

Inquiry into e-mobility safety and use in Queensland

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Committee Secretary
State Development, Infrastructure and Works Committee
Parliament House
George Street
Brisbane Qld 4000

By email: SDIWC@parliament.qld.gov.au

Dear Committee Secretary

Inquiry into e-mobility safety and use in Queensland

Thank you for the opportunity to contribute to the inquiry into e-mobility safety and use in Queensland. The Queensland Law Society (QLS) appreciates being consulted on this important issue.

QLS is the peak professional body for the State's legal practitioners. We represent and promote over 14,000 legal professionals, increase community understanding of the law, help protect the rights of individuals and advise the community about the many benefits solicitors can provide. QLS also assists the public by advising government on improvements to laws affecting Queenslanders and working to improve their access to the law.

Executive Summary/Key Points:

- Balancing the benefits and opportunities provided by e-mobility against the safety risks requires a multifaceted approach taking in regulation, education and enforcement.
- This will require a collective approach between levels of government and various government agencies and the private sector, such as hire companies and retailers.
- Given the increasing number of accidents and injuries involving e-scooters, a compulsory third party insurance scheme should be considered for those devices.

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This response has been compiled by the QLS Accident Compensation and Tort Law Committee, whose members have substantial expertise in relation to personal injuries, legal liability and insurance law. QLS has also received input from members, including those who use e-scooters and pedestrians who have encountered safety issues with e-scooters on public paths.

QLS acknowledges the significant benefits of e-mobility devices, being Personal Mobility Devices (PMDs) and e-bikes. Legally compliant PMDs and e-bikes are useful and convenient when used safely and in accordance with the law and can contribute to reduced traffic, increased active transport and use of public transport, and tourist appeal. However, despite efforts to enforce existing laws, illegal e-bikes are still being used in public spaces and there has been a significant increase in accidents – and the severity of accidents - involving PMDs (predominantly e-scooters).

Despite the significant number of infringements issued to PMD users by police, according to the data in the Department's briefing paper, there is a perception that PMD laws are rarely enforced. This may indicate just how common it is to see inappropriate PMD use, rather than any lack of willingness by police to take action in relation to unlawful use they observe.

Users of PMDs and e-bikes (as well as conventional bicycles) are vulnerable when on roads and footpaths, while also presenting risks to other footpath users. Persons with impaired mobility are particularly vulnerable to issues caused by unsafe use of e-mobility devices on footpaths and to the problems presented by devices being inappropriately parked or discarded.

Our members practising in personal injuries law are increasingly receiving inquiries from people who have been injured while using e-scooters and pedestrians who have been injured by e-scooters. QLS is also aware of the statistics quoted in the media and in parliament surrounding the increase in e-scooter related injuries, the severity of injuries suffered by e-scooter riders and a number of tragic deaths in Queensland in recent years.

QLS is supportive of careful examination of the availability and use of e-mobility devices, with a view to reducing accidents and injuries while allowing for appropriate use of legally compliant devices.

In considering ways to strike this balance, there are distinct challenges regarding the various categories of e-mobility devices currently being used in Queensland, the categories being:

- e-bikes legally allowed to be used on public roads and paths in Queensland (i.e. Electrically Power Assisted Cycles and 200-watt devices, as discussed in the Department of Transport and Main Roads' briefing paper)
- non-compliant e-bikes, including bikes that would otherwise be compliant but have had the speed limitations unlocked and e-bikes that are legal in New South Wales but not in Queensland (i.e. 500-watt e-bikes)
- legally compliant privately owned PMDs
- non-compliant PMDs
- hire scheme PMDs.

There are also distinct categories of users to be considered, including:

- riders of PMDs over 16 years of age
- riders of PMDs between 12 and 16 years of age, who are legal allowed to ride with adult supervision
- children below the age of 12 years, who should not be riding PMDs

- users of hire scooters
- food delivery drivers using e-mobility devices.

Availability of devices

In respect of the device types, legal e-bikes are not presenting a problem, according to the evidence presented by the Department of Transport and Main Roads at the public briefing, but illegal devices are increasingly problematic. QLS supports the efforts described by the Department to advocate to the Commonwealth for review of importation and enforcement processes for e-mobility devices and to educate the public regarding which devices are legal for use in public and which are not, though we highlight the inherent difficulty in educating a consumer out of using a device they have already purchased at significant expense. For this reason, we urge further education targeted to reach potential consumers prior to purchase and submit that stricter requirements should be considered regarding the type of information retailers must provide regarding the use of non-compliant e-bikes. Further, education must be coupled with sufficient police resources to take appropriate action in respect of unlawful e-bikes ridden in public.

In respect of PMDs, concerns appear to be primarily focuses on e-scooters, with distinctions being drawn between hire scheme e-scooters and privately owned e-scooters.

PMDs, as defined in the *Transport Operations (Road Use Management) Act 1995* (TORUM Act), are not subject to power or speed limitations (unlike e-bikes). This is less problematic for hire scheme scooters as they can be speed limited, while private devices cannot. QLS submits the inquiry should consider whether the definition of PMD should be changed to limit motor power or speed capabilities of private devices to ensure they cannot exceed the speed limit of 25km/h (however, this would not aid in preventing e-scooters on footpaths from exceeding the legal speed limit of 12km/h; education and enforcement would still be required in that regard).

We anticipate there may also be calls for removing private e-scooters from the definition of PMD altogether (so they cannot be used on public roads or paths) and/or restricting their sale, given private e-scooters are eliciting the most concern in terms of speed. We consider this would be a drastic step and would impact on the rights of those who have already purchased legal e-scooters and use them appropriately. Education, enforcement and appropriate restrictions on use should be the area of focus, rather than an outright prohibition, though of course changes could be made to where e-scooter riding is allowed, as mentioned below.

Food delivery companies providing e-mobility devices to riders should be required to ensure devices are legal and maintained to ensure safety of riders and third parties (eg appropriate lights etc).

Restrictions on use

E-scooters can currently be used by children aged between 12 and 16 years with supervision. QLS submits the committee ought to carefully consider the data about accidents and infringements related to this class of user and consider whether use of e-scooters by those under 16 should remain legal. Education around the legal ages to ride e-scooters and the prohibition on doubling should continue, along with enforcement action against parents where appropriate.

In terms of use of e-scooters generally, some members have suggested there should be a licence scheme to ensure understanding of the road rules relevant to PMDs. Such a scheme

could include demerits for infringements. QLS submits this is worth investigating. Consideration would need to be given to how a licence scheme would apply to users of hire e-scooters, given interstate or overseas visitors make up a considerable number of these users. It may be that a different or additional requirement could be implemented in respect of hire e-scooters (regardless of whether a licence scheme is introduced) to require the hire company to ensure riders have an understanding of the relevant road rules and how to use the e-scooter safely.

Further restrictions could also be placed on the use of e-scooters in congested/high-risk areas by local councils. Curfews on use could also be considered in areas where alcohol-affected riding may occur.

Members have suggested there may be some instances where restrictions could be lessened regarding e-scooters, such as allowing larger-wheeled PMDs to be used on more local roads (i.e. roads with a centre line) to keep them off footpaths. Consideration of this suggestion would need to be informed by evidence from jurisdictions where PMDs are used primarily on roads. Encouraging more e-mobility devices onto roads would need to be coupled with increased education and enforcement regarding motorists' obligations when passing users of e-mobility devices or cyclists (i.e. the 1m/1.5m rule)

QLS submits that the evaluation of the 2022 and 2024 PMD reforms should be examined before changes to the road rules regarding PMDs are contemplated.

Insurance issues

QLS considers it imperative to carefully consider the recourse available to those who are injured by or while using PMDs.

The major e-scooter hire companies operating in Queensland provide personal injury insurance for riders and third-party liability insurance. These insurances are inadequate as they provide low cover for injured riders and low aggregate cover for third-party claims. Private riders may also have legal liability cover through home contents insurance, though many will not. Workers' compensation may also be available if the injured person was on a journey related to work.

Our members frequently receive inquiries from injured persons who have no realistic prospect of receiving just compensation for their injuries. Essentially, injured third parties are subject to a lottery as to whether the person whose negligence has harmed them has sufficient assets or insurance to compensate them for their injuries. This is unacceptable at an individual level for the injured person and at a public policy level, given that in the absence of compensation the injured person will need to rely on public funds such as the NDIS and social security payments.

Given the severity of injuries that can occur due to e-scooters, QLS considers a compulsory third party insurance scheme should be considered for those devices. A CTP scheme would necessarily involve some type of identification to be displayed on the e-scooter, which would also assist in identifying riders who engage in unsafe riding.

Electrical safety

QLS notes the fire risk posed by poor quality or incorrectly charged e-mobility devices and the discussion in appendix 3 to the Department's briefing paper explaining that e-mobility devices and their batteries are currently not *electrical equipment* under the *Electrical Safety Act 2002*, while chargers for such devices are. QLS further notes the ongoing national discussions in

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respect of regulation of e-mobility devices and recent changes in New South Wales¹ to require e-mobility products to comply with mandatory safety standards before they can be sold.

In addition to considering how best to regulate e-mobility products from an electrical safety point of view, QLS submits this inquiry should consider the liability and insurance implications for property owners, body corporates and tenants in respect of fires caused by e-mobility devices, given there have been attempts to ban indoor charging of e-mobility devices.²

If you have any queries regarding the contents of this letter, please do not hesitate to contact our Legal Policy team via [REDACTED] or by phone on [REDACTED]

Yours faithfully,



Genevieve Dee
President

¹ [New safety standards for lithium-ion batteries in e-mobility devices](#)

² [Owners Corporation Network proposes new e-bike, e-scooter rules to reduce fire risk in apartments - ABC News](#). See also [REIQ | Electric scooters - risk management considerations for property managers](#) and [Briefing note: Managing fire risk from electrified transport in residential buildings](#)