

**Submission
No 136**

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

Organisation: The Glebe Society Incorporated

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**Submissions of behalf of The Glebe Society to Portfolio Committee No 6 –
Transport Inquiry in the use of e-scooters, e-bikes and related mobility
options**

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The Glebe Society makes the following submissions in relation to paragraphs (b), (c), (d), (e), (g), and (j) of the Terms of Reference.

Summary of Submissions

- A. The legislative treatment of e-bikes in the same way as bicycles is not justified from a safety perspective.
- B. To ensure equitable road and road related usage and to protect other road users e-bikes should be registered.
- C. Registration of e-bikes should include third party insurance.
- D. E-bikes should be prohibited from using footpaths, with the exception of postal workers and people with a disability (as contemplated by Regulation 250 (1)(c) and (1A) of the *Road Rules*).
- E. That misinformation and ignorance of current legislation concerning footpath use by bicycles (including e-bikes) be addressed by a publicity campaign.
- F. That operators of share e-bikes require customers to pick up and return hired e-bikes to designated docks and this necessity be imposed on hire operators either by contract or legislation.
- G. E-bikes should be subject to the same Road Rules as motor scooters including minimum age and licensing requirements.

E-bike Regulation

Under current regulations use of e-bikes is treated in the same way as the use of bicycles. The definition of bicycle for the purpose of the Road Rules is -

"bicycle" means a vehicle with 2 or more wheels that is built to be propelled by human power through a belt, chain or gears (whether or not it has an auxiliary motor), and includes--

(a) a pedicab, penny-farthing and tricycle, and

(b) a power-assisted pedal cycle within the meaning of national road vehicle standards, as amended from time to time, determined under the Road Vehicle Standards Act 2018 of the Commonwealth, section 12 other than one that has an internal combustion engine or engines, and

(b1) an electrically power-assisted bicycle that has a maximum continued rated power of 500 watts, if the power output--

(i) progressively reduces as the bicycle's speed increases above 6 kilometres per hour, and

(ii) is cut off when--

(A) the bicycle reaches a speed of 25 kilometres per hour, or

(B) the rider of the bicycle stops pedalling and the speed is more than 6 kilometres per hour,

but does not include--

(c) a wheelchair, wheeled recreational device, wheeled toy, or

(d) any vehicle with an auxiliary motor capable of generating a power output over 200 watts (whether or not the motor is operating), other than a vehicle referred to in paragraph (b) or (b1), or

(e) any vehicle that has an internal combustion engine or engines.

Note 1 :

"Power-assisted pedal cycle" is defined in the Vehicle Standard (Australian Design Rule--Definitions and Vehicle Categories) 2005 determined under the Road Vehicle Standards Act 2018 of the Commonwealth, section 12. The definition of **"power-assisted pedal cycle"** includes electrically power-assisted cycles, within the meaning of that Standard.

Note 2 :

"Vehicle" is defined in rule 15, and

"wheelchair",

"wheeled recreational device" and

"wheeled toy" are defined in this Dictionary.

Note 3 : *This definition is not uniform with the corresponding definition in the Dictionary of the Australian Road Rules . Different definitions may apply in other Australian jurisdictions.*¹

This treatment of e-bikes is not justified from a safety perspective. It means that there is no requirement for a license to ride e-bikes, there is no requirement to have insurance in the case of an accident involving them, there is no minimum age limit for their use and there is no requirement for them to be registered.

From the perspective of other road users this situation is undesirable. It also leads to an imbalance between road users, particularly between e-bike users and pedestrians.

E-bikes are not equivalent to bicycles for number of reasons. E-bikes, unlike bicycles, have a battery and motor and consequently are two to three times heavier than bicycles. They also run silently and are generally ridden at much faster speed than bicycles. Unlike bicycles many are used as commercial vehicles by delivery drivers or as rideshare vehicles. From media reports, there is also a possibility of battery fires and explosions.

The risk of injury to a pedestrian is much greater in a collision with an e-bike than with a bicycle. There is a real risk that a pedestrian could be hit by an 80kg operator riding a 30kg e-bike at 25 km per hour resulting in a much more serious injury than a collision with a 7 to 10 kg bicycle.

In addition, the risk of collision between e-bikes (particularly throttle types) and pedestrians is enhanced because e-bike operators do not have to put the same effort into propulsion as unpowered bikes. It is common to see e-bike operators going at some speed along foot paths absorbed in their phones and paying no attention to their surroundings. It is also common to see e-bike operators covering their faces so that they could not be identified in the case of an accident or infringement.

E-bikes as motorized vehicles are much more equivalent to motor scooters than they are to bicycles.

If there was a system of registration e-bikes owners could be traced and held responsible for traffic violations, damage or injury caused by them. A system of registration could incorporate a third party insurance scheme to cover personal injuries.

While it is not difficult to learn to ride an e-bike, operators are frequently observed to flout provisions of the Road Act and Road Rules either through ignorance or wilful defiance. There is little apparent appetite by law enforcement authorities to enforce compliance with legislation related to bicycles (including e-bikes).

¹ Road Rules (NSW) - Dictionary

The Road Rules that apply to motor scooters should also apply to e-bikes. In particular, the operators of e-bikes should be subject to the same minimum age and licensing requirements as the operators of motor scooters.

Footpaths

By definition, footpaths are for pedestrian use and not for use by e-bikes or bicycles.

"footpath" , except in rule 13(1), means an area open to the public that is designated for, or has as one of its main uses, use by pedestrians.

Note : Rule 13 defines **"road related area"** .²



Commercial e-bike rider on King Street, Newtown
(photo)

However, the Road Rules allow the use of bicycles (including e-bikes) in limited circumstances. That is –

- (1) *The rider of a bicycle who is 16 years old or older must not ride on a footpath unless--*
- (a) *if the rider is an adult--the rider is accompanying a child under 16 years of age who is riding on the footpath and the child is under the rider's supervision, or*
 - (b) *if the rider is not an adult--the rider is accompanying a child under 16 years of age who is riding on the footpath under the supervision of an adult and the rider is also under the supervision of the adult, or*
 - (c) *the rider is a postal worker who is riding the bicycle in the course of his or her duties as a postal worker, or*
 - (d) *the rider is carrying a person who is under 10 years old as a passenger on the bicycle or in or on a bicycle trailer towed by the bicycle and the bicycle is not a pedicab.*

² Road Rules (NSW) - Dictionary

: Maximum penalty--20 penalty units.

Note 1 :

"Bicycle trailer" is defined in rule 257 and **"footpath"** and **"postal worker"** are defined in the Dictionary.

Note 2 : Subrule (1) is not uniform with the corresponding subrule in rule 250 of the Australian Road Rules . However, the corresponding subrule in the Australian Road Rules allows another law of this jurisdiction to prohibit a rider of a bicycle who is 12 years old or older from riding on a footpath. Different rules may apply in other Australian jurisdictions.

Note 3 : A rider of a bicycle who is under 16 years of age may ride on a footpath unless such a rider is prohibited from doing so under rule 250- 1 or rule 252.

(1A) A rider of a bicycle does not have to comply with subrule (1) if--

(a) the rider is carrying a medical certificate that states a medical practitioner believes the rider should be allowed to ride on the footpath because of a medical condition the rider has, and

(b) the rider is complying with any conditions stated in the medical certificate, and

(c) no other law of this jurisdiction states that this subrule does not apply.

Note :

"Medical certificate" and **"medical practitioner"** are defined the Dictionary and **"medical condition"** is defined in subrule (3).

(1B) Also, a rider of a bicycle does not have to comply with subrule (1) if the rider is accompanying another person who is exempt under subrule (1A).

(1C) However, the rider is exempt under subrule (1A) or (1B) only if the rider who is carrying the medical certificate immediately produces the medical certificate when an authorised person asks to see the certificate.

Note :

"Authorised person" and **"medical certificate"** are defined in the Dictionary.

(1C-1) A rider is not exempt under subrule (1A) or (1B) if there is a bicycle path or shared path available near the footpath.

Note 1 :

"Bicycle path" is defined in rule 239.

Note 2 : This subrule is an additional NSW subrule. There is no corresponding subrule in rule 250 of the Australian Road Rules .

(2) The rider of a bicycle riding on a footpath or shared path must--

(a) keep to the left of the footpath or shared path unless it is impracticable to do so, and

(b) give way to any pedestrian on the footpath or shared path.

: Maximum penalty--20 penalty units.

Note 1 :

"Pedestrian" is defined in rule 18, and
"shared path" is defined in rule 242.

Note 2 : For subrule (2),

"give way" means the rider must slow down and, if necessary, stop to avoid a collision--see the definition in the Dictionary.

(3) In this rule--

"adult" means an individual who is 18 years old or older.

Note : There is no corresponding definition for this term for the purposes of rule 250 of the Australian Road Rules . The definition is required for the purposes of subrule (1)(a) and (b).

"footpath" does not include a separated footpath.

"medical condition" means a medical condition that makes it impractical or unsafe for a person who has the condition to ride a bicycle on the road.

Note : There is no corresponding definition for this term for the purposes of rule 250 of the Australian Road Rules . The definition is required for the purposes of subrule (1A).

Note :

"Separated footpath" is defined in rule 239.³

There seems to be a good deal of ignorance of this Road Rule. Bicycles and e-bikes use footpaths in preference to roads. E-bikes weave between pedestrians with scant regard for safety. There seems to be no risk of penalty for e-bike operators doing so. There is however a risk of injury for other users of footpaths.

Potentially, the lack of enforcement is because resources are concentrated on road usage and not on users of road related areas⁴.

It is submitted that as e-bikes are powered vehicles which are significantly heavier and faster than bicycles, they should be excluded from using footpaths, with the exception of people with a disability or postal workers as contemplated by Regulation 250 (1)(c) and (1A).

There is both ignorance and misinformation about the current rules concerning bike (including e-bikes) use of footpaths. A number of bicycle websites give inaccurate information about the use of footpaths by cyclists.

³ Regulation 250 Road Rules

⁴ See Regulations 12 and 13 Road Rules.

It is submitted that a publicity campaign for both the public and those charged with enforcing the law would go some way to addressing this confusion. Licencing e-bike riders would also enhance knowledge of legislation.

Share bikes

As there is no requirement to dock hired e-bikes they can be found abandoned on footpaths, in alleys, in water ways and occasionally up trees. They pose an unnecessary hazard ultimately the cost of clearing them is imposed on rate payers. This could be addressed by e-bike hire companies requiring customers to pick up and return bikes to designated points. If this can not be imposed on such companies by contractual terms then legislation should be enacted to necessitate it.



Inappropriately parked share e-bike
(photo)

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