

Use of e-scooters, e-bikes and related mobility options

Submission to the Portfolio Committee No. 6 -
Transport and the Arts, Legislative Council,
Parliament of New South Wales

15 August 2024

Contents

Who we are	4
Introduction	5
The status quo	5
Reforms needed to improve outcomes	7
Opportunities for the Federal Government.....	7
Opportunities for the NSW State Government	7
Opportunities for local councils.....	8
Conclusion	8

Who we are

The Australian Lawyers Alliance (ALA) is a national association of lawyers, academics and other professionals dedicated to protecting and promoting justice, freedom and the rights of the individual.

We estimate that our 1,500 members represent up to 200,000 people each year in Australia. We promote access to justice and equality before the law for all individuals regardless of their wealth, position, gender, age, race or religious belief.

The ALA is represented in every state and territory in Australia. More information about us is available on our website.¹

The ALA office is located on the land of the Gadigal people of the Eora Nation.

¹ www.lawyersalliance.com.au.

Introduction

1. The ALA welcomes the opportunity to have input to the Portfolio Committee No. 6 - Transport and the Arts ('Committee') on the use of e-scooters, e-bikes and related mobility options.
2. The ALA acknowledges that e-mobility devices, especially e-scooters and e-bikes, are popular among the residents of and visitors to NSW. Further, e-mobility devices are essential for many people across NSW – for example, some elderly people who require a mobility scooter in order to maintain their independence and complete basic tasks.
3. The popularity and necessity of these devices underscore, in the ALA's view, the importance of ensuring that these devices are being used in safe ways and that those utilising e-mobility devices will be able to access the services and support needed if they are injured or if they injure someone else while riding an e-mobility device.
4. As such, the ALA welcomes this inquiry and the Committee's close examination of the regulation and insurance options for e-mobility devices.

The status quo

5. ALA members are concerned by the numerous reports of deaths and serious injuries from e-scooters in particular in NSW in recent years.² We note that, due to safety concerns, the City of Melbourne local council has voted this month to ban e-scooters and to break the City of Melbourne's contracts with two share hire e-scooter companies mid-trial.³

² Egs, Giselle Wakatama, 'Crime scene established at West Wallsend site of e-scooter, ute collision where man died', *ABC News* (2 June 2024) <www.abc.net.au/news/2024-06-02/west-wallsend-e-scooter-ute-collision-one-man-dead/103925388>; *Nine News*, 'Teen in hospital after e-scooter collides with car in Sydney' (online, 15 June 2023) <www.9news.com.au/national/teen-on-e-scooter-in-hospital-car-collision-lilyfield-sydney/9de3e12f-5697-480e-a7e5-8efad72f0f14>; *Nine News*, 'Sydney man critical after his e-scooter crashes with taxi' (online, 4 January 2023) <www.9news.com.au/national/man-in-hospital-with-serious-injuries-after-escooter-crash-in-brighton-le-sands-sydney/41c43677-3355-4864-889b-72ad4eb5e942>; Lara Pearce, 'Police hunt for e-scooter rider after 10-year-old boy seriously injured', *Nine News* (online, 9 April 2024) <www.9news.com.au/national/wollongong-scooter-escooter-crash-police-release-cctv-after-boy-10-seriously-injured/53146afd-3523-4c6e-8d4a-597de7fafc29>.

³ Ben Knight, 'Melbourne's snap decision to remove hire e-scooters from CBD could send 'shock waves' to other states, experts say', *ABC News* (online, 15 August 2024) <www.abc.net.au/news/2024-08-15/share-hire-e-scooter-laws-australia-melbourne-ban/104224386>; 'Constant jeopardy': Melbourne CBD drops e-scooter

6. We also note that motorised scooters travel at considerable speed. They are often used in areas where they mix with pedestrian traffic. The combination of that speed and the combined weight of the motorised scooter and the rider mean that motorised scooters also have the capacity to cause serious injury.
7. The ALA submits that where a piece of mechanical equipment has high usage and high injury potential, regulation is appropriate.
8. Despite the growing frequency of use of e-mobility devices in NSW, regulations, registration requirements and insurance requirements – including but not limited to the provisions of the *Road Transport Act 2013 (NSW)* and the *Motor Accident Injuries Act 2017 (NSW)* – are yet to keep up. Protections are needed to ensure that anyone injured by an e-mobility device can receive treatment and fair compensation for their injuries.
9. Relying on that regulatory framework, case law has also not been able to provide certainty about what protections e-mobility device riders or those involved in an accident with an e-mobility device can expect in NSW.⁴
10. Many who use an e-mobility device are probably unaware that they put the entirety of their assets (including their home) on the line if they cause injury to someone else while using that e-mobility device. E-mobility device users need insurance cover to avoid being sued personally.
11. Similarly, those who are run down by an e-mobility device could suffer serious injury and yet be left to meet their own lost wages and medical bills. No one should be in the position of losing their own home after being the innocent victim of the negligent use of an e-mobility device by an impecunious, uninsured e-mobility device operator.

scheme', *Insurance News* (online, 14 August 2024) <www.insurancenews.com.au/daily/constant-jeopardy-melbourne-cbd-drops-e-scooter-scheme>.

⁴ See, eg, *CFD v AAI Limited t/as AAMI* [2023] NSWPI 592 regarding the definition of a “motor vehicle” under section 1.4 of the *Motor Accident Injuries Act 2017 (NSW)* s 1.4 and the *Road Transport Act 2013 (NSW)* s 4.

Reforms needed to improve outcomes

12. The ALA submits that reforms and updates to the relevant legislation, regulations, policies and contracts are essential to ensure the safety of everyone in NSW – e-mobility device owners, those who hire e-mobility devices, and the general public who are also using the same roads and footpaths.
13. The responsibility for these reforms and updates is shared between the Federal Government, the NSW Government and local councils across NSW.

Opportunities for the Federal Government

14. The ALA calls on the Federal Government to ensure that the *Australian Road Rules* are periodically updated to respond to developments in how e-mobility devices like e-scooters are made (including any new technology which improves their power and performance) and how these devices are used.
15. We also submit that there is also a role for the Federal Government in encouraging state and territory governments to update their own legislation and regulations, where needed. Legislative provisions being uniform across the states and territories is the ideal standard.

Opportunities for the NSW State Government

16. The ALA calls on the NSW Government to mandate that private owners of any e-mobility device have insurance, including third-party insurance.
17. It is necessary to progress this reform now. This reform would become especially urgent if the NSW Government allows privately-owned e-scooters to be ridden on public roads and in public areas in the future – although, the ALA notes that this is effectively already happening with e-scooters and powerful e-bikes injuring pedestrians on both suburban and city footpaths across NSW.
18. We also call on the NSW Government to require that any e-scooter trials or programs, run through local councils across NSW, are conducted only by companies which offer adequate insurance coverage for those who ultimately hire the e-scooters.

Opportunities for local councils

19. Local councils must ensure that any companies who are contracted to run e-scooter trials or to run permanent e-scooter programs offer their consumers adequate insurance cover while riding that company's e-scooters.
20. Any e-scooter programs that are still being trialled should be comprehensively reviewed before being extended and certainly before being made permanent, to ensure that the general public is safe when hiring e-scooters, that those riding them are properly insured and that the broader community is safe.

Conclusion

21. The Australian Lawyers Alliance (ALA) welcomes the opportunity to have input to the Portfolio Committee No. 6 - Transport and the Arts on the use of e-scooters, e-bikes and related mobility options.
22. The ALA is available to provide further assistance to the Committee on the issues raised in this submission.



Genevieve Henderson

President, NSW Branch Committee

Australian Lawyers Alliance