

**Submission
No 121**

INQUIRY INTO USE OF E-SCOOTERS, E-BIKES AND RELATED MOBILITY OPTIONS

Organisation: Sutherland Shire Council

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File Ref: 2015/4387

14 August 2024

Ms Cate Faehrmann MLC
Chair - Portfolio Committee No. 6 - Transport and the Arts
Via Email:

Dear Ms Faehrmann

Submission to the NSW Parliamentary Inquiry into the use of e-scooters, e-bikes and related mobility options

I refer to the Portfolio Committee No. 6 - Transport and the Arts inquiry into the use of e-scooters, e-bikes and related mobility options. I would like to thank you for the opportunity to make a submission on behalf of Sutherland Shire Council.

Although Council continues to receive a large number of complaints regarding e-bikes, an outright ban is not supported. Instead, the responsible use of legal e-bikes is supported, and it is preferred that that improved legislation be enacted to enforce poor behaviour and use of illegal e-bikes.

A copy of Council's full submission, which was endorsed at the Ordinary Council Meeting of 12 August 2024, is attached.

I look forward to the Committee's findings.

Should you require any further information, please contact Council's Acting Manager Traffic and Public Domain Services,

Yours sincerely

Chief Executive Officer

Submission to Parliamentary Inquiry into the use of e-scooters, e-bikes and related mobility options

Notwithstanding the complaints Council has received, the number of e-bikes in the community indicates that only a small portion are of users are creating an issue. Therefore, an outright ban on e-bikes is not supported. Instead, the responsible use of legal e-bikes is supported, and it is preferred that that improved legislation be enacted to enforce poor behaviour and use of illegal e-bikes.

With respect to the *Terms of Reference* for the Committee's Inquiry:

(a) The current and anticipated role of all three levels of government in enabling and encouraging safe electrified active transport options

The enforcement of bikes and e-bikes is generally under the jurisdiction of the NSW Police Force and there is currently no appetite to transfer these powers to Council. Collaborative efforts with Police have revealed that enforcement of existing laws is difficult and requires some reform (as outlined in the remainder of this submission), coupled with increased resources for Police, particularly to provide more high-visibility patrols.

Council recognises its ongoing role to provide cycling infrastructure and educate the community in partnership with Transport for NSW. There are existing grant programs for cycling infrastructure that Council regularly applies for. Funding for road safety education is currently undertaken through a partnership with Transport for NSW, under their Local Government Road Safety Program. This provides joint funding for a road safety officer to run community campaigns and events aimed at reducing crashes in Sutherland Shire, based on crash statistics. There is, however, little scope to include bike and e-bike education as part of this funding arrangement due to:

- (a) capacity for Council's Road Safety Officer to deliver additional programs; and
- (b) Transport for NSW's Local Government Road Safety Program being limited to addressing road crash statistics, rather than emerging issues.

It is therefore recognised that that additional funding is required to provide education on bike and e-bike safety. Council has had some success with piloting ride to school programs for primary schools, but these do come at a great cost and it is beyond Council's capacity to roll these out to every primary school each year. A similar program would be supported for e-bikes in high schools.

(b) Opportunities to reform the regulatory framework to achieve better and safe outcomes for riders and the community

Police and Council officers have raised concerns that it is difficult to identify e-bikes that do not meet the current legal requirements, stop and fine riders (particularly minors). It is therefore recommended that the State Government considers implementing:

- Low-cost registration, including an annual check of minimum road worthiness. There is potential to use the existing bicycle serial number as a unique identifier for registration. Similar to motor vehicles, a minimum road worthiness test of brakes and power output would assure the community that e-bikes are not being modified and are fit for purpose. Furthermore, it is recommended that the Committee seeks advice on ways for enforcement bodies to easily identify e-bikes that have been modified, particularly with respect to:
 - electric motor continuous power rating and the tendency for manufacturers to use larger motors (over 500 W) that are electronically detuned – it is understood from advice from Transport for NSW that this is illegal,
 - override levers/switches that don't require pedalling, and
 - power assist cut off speed.
- Licencing, including junior licencing, or at least a minimum age to ride. This is intended to assist with enforcement activities, and overcome current issues with issuing fines to minors. Although it would be up to the Parliamentary Committee to recommend a minimum age, as a guide, a junior PWC licence can be obtained at 12 years of age, with restrictions on use if under 16 years of age. Another example that assists with enforcement, but does not include competency as part of licencing, are recreational fishing licences.
- Impounding, pursuit, asking for ID and fining powers for enforcement bodies. Police have raised concerns that these powers are current not available to them. It is understood that Police do not currently have the facilities required to impound illegal e-bikes and a resource ap would need to be filled.

Furthermore, in order to address safety concerns of the community and Council, it is recommended that the Parliamentary Committee considers the following:

- Banning electrically power assisted e-bikes with motors over 500 W.
*“An electrically power-assisted cycle can have a maximum continued rated power of up to 500 watts.
This power output must be:*
 - *progressively reduced as the bicycle's speed increases beyond 6km/h*
 - *cut off when:*
 - *a bicycle reaches a speed of 25km/h*

- *the rider stops pedalling and the speed exceeds 6km/h.”*

**Source: Transport for NSW*

This does not address the fact that a motor generating power greater than 500W is illegal and it is therefore recommended that legislation be reviewed to consider loopholes regarding E-bikes that use a motor with higher power rating than 500W, even if it is limited by software, switch, or other means.

- Restrictions on projections. Whilst it is not intended that projections such as surfboards be banned, they should be transported in a manner that does not pose a ‘spearing’ risk to pedestrians.
- Require automatic noise actuation and daytime running lights to improve safety for pedestrians. Many of the complaints received by Council are that e-bikes have an increased risk of injuries to pedestrians because:
 - (a) E-bikes have a higher likelihood of colliding with pedestrians because they are silent; and
 - (b) E-bikes have a higher severity of injuries to pedestrians due to their weight.
- Make it illegal to modify or facilitate the modification of an e-bike that makes it not legal, even if it will be used on private land. Whilst it is not the intention to address the use of modified e-bikes on private land, it is recognised that some manufacturers are facilitating modifications that make e-bikes illegal if they are not being operated on private property.
- Limit the number of passengers to one passenger, with a minimum age for carrying passengers. Council has received a number of complaints that young people in particular are carrying excessive passengers, beyond the capabilities of the rider. Similar restrictions are in place for motorbikes and Personal Water Craft (PWCs).

The following changes, however, are not supported:

- Mandatory insurance. Third party insurance is not currently required to undertake a range of activities, including cycling and boating (including PWC use).

(e) The potential benefits and risks of existing regulatory and policy settings, including the *Roads Act 1993, Road Rules and Road User Space Allocation Policy* and other related legislation regarding safety, traffic, and personal convenience

Current laws only provide for the banning of all bikes (including e-bikes) and there may be locations that Councils wish to specifically ban the use of e-bikes and/or e-scooters, rather than all bikes and scooters. It is felt that this could be justified if Council could demonstrate that end-of trip facilities (eg, parking) have been provided, to store these items. In this regard, funding for end of trip facilities would be appreciated. Given the

charge range of e-bikes and e-scooters, end of trip facilities should not require charging stations.

Council's cycling network is currently largely made up of shared paths for riders of all ages, and footpaths for young riders. Council would need significant investment in order to provide dedicated cycleways throughout the bicycle infrastructure network, and whilst this may be achievable in time, the present circumstances would not support an outright ban on e-bikes from using footpaths or shared paths.

The Sutherland to Cronulla Active Transport Link project (SCATL) was envisaged to utilise railway land, wherever practicable, for a dedicated cycleway between Sutherland and Cronulla. One of Council's concerns with the delivery of the SCATL project by Transport for NSW is e-bikes being increasingly used in the area and the associated risks with mixing with pedestrians on shared paths. The design process for Stage 2 East indicated that SCATL cannot be delivered through a cycleway-only facility without affecting trees and/or parking and so shared paths have needed to be used extensively. The project team has indicated that additional funding would need to be required to deliver the remainder of project in the rail corridor, where a superior cycle-only facility could be delivered, creating a 'highway' for e-bikes. It is therefore imperative that the SCATL be properly funded.

(f) The extent that e-mobility devices have positive community benefits such as encouraging mode shift, relieving congestion, addressing social disadvantage and tourism

Council recognises that e-bikes, e-scooters and related mobility devices (eg, electric skateboards) have great potential to increase modeshift, which has all the benefits of traditional push bikes (including health, traffic congestion and parking demand) whilst overcoming the traditional barriers to cycling (body composition, age, terrain, distances).

(h) Best practice in other Australian and international jurisdictions

There are currently different requirements for e-bikes in different States, which also differs from Federal legislation. Furthermore, the current Road Rules do not use plain English terms, making it difficult for members of the public to understand the various requirements for e-bikes. It is therefore recommended that the NSW State Government works with other Australian States, to consolidate the laws on for e-bikes, so they are consistent with other jurisdictions.