



Physical Disability Council of NSW
Ordinary People Ordinary Lives

Submission for the Senate Standing Committee on Rural and
Regional Affairs and Transport

Inquiry into the need for regulation of mobility scooters, also
known as motorised wheelchairs

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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 aged people, 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 (i.e: 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:

PDCN appreciates the opportunity to provide comment to the Senate Standing Committees on Rural and Regional Affairs and Transport regarding the need for regulation of mobility scooters, also known as motorised wheelchairs. In this submission PDCN will provide comment, where relevant on the terms of reference; though feel many of the recommendations made within each section addressed, would be applicable to more than one of the sections below:

- 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

PDCN will also speak to the experiences of our members to illustrate how changes in the current regulations would impact on the lives of individuals who rely on the use of mobility scooters and motorised wheelchairs for their freedom of movement and independence. The following submission will be separated to reflect the terms of reference.

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. PDCN recommends this inquiry not simply focus on regulations and restrictions on these devices but examine how and why motorised mobility devices (MMDs) are used within the community.

People with disability may rely on MMDs to facilitate their access to the community, including participation in social activities and accessing employment or education. PDCN does not support the introduction of further regulations governing MMDs, specifically speed or weight restrictions, as we believe they would limit access and choice, and without the use of these mobility aids many individuals with disability would be largely housebound and at greater risk of social isolation.

The right to equal and active participation in the community is clearly mandated in the Convention on the Rights of Persons with Disabilities (CRPD), which was ratified by Australia in July 2008. Article 20 of the CRPD, guarantees the right to personal mobility, including facilitating access for persons with disabilities to quality mobility aids, devices and assistive technologies, and ensuring they are available at an affordable cost¹. Pursuant to Article 4 of the CRPD, the Australian Government is required to progressively achieve this right, by adopting all necessary measures to improve access to the right, including legislative measures.

PDCN considers any national regulation restricting the speed or operation of MMDs would represent a significant and unjustified incursion upon the right to personal mobility of people with disability. In addition, access and inclusion is key in the National Disability Strategy (NDS). Within priority area four all state and territory governments have made a strong commitment to ensuring people with disabilities can enjoy independent living and community access, with access to disability aids and equipment as a prioritised reform ².

¹ United Nations, Convention on the Rights of People with Disabilities (CRDP), page 14

² Commonwealth of Australia, National Disability Strategy (NDS) 2010- 2020, page 51

The introduction of the National Disability Insurance Scheme (NDIS), which rolled out nationally in 2017 has ushered in a period in which people with disability who are NDIS participants will be empowered through greater opportunities to exert choice and control over their support services, allowing for greater participation in education, employment and the community. Although many mobility device users are not NDIS participants, PDCN believes this reform is a significant social development for people with disability and placing further restrictions on MMDs would be contrary to the aims of the NDIS.

As part of our submission, PDCN conducted a survey with our members and stakeholders who are persons with disability. The survey received 133 responses highlighting how essential motorised mobility devices MMDs are for individuals with disability to enable access to the community for a variety of purposes including shopping, attending doctors' appointments, social activities, education and employment.

PDCN members reported that not having access to mobility scooters and motorised wheelchairs would significantly impact their independence, with many individuals stating they would no longer be able to leave home independently and would be reliant on friends, family or support workers to access the community. Many individuals expressed concern that that they would be confined to their home and this would have a detrimental impact on their physical and mental health:

I can only walk ten metres without extreme difficulty, so I would be completely housebound and dependent – survey respondent #113

I would not be able to work or access the community. I would be stuck at home – survey respondent #102

I would not be able to do any shopping/ post office/ socialisation, I would sit in my house and be very sad – survey respondent #79

The following detailed case studies further illustrate how the introduction of weight or speed restrictions presents a significant barrier to the independence and inclusion of people with disability in Australian society and would have detrimental impacts on the lives of MMD users.

Phyllis Summerfield - Harden – Murrumburrah, NSW

Phyllis is 78 years old and has been using a mobility scooter for 25 years, following the recommendation by her doctor when her mobility declined. Phyllis uses her scooter multiple times per week, when she goes out in the community as she is unable to walk, besides very short distances with a walker. Phyllis is entirely dependent on her scooter as she no longer drives, due to difficulty getting in and out of a car. Phyllis uses her scooter to attend doctor's appointments, for shopping (several kilometres from her house), attending church, visiting the library and visiting friends. Phyllis described her scooter as a "lifeline that gives me freedom and independence" as she would be housebound without the use of a motorised mobility aid. As Phyllis lives in a regional town her scooter must travel over hilly, rough terrain, making a larger and heavier model

essential as it provides greater stability and power and is most suitable for this environment.

Alan - Kellyville, NSW

Alan is 72 years old and frequently uses his mobility scooter to access services in his local area, including shopping. Alan has been a mobility scooter user for the last 10 years and is very concerned about restrictions being placed on the speed at which he could travel. As Alan travels several kilometres on a return trip to his local shops restrictions would affect his independence, by impacting on the battery life of his scooter, and therefore the distance he could travel.

Michael – Dubbo, NSW

Michael is a motorised wheelchair user who is reliant on his wheelchair to access the community. Michael and his wife live in Dubbo NSW where they have limited access to public transport and they do not have a wheelchair accessible vehicle. Michael uses his wheelchair for shopping, a distance of approximately 2km from his house and for social activities. As Michael's weight is 155 kilograms he requires a larger model wheelchair to meet his needs. If Michael was not able to use a power wheelchair, due to limitations on the maximum legal weight of such a device, he would be largely unable to leave the house, as Michael is unable to afford wheelchair accessible taxis.

PDCN responses against the Terms of Reference:

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

PDCN has found limited studies examining the number of deaths and injuries that can be attributed to the use of MMDs. In addition, PDCN is concerned about the currency and appropriateness of the citing of statistics from a Monash university study by National party senator John Williams, when calling this inquiry³. The study by Monash university was commissioned by the Australian Competition and Consumer Commission and examines deaths and injuries from 2000 to 2010⁴. PDCN believes the accidents and incidents described in the data largely cannot be attributed the fault of the MMDs. Furthermore, this study does not 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, failures in public infrastructure - for example a lack of footpaths and gradients not meeting Australian standards, the fault of other pedestrians

³ Commonwealth of Australia, Parliamentary Debates, Senate Official Hansard, No.15, 2017, Wednesday 6th December, page 155

⁴ Gibson, K., Ozanne- Smith, J., Clapperton, A., Kitching, F., Cassell, e., Targeted study of injury data involving motorised mobility scooters: A report commission by the Australian Competition and Consumer Commission, Monash University, 2011

or interactions with motorists. 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.

PDCN acknowledges that considerable effort should be made to ensure these devices are used in a safe and appropriate manner and there are no avoidable deaths or injuries resulting from MMDs. However, we believe the vast majority of mobility scooter and motorised wheelchair users pose no risk to the community and many safety issues could be addressed through investment in public awareness campaigns and community education programs.

Public awareness programs should focus on safe shared road and footpath use to reduce hazardous interactions between mobility device users, pedestrians and motorists. PDCN would like to emphasise the role of pedestrian behaviour in many of the accidents and injuries involving mobility scooters or motorised wheelchairs. This was commonly reported in the research conducted by PDCN. Participants were asked if there was anything that currently makes it difficult for them to access the community using their MMD. Participants statements included:

Pedestrians busy on their phones, not having any situational awareness and walking into you – survey respondent #115

Most people are friendly, but my risk of personal injury rises when I'm in crowded areas because people shove each other, and they don't see me until they're hitting or falling on me – survey respondent #65

Having to constantly anticipate what people who walk are going to do because they don't pay attention to where they are going. I have a bone condition, if someone falls on me I risk serious injury – survey respondent #50

It's a known thing that mobility aids are 'invisible' to able bodied people. It's astounding how often people don't see me, the scooter or wheelchair. Maybe there needs to be an ad campaign about looking out for mobility aids, just like there are for motorbikes and bikes – survey respondent #57

PDCN also found survey participants reported having difficulty navigating interactions with motorists when they are unable to travel on the footpath:

Those who work on the footpath and erect barriers often make no allowance for gophers and electric wheelchairs. I'm sometimes forced onto busy roads to get around them. Most motorists are pretty good, but there is a minority who do not understand that there are circumstances where they are legally required to give way to electric wheelchairs; some are even abusive – survey respondent #28

Recommendation 1: The introduction of a public awareness campaigns focusing on safe shared road and footpath use and the needs of mobility scooter and motorised wheelchair users.

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

The current regulatory scheme for mobility scooters and motorised wheelchairs is complex with MMDs regulated by several agencies including the Therapeutic Goods Administration, the Department of Infrastructure and Australian Customs, as 90%+ of all MMDs are imported. In Australia, it is individual States that are responsible for the making and regulation of road rules and MMD users are considered pedestrians. There is also great inconsistency between States on the need for registration of devices and weight limits.

PDCN would like to note that current NSW state regulations are based on outdated estimates of the size and weight of wheelchairs. The 110kg weight limit in NSW (and many other jurisdictions) is based on the first motorised wheelchairs manufactured, their design being a simple manual chair with a motor attached. As wheelchair designs have become more complex the tare weight has increase significantly.

PDCN recommends an abolition of weight limits by road and traffic authorities. PDCN is concerned about how a regulated weight limit would prevent individuals from being able to have a MMD that is suited to their needs. The current weight limit does 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 CRDP the Australian government has committed to enshrining those rights in its laws and practices, including Article 20, the right to mobility.

PDCN does not support regulations, such as a maximum weight limit that would mean heavier individuals or those with complex needs for example quadriplegics or individuals with cerebral palsy, may be unable to purchase a legally compliant vehicle that meets their needs. This would be in direct conflict with National Disability Strategy (NDS), Area 4 policy direction 2 which promotes 'a disability support system which is responsive to the particular needs and circumstances of people with complex and high needs for support. The NDS acknowledges that "people with high and complex needs face specific and higher barriers to accessing the community and getting the supports they

need. They are often the most at risk of community exclusion”⁵. PDCN feels this would be a foreseeable outcome for individuals with complex needs if regulations limiting the weight, and thus the assistive technology available to them were to be introduced.

Furthermore, individuals may not be able to purchase larger devices suitable for travelling longer distances and rougher, uneven or hilly terrain if weight restrictions are introduced. This would disproportionately disadvantage people living in rural and regional areas of NSW for whom having a larger mobility device may be a necessity.

c) comparison of Australian regulations with international standards

PDCN believes there is a great risk in introducing regulations that would make Australian standards for MMDs inconsistent with international standards. Australia currently imposes tighter restrictions than the European standards, adopted by most international manufacturers. Australia has a speed limit on devices of 10 km per hour compared with 12-15 km per hour internationally. This is an important consideration as all mobility scooters are imported and 90% of motorised wheelchairs are manufactured outside of Australia⁶.

PDCN believes if the Australian government were to implement vastly different standards this would dramatically limit individual’s options when buying a MMD. Furthermore, Australia is a small segment of the worldwide market purchasing these products, accounting for approximately 2% of sales⁷. Imposing restrictions on imports would limit the models available and increase prices. PDCN recommends the introduction of European standards which impose no weight restrictions and impose speed limits dependent on location. PDCN believes this would increase choice and control for people with disability.

Currently mobility scooters and motorised wheelchairs sold in Australia have multiple speed settings, many including a safe mode for use in pedestrian areas, enabling the user to vary their speed dependent on the environment. This was supported by the research conducted by PDCN in which 84% of mobility scooter and motorised wheelchair users surveyed reported that they will vary their speed depending on their environment, with one survey participant stating:

I drive my chair at a speed I deem suitable and safe as any able-bodied person would vary their walking speeds depending on the circumstance – survey respondent #130.

PDCN believes additional limitation on the 10km per hour maximum speed that devices are currently able to travel may create several safety issues for MMD users. For

⁵ NDS, 2010-2020, page 49

⁶ Assistive Technology Suppliers Australasia (ATSA), Nationals’ push to regulate mobility scooters will punish seniors and people with disability press release, http://www.atsa.org.au/Portals/0/20170912_Scooter_Press_Release.pdf, 13/09/2017, page 1

⁷ ATSA, 13/09/2017, page 1

example, this would increase the difficulty users face in traversing wide streets/major roads during the time allocated for crossing at pedestrian traffic lights.

Speed limitations would also dramatically increase travel times, thus increasing time spent outside by vulnerable persons who may be exposed to environmental factors such as extreme heat. This would pose a risk during hot weather for many individuals with disability who cover long distances with their MMD and due to their disability are unable to regulate their body temperature. This problem would be intensified in rural and regional NSW where longer distances are frequently travelled by people with disability to access services.

In addition, PDCN would like to highlight the practical issues that would arise from speed limiting motorised mobility devices. PDCN feels restrictions would be untenable as they would have an unfavorable effect on the functioning of mobility devices, as many issues can occur when the amperage available to a motor is reduced. Preventing a motor from functioning at its manufactured capacity will lead to greater wear and tear, reduced life span of batteries, heat buildup, and would increase the need for more frequent charging preventing a battery from being able to sustain a full day's regular use.

This in turn would have a considerable impact on individuals' everyday movement, and cost implications for people with disability, who may not have the financial resources to more frequently replace their assistive technology, and government agencies such as the NDIA and EnableNSW, who fund MMDs for eligible individuals.

Recommendation 2: The Australia government does not introduce regulations restricting the weight, speed and operation of mobility scooters and motorised wheelchairs.

Recommendation 3: The adoption of European standards to bring Australia in line with international regulations, ensuring an increase in consumer choice for MMD users, and creating a more cost competitive market.

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

It is PDCN's understanding that at present, if a MMD is purchased from a reputable supplier, the supplier will ensure the user receives advice, basic training and a device suitable to their abilities. MMDs can be adjusted based on an individual's age, experience, weight and height to ensure they are using a model that is safe - for example the motor may be adjusted to cater for the variance in weight of users. In addition, prior to purchase an assessment may be made of the individual's environment - for example due to stability issues, a three-wheeled scooter would not be suitable for an individual requiring a device that can navigate a steep gradient on a gravel driveway.

PDCN considers this level of service at the point of sale best practice and crucial in ensuring users are prepared for the safe operation of their device.

Furthermore, if a device is funded by a government body such as EnableNSW or the NDIA an assessment by an occupational therapist will be required to certify the individual is receiving a device that is safe and appropriate for their needs. In PDCN's experience individuals with disability who have been using a motorised wheelchair, often for many years, receive advice and instruction during the assessment process for their new device.

PDCN has concerns regarding mobility scooters, and less commonly motorised wheelchairs, being purchased directly over the internet as these individuals will not receive any training or advice to ensure the device is suitable and they are able to safely manoeuvre it within their community. PDCN recommends the government mandate standard instruction for motorised mobility devices at the point of sale to address this issue.

PDCN recommends the government develop consistent information and educational resources for MMD user, families, carers, health professionals and retailers that highlight risks and can provide advice on common safety issues and how to avoid common accidents or injuries. PDCN recommends education resources teach mobility scooter users about environmental hazards, road rules, safety features of devices, sharing public spaces and common reasons for accidents.

Furthermore, to ensure accessibility, information should be available in a variety of community languages and presented in a variety of formats including AUSLAN, large print, easy English, audio, braille, rich text format and with captioning available on all video materials.

e) the regulatory role of government and non-government bodies

As discussed earlier in this submission, PDCN suggests government undertake a public awareness campaign to ensure relevant stakeholders, including pedestrians and motorists are aware that roads and footpaths are shared spaces and individuals with disability using MMDs, who may not be in their line of sight are entitled to use the footpath as a pedestrian or via the road where the footpath is not an option.

Currently a limited number of local governments across NSW provide optional training sessions on safe use of mobility scooters. PDCN would like to see these programs expanded as we believe all mobility scooter users could benefit from this training and support.

Furthermore, alongside introducing standard instruction at point of sale, PDCN believes government should take a multifaceted approach including optional training sessions for

mobility scooter users, and the introduction of educational resources as this would be practical given the large second-hand market for mobility scooters and motorised wheelchairs.

As regulating mandatory instruction at the point of sale when devices are transferred between individuals via private sale would be extremely difficult, it is imperative that other forms of education are easily available.

Recommendation 4: PDCN recommends the government mandate standard instruction for motorised mobility devices at the point of sale.

Recommendation 5: PDCN recommends the government develop consistent, accessible information and educational resources for MMD users to highlight risks and provide advice on common safety issues.

f) any related matter

Public transport and urban design and infrastructure

PDCN would like to highlight that across Australia there is still an acknowledged lack of accessible public transport and this results in many individuals with disability being reliant on their MMD as their chief form of transport, with the device being essential to their full economic and social participation in the community. In many parts of NSW, particularly rural and regional areas, accessible transport options available for people with disability are limited to modified private vehicles, community transport services and taxis, the latter at a substantial cost.

PDCN recommends greater investment in infrastructure to improve the accessibility of the built environment. PDCN believes a lack of shared space on roads and non-existent footpaths presents a significant barrier for people with disability when accessing the community, particularly in rural and regional NSW. The lack of footpaths results in greater safety issues for mobility scooter and motorised wheelchair users who must travel on the road and are more vulnerable to collisions with motorists. The absence of footpaths posed a safety risk for a PDCN survey participant who described a dangerous situation commonly experienced by users:

cars passing me at an arm's length or less when I am forced to use my chair on the road - survey respondent #5

PDCN supports a greater emphasis on and incorporation of MMD and wheelchair friendly design principles into urban environments. This would be important to address other issues raised by both mobility scooters and motorised wheelchair users in research conducted by PDCN. These included rough, uneven or narrow footpaths,

footpaths partially covered in vegetation and unsuitable height and gradient of curbs and guttering. Badly designed curb transitions and footpaths without cut outs or ramps were also significant problem, frequently leading to accidents where users would fall from or have their motorised mobility device overbalance. In addition, poorly designed pedestrian crossings are a significant safety issue:

dangerous crossings where vehicles have limited vision of the crossing necessitated my being very careful to check for oncoming vehicles and then crossing at top speed to minimise time on crossing – survey respondent #2

PDCN recommends the government actively seek the input of people with disability who use mobility devices to access the community during the planning, design and implementation phases of infrastructure projects to ensure the community is accessible and inadequate design does not contribute to deaths and injuries.

PDCN recommends significant investment by the government to improve existing infrastructure, including transport services. PDCN supports an increase in accessible public transport in rural and regional areas as this may reduce the extent to which MMD users would be forced to travel on roads. In NSW, PDCN recommends increases in the Country Passenger Infrastructure Grants Program (CPIGS) as currently a large number of bus stops in rural and regional locations that do not comply with the Disability Standards for Accessible Public Transport (DSAPT) or are still needing bus stop improvements.

In addition, access to transport for people with disability in rural communities would be improved by Transport for NSW guaranteeing staff will be available at train stations in rural and regional locations that do not provide full accessibility to provide direct assistance to people with disability. PDCN also supports the greater provision and funding of contracted alternative transport services, such as community transport for people with disability who are unable to access public transport.

Recommendation 6: PDCN recommends greater investment in infrastructure to improve the accessibility of the built environment including footpaths, ramps, curb cut outs and design of pedestrian crossings to maximise visibility and safety.

Recommendation 7: PDCN recommends the government include people with disability who use MMDs to access the community during the planning, design and implementation phases of infrastructure projects.

Recommendation 8: PDCN recommends greater investment in public transport, particularly in rural and regional NSW with a focus on staffing to ensure practical accessibility and guaranteeing current transport infrastructure is compliant with the DSAPT.