



**Physical Disability Council of NSW**  
Ordinary People Ordinary Lives

Submission for the National Transport Commission  
Barriers to the safe use of innovative vehicles and motorised  
mobility devices

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## **Who is the Physical Disability Council of NSW?**

The Physical Disability Council of NSW (PDCN) is the peak body representing people with physical disabilities across New South Wales. This includes people with a range of physical disability issues, from young children and their representatives to seniors, who are from a wide range of socio-economic circumstances and live in metropolitan, rural and regional areas of NSW.

Our core function is to influence and advocate for the achievement of systemic change to ensure the rights of all people with a physical disability are improved and upheld.

The objectives of PDCN are:

- To educate, inform and assist people with physical disabilities in NSW about the range of services, structure and programs available that enable their full participation, equality of opportunity and equality of citizenship.
- To develop the capacity of people with physical disability in NSW to identify their own goals, and the confidence to develop a pathway to achieving their goals (i.e: self-advocate).
- To educate and inform stakeholders (ie: about the needs of people with a physical disability) so they are able to achieve and maintain full participation, equality of opportunity and equality of citizenship.

## **Introduction:**

The Physical Disability Council of NSW (PDCN) appreciates the opportunity to provide feedback to the National Transport Commission on the barriers to the safe use of innovative vehicles and motorised mobility devices (MMDs). PDCN will provide comment where we have relevant expertise, in this case regarding motorised mobility devices which are commonly used by the cohort we represent, people with physical disability.

## **Discussion**

PDCN would like to highlight that mobility scooters and motorised wheelchairs are the primary means of mobility outside and within the home for many individuals with disability and seniors, and when used appropriately are a safe mode of transportation. MMDs, which include both motorised wheelchairs and mobility scooters, are essential for people with disability to access the community, including participation in social activities, accessing employment and education.

PDCN supports the development of a nationally agreed framework for the safe interaction of MMDs with pedestrians and other road users on roads and road related areas. We believe the creation of national guidelines and the removal of regulatory barriers are constructive changes that can be made to increase the safety of both people with disability using these devices and the community.

PDCN also supports increasing the clarity around MMD classifications in the Australian Road Rules. The current regulatory requirements vary across States and Territories, and the 110kg or 150kg weight limits that exist in several Australian states are out dated and do not account for the range of MMD's available for purchase in the Australian market or the variety of essential features

available to MMD users. PDCN believes standardising the regulations that govern the use of MMD's in public spaces and on transport infrastructure is a pressing concern due to the predicted large increase in the number of MMDs present in the Australian community<sup>1</sup>.

However, PDCN does not support the introduction of further legislation, specifically speed or weight restrictions, as we feel this could limit access, choice and innovation, and without the use of these MMDs many individuals with disability would be largely housebound and at greater risk of social isolation. As an alternative, PDCN supports an increase in information for consumers and assistive technology suppliers and the introduction of a reasonable certification system, as proposed by Austroads, as we feel this would be an equitable solution to address potential risks to MMD users, pedestrians and other road users.

## **2. What differences between motorised wheelchairs and mobility scooters need to be recognised by this project?**

PDCN would like to highlight that both motorised wheelchairs and mobility scooters perform an essential function for the people with physical disability or mobility impairments that use them. PDCN considers the main difference that must be recognised by this project is that in most instances, users of motorised wheelchairs have much less mobility than people who use mobility scooters and require assistance to transfer in and out of their devices. Therefore, it is vital that motorised wheelchair users can access public infrastructure including all transport conveyances.

It is essential that any regulations that are introduced take into account that a motorised wheelchair may be the **only means** by which an individual can achieve mobility or access society, including public transport, public spaces, social activities, schools, workplaces or private venues. In addition, in comparison to mobility scooters which are ready to use upon purchase, motorised wheelchairs are often a highly scripted and personalised device, prescribed upon assessment by allied health professionals such as an occupational therapist or physiotherapist.

As motorised wheelchairs are highly individually scripted, they will often have a significant weight, particularly if the person using the wheelchair requires additional health or accessibility features. The current weight limits for devices in most jurisdictions do not account for larger individuals (greater than average height and weight), people with complex needs, nor the technological advances that have occurred and the clinical features that are now available for motorised wheelchairs including sit to stand, power elevate, power tilt or power recline.

Individuals may also have other features on their wheelchair to cater for their specific needs such as ventilators and extra batteries. These features will add significantly to the tare weight but are essential for the individual's safe and comfortable access to the community.

PDCN would like to stress that as a signatory to the United Nations, Convention on the Rights of People with Disabilities (UNCRPD) the Australian government has committed to enshrining those

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<sup>1</sup> Parliament of Australia, Senate Standing Committee on Rural and Regional Affairs and Transport, Regulation of mobility scooters, also known as motorised wheelchairs, Submission 64, Austroads, 8 March 2018

rights in its laws and practices, including Article 20, the right to mobility<sup>2</sup>. PDCN suggests the Austroads draft framework is adopted with motorised wheelchairs having no weight restrictions and mobility scooters having an upper (unladen) weight limit of 170kgs.

### **7. What barriers and health or safety risks are associated with the use of a motorised mobility device that does not meet the needs of the user because of the current restrictions?**

PDCN believes there would be health and safety benefits in bringing MMD legislation in line with International Standards. Currently MMD's sold in the Australian market are subject to speed restrictions of 10km/hr as opposed to 12km/hr on similar devices sold in Europe.

PDCN agrees that all MMDs should have a low speed setting (6km/hr) for use in pedestrian areas however we feel products sold in Australia should be in congruence with our international counterparts. The current maximum speed of 10km/hr is not a necessary safety consideration and results in people with disability, who often experience greater difficulties with thermoregulation, being exposed to the elements for longer periods than necessary when travelling outside. PDCN believes this change would also have a positive impact on the battery life and longevity of devices and would ensure international visitors are using compliant MMDs.

PDCN would also like to highlight that we consider the introduction of any national legislation further restricting the speed or operation of MMDs would represent a significant and unjustified incursion upon the right to personal mobility of people with disability. PDCN is concerned about how a regulated weight limit could prevent individuals from being able to access an MMD that is suited to their needs. As described in our response to a previous question, devices may be highly scripted and the size/weight of the user and the necessary features for the motorised wheelchair could easily mean the device has a significant tare weight.

### **8. How do current classifications of drivers of wheelchairs as both 'pedestrians' and 'vehicles' in the Australian Road Rules create confusion?**

The current classifications create significant confusion amongst the general public about where and when it is appropriate for people with disability using MMDs to use the road or footpath. MMD users frequently report problematic interactions and experiencing animosity from other pedestrians and motorists. In circumstances where MMD users are forced to travel on the road due to inadequate footpaths other motorists frequently do not want to accommodate them.

Research conducted by PDCN in 2018, for the Senate Inquiry into 'the need for regulation of mobility scooters, also known as motorised wheelchairs' identified other road users and pedestrians as the greatest barrier to safe access to the community.

PDCN received over 140 responses from people with disability who use either a mobility scooter or motorised wheelchair. Respondents described collisions with pedestrians and motorists

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<sup>2</sup> United Nations, Convention on the Rights of People with Disabilities (CRPD), page 14

frequently occurring due to carelessness and a lack of awareness amongst the public of roads and footpaths being a shared space. Wheelchair users not being within the eyeline of other pedestrians and pedestrian behaviours such as mobile phone use while walking also contributed to negative incidents. Respondents also described accidents resulting from poorly designed or unmaintained physical infrastructure such as curbs, gravel surfaces and steep gradients.

PDCN suggests hazardous interactions between mobility devices users, pedestrians and motorists could be reduced through investment in public awareness campaigns and community education programs which a focus on explaining the classifications and what constitutes safe shared road and footpath use.

### **9. Is there a need for construction and performance requirements for motorised mobility devices to ensure safe use on public transport infrastructure?**

Generally, PDCN supports the introduction of construction and performance requirements for MMD's as we believe it will fundamentally improve the safety and quality of these devices; ensuring their greater manoeuvrability, static and dynamic stability etc

PDCN supports the Austroads Project working with Standards Australia to develop Australian Standard Technical Specification (ASTS) for mobility devices. PDCN believes the proposed certification scheme is an important development in creating assurances for purchasers of mobility devices that their device is fit for the purpose they intended. We believe having specific requirements for mobility devices that ensure they are suitable for use on public transport is an important improvement for MMD users.

Presently there is a lack of guidance for consumers when purchasing an MMD regarding if the device can be used safely on transport conveyances. Current public transport infrastructure does not cater to the full range of devices that can be purchased by consumers, with the weight of devices or gradients on entrance/exit ramps prohibiting safe use. In many cases individuals purchasing a device do not know if it is suitable for use on public transport. Improving the quality of product information provided at the point of sale is essential to support MMD users to purchase a device that is suitable for their needs and environment.

PDCN is supportive of imposing a reasonable certification scheme as it will enable other devices, which are not public transport infrastructure suitable to still be purchased. PDCN has concerns however, that overly strict construction and performance requirements for MMD's may negatively impact on the product choices available to consumers.

We would like to highlight that it is important that individuals who require larger MMD's are still able to purchase these devices knowing that they may not be suitable for all situations, such as use on public transport for example - mobility scooter users in regional or rural NSW whose situation requires a device that can travel long distances on rougher terrain. As public transport is non-existent in many parts of rural and regional NSW it would be unreasonable to implement a system that penalises people who need these devices in order to access the community.

**10. What evidence is available on the road safety risks associated with motorised mobility devices that could be used to inform the way motorised mobility devices are regulated?**

PDCN has found limited evidence attributing MMD use to deaths and injuries. As highlighted in numerous submissions to the 2018 Senate Inquiry into the need for regulation of mobility scooters<sup>3</sup>, also known as motorised wheelchairs there is a distinct lack of evidence on the road safety risks associated with motorised mobility devices. None of the studies cited to call the inquiry by the Senate Standing Committee on Rural and Regional Affairs and Transport demonstrate causation between the weight and speed of these devices and the deaths and injuries attributed to MMDs.

The research suggests accidents and injuries result from a variety of reasons including the poor health of the device user, the fault of other pedestrians, interactions with motorists and failures in public infrastructure e.g. inadequate footpaths and gradients not meeting Australian standards. PDCN believes it would be inappropriate to introduce regulations that would be potentially detrimental to people with disability based on limited research and the public hysteria surrounding this issue. Therefore, we recommend significant research be undertaken to inform any national regulations or guidelines that are introduced.

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<sup>3</sup> Parliament of Australia, Senate Standing Committee on Rural and Regional Affairs and Transport, Regulation of mobility scooters, also known as motorised wheelchairs, see submissions 106 NSW Government, 75 ATSA, 79 PDCN