Accessible Public Transport 2002 requirement that all public transport services, infrastructure and conveyances fully comply with the relevant standards by 2032.<sup>2</sup> However, the fact remains that 1.2 million Australians with disabilities report having difficulties accessing and using public transport.<sup>3</sup>

4.4 It should be noted that according to recent figures from the AHRC, discrimination on the grounds of disability is the most frequent issue raised by people who enquire about their human rights or who lodge complaints about breaches of those rights. In 2016–17, the AHRC received 14 911 complaint-related enquiries and 1939 complaints. Of these, disability discrimination accounted for 20 per cent of total enquiries and 39 per cent of total complaints.<sup>4</sup>

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1 Australian Human Rights Commission, *Face the facts: Disability Rights*, website <https://www.humanrights.gov.au/face-facts-disability-rights> (accessed 24 August 2018).

2 The Transport Standards prescribe minimum requirements to be met by transport operators and providers and includes performance requirements and timeframes for compliance. By December 2022, operators and providers are required to ensure that all public transport services (except trains and trams) fully comply with the relevant Standards.

3 Australian Human Rights Commission, *Face the facts: Disability Rights*, website <https://www.humanrights.gov.au/face-facts-disability-rights> (accessed 24 August 2018).

4 Australian Human Rights Commission, *Disability discrimination at top of Commission complaints data*, website <https://www.humanrights.gov.au/news/stories/disability-discrimination-top-commission-complaints-data> (accessed 30 August 2018).

## **Older Australians and community participation**

4.5 Older Australians represent a growing proportion of the total population. In 2016, 3.7 million Australians were aged 65 and over, comprising 15 per cent of the total population. The proportion of older Australians is expected to continue to grow steadily over the coming decades. In part, the growth in the proportion of older Australians is due to increasing life expectancy. In 2011–13, a 65 year old man could expect to live another 19 years, and a 65 year old woman another 22 years, which is 7 years longer (for both sexes) than in the mid-1960s.

4.6 According to the Australian Institute of Health and Welfare (AIHW), Australians now have one of the highest life expectancies in the world. It is noted that the proportion of older Australians participating in the labour force doubled between 2000 and 2015 – from 6 to 13 per cent. While a significant proportion of older Australians reported their health as good, very good, or excellent, approximately 50 per cent of older people indicated they have some degree of disability.<sup>5</sup>

## **Concerns raised about safety**

4.7 A number of submitters to the inquiry pointed to the increasing use of motorised mobility devices – particularly mobility scooters – and raised specific concerns about their safety. It was noted that while in theory, users of these devices are categorised as pedestrians, many mobility devices are heavy and some are also capable of reaching speeds of 10 km/h or more.

4.8 The committee received a number of detailed accounts of accidents in which submitters (or their relatives) had sustained a variety of injuries: ranging from bruising, grazes, skin tears and broken ankles to head injuries, broken legs and broken hips.

4.9 In addition to describing their first-hand experience of the types of injuries that can be caused by these devices, it was argued that the ongoing consequences of accidents involving motorised mobility devices can also be very serious. In addition to the impact on a person's physical and mental well-being, ongoing medical treatment can be painful, expensive and time consuming. Submitters also described circumstances where severe injury has made it impossible for a person to work and has caused considerable financial hardship.

4.10 Conversely, the committee heard of accidents involving injury to motorised mobility device users, often caused through no fault of their own. In a significant number of cases it is the user of the device who is injured, a reality that was borne out in evidence provided by stakeholders and included in Chapter 2.

## **The balance between independence and safety**

4.11 The committee recognises that motorised mobility devices – including mobility scooters and motorised wheelchairs – can have a positive impact on people's

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5 Australian Institute of Health and Welfare, *Demographics of older Australians*, website <https://www.aihw.gov.au/reports/older-people/older-australia-at-a-glance/contents/demographics-of-older-australians> (accessed 29 August 2018).

lives. Mobility devices provide independence and movement to a large number of people who may otherwise have difficulty getting around their communities or undertaking any number of simple tasks that are frequently taken for granted by most people.

4.12 The committee notes that COTA Australia's views on the importance of mobility reflect those of a large number of submitters:

The capacity to visit friends and family, shop, attend appointments and be part of community activities are crucial to quality of life and to enable older people to remain independent and in their own homes for as long as possible. Mobility scooters are also particularly important to older people in areas with limited public transport.<sup>6</sup>

4.13 As noted previously, under current federal, state and territory legislation and in practice, mobility scooters and motorised wheelchairs are generally categorised as a medical device. Essentially, this means that the transit rules are largely the same as those which apply to pedestrians. At the same time, however, the road rules (and the interpretation of the road rules) can differ across the states and territories.

4.14 There is also some variation in the rules and regulations which govern the safe use of motorised mobility devices, including definitions of the rights and responsibilities of mobility device users. This lack of clarity and consistency adds to a confusing – and potentially dangerous – environment for scooter and wheelchair users, as well as other pedestrians and road users.

## **Education**

4.15 The committee is of the view that the availability of information regarding the safe use of mobility devices is vitally important. In particular, it is critical that users receive appropriate and timely education and tailored training regarding the safe use of their own motorised mobility device.

4.16 The committee agrees with the views expressed by those stakeholders who argued that prior to a person purchasing (or being provided with) a motorised mobility device, they should be assessed by a qualified medical professional, such as an occupational therapist. The medical professional would be required to assess the person's fine and gross motor skills, balance and endurance, vision and perception, their planning skills and their memory as well as their concentration and reaction times. This assessment process would ensure that the most appropriate device is provided and potentially tailored to need. It would also provide the ideal opportunity for training in safe usage and standards. Finally, the assessment should include a functional trial to enable the user to learn the safest way to negotiate ramps, paths, shopping centres and to access public transport.

4.17 The committee emphasises, however, that any additional education and training should be well coordinated, easily accessed and not impose any additional financial burden on users.

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6 COTA Australia, *Submission 101*, p. 3.

4.18 It is obvious that the provision of information, education and training is currently very ad hoc. Evidence suggests that various federal, state and territory departments, local government organisations, local councils and some aged care facilities provide good quality training material and information to users of mobility devices. Some people prescribed a mobility device by a government department or agency reported that they were provided with adequate information and training. However, evidence to the committee suggested that without a national framework in place, there is currently no mechanism to ensure that education and training are both accessible and consistently provided.

4.19 The committee has observed that there is a high level of goodwill across federal, state and territory road transport agencies, aged care and disability support groups, retailers and suppliers, community groups and individuals to ensure safety. On the whole, submitters were also supportive of the need for the provision of information – and training – to be mandatory.

4.20 The committee recognises that users need to be provided with clear, consistent information about the safe use of their motorised mobility device – including mobility scooters and motorised wheelchairs.

4.21 The committee is strongly of the view however, that safety is not solely the responsibility of those who use motorised mobility devices. The committee acknowledges the evidence provided by a large number of submitters which indicated that there is also a need to educate the general public about sharing public spaces safely. The problems associated with the inappropriate use of modern technology – including mobile phones, earphones and headphones – is obviously not limited to road users.

### **A common thread**

4.22 It is clear that people have very strong views about motorised mobility devices: their increasing use, and their safety. Some submitters expressed strong views about the dangers posed by motorised mobility devices and raised specific concerns about their lack of regulation.

4.23 A large number of submitters also expressed strong views about the positive impact mobility scooters and motorised wheelchairs can have on people's lives. A number of individuals and representative groups made it very clear that they were opposed to any type of rules or regulations which could deter older or disabled Australians from accessing their communities. Submitters referred to the 'privilege' and the 'freedom' of independence and described it as a vital ingredient to health and wellbeing. Others noted that such independence is a fundamental human right.

4.24 The inquiry did, however, identify a number of areas of common ground. The majority of submitters, for example, stressed the importance of having an appropriate regulatory framework, which supports individual independence, but at the same time encourages safety on roads, footpaths, in shopping centres, on public transport and around recreational facilities.

4.25 The committee notes that the speed of mobility devices was a key concern for many. While a number of submitters pointed to the dangers of increasing the

permitted speed, a large number raised strong objections to the introduction of any regulations which would decrease the permitted maximum speed from 10 km/h.

4.26 Interestingly, the committee notes that there is a general consensus around the continuation of a 5 km/h minimum speed and a 10 km/h maximum speed. The committee suggests that this evidence should be taken into consideration by Austroads as part of its future deliberations.

4.27 The committee also notes the evidence provided to the inquiry which suggests that the current limits set for mobility devices – particularly motorised wheelchairs – is not practical. Modern motorised wheelchairs are frequently fitted with footrests, headrests and safety devices which take their weight beyond 110 kgs. The committee has concerns about evidence that under the current regulations, a large number of motorised wheelchairs could be deemed illegal because of the weight restriction.

4.28 The weight of mobility devices was raised throughout the inquiry, but was not identified as a key safety concern by submitters. The committee does have concerns about the lack of clarity in regard to weight limits and is of the strong view that further research is required to determine whether in fact weight limits have any major impact on safety, and whether it is necessary to set limits in future regulations.

4.29 The inquiry has determined that there is considerable agreement around the need to develop less complex, nationally consistent rules and regulations relating to the use of motorised mobility devices. Based on evidence provided to the committee during its inquiry, the committee suggests that there is a high level of agreement amongst stakeholders in relation to:

- the need for individuals to be assessed by a medical professional (such as an occupational therapist) prior to purchasing a motorised mobility device;
- the need for individuals to purchase a motorised mobility device that is suitable for both their needs and their (physical and mental) abilities;
- the need for users of motorised mobility devices to have access to appropriate training;
- the need for consistency in relation to the speeds at which motorised mobility devices are permitted to travel (including a maximum speed of 10 km/h);
- the need for further consideration to be given to implementing a simple, low-cost system which covers the licensing, registration and insurance of motorised mobility devices – including mobility scooters and motorised wheelchairs; and
- the need for individuals to have met both medical and training requirements prior to being permitted to purchase, register and insure their motorised mobility device.

## Research

4.30 As noted earlier in this report, information about motorised mobility devices, including their use and their safety is difficult to find. There is little basic information available about the numbers of mobility devices in use across the country or the way the devices are being used inside and outside the home. There is even less information available about their safety and their compatibility with the urban environment. This lack of data has contributed to a reliance on anecdotal information, and the committee recognises the need for comprehensive evidence.

4.31 The committee acknowledges the excellent work that has been done, and the efforts that have been made by organisations such as the Australian Competition and Consumer Commission (ACCC), Monash University Department of Forensic Medicine (DFM), the University of the Sunshine Coast Adolescent Risk Research Unit (ARRU) and CQUniversity Australia's School of Medical, Health and Applied Science.

4.32 The research conducted by these organisations was cited by a number of submitters and has provided valuable historic information and some much-needed context to the issues raised during the inquiry.

4.33 The committee agrees with the researchers who gave evidence on behalf of these organisations that there is a lack of up-to-date data in relation to the use of motorised mobility devices. The committee is of the view that the current lack of up-to-date data makes it very difficult – if not impossible – for authorities to determine exactly what the specific problems are that they need to mitigate against.

4.34 The committee therefore supports the call for additional research. Such research should include as a minimum:

- a comprehensive epidemiological study in relation to motorised mobility device deaths and serious injuries (to include the use of some new codes that have recently entered some data systems) to specify mobility device injuries;
- an in-depth study of fatal and serious head injuries to scooter users to determine the potential for protection by helmets, such as bicycle helmets;
- a study to determine whether a systems approach should be applied to motorised mobility device safety – which includes the machine, the rider and the environment;
- the development and implementation of user assessment programs and training;
- research into whether the use of alcohol and/or drugs is a contributing factor in the number of deaths and injuries (attributed to accidents involving motorised mobility devices); and
- the ongoing collection of national mobility device data, which includes numbers of motorised mobility devices and users, the age and sex of users (to inform monitoring and research and to provide denominator

data so researchers can examine the rates of injuries and identify and trends or patterns).

## **National Approach**

4.35 Clearly, developing a consistent national approach to the regulation of motorised mobility devices – including mobility scooters and motorised wheelchairs – is central to their safe use. Achieving this consistency will require standardisation of, and a consistent national approach to, regulation and the enforcement of that regulation.

4.36 The committee acknowledges the work undertaken by organisations such as the ACCC and Austroads over the past decade, and notes that Austroads is currently involved in various projects as they work toward developing a nationally consistent approach to the use of motorised mobility devices – including mobility scooters and motorised wheelchairs.

4.37 The committee notes that a number of the safety concerns in relation to these devices – particularly those which relate to their speed, could be resolved by enforcement of appropriate regulatory requirements. This includes those requirements which are the responsibility of the Department of Infrastructure, the ACCC, state and territory transport and traffic agencies and state and territory fair trading agencies.

4.38 It is clear that only mobility scooters and motorised wheelchairs that meet federal and state safety requirements should be imported and supplied to the Australian market.

4.39 The committee is of the view that mobility scooters and motorised wheelchairs are of significant benefit to a large number of people across the community including older people and people with a disability. Motorised mobility devices provide valuable support and assist people to remain independent and engaged in their local community. Any future regulation of mobility scooters and motorised wheelchairs needs to be evidence-based and must recognise the importance of safety – of users and others – but not add any additional barriers or make access and inclusion any more difficult for a frequently marginalised section of our community.

4.40 The committee notes that over the past decade, Austroads has initiated vital road and transport research which now underpins its current policy development role in relation to motorised mobility devices. The projects undertaken by Austroads, and the links it has established with stakeholders over recent years, provide an appropriate platform as it works toward the development of a nationally agreed framework for the safe use of motorised mobility devices. As noted previously, introducing improved construction requirements for motorised mobility devices and addressing the existing inadequacies in the ARRs (as they relate to motorised mobility devices) are key objectives of current Austroads projects.

4.41 As the peak organisation for Australasian road transport and traffic agencies, Austroads currently has the expertise required to develop a new framework which supports the safe interaction of motorised mobility devices with pedestrians and other road users – both on roads and road-related areas.

## **Recommendations**

4.42 The committee recognises that the nationally consistent regulatory framework under current development must be evidence-based. The committee also recognises the importance of the collaborative work that Austroads is engaged in, as part of its efforts to establish the framework.

4.43 To this end, the committee recommends that Austroads is appropriately funded to ensure that comprehensive research and consultation activities are carried out. Furthermore, ongoing funding should be provided if necessary, to ensure that Austroads can conduct, or commission, the collection of national motorised mobility device data on a continual basis as identified in this report.

### **Recommendation 1**

**4.44 The committee recommends that the Australian Government ensure that Austroads has adequate funding to undertake research and consultation activities to inform the establishment of a nationally consistent regulatory framework for motorised mobility devices.**

4.45 The committee also recommends that Austroads take this report, and the evidence provided to the inquiry, into account for the purposes of its deliberations. In particular, the committee draws the attention of Austroads to a number of issues for consideration and resolution. These include matters such as the education of users as well as issues with licencing and registration arrangements as well as third party insurance.

### **Recommendation 2**

**4.46 The committee recommends that Austroads take into account this report, and the evidence provided to the inquiry, for the purposes of establishing a nationally consistent regulatory framework for motorised mobility devices. As part of its deliberations, Austroads should consider simple and low-cost licencing and registration arrangements and third party insurance.**

**Senator Glenn Sterle**

**Chair**

# Appendix 1

## Submissions received

<b>Submission Number</b>	<b>Submitter</b>
1	Ms Jacqueline Walling
2	Ms Judi Potts
3	Mr Russell Anderson
4	Mr Woody Marriott
5	Mr Sean Corcoran
6	Mr Ian Keith
7	Youth Disability Advocacy Network
8	Dr Colin Sheppard
9	Mr Richard Bunting
10	Mr John Halford
11	Mr John McQuiggin
12	R Fountain
13	Mr Peter Mitchell
14	Ms Yvonne Sartori
15	Dr Trevor Hodson
16	Ms Judy and Mr Ray Taylor
17	Mr Arthur Comer
18	Mr Nigel Caswell
19	Ms Robyn Hall
20	Mr James Judd
21	Mr Frederick Charles
22	Mr John O'Dea
23	Mr Ray Jordan
24	Mr Len McMeikan
25	Mrs Marianne Melnikas
26	Mrs Rhoda Home
27	Mr Kevin Finlayson
28	Mr Peter Fraser
29	Mr John Stalling
30	Mrs Joanne McWatters
31	Mr Ian Marshall
32	Mr Pete Reed
33	People with Multiple Sclerosis Vic Inc
34	Ms Annette Philpott
35	Ms Sheila Dalton
36	Ms Saverina Cardamone
37	Mr Phillip Chalker
38	Ms Jean Aleckson
39	Ms Liz Black
40	Mr Dan Endicott
41	Ms Marg Bell

42	Mr Ron Henney
43	Mr Ian Ross
44	Mr Charles Nicholson
45	Ms Kathryn and Mr Mark Rorke
46	Ms Helen Mikolaj
47	Ms Rosalie Rudduck
48	Ms Margaret Bayly
49	Council on the Ageing (COTA) Victoria
50	Tasmanian Government Department of Health and Human Services
51	Miss Joanne Berry
52	Miss Erin Condrin
53	Brisbane City Council
54	Mr Brian Caccianiga
55	Mr Paul Brand
56	Mr John Moxon
57	S Ambrose
58	Mr Peter Bushby
59	Mr Jim Ashenden
60	Mr Terry Flower
61	Dr G Musselwhite
62	Mr Patrick Whitton
63	Office of the Public Advocate
64	Austroads Ltd
65	Combined Pensioners and Superannuants Association
66	Miss Stacey Christie
67	Ms Jenny Linton-Webb
68	National Transport Commission
69	Ms Nancy Capel
70	Northern Territory Department of Infrastructure, Planning and Logistics
71	Mr Peter Lane-Collett
72	Adelaide Bicycle User Group
73	Mrs Natalie Dickson
74	V Hurst
75	Assistive Technology Suppliers Australasia
76	Miss Esther Overton
77	Mr Glen Arbuckle
78	NSW Council of Social Service
79	Physical Disability Council of NSW
80	Macular Disease Foundation Australia
81	Spinal Cord Injuries Australia
82	Queenslanders with Disability Network
83	Bus Industry Confederation
84	Mr Carl Thompson
85	Australasian Railway Association
86	Mr Robert Fowler
87	Australian Competition & Consumer Commission
88	Ms Angela Baxter
89	Miss Kirsty Crosby
90	Mr Christopher Lewis

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91	Mr James Cormick
92	Monash University Department of Forensic Medicine
93	Mr Ian Rothall
94	Occupational Therapy Australia
95	People With Disabilities WA
96	Multiple Sclerosis Australia
97	CQ University
98	Department of Health
99	Australian Lawyers Alliance
100	University of the Sunshine Coast Adolescent Risk Research Unit
101	Councils on the Ageing Australia
102	Darebin Disability Advisory Committee
103	ACT Government
104	Vision Australia
105	Ms Wendy Gauntlett
106	NSW Government
107	Mr Joe Stosser
108	Suncorp
109	Ms M. Witsen
110	Mr Derek Nuss
111	Mr Adam Hewber
112	Ms Glenda Lee
113	Mr Peter Roefs
114	Ms Lara Irvine
115	Pedestrian Council of Australia
116	Physical Disability Australia Ltd
117	Les and Patricia Martin
118	Mr Chris Sparks
119	Mrs Linda McDouall
120	Muscular Dystrophy Foundation
121	Muscular Dystrophy Queensland
122	Ms Anne Shing
123	Mr Neil Rowsthorn
124	Mr Peter Simpson
125	Department of Infrastructure, Regional Development and Cities
126	Mr Malcolm Turnbull
127	J Duong
128	Spinal Life Australia
129	Mr Cees Witsen
130	Ms Janette Rasmussen
131	Mr Wayne Walkley
132	Metropolitan Fire and Emergency Services Board's (MFB)
133	Leigh Sheridan

## **Additional information received**

### **ADDITIONAL INFORMATION**

- Received on 10 July 2018, from Austroads. Additional information;
- Received on 3 August 2018, from the National Transport Commission. Answer to a question taken on notice at a public hearing in Melbourne on 23 July 2018.
- Received on 6 August 2018, from Dr Bridie Scott-Parker, University of the Sunshine Coast. Answer to a question taken on notice at a public hearing in Melbourne on 23 July 2018;
- Received on 6 August 2018, from Occupational Therapy Australia. Answer to a question taken on notice at a public hearing in Melbourne on 23 July 2018;
- Received on 10 August 2018, from the Department of Infrastructure, Regional Development and Cities. Answer to a question on taken on notice at a public hearing in Melbourne on 23 July 2018.

### **HANSARD**

- Monday, 23 July 2018, Melbourne, VIC (OFFICIAL)

## Appendix 2

### Public hearings and witnesses

#### Monday, 23 July 2018, Melbourne, Victoria

- ALLAN, Dr Geoff, Chief Operating Officer, National Transport Commission
- BASSED, Dr Richard, Head of Department of Forensic Medicine, Monash University
- BRAID, Mr Martin, Assistant Chief Fire Officer and Director of Risk and Resilience, Metropolitan Fire and Emergency Services Board
- DAVIES, Mr Paul, Acting Chief Planning Officer, National Transport Commission
- GRIMWADE, Mr Timothy, Executive General Manager, Consumer, Small Business and Product Safety Division, Australian Competition and Consumer Commission
- HARRIS, Ms Julie, Manager, At Risk Groups, Metropolitan Fire and Emergency Services Board
- IRLAM, Mr Corey, Director, Advocacy and Government Relations, Council on the Ageing Australia
- KILLEEN, Mr Greg, Senior Policy and Advocacy Officer, Spinal Cord Injuries Australia
- KOUKOULAS, Mr Nick, Chief Executive, Austroads Ltd
- MACKECHNIE, Ms Deidre, Chief Executive Officer, Multiple Sclerosis Australia
- MATTHEW, Mr Neville, General Manager, Consumer Product Safety Branch, Australian Competition and Consumer Commission
- MAYO, Mr John, Chief Advisor, Government, Spinal Life Australia
- OZANNE-SMITH, Emeritus Professor Joan AO, Head Injury Prevention Research Unit, Department of Forensic Medicine, Monash University
- POWER, Ms Bronagh, Policy Officer, Combined Pensioners and Superannuants Association
- ROTHALL, Mr Ian, Managing Director, Merits Australia
- SCOTT-PARKER, Dr Bridie, Leader and Senior Research Fellow, Adolescent Risk Research Unit, University of the Sunshine Coast
- SINCLAIR, Mr David, Executive Officer, Assistive Technology Suppliers Australasia
- SKINNER, Mr Michael, Project Manager/Director (Vision and Case), Austroads Ltd, Department of Transport and Main Roads
- SPARKS, Mr Christopher, Adviser, Assistive Technology Suppliers Australasia
- STONE, Mr Andrew, SC, New South Wales President, Australian Lawyers Alliance

- Therapy Australia
- UNSWORTH, Professor Carolyn, Central Queensland University Australia, University of the Sunshine Coast
- VOLKERT, Ms Anita, National Manager, Professional Practice and Development, Occupational
- WERNER, Ms Stephanie, General Manager, Land Transport Policy and Safety Branch, Department of Infrastructure, Regional Development and Cities