
AUSTRALASIAN RAILWAY ASSOCIATION SUBMISSION

To

The Rural and Regional Affairs and Transport
References Committee Inquiry

On

The need for regulation of mobility scooters, also
known as motorised wheelchair

THE ARA

The Australasian Railway Association (**ARA**) is a not-for-profit member-based association that represents rail throughout Australia and New Zealand. Our members include rail operators, track owners and managers, manufacturers, construction companies and other firms contributing to the rail sector. We contribute to the development of industry and government policies in an effort to ensure Australia's passenger and freight transport systems are well represented and will continue to provide improved services for Australia's growing population.

The ARA thanks the Rural and Regional Affairs and Transport References Committee for the opportunity to provide a submission into 'The need for regulation of mobility scooters, also known as motorised wheelchairs' Inquiry.

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GENERAL COMMENTS

The passenger rail industry is integral to the efficient movement of people within cities and between regions. Rail provides travel for people with all levels of ability and inability. Given rail's importance as a transport service to all members of the community, passenger rail operators are committed to continuously enhancing the service rail provides for all passengers, particularly in the area of accessibility.

Due to the historic nature of some rail assets and the considerable investment required for infrastructure upgrades, complete access cannot be achieved immediately. Australia's rail industry is committed to continuous incremental improvements to ensure that rail is actively enhancing the access it provides for all individuals in our communities.

ARA members continue to implement upgrades to increase the accessibility of rolling stock and rail infrastructure, as well as actively improving the customer experience as a whole for people with a disability. As part of this commitment to continuous improvement, a number of passenger rail operators employ specialists within their organisation to advise on access issues and engage the disability community to ensure operators fully understand their needs.

Passenger rail operators consult regularly with the disability sector individually and collectively regarding accessibility plans and investment decisions to ensure that accessibility improvements are developed in collaboration with those with a disability and their representative

organisations. ARA members value engagement and input from the disability sector to assist the industry in better meeting the needs of these stakeholders when delivering upgrades or improvement programs. Feedback from ongoing consultation is actively fed into jurisdictional Disability Inclusion Action Plans to facilitate the industry's focus on continuous improvement and ensure the voice of the disability sector is being heard and acted upon by the passenger rail industry.

A significant number of measures have been put in place to provide greater access to public transport facilities and vehicles for people with disability or limited mobility. Rail operators are also taking steps to comply with the requirements prescribed in the **Disability Standards for Accessible Public Transport 2002 (Cth) (DSAPT)** and are actively participating in the modernisation of the Standards.

In addition, the ARA coordinates a Disability Policy Working Group that brings together representatives from all Australian passenger rail operators to share ideas and lessons learned to continue improving the disability accessibility of passenger railways in Australia.

Motorised Mobility Devices

The Rail Industry acknowledges that Motorised Mobility Devices (**MMDs**) are an important vehicle to provide mobility access for some train and tram customers and when appropriately used and designed for the travel needs of the user, MMDs can significantly increase their access to transport and participation within the community.

In recent times, ARA members who operate passenger services (both heavy rail and light rail) have seen an increased number of MMDs on rail networks. The increase in the number of MMDs has generated a number of concerns particularly with respect to the safety of MMDs users around railways, train stations and tram stops and safety hazards for rail staff and/or passengers.

ARA members have become increasingly concerned about the size, weight, speed and operation of MMDs. Passenger train and tram operators report a growing number of interactions between MMD users and staff as MMDs become bigger, heavier, faster and less manoeuvrable. The increases in size, weight, speed and manoeuvrability provide challenges for passenger rail operators to service the needs of MMD users.

For the safety of all rail users and staff, it is critical that these matters are addressed. The Rail Industry believes the regulation of MMDs would help ensure the safety of MMD users, rail employees and the general community and thus the rail industry welcomes the Committee's inquiry.

TERMS OF REFERENCE

On 6 December 2017, the Senate moved that the following matters be referred to the Rural and Regional Affairs and Transport References 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

Submissions should be received by **13 March 2018**.

a) the number of deaths and injuries attributed to accidents involving mobility scooters (MS) in Australia since their introduction;

The Rail Industry does not capture national data regarding incidents involving MMDs on the rail network.

b) the causes of these accidents;

It is important to note that MMD users do not require a licence or competency assessment to obtain and drive an MMD.

Any incident on a rail network, be it a fatality, an injury or a 'near hit', can cause severe and lasting trauma to persons who are immediately involved in the incident and persons who witness the incident (including train or tram drivers and other rail employees).

Fatalities and injuries attributed to incidents involving MMDs on the rail network have been attributed to a number of causes. MMD user error or loss of control of an MMD has resulted in MMD devices and / or their user falling onto tracks. The fall itself can and has resulted in injuries. While the driver can apply the emergency brake, moving trains and trams are unable to swerve and cannot stop quickly. MMD users being struck by rolling stock has resulted in severe

and fatal injuries. In addition, as noted above, these incidents are extremely traumatic for drivers who directly witness these incidents and rail employees who assist onsite.

MMD faults such as loss of power or speed as well as user error such as mis-judging the amount of time required to cross a pedestrian crossing or crossing when it is unsafe to do so, have resulted in MMD users being caught on the tracks at pedestrian crossings. In some instances, this has resulted in near hits between MMD users and moving rolling stock but unfortunately, has also resulted in MMD users being struck by rolling stock.

Incidents have also been caused and/or contributed to by faults due to lack of MMD maintenance, which could be deterred through a regulated service program.

In addition, injuries to rail staff and passengers as a result of interactions with MMDs have been reported. Incidents have included individuals being injured as a result of an MMD user accidentally colliding with them, individuals being injured after an MMD user accidentally ran over their foot and rail employees being injured while helping MMD users on and off trains and trams with access ramps.

The Rail Industry believes that regulating MMDs would provide the opportunity to educate MMD users in how to operate safely on and around railways which would benefit MMD users, rail employees and the general community.

c) any current regulations governing the use of mobility scooters throughout Australia;

Under Australian Road Rules, MMD users are classified as pedestrians and must obey the same road rules as pedestrians. Accordingly, MMD users must travel on footpaths and adhere to a 10km/hr maximum speed.

Currently there are two regulatory requirements that an MMD device must meet to be utilised on Australian footpaths:

1. the MMD cannot exceed an unladen mass of 110kg to 150kg, depending on the jurisdiction, and
2. the maximum forward speed of the device must not exceed 10km/hr. It must be noted that many imported MMDs significantly exceed this maximum speed.

Currently, Road Safety Rules outline that scooters and electric wheelchairs are:

- not defined as motor vehicles and therefore cannot be registered,

- must have a capable speed of 10km/hr on level ground,
- with an unladen mass of 110kg to 150kg depending on the jurisdiction, and
- are to be used only by a person with an injury, disability or medical condition which means they are unable to or have difficulty walking.

Many MMDs currently available for sale in Australia exceed the weight and/or speed limit and as a result, do not meet the regulatory requirements to travel as a pedestrian on footpaths. The Rail Industry believes many MMD users would be unaware that their device does not meet these regulations.

It is not evident to persons wanting to purchase an MMD whether the MMD is suitable and safe for use on public infrastructure, such as footpaths, or for travel on public transport. Public transport issues arise when an MMD is too heavy to use passenger ramps, too wide to access doorways, or too long or lacking sufficient manoeuvrability to access allocated spaces. This risks injury to MMDs users, other commuters, passenger rail employees, as well as damage to infrastructure. Three wheeled mobility scooters are problematic due to a lack of dynamic stability.

Currently no restrictions exist on the width or length of MMDs in terms of what can be imported or sold within Australia. In addition, minimum performance requirements do not exist for the safe operation of MMDs on slopes and uneven surfaces. No restrictions currently exist for MMD modifications which may impact on the height, width, length or performance of the device.

The DSAPT were reviewed in 2013. Recommendation five of that review was for the Australian Government, in collaboration with state and territory governments, to develop and implement a national MMD labelling scheme. The passenger transport industry has called for compliant devices to be labelled clearly to make it easier for MMD users, train and bus industry workers, and enforcement personnel to identify a device that is likely suitable for use on passenger transport conveyances. The rail industry encourages the Australian Government to expedite the implementation of this program.

Australian Standards for the construction of MMDs is voluntary and allows suppliers to sell devices which do not meet these standards. Lack of regulation of MMDs creates a safety risk in rail environments related to user ability to sufficiently navigate significant hazards (pits, escalators, portable ramps) as well as crowded areas within confined spaces.

The DSAPT provides a level of certainty in terms of rail's obligations for providing access. The DSAPT sets out minimum dimensions for allocated spaces, paths, circulation room etc. to provide access for people using wheelchairs (relating to the 80th percentile wheelchair size). However, there is no obligation or requirement for people to buy MMDs that conform to these

dimensions. Under the Guidelines for the DSAPT, criteria for mobility aids is specified. However, these relate to the design of these devices, not the person controlling or operating them.

d) comparison of Australian regulations with international standards;

Australian regulations

Australian States have State-based legislation to regulate MMDs.

Queensland is the only State that requires MMDs to be registered.

Details of state-based legislation follows:

Victoria (VIC): The **Road Safety Act 1986 (Vic)** and the **Road Safety Road Rules 2017 (Vic)** outline that scooters and electric wheelchairs are not defined as motor vehicles and therefore cannot be registered. People using these devices are considered pedestrians, and must obey the same road rules as pedestrians.

New South Wales (NSW): MMDs are exempt from registration in NSW under clause 16 of schedule 1 to the **Road Transport (Vehicle Registration) Regulation 2017 (NSW)**. Vehicles that are exempt from registration are also exempt from Compulsory Third Party (**CTP**) insurance under section 2.2 of the **Motor Accident Injuries Act 2017 (NSW)**.

Western Australia (WA): The **Road Safety Act 1974 (WA)** and the **Road Traffic Code 2000 (WA)** identify MMD users as pedestrians in WA, limiting the speed of MMDs to 10km/hr.

MMDs capable of travelling faster than 10 km/hr do not have pedestrian status and must be treated as road going vehicles. They would need to be either:

South Australia (SA): MMD users are regulated through the Australian Road Rules, **Road Traffic Act 1961 (SA)** and/or **Motor Vehicles Act 1959 (SA)** and accompanying regulations.

Queensland: Queensland is the only jurisdiction in Australia which requires registration of MMDs. Queensland residents must register their MMD if they would like to use it in a public space such as a footpath or a train station. Information given at the time of registration states that in all cases, the person in control of the MMD must be capable to safely operate the MMD. However, there is no assessment of an individual's capability and no verification process.

To be registered, an MMD device must:

- have an electric motor
- be designed and built for a person with mobility difficulties
- have a tare weight of 150kg or less
- not be capable of travelling at more than 10km/h on level ground.

Individuals that move from another state or territory to Queensland to live you must register their MMD within 14 days.

Recent changes to registration requirements include:

- removing the requirement for a Medical certificate
- no longer issuing registration labels for motorised wheelchairs

Under the **Transport Operations (Road Use Management-Vehicle Registration) Regulation 2010 (QLD)**, an MMD must be registered if it:

- Is designed and built for use by a seated person with mobility difficulties; and
- Is not capable of going faster than 10km/h; and
- Has a tare of not more than 150kg; and
- Is not propelled by an internal-combustion engine.

International standards

In the UK, mobility scooters and powered wheelchairs come in two categories:

- 'class 2 invalid carriages': can't be used on the road (except where there is no pavement) and have a maximum speed of 4 mph
- 'class 3 invalid carriages' can be used on the road, and have a maximum speed of 4mph off the road, and 8mph on the road.

Class 3 mobility devices must be registered.

e) what support structures are in place to ensure the safe operation of mobility scooters;

As outlined in general comments, passenger rail operators implement their own disability access programs to progressively improve the accessibility of their rail networks. Many operators employ a dedicated Accessibility Expert to provide advice and all operators continually engage directly with the disability community.

The passenger rail industry implements a wide variety of programs to actively engage MMD users and promote the safe use of MMDs on rail services. At a high level, these measures include:

- **Education and Communication:** Operators have developed educational campaigns and information materials to provide clarity and information for MMD users to educate them on how to travel safely on MMDs in the rail environment. Operators also provide

information on the types of MMDs which are permitted on public transport on their websites.

- **Engagement:** As already noted, operators regularly engage the disability sector. Operators hold Rail Safety and Orientation Days that provide practical assistance and interactive learning for MMD users to practice boarding and alighting in a stationary train environment. Rail staff regularly present to older adults and disability sector organisations to provide information on how MMD users can safely and confidently travel by rail.
- **Partnerships:** Operators regularly partner with community groups such as Travellers Aid, to ensure safety messaging is widespread. Operators also provide information to hospitals, disability sector organisations and MMD suppliers.
- **Infrastructure:** As infrastructure is upgraded, operators utilise the opportunity to improve the accessibility of the relevant infrastructure. Operators include Emergency Help Points on station platforms that provide direct connections to rail customer service staff who can assist MMD users over the phone and/or arrange for staff to assist on stations or tram platforms. Selected stations marked as wheelchair accessible have level, ramp or lift access to all platforms, wheelchair/ mobility scooters spaces, accessible toilets, accessible emergency Help Points, accessible payphones, continuous handrails, accessible audio and visual service information. Easy access gates facilitate entry and exit to the paid area of train stations.
- **Technology:** Operators have embraced modern technology and developed mobile phone apps to assist customers with a disability to travel confidently on rail networks.
- **Signage:** Operators utilise signage on and around platforms to guide MMD users. For example, some operators include boarding assistance zones on platforms with a wheelchair-accessible symbol.
- **Consultation:** Passenger rail operators hold information and consultation sessions as part of the trial and implementation of new initiatives or new projects that have an accessibility component or may impact on accessibility to ensure that the needs of the disability community are appropriately considered and met.
- **Boarding on and off assistance:** Where a platform gap exists, rail employees provide assistance to MMD users with platform-to-train boarding ramps. Depending on the station or network, this could be station staff or a train guard.
- **Staff education:** All appropriate staff are trained to safely use boarding ramps.

The strategies listed above enhance customer awareness of safety considerations when using an MMD on rail services. However, the key risk is still the lack of clarity around assessment and capability.

f) the regulatory role of government and non-government bodies;

Government and non-government organisations (**NGOs**) all have a strong role regarding information provision, education and training relating to MMDs.

It is not the responsibility of transport operators to assess the capability of MMD users to safely use the device they operate.

The Rail Industry believes the safety and user capability of MMD user needs to be addressed with greater consideration in relation to the assessment of capability and safe use of MMDs by health and other prescribing authorities. Health authorities and retailers need to provide point-of-sale information to MMD users and could offer training and competency assessments at the point-of-sale.

The secondary market presents another area where additional information is required. The Rail Industry recognises that the provision of training, competency assessments and general information to those purchasing second hand MMDs would be more challenging.

Government should work with NDIA, retailers, relevant health departments, equipment funding bodies and other peak health and disability organisations that support people using MMDs to ensure clear and consistent advice at point of purchase.

Government

Management of MMD use through the current exemptions is appropriate. MMDs are essentially analogous to motorised wheelchairs, for which no registration or licencing or requirements apply. Any change to introduce vehicle registration, CTP insurance or driver licensing requirements will impose red tape and financial burden upon this road user group and create barriers to their mobility. It would also create an administrative burden on Government where the current non-regulatory approach already meets the public interest.

The Rail Industry supports the need for a consistent and evidence based MMD labelling scheme. Certain regulation requirements can act as a barrier to mobility.

Non-government organisations

MMD suppliers and manufacturers must be informing their MMD customers of the requirements for use on public transport. There is a need for greater information provision at point of sale to ensure that customers understand the type of devices that are suitable for use on public transport. Education and training should also be provided and available to these customers.

NGOs involved in prescribing and supplying devices need to be better informed about the limitations of use of larger devices on public transport and the potential impacts on their clients if their MMD does not meet the requirements to access public transport.

g) any related matter.

Specifications – weight, dimensions and manoeuvrability

Specifications for MMDs that can be used on public transport vehicles should be aligned with the current standards set out in the DSAPT. The Rail Industry is of the view that retailers need to develop a Code of Practice or similar that includes an agreement to place a label on MMDs that are suitable for public transport use in a prominent and visible location on the MMD, notify the prospective purchasers of MMDs of the specifications and whether the device (as demonstrated by the label) can be used on public transport. The Rail Industry believes it is also important that the retailers advise the prospective purchasers of the dimension, weight and manoeuvrability limits of MMDs on public transport. The Australian Government should consider providing this information for display at MMD retailers.

The weight of MMDs is an important issue. The Rail Industry is of the view that the current maximum weight in the DSAPT standards (300kg combined MMD and user and carer if present) must not be exceeded. Passenger rail operators have used the combined 300kg limit to develop lighter ramps so there is a lower risk of injury to rail employees deploying ramps. It is important that Occupational, Health and Safety issues are also considered and an increase in weight could have a detrimental impact on rail employees in this regard.

The overall weight and size of an MMD device and its user can also be impacted if MMD users incorporate additional items such as a flag, pole, canopy or bags. These items can push the overall dimension and weight of the MMDs over the prescribed limit and can also lead to safety issues for other passengers (e.g. a flag or canopy can potentially damage the eye of other passengers) or result in the MMD not fitting on the train or tram.

It is important that all MMDs follow the specifications prescribed in the DSAPT. This will help ensure the safety of MMD users as well as that of train and tram staff and customers and allow a smooth journey for people with limited mobility.

Labelling scheme

Standards Australia have developed a draft Technical Specification (DR SA TS 3695.3.2017 Wheelchairs Part 3: Requirements for designation of powered wheelchairs and mobility scooters for public transport and/or road-related area use) document that will outline the performance requirements. It is proposed that devices that meet the requirements in the TS will be issued with a blue or white permanently affixed label that displays key device characteristics and includes a unique identifier.

The purpose of the project is to identify and clearly label MMDs that are suitable for use on public transport. This scheme should encompass newly constructed MMDs that fit the definition of an MMD intended for possible use on public infrastructure and public transport.

This labelling scheme is considered essential for customers purchasing new MMDs to make informed decisions and to easily identify what can be used on public transport.

Regulation of MMDs exceeding 10km/hr

MMDs are an import-based market. Safety could be improved by the Australian Government regulating the import of MMDs that exceed 10km/hr so that MMDs that travel at higher speeds are not allowed to be imported. The point of sale must also be considered, as should speed limiters.

Reduced speed on and around railways

The Rail Industry is of the opinion that the speed of MMDs around railway stations and platforms and tram stops should be limited to 6km/hr instead of 10km/hr to ensure the safety of MMD users and other patrons.

Rule 39 of the UK Highway Code stipulates 'walking pace' at 4 miles/hr or 6km/hr. As railway stations and platforms and tram stops can be heavily populated, it is important that MMDs travel at a lower speed than usual for the safety of all. A reduced speed of 6km/hr would allow users to properly navigate around rail facilities whilst allowing other patrons to see approaching MMDs and give right of way.

Enhancing MMD users' ability to travel on public transport

There is a shared view that attention should be paid to enhancing the ability and confidence of MMD users to travel on public transport. This may be through competency or proficiency testing or provision of training sessions after the purchase of a product. The Rail Industry strongly supports some form of MMD user "assessment".

As more and more people with limited mobility use public transport every day, it is important that they properly understand how to travel safely and are confident in the use of their personal MMDs on public transport. For example, MMD users may not be aware that the safest way to park their MMDs while waiting for a train is to park in parallel with the track rather than facing the track. Parking parallel to rail tracks reduces the likelihood of an MMD accidentally moving onto train or tram tracks or falling off train platforms or tram stops.

Castor wheels

In addition to the weight, dimension and manoeuvrability issue, passenger rail operators also find that the castor wheels of some MMDs are not suitable for travelling across railway tracks, for example at railway level crossings, or from platforms onto the rolling stock. This issue creates a significant safety hazard for MMD users and railway staff. There may be an opportunity to influence the MMDs to review this feature of the devices and provide a safer alternative to castor wheels.

Supply of recharging stations

Availability of recharging points in the community (through local government or commercial suppliers) may encourage the use of smaller devices which have a shorter battery life and therefore are not necessarily suited to travel over longer distances and duration.

RECOMMENDATIONS

The two crucial issues relating to MMD use on passenger rail networks are:

1. **MMD user access to public transport:**
 - a. MMD users being aware and informed of the requirements (size, weight, speed and manoeuvrability) for an MMD to be used on public transport before they purchase a device, and
 - b. the ability for MMD users to easily confirm whether their MMD is suitable for use on public transport.
2. **MMD user capability and competency:** Assessment of MMD user capability and competency initially and in an ongoing manner will ensure better safety outcomes for all.

The Australian rail industry recommends the following measures are implemented to ensure the safe operation of MMDs on and around railways, tramways and modern light rail networks:

- **Training and testing for MMD users:**
 - o Mandatory training for people purchasing MMDs to ensure the MMD users can competently and safely use their MMD.
 - o Some form of assessment or proficiency testing to ensure MMD users are competent using their device around and on public transport facilities and vehicles.
 - o Mandatory ongoing MMD user testing to ensure users continue to be able to appropriately manoeuvre and operate their device.

- The development and distribution of national guidance materials to assist MMDs to safely travel on and around railways, tramways and light rail.
- **MMDs:**
 - Speed restrictions of **6km/hr** on and around railways, tramways and light rail networks.
 - Implementation and enforcement of the national labelling scheme to assist MMD users and public transport employees in identifying MMDs that are suitable for use on public transport.
 - Regulated service regarding maintenance to ensure MMDs are appropriately maintained.
- **Point of sale:**
 - Ensuring clear and consistent information at the point of purchase to ensure the needs of the user and the environment in which they wish to use their MMD is met. This includes the provision of clear information regarding the DSAPT limits as to the size, weight etc. of MMDs that can be utilised on public transport.
- **Manufacturing:**
 - The retention of the existing DSAPT standards regarding the dimensions of MMDs.
 - The retention of the maximum laden weight (300kg) and tare weight (not exceeding 150kg) as outlined in the DSAPT standards.
 - Modifications or add-ons to an MMD should comply with the dimensional requirements of an MMD's allocated space on-board a conveyance as specified in DSAPT.
 - Restricting the importation of MMDs that travel at speeds greater than 10km/hr or requiring speed limiters on MMDs capable of higher speeds.

In addition, as noted in our submission, State passenger rail operators are actively upgrading their networks to comply with the Australian Government's DSAPT. Although the standard is being modernised, progress is extremely slow. The Rail Industry seeks financial assistance from the Australian Government to increase the speed at which operators are able to upgrade their infrastructure and rolling stock to meet the requirements stipulated in the DSAPT. The provision of Federal funding to assist railways in meeting the DSAPT would enable Australia's rail and tram networks to increase their levels of accessibility at a faster rate for members in their communities with a disability.