




Speech By
Melissa McMahon

MEMBER FOR MACALISTER

Record of Proceedings, 14 February 2024

TRANSPORT AND OTHER LEGISLATION AMENDMENT BILL

 **Mrs McMAHON** (Macalister—ALP) (4.18 pm): I rise to speak in support of the Transport and Other Legislation Amendment Bill 2023. I would like to focus my contribution on the amendments in this bill to the Transport Operations (Road Use Management) Act. Everyone here in the House knows this is one of my personal favourite bills, so strap yourselves in. The amendment focuses on personal mobility devices and bicycle riders.

Personal mobility devices include e-scooters, and I would like to focus on these amendments not only because I am an e-scooter user from time to time, as well as my kids, but also because it represents to me that the TORUM is a living and breathing act that expands to address new modes of transport. Currently, in the TORUM there are a number of definitions which are key to being able to enforce road safety. The first requires an understanding of the difference between a road and a road related area. The next is to understand the difference between a vehicle and a motor vehicle. Understanding these definitions is central to enforcing traffic laws because each comes with certain offences and the application of certain police powers.

Currently, the offence to drive other than a motor vehicle with due care and attention—section 84 of the TORUM—requires the concerning act to occur on a road. For the information of members, a road refers merely to the carriageway—yes, that is the current legal term: the carriageway—and that extends from kerb to kerb, from gutter to gutter, the bitumen. For an e-scooter rider—or cyclist for that matter—to be charged with riding without due care and attention, they actually must be on the road, on the bitumen part. If they are driving like that on the footpath, they are not currently captured.

The amendment being considered is to expand the offence section to cover those non motor vehicles on a road related area. A road related area encompasses not only the road, the bitumen, but also the footpaths and the verge. I liken it to boundary line to boundary line. It includes the road, the gutter, the footpath and the grassed or paved areas right up to the fence line; everything in between is a road related area.

This amendment means that e-scooter and bicycle riders will be required to ride with due care and attention or with due consideration for other road users anywhere—that is that road related area. I applaud the inclusion of this amendment. As an e-scooter user, I have no issue with such a requirement to drive with consideration for other users. As a pedestrian here in the city and in other recreational areas, I hope to see greater consequences for those who ride these devices and put pedestrians at risk. I note that many of the stakeholders in the relevant groups also supported this amendment because it actually legitimises the use of e-scooters and other devices as a form of transport. A legitimate form of transport does come with rights but it also comes with responsibilities.

In a similar vein, amendments in section 92 and 93 of the TORUM will now extend to e-scooters and cyclists. Section 92 imposes on drivers to stop and render assistance in the event of an incident resulting in an injury or a death on a road or road related area. However, that is for drivers. Currently,

that requirement does not extend to vehicles other than motor vehicles. This is where the definition of vehicle and motor vehicle comes into play. Whilst e-scooters are motorised, they do not fit into the definition of a motor vehicle because they do not reach the threshold for cc. Therefore, it falls into the definition of vehicle.

Currently, a cyclist or e-scooter rider involved in an incident is not legislatively required to stop and render assistance in the event of an incident resulting in injury. This amendment will change that. We do note that there has been an increase in incidents involving e-scooter riders either as the instigator of a crash or at the wrong end of a crash. Section 93 requires that drivers and riders of vehicles—so bicycles are actually currently included—must exchange details if involved in a crash. Most drivers here would be familiar with the protocol that if you are involved in a crash you exchange your name and address, and if it involves a vehicle you exchange driver's licence details and possibly insurance details if there is an injury or likely claim.

However, currently the users of personal mobility devices are not required to do that. Again, considering the frequency that these devices are being involved in incidents where there is an injury— noting that there is no identifying particular on an e-scooter, such as a rego or anything like that, so it is not like you are able to get the rego of someone involved in an incident on an e-scooter who rides off— making this a requirement is a great amendment. I do like the fact that these users not only are now seen as legitimate road users but are having to comply with the responsibilities of every other road and road related user.

There have been a lot of comments recently in relation to breath testing riders of e-scooters and similar. I would say that police can currently charge not only cyclists but also e-scooter riders with riding under the influence in certain circumstances. It is not the case that these people would be riding intoxicated and the police have no power to deal with it. They do under certain circumstances. In fact it is an offence under section 79(7) of the TORUM, which states—

Any person who, while under the influence of liquor or a drug, drives or is in charge of any horse or other animal on a road, or drives or is in charge of any vehicle (other than a motor vehicle) on a road, or attempts to put in motion any vehicle (other than a motor vehicle) on a road, is guilty of an offence.

That is what we call the UIL, which is the high range. There is no current power to do a random breath test, much like there is not for any cyclist, or any horse rider for that matter. However, if police observe the riding behaviour of the individual or feel the general demeanour display indicia of being under the influence of alcohol, that rider may be arrested and transported to a police station where they may have their breath analysed and be charged if found to be under the influence.

There have been a lot of contributions in relation to the National Heavy Vehicle Regulator. I was not a member of the committee at the time so I have not been able to turn my eye to that. I do not have a heavy vehicle licence; light rigid is as good as I get. Driving the prison vans needed just a light rigid. For those of us who are seeing the burgeoning use of the personal mobility devices—keeping in mind that they are different from e-bikes; you have to go back to the definition of what is a vehicle—I certainly note that this is part of a push and there will be ongoing and further changes in relation to that to improve safety for both riders and other road users.

I note that the education process is required. I do note that there is a requirement for tourists who use the hire schemes to see what all the rules are on their devices when they commence their hire. Basically, one might like to think that it is common sense—that doing something stupid is probably not the right thing to do and there may be consequences for it. I support trying to get some uniformity between states, particularly if it enhances the tourism aspect. Those of you who spend any time in our tourist areas along the footpaths and bike paths, particularly around Surfers Paradise, know that some people seem to treat those devices as their own little play device and they certainly put other pedestrians et cetera at risk. I welcome this bill. I welcome the amendments that enhance the responsibility of those people who ride those devices. I commend the bill to the House.