

Minor and Machinery Impact Analysis Statements

Details

Lead department	Department of Transport and Main Roads
Name of the proposal	Multiple minor and machinery proposals described below.
Submission type	Minor and Machinery
Title of related legislative or regulatory instrument	<p><i>Cross River Rail Delivery Authority Act 2016</i> <i>Heavy Vehicle National Law Act 2012</i> <i>Maritime Safety Queensland Act 2002</i> <i>Sustainable Ports Development Act 2015</i> <i>Transport Infrastructure Act 1994</i> <i>Transport Operations (Road Use Management) Act 1995</i> <i>Transport Planning and Coordination Act 1994</i> <i>Transport Operations (Passenger Transport) Act 1994</i></p>
Date	The date of completion of each proposal is shown below.
Proposal type	Details
Minor and machinery in nature	<p><i>The following proposals are machinery in nature and do not result in a substantive change to regulatory policy or new impacts on business, government or the community.</i></p> <p><i>Proposals 1-8 were assessed under the Queensland Government Guide to Better Regulation and considered to require no further regulatory analysis.</i></p> <p><i>Proposal 9 was assessed under the Queensland Government Better Regulation Policy (policy). OBPR was consulted under the policy and no issues were raised.</i></p> <p>1. Cross River Rail Delivery Authority Act 2016</p> <ul style="list-style-type: none"> • Amendment of Section 44 of the <i>Cross River Rail Delivery Authority Act 2016</i> to remove a quorum reference (2 February 2023) <p>2. Maritime Safety Queensland Act 2002</p> <ul style="list-style-type: none"> • Amendment of Section 10 of the <i>Maritime Safety Queensland Act 2002</i> to update General Manager remuneration by Governor-in-Council. (4 April 2022)

3. Heavy Vehicle National Law Act 2012

- Amendment of the *Heavy Vehicle National Law 2012* to facilitate the transfer of regulatory services and staff to the National Heavy Vehicle Regulator (NHVR) which only impacts the internal operations of the department and the NHVR. Consequential amendments will be made to the *Transport Operations (Road Use Management) Act 1995*, *Transport Operations (Passenger Transport) Act 1994* and the *Explosives Act 1999*. (17 January 2023)

4. Sustainable Ports Development Act 2015

- Amendments to the *Sustainable Ports Development Act 2015* to enable areas subject to tidal waters outside and landward of port limits to be captured in priority port's master planned area. (26 July 2023)

5. Transport Infrastructure Act 1994

- Amendment of the *Transport Infrastructure Act 1994* to streamline court processes in relation to the non-payment of fees for toll roads by allowing a limited number of matters of factual evidence to be dealt with by signed certificates. (4 January 2023)
- Amendment of the *Transport Infrastructure Act 1994* to modernise the advertisement requirement for a Limited Access Road declaration and permit advertisement in a suitable form of local media. (21 December 2021)
- Amendment of the *Transport Infrastructure Act 1994* to permit online nomination of another driver for the use of toll roads and remove the requirement that a statutory declaration must be made in the approved form similar to other offices under transport legislation. (11 January 2022)
- Amendments to the *Transport Infrastructure Act 1994* to remove references to a repealed act. (24 February 2023)

6. Transport Operations (Road Use Management) Act 1995

- Amendments to the *Transport Operations (Road Use Management) Act 1995* to replace the deregistered name 'Advertising Standards Bureau' with the 'Australian Association of National Advertisers'. (9 September 2022)
- Amend the Schedule 4 of the *Transport Operations (Road Use Management) Act 1995* to clarify the definition of a motorised scooter and replace this term with 'low-powered toy scooter' clarifying the difference between motorised scooters and PMDs. Consequential amendments flowing from this amendment will be made to the *Motor Dealers and Chattel Auctioneers Act 2014*, *Rural and Regional Adjustment Regulation 2011* and *Transport Operations (Road Use Management–Road Rules) Regulation 2009*. (25 January 2023)

	<p>7. <i>Transport Planning and Coordination Act 1994</i></p> <ul style="list-style-type: none">• Amendment to the <i>Transport Planning and Coordination Act 1994</i> to recognise foreign digital authorities that comply with ISO 18013-5, or another standard approved by the Chief Executive, and that are documented on the Queensland Government website. (30 March 2022) <p>8. <i>Transport Operations (Passenger Transport) Act 1994 (TOPTA)</i></p> <ul style="list-style-type: none">• Amendment to section 143AB of the TOPTA to apply a modern drafting approach to the regulation making powers relating to the charging of default fares. (3 January 2023) <p>9. <i>Transport Operations (Passenger Transport) Act 1994 (TOPTA)</i></p> <ul style="list-style-type: none">• <i>Amendment</i> to section 144 of the TOPTA to ensure the chief executive of the Department of Transport and Main Roads can continue to verify student eligibility for assistance with transport arrangements including the School Transport Assistance Scheme for non-State schools in the same way it verifies eligibility for State schools. (5 September 2023).
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Summary Impact Analysis Statements

Details

Lead department	Department of Transport and Main Roads
Submission type (Summary IAS / Consultation IAS / Decision IAS)	Summary Impact Analysis Statement
Name of the proposals	<p>1. <i>Transport Operations (Passenger Transport) Act 1994</i></p> <p>Amendment to Section 128 of <i>Transport Operations (Passenger Transport) Act 1994</i> to allow an authorised person to require information in the form of a document, including for example, vehicle security camera footage, in the same way they can require other information. (Assessed by OBPR 27 January 2023)</p> <p>2. <i>Transport Operations (Passenger Transport) Act 1994</i></p> <p><i>Transport Operations (Passenger Transport) Standard 2010</i></p> <p>Amendment to <i>Transport Operations (Passenger Transport) Act 1994</i> to introduce a consistent safety framework to enhance safety of road-based public passenger services.</p> <p>3. <i>Transport Operations (Road Use Management) Act 1995</i></p> <p>Amendment to the <i>Transport Operations (Road Use Management) Act 1995</i> ensuring safe use of Personal Mobility Devices on road related areas. (Assessed by OBPR 27 January 2023)</p>
Title of related legislative or regulatory instrument	<p><i>Transport Operations (Passenger Transport) Act 1994</i></p> <p><i>Transport Operations (Passenger Transport) Standard 2010</i></p> <p><i>Transport Operations (Road Use Management) Act 1995</i></p>

1. *Transport Operations (Passenger Transport) Act 1994*

Amendment to Section 128 of *Transport Operations (Passenger Transport) Act 1994*.

Proposal type	Details
Regulatory proposals where no RIA is required	The proposal relates to a new requirement to support existing compliance activities which has some (but not significant) impacts, that decision makers should be aware of. No regulatory impact analysis is required under the Better Regulation Policy.

*Refer to *The Queensland Government Better Regulation Policy* for regulatory proposals not requiring regulatory impact analysis (for example, public sector management, changes to existing criminal laws, taxation).

The following proposals have been submitted to the Office of Best Practice Regulation under the Queensland Government Guide to Better Regulation and have received Letters of Assessment with advice that no further regulatory assessment is required.

What is the nature, size and scope of the problem? What are the objectives of government action?

The Department of Transport and Main Roads (the department) proposes to amend the *Transport Operations (Passenger Transport) Act 1994* (the Act) to include camera footage within the existing powers by adding to the current drafting of the requirement to provide information that information includes a document. Within the Act, documents are defined to include electronic images and are distinct from references to information.

The Act requires all taxis to have approved security cameras to protect passengers and drivers; booked hire vehicles are also required to have approved security cameras where they meet certain identified risk criteria. The Act specifies that access to camera recordings is restricted to authorised persons for authorised purposes to protect the privacy of passengers. However, the drafting of sections in the Act relied upon, and intended, to require a taxi or booked hire vehicle owner to provide footage from in-car cameras does not expressly refer to those recordings.

Footage can be valuable as evidence for enforcement purposes – such as for overcharging, fraudulent claims to the Taxi Subsidy Scheme (available in respect of disabled passengers), and safe loading of wheelchairs. Footage can provide critical evidence to determine whether further enforcement action is required, and the current number of requests per annum is in the range of five to ten. Complaints, particularly for overcharging, have increased in recent years, with 129 overcharging complaints in 2022 and 51 in 2021, up from negligible amounts in prior years. It is expected the number of footage requests to remain stable and to reach no more than 30 per year.

While generally there have been no significant issues in obtaining footage, some members of the taxi industry have queried whether they are required to provide the footage.

What options were considered?

The options considered to date are:

1. No action. This leaves a potential investigative and evidentiary block in place that will facilitate offences against TOPTA, TOPTR or may prevent an investigator's ability to proceed with an investigation due to a lack of evidence to support allegations.
2. Rely on the goodwill of the taxi sector. This may be ineffective over the longer term.
3. Use the TOPTA powers to raise warrants. This is a comparatively resource intensive and complex approach that relies upon the decision of a magistrate to issue the warrant. This may present a magistrate with a dilemma regarding whether there is sufficient evidence to issue a warrant without having available the subject evidence of the warrant (security camera images and audio).
4. Minor amendment to section 128 of TOPTA. The amendment to the definition of information to allow an authorised person to require a person to produce a document that contains information about an offence, which may include footage from a vehicles security camera system, will address an unintended gap in current legislation; this will ensure that section 128 of TOPTA will operate as intended. This is seen as the preferred option.

What are the impacts?

Option 1 – No Action

- Comes at no direct financial cost to government or business.
- Leaves the risk of potential offences not being investigated, not being fully and properly investigated, or prosecuted without the benefit of all prospective evidence being available.
- No productivity benefit for TMR compliance activity
- No reduction or mitigation of the risks to the health and safety of passengers and drivers, and the reputation of the taxi booking entity brand or of TMR as regulator of the personalised transport industry.
- Not a preferred option.

Option 2 - Rely on the goodwill of the taxi sector

- Comes at no cost to government
- Potential minor costs to the taxi sector to download security camera images and audio, that the sector should be able to manage to a minimal level through better driver behaviour in the issue of overcharging. These costs should also be regarded as negligible when assessed against the health and safety of passengers and drivers, the reputation of their brand, and the number of downloads that they carry out for other reasons (353 in 2022).
- Reduces investigation costs to TMR.
- Potential reduction or mitigation of the risks to the health and safety of passengers and drivers, and the reputation of the taxi booking entity brand.
- Reduces or mitigates the risk of potential offences not being investigated, not being fully and properly investigated, or prosecuted without the benefit of all prospective evidence being available.

- Some members of the taxi industry have signalled a lack of goodwill in this matter, highlighting the preference for an amendment. As such, this option is considered unlikely to be fully effective. The reasons for this lack of willingness to voluntarily assist TMR with the investigation of alleged offences are a matter of speculation but may include the perceived opportunity costs of bringing a taxi vehicle into a depot to download images and audio from the taxi security camera, despite this being a process that only takes a few minutes and has clear longer-term benefits for taxi businesses.

Option 3 - Use the TOPTA powers to raise warrants

- Comes at substantial actual and opportunity cost to government through involvement in the judiciary for investigations that have the potential to be fruitless.
- Potential minor costs to the taxi sector to download security camera images and audio, that the sector should be able to manage to a minimal level through better driver behaviour in the issue of overcharging. These costs should also be regarded as negligible when assessed against the health and safety of passengers and drivers, and the reputation of their brand.
- Substantially increases complexity and investigation costs to TMR. There is no apparent justification to place additional burden on the judiciary to address issues of this nature, which are already considered to be an authorised purpose for a download without warrant under section 215(3) of TOPTR.
- Potential reduction or mitigation of the risks to the health and safety of passengers and drivers, and the reputation of the taxi booking entity brand.
- Reduces or mitigates the risk of potential offences not being investigated, not being fully and properly investigated, or prosecuted without the benefit of all prospective evidence being available.
- Resource intensity renders this Option unfavourable.

Option 4 - Minor amendment to section 128 of TOPTA

- Only the cost of legislative amendment to government, with the possibility of savings by reducing investigation costs.
- Potential minor costs to the taxi sector to download security camera images and audio, that the sector should be able to manage to a minimal level through better driver behaviour in the issue of overcharging. These costs should also be regarded as negligible when assessed against the health and safety of passengers and drivers, the reputation of their brand, and the number of downloads that they carry out for other reasons (353 in 2022).
- Potential reduction or mitigation of the risks to the health and safety of passengers and drivers, and the reputation of the taxi booking entity brand.
- Reduces or mitigates the risk of potential offences not being investigated, not being fully and properly investigated, or prosecuted without the benefit of all prospective evidence being available.
- Potential improvement of taxi driver compliance resulting in better passenger service.

This Option is preferred for its relative simplicity, lack of cost in applying and administering (with the possibility of savings in the future), and high probability of both addressing the problem and achieving the objectives.

Who was consulted?

There has been no consultation with the personalised transport industry about the specific amendment, because of the minor and technical nature of the change

The department works on an operational level with industry on the issue of security camera footage when required. Most taxi companies have agreed to provide footage from vehicle security camera systems when required as part of an investigation, noting that this is an authorised purpose for downloading and using footage even though the Act does not currently allow an authorised person to compel the production of a recording made by a vehicle security camera; but some industry members have indicated that they will not support voluntary provision of footage.

What is the recommended option and why?

After taking into account all the impacts, Option 4, the minor amendment to section 128 of TOPTA is preferred:

- It has a perceived greater likelihood of both addressing the immediate issues, contributing substantially to the objectives, and providing the capacity to encompass the emergence of future technologies.
- There is no cost to government.
- It improves the quality of TMR compliance outputs, with better evidence readily available to investigators.
- It provides greater confidence that the Queensland taxi sector is operating with an appropriate level of integrity and regulation and that regulators have appropriate powers to undertake effective investigations.
- It may provide some benefit to taxi operators (and consequently the sector) by addressing instances of unlawful driver behaviour concomitant with overcharging.

The proposal will empower an original intention in the Act. While the proposal will result in costs to taxi providers in responding to requests for footage, the expected number of requests and associated costs should not have a large impact on the industry.

Costs

The Office of Best Practice Regulation was consulted on this proposal and advised that "the proposal will empower an original intention in the Act. While the proposal will result in costs to taxi providers in responding to requests for footage, the expected number of requests and associated costs should not have a large impact on the industry."

Summary Impact Analysis Statement

Details

2. *Transport Operations (Passenger Transport) Act 1994*

Transport Operations (Passenger Transport) Standard 2010

Amendment to *Transport Operations (Passenger Transport) Act 1994* to introduce a consistent safety framework to enhance safety of road-based public passenger services.

Proposal type	Details
Regulatory proposals where no RIA is required	<p>The proposal seeks to enhance the safety of passenger transport services by introducing a consistent safety duty and safety management plan requirement that applies to all road-based public passenger services in Queensland. The proposal is expected to have some (but not substantial) impacts for providers of road-based public passenger services.</p> <p>In addition, the proposal will consolidate audit and direction regulatory frameworks so there is a consistent approach across road-based public passenger services.</p> <p>No regulatory impact analysis is required under the Queensland Government Better Regulation Policy.</p>

*Refer to *The Queensland Government Better Regulation Policy* for regulatory proposals not requiring regulatory impact analysis (for example, public sector management, changes to existing criminal laws, taxation).

The following proposal has been submitted to the Office of Best Practice Regulation under the Queensland Government Guide to Better Regulation and have received Letters of Assessment with advice that no further regulatory assessment is required.

What is the nature, size and scope of the problem? What are the objectives of government action?

Safety Framework

The objectives of the *Transport Operations (Passenger Transport) Act 1994* (PT Act) are to achieve the best possible public passenger transport, at a reasonable cost to the community and government, while keeping government regulation to a minimum, and promoting the safety of persons using public passenger transport.

As part of the 2017 reform of the personalised transport industry, a general safety duty was adopted in the PT Act for persons involved in providing personalised transport (taxi and booked

hire) services, ensuring a modern, risk-based approach to managing safety of these services. For all other road-based public passenger services (commonly referred to as Operator Accreditation (OA) services¹), the *Transport Operations (Passenger Transport) Standard 2010* (PT Standard) imposes a general obligation on drivers and operators to operate a vehicle safely, as well as various other prescriptive safety requirements. Most providers of road-based public passenger services (personalised transport and OA services) are also required to comply with safety requirements in other legislation including the *Work Health and Safety Act 2011* (the WHS Act) and the *Heavy Vehicle National Law Act 2012* (HVNL Act).

As the regulator of public passenger transport, and consistent with the objectives of the PT Act, the Department of Transport and Main Roads (TMR) continuously seeks to improve its regulatory frameworks to ensure a comprehensive, integrated, safe and efficient transport system. This proposal seeks to amend the PT Act to introduce a consistent safety duty and a requirement for a safety management plan (SMP) for all road-based public passenger services.

The objectives of this proposal are to:

- adopt a best practice, outcomes focussed and risk-based approach to safety regulation;
- improve industry understanding and compliance with their safety obligations;
- improve safety outcomes by increasing the safety of passengers, drivers, and the public by protecting them from hazards and risks associated with the provision of road-based public passenger services;
- modernise and future proof the safety regulatory framework so that it can address known and emerging risks associated with new vehicles, new technologies (including fuel and electric vehicles) and dynamic passenger transport service models;
- enable flexibility for providers of road-based public passenger services to take a proactive approach to safety which aligns with their obligations under the WHS Act and HVNL Act.

Rather than retain different general safety obligations for personalised transport services and OA services, as is the current status, the proposal intends to create a consistent approach for all road-based public passenger services that aligns with safety reforms implemented in the personalised transport industry. It is proposed that the consistent safety duty framework will apply to passenger transport drivers, operators, registered operators of vehicles, personalised transport licence holders and booking service providers. These entities are considered to be in a position to influence the safety of services and will have an obligation to ensure safety by eliminating or mitigating risks so far as is reasonably practicable.

The proposed requirements will align closely with current WHS Act and HVNL Act requirements to the extent that is feasible and practicable. Both laws impose safety duty requirements and, either explicitly or implicitly, require a plan to manage safety risks. Consistency and alignment with these laws mean that providers of road-based public passenger services will not have to keep a separate SMP under the PT Act, however the SMP may need to address safety matters

¹ Explanation of Operator Accreditations - <https://www.tmr.qld.gov.au/business-industry/accreditations/operator-accreditations/about-operator-accreditations>

specific to passenger transport that may be prescribed in legislation. It is expected that any impacts as a result may be offset in the longer-term by enhanced safety benefits and reduced red tape for industry providers.

The proposed amendments are also consistent with more progressive regulatory policy settings in other jurisdictions including Victoria and Western Australia who also adopt safety duty and SMP requirements specific to the passenger transport industry outside of WHS laws and HVNL.

While providers of road-based public passenger services are currently required to proactively manage the safety of their services under the PT Act, WHS Act and the HVNL Act, TMR is aware that there may be a degree of non-compliance with these requirements which was further highlighted in the feedback received from industry participants following public consultation on the proposal in late 2022.

Compliance is likely to be increased if a safety duty and SMP requirement for all road-based public passenger services is included in the PT Act as TMR will be able to provide guidance specific to the passenger transport industry and proactively undertake compliance and auditing activities leading to better safety outcomes for passengers, drivers, the public and those who work in the industry more broadly.

Audit and direction

TMR proposes to amend the PT Act so all road-based public passenger services are subject to a single audit and directions regime. The proposed approach will:

- expand the current audit framework, to enable the issuing of an audit notice to a duty holder of a road-based public passenger service;
- specify, using an audit notice, the requirements that the duty holder must comply with, including to allow the audit and to cooperate with every reasonable requirement;
- make noncompliance with an audit notice, without a reasonable excuse, an offence;
- require an audit report be given to the duty holder;
- expand the current direction to comply provision, to allow a direction to be issued to a duty holder of a road-based public passenger service when the chief executive or authorised person is satisfied that a duty holder has not complied with relevant transport legislation; and
- make noncompliance with a direction within the specified timeframe, without a reasonable excuse, an offence.

In effect, the amendments will extend the current personalised transport services' audit and directions arrangements to all road-based public passenger services.

TMR considers the amendments are generally likely to have minimal impacts as it anticipates there will be no increase in the number of audits and that industry will see no difference in the way audits are undertaken.

TMR states that issuing a direction notice whenever a non-compliance is identified does not impose additional obligations on personalised transport service providers. Rather, it streamlines administration of transport legislation and avoids the possibility of initiating an audit after non-compliances are identified by other means.

Exempt services may be impacted as the new safety duty and safety management plan obligations, and new audit and directions regime will apply to them, unless they are a volunteer association. The likely size and effect of this impact is not known with any certainty due to low visibility of these services as a result of exemptions.

What options were considered?

Safety Framework

The options considered to date are:

1. Status quo – maintain existing safety obligations, including a general safety duty for personalised transport services and a general safety obligation for OA services
2. Base case (non-regulation) – remove the general safety obligation for OA services
3. Regulation – expand the existing general safety duty that applies to personalised transport services to include OA services
4. Regulation – expand the existing general safety duty that applies to personalised transport services to include all OA services – and include a requirement for safety management plans (SMP) for all road-based public passenger services.

Audits

The options considered to date are:

1. Status quo – continue to rely on the current audit requirements including:
 - through the provision of information under section 276 of the PT Regulation; and
 - for persons in the chain of responsibility, the audit framework in chapter 7, part 5, division 2 of the PT Act.
2. Regulation – providing a consistent regulated approach to audits, for all road-based public passenger services (including OA services).

Directions

The options considered to date are:

1. Status quo – maintain existing powers to issue directions, including:
 - for OA and DA holders, through directions under section 100 of the PT Act; and
 - for persons in the chain of responsibility, through directions under section 91ZQ of the PT Act.
2. Policy – allow current section 100 directions to expire and rely on a policy of issuing warning notices.
3. Regulation - amend the PT Act to provide a consistent ability to audit all road-based public passenger service providers (expanding the existing audit power for personalised transport services).

What are the impacts?

Safety Framework

An overview of the options, and the potential impacts are outlined below. It should be noted that all persons impacted by the expansion of the safety framework are already required to comply with safety duty requirements under the WHS Act and HVNL, including the requirement to have a plan of some description to manage safety, for example:

- Under the WHS Act, all Persons Conducting a Business Undertaking (PCBU) must comply with the code of practice on 'How to manage work health and safety risks'² which provides practical guidance on how to manage risks to health and safety. The code applies to all types of work and all workplaces covered by the WHS Act and covers identifying hazards, assessing risks, controlling risks, reviewing controls, and keeping records. The WHS code of practice is therefore consistent with the proposal for a SMP which also includes hazards, risks and controls.
- While HVNL does not require a SMP, guidance is provided to the heavy vehicle industry on preparing a safety management system.³ The National Heavy Vehicle Regulator indicates that having an effective Safety Management System (SMS) can be one of the best ways for a person to ensure they are complying with their safety duty under HVNL.⁴ This guidance deals with a comprehensive range of matters including safety policy and documentation, safety risk management, safety assurance and safety promotion and training.
- A very similar approach exists in relation to the general safety duty that applies to persons involved in providing personalised transport (taxi and booked hire) services: while it does not require a SMP, guidance is provided to personalised transport booking service providers that a SMS is a way to comply with the general safety duty.

Given these existing obligations, the impacts of the proposed changes are not expected to be substantial. However, it is acknowledged that the requirement to have an SMP under option 4 (the recommended option) – may have some impacts for operators (including OA holders, booking service providers of personalised transport services and providers of exempt services in that their SMP may need to include requirements determined by TMR under the PT Regulation.

² Workplace Health and Safety Queensland (2021) Code of practice: How to manage work health and safety risks, last updated 23 February 2021, accessed 1 July 2022, [How to manage work health and safety risks Code of Practice 2021 \(worksafe.qld.gov.au\)](https://www.worksafe.qld.gov.au/work-health-and-safety-risks-code-of-practice-2021)

³ National Heavy Vehicle Regulator, [Safety Management Systems \(SMS\) | NHVR](https://www.nhvr.gov.au/safety-management-systems-sms)

⁴ National Heavy Vehicle Regulator, [Safety Management Systems \(SMS\) | NHVR](https://www.nhvr.gov.au/safety-management-systems-sms)

The following table indicates what requirements the different service types must comply with, for each option:

Options	OA services	Personalised transport services	Exempt services
1. Status quo – maintain existing general safety obligations	General safety obligations under the PT Act	Safety duty	Nil
2. Base case (non-regulation) – remove the general safety obligation for OA services	Nil	Safety duty	Nil
3. Regulation – expand the existing safety duty for personalised transport services to include all road-based public passenger services	Safety duty	Safety duty	Safety duty
4. Regulation – expand the existing safety duty for personalised transport services to include OA services – and include a SMP requirement for all road-based passenger transport services	Safety duty and SMP	Safety duty and SMP	Safety duty and SMP

Option 1: Status quo – maintain existing general safety obligation

This option would maintain the status quo. A difference would remain in the regulation of passenger transport safety as it applies to OA services, personalised transport services and exempt services, as outlined below.

OA services

For OA services, passenger transport legislation currently imposes a general obligation on drivers and operators to operate a vehicle safely (refer to sections 11 and 22 of the PT Standard). To comply with this general safety obligation, all relevant safety matters should be considered to ensure the vehicle is safely operated, although the legislation does not specify how, or the steps that are reasonable to take.

Personalised transport services

In contrast to the safety obligations imposed on drivers and operators of OA services under the PT Standard, a safety duty was adopted for personalised transport services, during reforms to

that industry, as it was considered a suitable approach given the potential unknown safety risks associated with the new booked hire service model.

In this option, the safety duty for personalised transport services would be retained. Evaluation⁵ has found the reforms to the personalised transport industry have delivered overall benefits in safety, choice and flexibility for stakeholders. The evaluation concluded that the measures introduced during the reforms, including the safety duty, have been effective in ensuring high standards of personal and vehicle safety. In particular, there has been:

- a reduction in accidents involving personalised transport services on a per service licence basis;
- customers and drivers perceive high standards of safety;
- personalised transport vehicles are safe with improvements in the rate of defects identified during on-road compliance checks;
- high pass rates for vehicle inspections; and
- overall compliance checks indicate a trend of improved compliance.

Exempt services

Services, where operators are exempt from holding OA and drivers are exempt from holding driver authorisation (DA), also have limited safety requirements under the PT Act. They are not subject to the general safety obligation for OA services or the safety duty for personalised transport services. However, all operators of passenger transport services including exempt services are required to provide a vehicle in a safe condition (see section 223 of PT Regulation). In this option, this requirement would remain.

Option 2: Base case – remove the general safety obligation for OA services (non-regulation)

This option would expire the general safety obligation for OA services in the PT Standard. This would result in a greater difference in the general safety obligations between personalised transport services (which would be subject to a general safety duty) and OA services (which would not be subject to any safety obligation).

OA services

In this option, the current obligation on drivers and operators of OA services to safely operate the vehicle (according to section 11 & 22 of the PT Standard) would expire. The current obligation includes, but is not limited to, ensuring a number of safety risks do not occur for example, the vehicle is not overloaded and standing passengers are not carried in certain circumstances.

Personalised transport services

The existing general safety duty imposed on personalised transport services would remain.

⁵ Department of Transport and Main Roads (2022) [Queensland's Personalised Transport Horizon – Stage Three: Monitoring and Evaluation Report](#)

Exempt services

There would be no impact on services that are exempt from holding OA or DA, who would continue to be excluded from a general safety obligation or safety duty.

Option 3: Regulation – expand the existing general safety duty that applies to personalised transport services to include OA services

In this option, the general safety duty that applies to personalised transport services would be expanded to OA services.

A safety duty means that persons who influence the safety of services have a duty to ensure, so far as is reasonably practicable, the safety of the person's activities. A safety duty is a positive obligation that requires a person to take a proactive and preventative approach to safety. In the context of the safety duty, 'ensuring safety' means eliminating risks and, if that is not possible, then efforts still need to be made to reduce those risks.

It is proposed that a duty holder must do what is 'reasonably practicable' to manage a risk taking into account the likelihood of a safety risk happening; the harm that could result from the risk; what the person knows, or ought reasonably to know, about the risk and the ways of eliminating or reducing the risk; the availability and suitability of ways to reduce those risks; and the associated cost.

Duty holders are proposed to be:

- operators of all road-based public passenger services;
- a registered operator of a motor vehicle used to provide the service;
- the driver of a motor vehicle used to provide the service;
- a booking service provider for the service, including an entities local nominee; and
- a holder of a personalised transport service licence.

The safety duty for personalised transport services currently applies to drivers, registered operators of vehicles, operators, licence holders and booking services.

Offences and penalties for failing to comply with a person's safety duty are proposed to align with those that currently apply to personalised transport services in the PT Act. The penalties are graduated depending on whether the person is an individual or a corporation and the seriousness of the offence (for example, exposing a person to death or serious injury).

A SMP would not be explicitly required, however, providers of all road-based public passenger services would be expected to have a plan to manage safety – as this is considered one of the most effective ways for a person to demonstrate they comply with their safety duty⁶. When conducting audits of personalised transport services, TMR officers will request to see a copy of the 'safety management system' or 'risk register'. This same approach would be adopted for audits of OA services despite it not being an explicit legislative requirement.

⁶ TMR, Personalised Transport Reforms – Chain of Responsibility Policy Paper.

Option 4: Regulation – expand the existing general safety duty that applies to personalised transport services to include OA services – and include an SMP requirement for all road-based public passenger services (preferred option)

In this option, providers of all road-based public passenger services would be subject to a safety duty and operators (including OA holders), personalised transport booking service providers and providers of exempt services would be required to have a SMP.

Safety management plan for road-based public passenger services

A SMP is a documented plan for managing the hazards and risks associated with providing a passenger transport service. A SMP also provides evidence that a person is meeting their safety duty by adopting a proactive approach to managing safety hazards and risks.

Under this proposal, a SMP would become mandatory for personalised transport services, rather than implied. A SMP would also be mandatory for all other road-based public passenger services (OA services and services that are exempt from OA and DA).

The required SMP is based on established best-practice (particularly in WHS law):

- The SMP would require a person: to identify the hazard that could cause harm; the risk which arises because of exposure to the hazard; the action to be taken to eliminate or reduce the risk; and the person responsible for taking the action to manage the risk. The requirement would be broadly consistent with the requirements on all PCBU's under the WHS Act and with expectations under the HVNL Act.
- The persons that would be required to have, maintain and implement a SMP are; operators of road-based public passenger services (including OA holders), and personalised transport booking service providers. Other entities will not be required to have a SMP because they either have less direct control over approaches to mitigate risks (like drivers who are employed to provide services for an operator) or are not necessarily directly involved in the provision of services (like registered operators of the vehicle), so there may be fewer and less complex risks to manage which may not necessitate a SMP.
- The SMP would have to be in writing and all related documents would need to be kept for a period.
- The hazards and risks expected to be identified in the SMP are those that are new or emerging, and existing risks. It is proposed that some of the specific hazards and risks that could be included in the SMP may be prescribed in the PT Regulation and may include: assault of drivers and passengers; systems to manage driver's use of alcohol and drugs; fatigue; carrying standing passengers; bus rollaways; bus fires; bus breakdowns; services in remote or isolated areas; general passenger safety including passenger entrapment in doors, pick-up and set-down of passengers using on demand transport services and leaving children on the bus unattended at the end of a run; new technologies, for example, alternative fuel and automated features in vehicles.
- A SMP needs to be reviewed to keep it up to date and relevant. While some of the details of a review will be prescribed by regulation, it is anticipated a review would need to occur at least annually or sooner in response to safety incidents that result

in serious injuries, illnesses and other dangerous incidents that expose someone to a serious risk (even if no one is injured). It may also be reviewed at the direction of TMR.

- The person responsible for the SMP also has obligations to others. Specifically, the SMP must be readily accessible to other duty holders (like drivers) and there must be consultation with other duty holders in the development and review of the SMP.
- It is proposed that an offence of not having, implementing or complying with a SMP would carry a maximum penalty of 100 penalty units for an individual and 1,000 penalty units for a corporation. The penalty amounts are within the range of penalties for similar offences under passenger transport legislation in other Australian jurisdictions. It is also proposed that TMR continue to be able to refuse a person's authorisation (their DA, OA, personalised transport licence or Booking Entity Authorisation) and to take action against a person's authorisation for failing to comply with the PT Act, which will include failing to comply with the safety duty and SMP.

This SMP is likely to duplicate, to some extent, the requirement for operators of OA services to have an incident management plan (section 35 of the PT Standard). Operators of OA services are currently required to have an incident management plan (IMP) which sets out procedures for events that might disrupt or prevent the provision of a service, including safety incidents like an event where a person is killed or injured, fires, explosions, assaults and so on. The same sorts of safety risks and controls are likely to be considered in the proposed SMP. Therefore, in this option, an IMP will no longer be required. IMPs were introduced in response to concerns by bus industry bodies who indicated that the community has an expectation that operators are fully prepared to manage any incident that may occur. IMPs were introduced in 2007 and all operators should now have prepared one, although they are of different scale and complexity depending on a person's operations. IMPs are requested on application for OA and reviewed during regular audits of OA holders. In summary, given all providers of all road-based public passenger services are already required to proactively manage the safety of their services under the PT Act, WHS Act and HVNL Act, the primary impact of the proposed changes under this option – although not substantial – is expected to sit with operators (including OA holders, personalised transport service providers, and providers of exempt services who will be required to have, implement (and review) a SMP that complies with the requirements, including those that will be prescribed in the PT Regulation.

Audits

Option 1 – Status quo.

This option would continue to rely on the current audit requirements including:

- through the provision of information under section 276 of the PT Regulation; and
- for persons in the chain of responsibility, the audit framework in chapter 7, part 5, division 2 of the PT Act.

This option does not address the limitation in the information TMR can request under section 276 of the PT Regulation. In addition, this option leaves an inconsistency with the audit framework for personalised transport services. This becomes an issue when considering some operators may fall under both audit frameworks (the OA and the personalised transport audit framework).

Option 2 – formalise the ability to audit all road-based public passenger providers (expanding the existing audit power for personalised transport services).

This option proposes to broaden the current framework of the personalised transport auditing powers to also include other road-based public passenger services, (see chapter 7, part 5, division 2 of the PT Act and Chapter 11, Part 3 of the PT Act).

This approach will ensure TMR can access the relevant information and ensures a consistent auditing approach for all road-based public passenger services.

Direction

Option 1 – status quo.

This option is not being considered as section 100 of the PT Act (and the PT Standard) will no longer exist. This will remove the current ability to issue directions for non-compliance with the PT Standard (due to the proposed removal of Chapter 9 of the PT Act and the expiry of the PT Standard).

Option 2 – Rely on warning notices.

Section 100 directions would expire and no similar notice to comply would be introduced for relevant services. Instead, for any non-compliance, there would be a policy to give a warning notice, which could be issued prior to issuing a PIN for non-compliance.

This approach would allow TMR to issue a warning before issuing a PIN or commencing a proceeding for the offence. However, there would be no consequence to ignoring the warning, except the penalty for the original offence.

Option 3 – Replace section 100 directions and broaden the current direction to comply provisions to capture all road-based public passenger services.

This option proposes to replace the section 100 directions with an ability to issue a direction to comply and provide that the direction to comply for personalised transport services (see section 91ZQ of the PT Act) are amended to capture all road-based public passenger services to ensure authorised persons have appropriate powers to enforce compliance with legislation.

This provides a consistent approach between personalised transport and all other road-based public passenger services, it also addresses the removal of section 100 of the PT Act.

Who was consulted?

In late 2022, TMR published a discussion paper for public consultation and liaised with government agencies to discuss the proposed changes. Seventy-six (76) stakeholder submissions were received. Approximately 20 stakeholders specifically responded to the safety duty proposal questions. For those stakeholders that addressed the proposal⁷:

- approximately 45% of responses "strongly supported" the proposal
- approximately 20% "supported" the proposal.

⁷ Outlined in Questions 13.1 and 13.2 in the Discussion Paper.

Most of the respondents supported the proposal, including the peak bodies from the bus and personalised transport industries who indicated their members already comply with the requirements under the WHS Act or other legislation. The Queensland School Bus Alliance did not support additional requirements, indicating their members already employed sufficient safety measures. Some stakeholders were concerned the proposal would adversely impact small organisations that do not currently have established systems, however, as mentioned above, all providers of road-based public passenger services are required to comply with existing safety duty requirements under the WHS Act and HVNL Act.

While government agencies generally supported the proposal, the Department of Justice and Attorney General raised concerns about applying the safety duty to exempt services. Consequently, the proposal was amended to exclude volunteer associations – and their volunteers. This aligns with the exclusions in the WHS Act.

What is the recommended option and why?

Safety Framework

In summary, option 4 (a safety duty and SMP for all road-based public passenger services) provides the highest net benefit and more closely aligns with government objectives to provide safe public transport services to Queensland communities. The benefits are likely to be moderately higher under the preferred option due to enhanced proactive risk management by industry and proactive compliance and enforcement activities by TMR. Any additional impacts on industry providers (for example the requirement for operators and booking service providers to have a SMP that includes requirements determined by the PT Regulation), may be offset by the expected improved safety outcomes for passengers, drivers, the public – and the industry more broadly.

TMR proposes to apply the safety duty and SMP to all road-based public passenger services. The PT Act will be amended to:

- impose a safety duty on relevant persons;
- require operators and booking service providers to manage the safety duty through a SMP; and
- include offences for failing to establish and comply with a SMP or a safety duty.

Duty holders will have an obligation to ensure the safety of their services by eliminating risk as far as is reasonably practicable. Contravention of a duty will be an offence and the maximum penalty is scaled based on the risk to safety.

Operators and booking service providers will also need to have safety management plans. These plans must be documented, but may be similar to, and reference any plan they have in place under, the WHS Act or the HVNL. It is considered that the proposal is unlikely to have significant adverse impacts as:

- primary impact of the proposed changes under this option – although not substantial – is expected to sit with operators of OA services, personalised transport service providers, and providers of exempt services who will be required to have (and review) a SMP that includes requirements prescribed in the PT Regulation. However, all providers

of road-based public passenger services are already required to proactively manage the safety of their services either under the PT Act, WHS Act or HVNL Act;

- the amendments will formalise a currently implied requirement for a SMP;
- the approach allows industry to manage risks in a way that best suits their business and may replace some of the detailed standards; and
- consistency across industry, and with the WHS Act, will mean that some service providers will no longer need multiple approaches to safety management.

Given the existing safety duty obligations under the WHS Act and HVNL Act, the cost impact of the proposed changes are expected to be minimal – and contained to operators, booking service providers and providers of exempt services who may need to develop a SMP that includes requirements determined by TMR under the PT Regulation. These costs are anticipated to be attributed to education of employees on the new legislative and regulatory requirements and purchasing of specialist advice to develop and conduct annual reviews of SMPs.

Audits

The preferred option (option 2) is to amend the PT Act to formalise the ability to audit all road-based public passenger service providers (expanding the existing audit power for personalised transport services). This will provide greater certainty for undertaking audits and ensure consistency when TMR checks if operators are providing safe and reliable services.

Direction

The preferred option (option 3) is to amend the PT Act to broaden the current direction to comply provisions to capture all road-based public passenger services. This will give TMR the ability to provide a person with an opportunity to remedy the activities that are causing a noncompliance, prevent any further contravention and take action if the person does not remedy the contravention.

Impact assessment

All proposals – complete:

	First full year	First 10 years**
Direct costs – Compliance costs*	As described above	As described above
Direct costs – Government costs	It is intended costs of government implementation will be met from within existing budget and resource allocation.	Costs of ongoing enforcement and compliance activities will likely be comparable, over time, to current costs of enforcement and compliance activities.

* The *regulatory burden estimate tool* [link] should be used to calculate direct costs of regulatory burden. If the proposal has no costs, report as zero. **Agency to note where a longer or different timeframe may be more appropriate.

Summary Impact Analysis Statement

Details

3. *Transport Operations (Road Use Management) Act 1995*

Amendment to the *Transport Operations (Road Use Management) Act 1995* ensuring safe use of Personal Mobility Devices on road related areas. (Assessed by OBPR 27 January 2023)

What is the nature, size and scope of the problem? What are the objectives of government action?

Amendments to the Queensland Road Rules (QRR) were progressed in 2022 in response to the emerging popularity of personal mobility devices (PMDs) in Queensland. The changes aimed to improve the safety of these devices for both riders and other road and path users. They included imposing a new regulatory framework for speed, clarifying where PMDs can be used and expanding on-road access, and amending the definition of a PMD to resolve enforcement challenges. Most critically, in order to facilitate these changes, PMDs were re-classified from pedestrians to vehicles under the QRR.

This re-classification effectively created an entirely new category of vehicle under the QRR, one that is mostly limited to use on road-related areas such as paths and dedicated public recreational facilities, and has highlighted some subsequent inconsistencies in the *Transport Operations (Road Use Management) Act 1995* (the TORUM Act). In particular, the application of penalties for high-risk behaviours such as careless driving of vehicles (other than motor vehicles), and the requirements imposed on these drivers, for instance to stop and render assistance in the event of a crash on a road-related area. Currently, the behaviour of vehicles (other than motor vehicles), such as PMDs, bicycles and other wheeled devices in road-related areas is significantly under-regulated and the subsequent lack of requirements imposed in the event of a crash do not meet established conventions for reasonable behaviour.

Figures collated by the Jamieson Trauma Institute within Queensland Health in the 18 months to May 2020 found that 797 people were admitted to the Royal Brisbane and Women's Hospital, Princess Alexandra Hospital and Mater Hospital after being injured on an "electric personal mobility device". There were also at least 12 instances of injury to pedestrians, bystanders or users of other vehicles in incidents with PMDs during this same period. In addition, injury data shows that children continue to be injured riding PMDs and bicycles.

A survey conducted by stakeholders also demonstrate the need to improve interactions between PMDs and pedestrians. Nearly 40% of vision impaired respondents said that they use paths less often due to the presence of e-scooters, e-bicycles and other wheeled devices and almost 90% said that the increase in PMDs using paths made them feel less safe. More than a quarter of respondents to a pedestrian survey stated that they had changed where they walk as a result of the increasing use of PMDs on paths. Nearly 40% of respondents said they have encountered a safety issue with a PMD while using a path.

A focus of the PMD reforms to date has been aligning the regulatory framework for PMDs with bicycles, as far as possible. While some minor differences exist, particularly around road access and age limits for riders, the majority of rider obligations, rules, offences and penalties are aligned.

The amendments will support safer outcomes for all riders, including children, by creating a framework to support safe and responsible riding.

Careless driving of vehicles

Section 84(2) of the TORUM Act contains the offence for driving without due care and attention for vehicles which are not motor vehicles; notably this includes bicycles and PMDs. However, this offence is only applicable on a road – driving on a road-related area, such as on a path or bikeway is not included.

Road-related areas include areas such as footpaths, bicycle paths, shared paths, malls, nature strips, median strips, road shoulders, dedicated cycle tracks, car parks and certain public trails. When these offences for vehicles (other than motor vehicles) were introduced, there was no need to apply these offences to areas other than roads. However, as more path infrastructure has been built, and the popularity of non-motor vehicles has increased (such as PMDs and bicycles), it has highlighted that the current framework is not fit for purpose.

Prior to November 1, 2022, PMDs were classified as pedestrians and thus not captured in formal road crash reporting data. However, for context, there were eight drivers of non-motor vehicles charged with dangerous or careless driving on a road under section 84 of the TORUM Act in 2022.

Data from the Queensland Injury Surveillance Unit within Queensland Health highlights that PMD-related injuries occur in a range of locations, including on roads, paths, and recreational areas, as well as across all parts of Queensland. Consistency of safety obligations is therefore essential to ensure safer outcomes everywhere.

Under section 84(2) of the TORUM Act, the maximum penalty for driving a vehicle (other than a motor vehicle) without due care and attention is 40 penalty units (\$6,192) or 6 months imprisonment.

Duties and liabilities of drivers involved in road incidents

Section 92 of the TORUM Act prescribes the duties and liabilities of drivers involved in crashes causing injury or death. These include the requirement to stop and render assistance to an injured person or remain at the scene of a fatal incident. Vehicles (other than motor vehicles) involved in a crash are only required to stop and render assistance if the incident occurred on a road. This includes rider/drivers of any vehicle that moves on wheels and includes PMDs, bicycles, motorised mobility devices, wheelchairs, skateboards, toy scooters and other similar wheeled devices.

If an incident occurred on a road-related area, for example a collision between a PMD and pedestrian on a footpath or nature strip, there is no requirement for the rider to assist any injured party, however if this same collision occurred on a road next to that footpath or nature strip, then this requirement would be enlivened. In contrast, under section 92, drivers of motor vehicles are required to stop and render assistance irrespective of where the incident occurred.

A driver/rider who fails to comply with these duties may receive a maximum penalty of 120 penalty units (\$18,576) or three years imprisonment if the incident results in the death of or grievous bodily harm to a person, otherwise 20 penalty units (\$3,096) or one year imprisonment.

Given both the expansion of pathway networks and the proliferation of vehicles using road-related areas, excluding drivers/riders of non-motor vehicles from being legally required to stop and render assistance in the event of an incident on a road-related area does not meet community expectations. The duties under section 92 should apply consistently to both roads and road-related areas.

Consistency is important for the public to clearly understand their obligations in the event of an incident resulting in death or injury, regardless of what type of vehicle they are operating and whether they are on a road or a road-related area. These obligations, often referred to as hit-and-run laws, are already well understood by drivers and the general public.

Duties of drivers in a crash – stopping and providing information

Section 93 of the TORUM Act outlines the requirement for drivers to stop and provide information following a crash. Importantly, the requirements under this section apply on both roads and road-related areas. Drivers who do not comply with these duties may receive a fine amount of \$309 (2 penalty units), with a maximum court-imposed penalty of \$3,096 (20 penalty units) for the duties under s93(2), or a fine amount of \$464 (3 penalty units), with a maximum penalty of \$3,096 for the duties under s93(4).

PMDs are specifically excluded from what is considered a vehicle for the purposes of this section and are not bound by the requirement to stop and provide details in the event of a crash on either a road or road-related area. In comparison, bicycle riders involved in a crash on either a road or road-related area are required to stop and provide information.

There were seven instances in 2022 where fines were issued for bicycle riders failing to fulfil the duties under section 93. While this is a small subset of individuals, there is a need for these duties to be applied consistently. It is unreasonable for a bicycle rider to be penalised under section 93 while a PMD rider is not required to fulfill the same duties.

Now that PMDs are considered vehicles under the QRR, they have similar rights and responsibilities as other road users. To maintain consistency in the application of these rights and responsibilities, PMD riders involved in a crash should also be required to stop and provide details.

There is also inconsistency in the combined application of sections 92 and 93. A bicycle rider involved in a crash on a bikeway is required to provide their details to the other party, however, if that party is injured, they are not required to render assistance as section 92 limits this requirement to incidents on roads only. Similarly, a PMD rider involved in an accident on a road is required to stop and render assistance under section 92, however, is not required to stop and provide information under section 93.

A PMD incident which occurred in 2022 on the Western Freeway Bikeway demonstrates how these vehicles can be used in a way which poses a serious risk to other path users. An e-scooter was detected travelling at over 90km/h on a path, colliding with either a pedestrian or bicycle rider, can result in significant injuries. Given that these duties already exist for drivers of motor vehicles involved in road incidents, it is justifiable to expect that these duties would also extend to drivers of non-motor vehicles. However, that is not currently the case. As such, the current regulatory framework is not fit for purpose.

As outlined above, consistency is important for the public to clearly understand their obligations in the event of an incident, regardless of the type of vehicle they are operating and whether they are on a road or road-related area.

Objectives of government action

The objectives of Government action are to update the legislative framework for PMDs to:

- Reduce the incidence of careless riding by bicycle and PMD riders on road-related areas thus improving safety outcomes for riders and the general community.
- Ensure appropriate post-crash obligations exist for drivers of non-motor vehicles that align with community expectations.

This initiative also supports a number of key Queensland Government road safety objectives:

- Supports progress towards the target of zero road deaths and serious injuries on Queensland Roads by 2050 as outlined in the Queensland Road Safety Strategy 2022-2031 (QRSS)
- Supports action 14 of the Queensland Road Safety Action Plan 2022-2024 to improve the safety of PMDs users and their interaction with pedestrians.
- Delivers further on action 6 of the Personal Mobility Device Safety Action Plan, released in June 2022 – increase penalties for dangerous behaviours.
- Supports the delivery of action 2.3 of the Action Plan for Walking 2022-2024

More information on the QRSS and the action plans can be found on the Department of Transport and Main Roads website.

Evaluation of these objectives can be undertaken through quantitative and qualitative research. It is anticipated that the impacts of the changes will be monitored over the medium to long term.

What options were considered?

1. No change.

This option would require no legislative amendments or other government action. However, this option would fail to address community concerns relating to the regulation of unsafe behaviours by bicycle and PMD riders on road-related areas. In addition, careless riding behaviours and lack of driver responsibilities in the event of a crash on road-related areas will continue to be an ongoing issue and inconsistency within the road safety framework.

With the ongoing proliferation of these devices, as well as the increasing uptake of other alternative forms of transportation (including bicycles and electric bicycles) in response to the rising cost of living and environmental concerns, the lack of enforcement options on road-related areas does not meet community expectations, nor effectively deter individuals from partaking in dangerous behaviours. Similarly, the lack of formalised responsibilities for drivers of non-motor vehicles involved in a crash on a road-related area also fails to meet community expectations.

2. Undertake communications to encourage both PMD and bicycle riders to use paths with care and consideration for others.

For this option, no legislative amendments would be progressed. A communications campaign around safe riding on paths would be launched to educate all path users about their rights and responsibilities on road-related areas and provide tips on how to travel safely. The campaign could include educational information on TMR owned social media and the Queensland Government Street Smarts website. Communications regarding the rules that apply to PMDs specifically were undertaken in conjunction with the 1 November 2022 QRR amendments. The scope, scale and timing of any new campaign would be determined by available funding and other priorities as well as industry participation and partnership.

Evidence has shown that in some instances, advertising on its own can independently influence outcomes (such as reductions in drink driving related crashes). However, in other areas advertising does not have a significant independent effect on outcomes (such as reductions in speed related crashes) and instead works through a combined effect with other countermeasures, such as regulation and visible enforcement.

Without a new or changed law (and subsequent potential enforcement for non-compliance), advertising can still be used to raise awareness of road safety issues and desired behaviours.

However, the messaging approach would be different to one where there is the potential threat of enforcement for non-compliance.

Ultimately, this option would not address the contradictions and inconsistencies in the TORUM Act. Communications may also serve to highlight these contradictions and inconsistencies, which are presumed to be largely not understood or aired amongst the general public. This has the potential to increase incidents due to increased awareness of what could be perceived to be legal loopholes.

3. Amend the TORUM Act to support more effective regulation of careless riding by bicycle and PMD riders on road-related areas and formalise the responsibilities of riders in the event of a crash.

This option would require legislative amendments to:

- make it an offence to ride a PMD or bicycle without due care and attention on road-related areas (this is already an offence on a road under section 84(2));
- expand the duty for drivers of non-motor vehicles (like PMDs and bicycles) to stop and render assistance in the event of a crash to include road-related areas (this already applies on roads under section 92); and
- clarify that PMD riders are required to exchange information, including their name and address, after a crash (this already applies to all other vehicles under section 93).

Expanding these obligations to all road-related areas where PMDs and bicycles are used could ensure the safe use of these areas, consistency across relevant obligations, practical and efficient enforcement, and clear regulation of users. Any legislative changes would carefully consider the impact on users, including reasonable obligations for vulnerable users and proportionate penalties.

There is well established precedent to regulate all road-related areas consistently. A legislative amendment would be practically enforceable and promote consistency of the road rules in all areas where these vehicles are used. This enables the public to clearly understand their obligations in the event of an incident resulting in death or injury.

It is considered that a regulatory solution to the issues identified is most appropriate. It would not be possible to resolve any of the contradictions identified in the legislation without legislative amendments.

What are the impacts?

Option 1 – No action

Costs:

- Safety for riders and path users will not be improved.

Benefits:

- No additional costs to government.

Option 1 does not address careless driving of bicycles and PMDs on road-related areas, or the current inconsistencies with driver duties and liabilities when involved in an incident.

Additionally, this option also does not achieve the objectives of government action to reduce road trauma and the significant impact that it has on the community and will not effectively contribute to targets established under the Queensland Road Safety Strategy (QRSS). The

community has clear expectations that TMR, as a regulator, will take the lead on mechanisms to deliver road safety outcomes, and this includes addressing the dangerous driving behaviours and inconsistent driver duties and liabilities on a variety of infrastructure.

Option 2 – Communication Campaign

Costs:

- Resourcing costs to government
- Safety for riders and path users unlikely to be improved.

Benefits:

- No compliance costs to government

Impact analysis

Road safety communication campaigns alone may not have sufficient impact in changing behaviour to result in a reduction of unsafe driving behaviour and compel riders of non-motor vehicles to stop and render assistance and provide information in the event of an incident. The current framework for regulating careless riding of bikes and PMDs and drivers' duties in an incident does not align with community expectations or deter high-risk behaviour. As such it is considered that the benefits of option 2 would be minimal.

TMR already runs communications through social media with regards to PMDs and e-scooters on a regular basis. These communications have a wide reach, but their impact is difficult to quantify. It is unlikely that an expanded communications program around PMDs without supporting regulation and visible enforcement would influence any measurable behavioural change, and thus it is unlikely to generate any significant positive societal impact. There would be no compliance costs associated with this option beyond those associated with the regular enforcement activities currently undertaken by QPS.

Research has shown that road safety advertising works best in achieving behaviour change when supported by regulation and enforcement. A well accepted role of road safety advertising is to "agenda set" and "signpost" new or amended legislation. Advertising is a key component in helping make the public aware that changes are happening and to highlight that non-compliance can result in a penalty. Road safety advertising also works to reinforce the effects of other countermeasures, such as changes to enforcement or education programs, to achieve attitudinal and behavioural change.

Option 3: Amend the TORUM Act

Costs:

- Financial costs to drivers/riders of non-motor vehicles charged with these expanded offences.
- Resourcing costs to government, including enforcement, prosecution and communication/educational activities.
- Potential risks associated with requiring PMD riders to provide personal information to other parties involved in crashes.

Benefits:

- Increase in safety for all users of road-related areas, including bicycle and PMD riders and pedestrians.

- Ensuring anyone injured in a crash on a road or road-related area, regardless of the type of vehicle involved, receives assistance.
- Ensuring all parties involved in a crash on a road or road-related area, regardless of the type of vehicle involved, must stop and provide assistance and exchange necessary information to support insurance or enforcement matters.

Impact analysis of costs

Financial costs to drivers/riders of non-motor vehicles charged with these expanded offences.

The financial costs associated with these offences are justified based on the seriousness of offending, significant risks involved and the fact that they already exist in other contexts (such as for motor-vehicle drivers or on roads for non-motor vehicle drivers/riders). Additionally, the financial costs associated with penalties for offenders is most often determined by a court based on the specific circumstances of the offending, prior history and capability of the offender to pay.

It is considered that the additional legal obligations for these offences and their associated penalties would be proportional in their impact. Given that these duties already exist for drivers/riders on non-motor vehicles on roads, it is justifiable to expect that these duties would also extend to drivers/riders on road-related areas where non-motor vehicles are commonly used. Implementing additional legal requirements for riders is unlikely to have major impacts and the additional requirements would be proportional in light of the situations in which they would apply – serious incidents resulting in injuries and/or property damage.

Additionally, these requirements are not onerous and are common-sense in nature. Exchanging details following an incident is a well-established practise and providing assistance to someone who is injured in an incident is basic human nature. It is likely that most individuals would take such actions following an incident anyway, unaware that it is not currently legally required if the incident occurs on a road-related area.

Police officers receive extensive training that assists them to identify when offences have been committed. It is anticipated that careless driving offences will only be used in a limited number of cases where rider behaviour demonstrates an escalated level of severity that cannot be appropriately addressed under existing offences in the QRR.

Resourcing costs to government, including enforcement, prosecution and communication/educational activities.

While quantitative resourcing costs cannot be accurately predicted, it is anticipated that the proposed introduction of expanded charges and responsibilities for non-motor vehicles using road-related areas is unlikely to result in significant resourcing costs and able to be met within existing budgetary allocations.

There may be an increase in prosecutions associated with the proposed introduction of expanded offences and responsibilities for non-motor vehicles using road-related areas. It is recognised that expanding these existing offences will capture an increased number of users that operate on road-related areas. However, this is necessary given the road safety benefits associated with this change.

There may be minor resourcing costs associated with any communication material to support the proposed introduction of expanded charges and responsibilities for non-motor vehicles using road-related areas. However, it is likely that any communication material would be relatively minor in nature and able to be met within existing budgetary allocations.

Personal risks associated with requiring PMD riders to provide personal information to other parties involved in crashes.

Drivers and riders of vehicles, except PMDs, are required to stop and provide their personal details in the event of a crash. The proposed amendment to section 93 will impact PMD riders by now requiring them to also stop and provide their details to other parties involved in a crash. While this aligns the obligations of PMD riders with all other drivers and riders of vehicles, the exchange of personal information may risk exposing the rider (or someone they know) to harm from another person. For example, a victim of domestic violence involved in a crash with their perpetrator may be required to provide their address details to their perpetrator and thus expose themselves to risk of further abuse.

While this is a potential cost to a PMD rider, the benefit of requiring a PMD rider to exchange their personal details creates a broad safety benefit for other drivers/riders involved in a crash and supports further investigation for enforcement or insurance purposes. Even though this is a potential cost of compliance, given this requirement already exists for all other drivers and riders of vehicles, it is justifiable to expect that this requirement would also extend to PMD riders.

However, to assist in offsetting this cost, the proposed amendments to section 93 will also allow a rider to withhold their details if the rider reasonably believes that sharing this information would be likely to expose any person to harm, be it the rider or another person. In these circumstances, the rider must instead report the incident to a police officer, including providing their required particulars, to support further investigation for enforcement or insurance purposes.

Although the burden of compliance may create a potential cost to PMD riders, it is considered that the overall net benefit to other drivers and riders outweighs this potential cost.

Impact analysis of benefits

Increase in safety for all users of road-related areas, including bicycle and PMD riders and pedestrians.

The threat of significant penalties for driving without due care and attention, will deter bike and PMD riders from partaking in risky behaviour. New requirements for drivers of non-motor vehicles to stop and render assistance following an incident on a road-related area will ensure that, if a crash does occur, injured parties will receive prompt medical attention.

Additionally, new requirements for PMD riders to exchange details following a crash will again reinforce that PMD riders are road users with responsibilities and have a role to play in ensuring road and road-related areas are safe for all users. While the statistics on serious incidents on road-related areas are low (although likely underreported), providing appropriate enforcement avenues for police and formal obligations for riders following a crash, will have the net benefit of increasing safety.

The increase in safety associated with these proposed amendments is expected to be substantial, including avoiding serious injuries and death as well as ensuring those injured receive timely medical attention, potentially increase the likelihood of better recovery outcomes. The proposed amendments will deter drivers of non-motor vehicles from behaving in ways that would attract these serious charges, which will in turn increase safety for all path users.

Ensuring anyone injured in a crash on a road or road-related area, regardless of the type of vehicle involved, receives assistance.

The proposed amendments will introduce new responsibilities for riders of non-motor vehicles, including PMD riders and bicycle riders. In particular, the introduction of new responsibilities for PMD riders will further align the regulatory framework for the use of these devices with the framework for bicycle riders. This was a major goal of the reforms to the QRR that came into effect on 1 November 2022. Share service providers reported to the Brisbane City Council Transport Committee in March 2021 that daily trips numbered around 5,000. This is in addition to estimates of 10-20 privately-owned scooters sold each day by retailers. One Australian retailer reports that they sold over 22,000 e-scooters nationwide in 2020, with that number forecast to grow significantly.

Results from a stakeholder survey in 2021 showed that 42.4% of Queensland residents reported having ridden a bicycle in the past year. Significantly, the survey showed a statistically significant increase in the number of young children and adults aged 30-49 years riding between 2019 and 2021.

As such, the proposed amendments will benefit users and drivers of non-motor vehicles, particularly bicycle and PMDs, as it will reduce uncertainty amongst path users regarding the rights and responsibilities of riders.

Qualitative research undertaken by TMR in May 2022 concluded that the majority of PMD users and non-users alike already perceived that the rules for PMDs were the same as the rules for bicycles. This was a significant finding that steered the 1 November 2022 regulatory reforms to seek out alignment of the rules for the two types of vehicles, as much as possible. Further alignment is thus not anticipated to negatively impact users or non-users to any significant extent – it is more likely that further alignment of the rules will reduce uncertainty amongst path users regarding the rights and responsibilities of riders.

The proposed amendments will also introduce new responsibilities for drivers of non-motor vehicles in relation to road-related areas (predominantly paths – bikeways, separated paths, shared paths and footpaths). However, this will align the rules for paths with the rules that apply on roads, thus reducing any uncertainty in the community about how riders are expected to behave in different areas.

Ensuring all parties involved in a crash on a road or road-related area, regardless of the type of vehicle involved, must stop and provide assistance and exchange necessary information to support insurance or enforcement matters.

The proposed amendments reduce hardship on victims of crashes on road-related areas by:

- Requiring both PMD and bicycle riders to stop and render assistance and remain at the scene following an incident on a path. This will result in victims receiving prompt medical attention and thus increase the likelihood of better recovery outcomes.
- Requiring both PMD and bicycle riders to provide their details to any other party involved in a crash will also assist victims of crashes in seeking financial compensation where the incident results in injuries or property damage.

The benefits associated with reducing hardship on victims of crashes on road-related areas are expected to be broad in their impact. Incidents requiring riders to stop and render assistance and/or exchange details on a road-related area provides an important safety mechanism for those involved in an incident and ensures that appropriate recourse may be actioned. The safe use of non-motor vehicles on road-related areas is a matter of community concern and legislative

measures designed to improve outcomes for victims of crashes in such spaces has been well supported in the past.

Who was consulted?

Consultation on the proposed amendments was undertaken with a wide range of relevant stakeholders representing state and local government, road and path user groups, disability advocates and the PMD industry. This has included several local governments, the Royal Automobile Club of Queensland, the Jamieson Trauma Institute, Queensland Walks, Bicycle Queensland, Queenslanders with a Disability Network, Vision Australia, Scooter Hut, Electric Scooter Squad Brisbane, Evolve Skateboards and Queensland Family and Child Commission. All stakeholders are supportive of the proposed changes.

What is the recommended option and why?

After taking into account the costs and benefits associated with each of the proposed options, it was ultimately determined that Option 3 (amendments to the TORUM Act) provides the most appropriate solution to the issues identified. Amendments to the TORUM Act will benefit the community as they will support more effective regulation of careless riding by non-motor vehicles on road-related areas and formalise the responsibilities of riders in the event of a crash.

Costs

Estimate is not able to be provided - see discussion of cost impacts above.

Approved



Sally Stannard
Acting Director-General
Date: 04 / 10 / 2023



Mark Bailey MP
Minister for Transport and Main Roads
Minister for Digital Services
Date: 04 / 10 / 2023