



Please Quote:
VRMBN007871
(File No: BN010301)

Ms Audrey Jamieson
Coroners Court of Victoria
65 Kavanagh Street
SOUTHBANK VIC 3006

Dear Ms Jamieson

**RESPONSE TO RECOMMENDATION - ALBERT DEAN MAY
CORONER'S REF: COR 2015 4237**

I refer to your findings and recommendation dated 29 November 2018, regarding the investigation into the death of Mr Albert Dean May.

In response to the report and recommendation, VicRoads coordinated a discussion with Victoria Police, Bicycle Industries Australia and the Transport Accident Commission to review the findings of the coronial investigation into Mr Albert Dean May's death. The discussion was also used to identify potential new enforcement mechanisms for the prevention of the use of high-powered electric bicycles on roads or road related areas in Victoria. The meeting was held on the 29 January 2019.

The following issues raised in the Coroner's investigation were considered:

- (1) Mr May was struck by a power-assisted bicycle that was being ridden on the footpath. Motor vehicles and bicycles, whether powered or not, are not permitted on footpaths as stipulated in rule 250 of the Road Safety Road Rules 2017 (Vic), except in specified circumstances. In this respect, it is considered that the road rules as they currently stand are appropriate. VicRoads regularly reviews the road laws and associated fines, and this report may be useful in informing that review process to ensure that the levels of penalties are adequate.
- (2) Victorian rules, consistent with the national direction, stipulate that there are two defined types of power-assisted bicycles; those that have one or more auxiliary power sources with a combined power output of 200 watts or less, or a pedal assist (pedalec) with a power output of up to 250 watts and a maximum assist speed of 25 km/h that is compliant with the European standard EN15194.

The vehicle involved in Mr May's death was a Hangzhou Feichen TDP878Z, advertised on their website as having a power rating of 251-350 watts, and dynamometer tests conducted after the incident indicated that the bicycle had a maximum power output of 586 watts. As its power rating was above 200 watts this was not a compliant power-assisted bicycle, but rather a motor vehicle (motorcycle).

According to Victorian legislation, any motor vehicle being used on a road or road-related area is required to be registered, and the user must hold an appropriate licence to operate it.

The vehicle involved in this incident (a power-assisted bicycle over 200 watts) was required to be registered as a motorcycle and its operator to hold a motorcycle licence. As the vehicle was unregistered and Mr Katonin did not hold a motorcycle licence at the time of the incident, he was acting illegally by operating an unregistered motor vehicle without a licence.

- (3) VicRoads understands that Mr Katonin believed that the vehicle met the requirements to be defined as a power-assisted bicycle rather than a motorcycle.

This highlights three issues:

- 1) the importation of this vehicle as a power-assisted bicycle;
 - 2) the on-selling of this vehicle as a power-assisted bicycle; and
 - 3) the inability for the public and law enforcement to determine whether vehicles are below or above the Victorian legal power output of 200 watts continuous power.
- (a) Vehicle importation laws are regulated by the Commonwealth's Department of Infrastructure, Regional Development and Cities (DIRDaC). VicRoads contacted the department with respect to the Coroner's report and was advised that a set of guidelines had recently been developed to assist customs officers to determine the types of cycles that can be imported as power-assisted cycles. These guidelines should prevent moped-style power-assisted cycles from reaching our market in future.

A visual guide to what is or is not considered a power-assisted bicycle is available on the DIRDaC's website.

- (b) Consumers can purchase over-powered power-assisted bicycles on the second-hand market without being aware that the vehicles are non-compliant. VicRoads has sought advice from the Australian Competition and Consumer Commission (ACCC) and Consumer Affairs Victoria (CAV) regarding the protection of consumers who may be misled by sellers of non-compliant vehicles. The ACCC has not had this issue raised by other jurisdictions. VicRoads is awaiting response from CAV.

VicRoads supports a nationally harmonised approach to power-assisted bicycle definitions to assist users to understand their obligations in relation to the operation of these vehicles.

- (c) Law enforcement cannot easily determine whether a power-assisted bicycle is compliant. Currently police officers are required to determine the power output of the motor(s) attached to power-assisted bicycles. It is understood that stickers and markings on the motors may claim a compliant power output when this is not the case. In addition, this is difficult to determine visibly from a distance and there is no accurate test procedure readily available to Victoria Police.

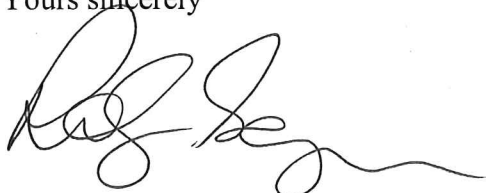
The meeting with Victoria Police, Bicycle Industries Australia and the Transport Accident Commission raised important issues relating to enforcement and a number of suggested improvements were noted, including changes to the definition of compliant power-assisted bicycles, banning of particular types of power-assisted bicycles (moped and/or throttle controlled) and placing a speed limit on power assistance.

VicRoads acknowledge that enforcement of the current laws is a challenge. However, there is no easy solution and each proposal has its limitations that would need to be considered more fully before any change is implemented.

VicRoads considers that the discussions that have taken place will be valuable in informing policy in the future. Victoria, along with other jurisdictions, regularly reviews its vehicle standards, regulations, road rules and licensing requirements. VicRoads will continue to monitor and review regulations using an evidence-based approach to inform initiatives that reduce harm and improve safety outcomes for all road users. A guidance document will be published on the VicRoads website to advise the public that these vehicles are likely to be non-compliant.

VicRoads will continue to lobby for a harmonised national approach to the regulation of power-assisted cycles. Having a nationally consistent approach helps support road users to understand their obligations. VicRoads will raise the identified issues with power-assisted bicycles in upcoming national forums to generate discussion of these rules while pursuing the necessary alignment with other jurisdictions, the National Transport Commission and the Commonwealth.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Robyn Seymour', with a long horizontal flourish extending to the right.

ROBYN SEYMOUR
CHIEF EXECUTIVE

10/5/2019