# HAMILTON CITY COUNCIL – STAFF FEEDBACK

# E–Scooters (Declaration Not to be Motor Vehicles) Notice 2018

Waka Kotahi NZ Transport Agency







18 August 2023



## **Improving the Wellbeing of Hamiltonians**

Hamilton City Council is focused on improving the wellbeing of Hamiltonians through delivering to our five priorities of shaping:

- A city that's easy to live in
- A city where our people thrive
- A central city where our people love to be
- A fun city with lots to do
- A green city

The topic of this submission is aligned to the priority **A green city.** 

## **Council Approval and Reference**

This staff feedback was approved by Hamilton City Council's Chief Executive on 18 August 2023.

Hamilton City Council Reference D-4867144 - Feedback # 744.

It should be noted that the following feedback is from staff at Hamilton City Council and does not therefore necessarily represent the views of the Council itself.

### Introduction

- **1.** Hamilton City Council staff welcome the opportunity to provide feedback to Waka Kotahi NZ Transport Agency's **E–Scooters (Declaration Not to be Motor Vehicles) Notice 2018**.
- **2.** We support the overall direction and intent of the review and have provided feedback to the key following questions posed by Waka Kotahi NZ Transport Agency.

# Can you please provide copies of your MOUs or Code of Practices with e-scooter operators?

**3.** A copy of Hamilton City Council's June 2019 Code of Practice for Personal Hire Devices **is attached**.

As well as any supporting reports they provide to you as a part of that agreement?

- **4.** Lime Micromobility provides monthly incident reports around Health and Safety issues. The quarterly report for June 2023 (showing incidents for the months of April, May, and June) **is attached**.
- **5.** Also attached is a map showing the usage by street of Lime scooters in Hamilton for the period 27 July to 7 August 2023.
- **6.** Another useful insight is that approximately one third of e-scooter trips in Hamilton are made on hire devices, and two thirds on private e-scooters.
- 7. This analysis was undertaken in 2021, so it may have changed since. The proportion also varies a lot across Hamilton in the central city, with lots of hire device availability, the ratio is two thirds hire versus one third private, while in the suburbs there is a lower proportion of hire device usage.
- 8. We have limited data on all e-scooter trips (including private) until the counts have been validated from our pathway devices. However, in general we are at 20-30 trips per day on streets outside of Hamilton's central city.

#### If the declaration was not renewed, how would it affect the transport system in your city?

- **9.** Initially, we believe that things will just carry on as they are currently. However, this will also create an administrative 'nightmare'. While e-scooters are technically not legal without being registered etc (as required if subsequently considered a vehicle), we don't think that anyone will do this and we will just be creating a huge enforcement issue for the New Zealand Police to deal with, which is not likely to be a focus for their activities.
- **10.** If the public is concerned about being legally compliant and stopped using their e-scooters, then we will probably see an increase in the number of people driving although there may also be some increase in public transport usage.

#### If the declaration was renewed, what types of safety regulations would make using escooters safer for both riders and pedestrians in your city?

**11.** Progressing the changes proposed in the Accessible Streets Regulatory Package, including the locations that they can operate legally within the road corridor and the speeds at which they are able to be operated.

# What type of reporting does each e-scooter operator conduct and provide to you? Can you please provide copies?

**12.** Lime Micromobility, which is the only e-scooter operator in Hamilton City, provide us with data usage of their scooters. We are seeing around 800 trips per day, with the busiest day being Saturday. There are only 5-10 e-bikes per day being used compared to 750 plus e-scooters.

What plans are currently in place to combat rider non-compliance (e.g. Drinking and riding, parking offences, reckless driving).

**13.** Enforcement is irregular and inconsistent. Hamilton Central has a liquor ban in place. Hamilton Council Council's City Safe Camera Operator reports directly to the New Zealand Police if a rider is seen drinking alcohol or appears intoxicated and/or driving recklessly in the central city.

Please provide any statistical or survey-based information you hold on the use of escooters in your city.

- 14. There is a variety of statistical information on hand and also publicly available via Hamilton City Council's Transportation Unit. For example <u>https://hamilton.govt.nz/your-city/data-and-statistics/understanding-our-city/cycling-and-micromobility-volumes/</u>
- **15.** In addition, the following information is provided as it notes that the median trip distance and duration rather than the means in the dashboard and highlights the low cycling trip numbers.





Median Duration	7.60 Minutes
Median Distance	1.24 Kms

**16.** The average number of available vehicles in July 2023 was **471**, and the average number of trips in July 2023 was **774** per day.

## **Further Information and Opportunity to Discuss our Feedback**

- Should Waka Kotahi NZ Transport Agency require clarification of the feedback from Hamilton City Council staff, or additional information, please contact Glenn Bunting (Urban Transport Policy and Planning Manager - City Transportation) on 021 962 829, email <u>glenn.bunting@hcc.govt.nz</u> in the first instance.
- **18.** Hamilton City Council representatives would welcome the opportunity to discuss the content of this feedback in more detail with Waka Kotahi NZ Transport Agency.

Yours faithfully

LVA

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### Hamilton City Council Code of Practice for Personal Hire Devices

#### 1. Introduction

- 1.1. This Code of Practice outlines the requirements and recommendations that Operators<sup>1</sup> are required to follow as part of delivering safe and effective Personal Hire Device<sup>2</sup> (PHD) schemes in Hamilton.
- 1.2. If there is non-compliance by the Operator which is not remedied when requested, Council will revoke the permit.
- 1.3. This Code of Practice will be reviewed and updated as required in the future so that it continues to reflect best practice and the interests of the Hamilton community. The conditions will be subject to change and additional guidelines may be developed.
- 1.4. Council reserves the right to issue permits for a limited period of time or for a trial period or use a phased approach to avoid saturating the streets with too many PHD's of each type (e.g. bikes or e-scooters).

#### 2. Objectives

- 2.1. Safety remains our primary objective and it is our duty to protect the rights of the public to use and enjoy Hamilton's roads and walkways. PHD schemes must work for everyone without impacting or causing a danger or nuisance to other road users.
- 2.2. To ensure that PHD's:
  - are well-designed and complement Hamilton's bicycle network development and public transport network;
  - support the Access Hamilton Strategy, the Central City Safety Strategy, the HCC Open Spaces Plan, the River Plan, the HCC Disability Policy and HCC Biking Plan.

#### 3. Engagement with Council

- 3.1. Operators must maintain effective communication with Hamilton City Council.
- 3.2. Operators must provide Hamilton City Council with up to date and relevant contact details for the operational point of contact who will resolve any issues that arise. Operational contacts must reside in Hamilton and able to respond within the minimum specified time periods for issue resolution (1hr).
- 3.3. Operators must seek Hamilton City Council approval of any promotion/media mentioning Hamilton City Council and Council activities.
- 3.4. This Code of Practice applies to all Operators and sets out the operational and safety standards that Operators must adhere to. The council reserves the right to adjust/amend these conditions as it deems appropriate after consultation with permitted Operators.

<sup>&</sup>lt;sup>2</sup> Personal Hire Device - Non-vehicular devices intended to be used to transport 1-2 people short distances; which are located in public spaces and available for hire, usually for periods of short duration. See Appendix 1 for more information.



<sup>&</sup>lt;sup>1</sup> A person or company that runs a Personal Hire Device business

#### 4. Prior to establishing a PHD hire scheme

- 4.1. Prior to commencing operation of a PHD scheme within the Hamilton City, Operators must apply for and be granted a permit, under the Hamilton City Public Places Bylaw 2016.
- 4.2. Permit applications must include a PHD Operational Plan acceptable to Council as set out in clause 5.
- 4.3. Operators will work together with Council to determine an appropriate scheme size that is fit for purpose for Hamilton.
- 4.4. For a scheme using docked<sup>3</sup> devices, Council must agree to the location of docking stations for the storage or charging of PHD's. All docking stations must be compliant with the Hamilton City Council District Plan.
- 4.5. Council may specify where PHD's can and cannot be parked, any areas where PHD's are not to be used or where speed restrictions may be required. This information must be conveyed clearly to the customer.
- 4.6. Council reserves the right to limit the number of Operators and the number of PHD's of each type.
- 4.7. Prior to commencing operation, Operators will undertake surveys on a representative sample of footpaths throughout the city. The purpose of the surveys is to determine current pedestrian volumes, including the proportion of people on the footpath who use mobility aids. The surveys shall be completed in accordance with guidelines provided by Council and will be used as a baseline for future surveys.
- 4.8. Operators must proactively contact and work with private organisations and public service providers who operate on private land, to determine any restrictions in use of PHD's in those locations. Operators are required to report back to Council regarding any restrictions agreed upon.
- 4.9. Operators must hold public liability insurance of at least NZ\$2,000,000. Where there is evidence that PHD's or their use has caused damage to Council owned property, the Operator will be liable for the cost of repair.
- 4.10. Operators must provide Council with the contact details of references who can provide information regarding the Operator's previous performance.

#### 5. PHD Operational Plan

5.1. Prior to being granted a permit to operate, Operators must obtain Council approval for a PHD Operational Plan that demonstrates how a proposed scheme will adhere to this Code of Practice including the detail noted in Table 1 below:

Table 1 Operational Plans

PHD Operational	Plans mu	st include detail on:
Operational	a)	How PHD's will be charged and redistributed around the city to avoid
Matters:		bunching, being left out of zone or in low use or nuisance areas. They
		must also include in their plan how they have capability to manage the

<sup>&</sup>lt;sup>3</sup> Docked – the device is collected or returned from/to a designated rack, shop or other fixed location for storage or charging of PHD's.

*Dockless* – does not rely on customers collecting or returning their PHD from/to a designated rack, shop or other fixed location. See Appendix 1 for more information.



	<ul> <li>redistribution of bunched PHD's, in advance of major events or at the request of Hamilton City Council.</li> <li>b) For docked devices, the Operator must state how devices will be returned to docking stations for storage or charging.</li> <li>c) PHD maintenance schedules and how checks are undertaken and logged.</li> <li>d) Operators will ensure that all PHDs have a unique and visible registration number that would enable public reporting of unsafe behaviour.</li> <li>e) Systems to ensure PHD equipment, including helmets for bicycles, continues to comply with legal standards and requirements.</li> <li>f) How a PHD scheme will be terminated (including the collection and end-of-life management of all PHD's and any PHD peripherals) if the Operator no longer chooses to operate or if it no longer meets the code and has its permit to operate revoked.</li> </ul>
Safety and Risk Management:	<ul> <li><u>General Safety and Risk Management</u> – documented identification, assessment and control of risk to employees and others impacted by the business, including visitors and customers.</li> <li><u>Public Safety and Risk Management</u> - documented identification, assessment and control of risk specifically related to public safety.</li> <li>Safety and Risk Management documents should include risk assessments, risk register, risk review, risk mitigation plan.</li> <li>Council require an annual evaluation of these via an external safety audit by a qualified health and safety professional.</li> <li><u>Incident reporting and investigation</u> – arrangements to ensure incidents are identified, reported and investigated in a timely manner and appropriate corrective actions are put in place and are monitored and evaluated.</li> <li>Incidents causing injury must be recorded and included in the data made available to Council.</li> </ul>
Communication:	<ul> <li>a) A detailed social media and communication plan.</li> <li>b) A clear plan to be able to respond to queries and complaints to minimise escalation to Council. Operators must be able to provide Council with a record of complaints, how they were resolved and response times logs when requested.</li> <li>c) How the Operator will ensure users understand where and how to operate the PHD according to this Code of Practice; how to ride safely and carefully and be considerate of all other road users and not ride at speeds that put other users at risk.</li> </ul>
Waste minimisation:	<ul> <li>a) Detailed information on:</li> <li>The estimated life-span of a device</li> <li>The estimated life-span of each type of peripheral</li> <li>The estimated number of devices and number of each type of peripheral that are expected to reach end of life during each 6-month period they are permitted for.</li> <li>The estimated volume of each material type recycled</li> <li>The estimated volume of each material type disposed of to landfill</li> <li>The estimated volume of each material type disposed of other than via recycling or landfill</li> <li>b) How devices will be identified as having reached end-of-life (e.g. a certain time frame, a level of dis-repair, a level of damage etc)</li> <li>c) How end-of life PHD's and any electronic peripherals (such as batteries, chargers or docking stations) will be collected.</li> </ul>



d)	How environmental harm will be avoided or minimised, particularly in
	relation to rivers or lakes.
e)	How end-of-life will be recycled or disposed of, erification of facilities
	used for recycling or disposal
f)	How the Operator will ensure waste to landfill will be minimised

#### 6. Public Safety

- 6.1. The Operator will ensure that PHD users ride safely and carefully and be considerate of all other road and footpath users, ensuring that:
  - a) when on the road, users must keep as close as possible to the edge of the roadway; and
  - b) when on the footpath, users must:
    - i) not ride at speeds that put other footpath users at risk; and
    - ii) always give way to pedestrians and drivers of mobility vehicles.
- 6.2. The operation of PHD schemes in the City must not cause disruption or nuisance. Operators must ensure PHD schemes do not compromise the maintenance of orderly streets or have a negative impact on other street users. PHD's must not be parked, docked or allowed to remain on or in inappropriate locations such as:
  - on footpaths that are narrow;
  - where they could pose a safety hazard; or
  - where they could interfere with pedestrian movement.
- 6.3. PHD's must have a light attached which is operational at all times.

#### 7. Operations

- 7.1. The Operator shall be aware of and comply with all Acts, Regulations, Bylaws, Policies and Ordinances applicable to the operation. This includes all transport related Acts and Regulations related to the requirements and use of PHDs such as bicycles and scooters.
- 7.2. PHD equipment must be deployed new and be of sufficiently high quality to withstand constant public use and exposure to the Hamilton elements, while meeting rider safety and comfort standards.
- 7.3. Operators must commit to providing PHD's year-round. Any seasonal reduction in PHD numbers must be agreed by Council.
- 7.4. PHD's must include smart technology with proven global positioning system (GPS) and wireless connectivity to enable maintenance and proactive re-balancing of numbers (avoidance of bunching).
- 7.5. PHD's must utilise proven geofencing capability.
- 7.6. Any specific infrastructure improvements required for successful operations would need to be considered and approved by Council.
- 7.7. PHD's must not be deployed in any one place in numbers which cause nuisance or hinder pedestrian movement.



#### 8. Monitoring

- 8.1. Operators will work with Council to implement a monitoring programme, using baseline data collected prior to commencing operation (see clause 4.7). Council will specify the frequency of monitoring.
- 8.2. Monitoring will assist Operators and Council to ensure PHD schemes do not adversely impact other road and street users, such as pedestrians.

#### 9. Customer Experience and Education

- 9.1. Operators must provide 24-hour communication channels for users, including a clearly advertised telephone number provided on their website, apps and PHD's, and must also have a complaint handling process.
- 9.2. Operators will run ambassador programmes to provide their users with information that includes but is not limited to, good user behaviour, safety advice and incident reporting education, and to inform them when they are not adhering to terms and conditions of use. They will also have a process for managing non-compliance of their terms and conditions by users.
- 9.3. Terms and conditions of use must be agreed by users when they use the PHD equipment and these terms must promote safe and legal riding or scooting, and good parking behaviour.
- 9.4. The Operator must provide the user with New Zealand regulations but can also advise their own additional safety recommendations.
- 9.5. The Operator must make clear to the user any liabilities they may face for failing to comply with the Terms and Conditions.
- 9.6. Operators need to have steps in place to ensure users comply with all relevant provisions of the Land Transport (Road User) Rule 2004.

#### **10.Incident reporting**

- 10.1. Where any incident affects the safety of employees, customers and the public, the Operator must immediately:
  - a) notify Council; and
  - b) commence an investigation.
- 10.2. An initial report must be provided to council within 48 hours, unless impracticable to do so in the time frame, and within seven days the results of that investigation should be reported to the Council.
- 10.3. If the incident is notified by a third party, including but not exclusive to the media; the investigation should be commenced immediately the Operator becomes aware, and an initial report provided to council within 48 hours, unless impracticable to do so in the time frame, and within seven days the results of that investigation should be reported to the Council.
- 10.4. Should council require with just cause an in-depth investigation of safety related systemic hardware or software faults or incidents related to the Operator's operations, related costs will be the responsibility of the Operator. If council considers an independent review is required and commissions such a review, all associated costs will be recovered from the Operator.



#### **11.General reporting**

- 11.1. Operators will also be required to submit the following reports:
  - a) immediate reporting of:
    - I. any incident affecting the safety of employees, customers and the public
    - II. actual or potential systemic hardware and software issues in other jurisdictions where the Operator is present
  - a) weekly reporting of:
    - I. incidents, investigations and corrective actions in Hamilton City.
    - II. consolidated reporting of incidents, investigations and corrective actions in other NZ markets where the permit holder operates.
    - III. complaints and response times logs
  - b) monthly reporting of:
    - safety initiatives undertaken in all NZ markets where the permit holder operates; including system and process changes, user education and engagement activities, communication and messaging including in-app messaging.
    - II. maintenance program and any issues arising, including the number of escooters which have not been subject to a full maintenance inspection during the period.
    - III. the number of PHD's newly deployed, and the number of PHD's recycled / sent to landfill.
    - IV. comprehensive safety risk registers and any new issues or change in status of existing issues.
  - c) quarterly reporting of:
    - I. analysis of reported incidents and safety performance data and identification of how this is informing improved safety performance.
    - II. detailed information on:
      - The rolling average life-span of a device
      - The rolling average life-span of each type of peripheral
      - The number of devices and number of each type of peripheral that has reached end-of-life during each quarter
      - The actual volume of each material type recycled
      - The actual volume of each material type disposed of to landfill
      - The actual volume of each material type disposed of other than via recycling or landfill
    - III. Council reserves the right to request detailed waste information as required for waste reporting under the Hamilton City Council Waste Management and Minimisation Plan 2018.



#### 12.Data

- 12.1. All personal information must be collected, processed and stored in accordance with the requirements of the New Zealand Privacy Act 1993.
- 12.2. It is a requirement that anonymised data collected by the Operator is shared with Council to assist with ongoing network planning and cycle facility improvements.
- 12.3. The following table outlines the usage data to be shared with Council for each trip record, unless agreed otherwise in writing with Council. The usage data is to be provided in an agreed format, whenever requested or to an agreed reporting schedule.

Field	Comments
Provider_id	A UUID for the Provider, unique within MDS
Provider_name	The public-facing name of the Provider
device_id	A unique device ID in UUID format
vehicle_id	The Vehicle (PHD) Identification Number visible on the PHD itself
vehicle_type	
propulsion_type	
trip_id	A unique ID for each trip
trip_duration	Time, in Seconds
trip_distance	Trip Distance, in Meters
Route	
Accuracy	The approximate level of accuracy, in meters, of Points within route
start_time	
end_time	

- 12.4. Operators shall provide Council with real-time information on the entire fleet through a documented application program interface (API) from day one. The data to be published to the Hamilton Council Application Programming Interface (API)<sup>4</sup> will include the following information in real time for every parked PHD:
  - PHD identification number
  - GPS Co-ordinate
  - Availability start date
  - Availability start time

<sup>&</sup>lt;sup>4</sup> Application Programming Interface (API) - set of functions and procedures allowing the creation of applications that access the features or data of an operating system, application, or other service. In basic terms, APIs just allow applications to communicate with one another.



- Date of last service
- Time to next service
- Service status
- 12.5. Council reserves the right to display information about PHD hire Operators on their websites.
- 12.6. Customer data integration and transfer with Council transport planning systems may be required in the future. Council reserves the right to update this condition if or when required.
- 13.Integration with the New Zealand Transport Agency's Mobility Marketplace
- 13.1. Operators of PHD hire schemes should ensure the technological capability to integrate their services into the New Zealand Transport Agency's (NZTA) Mobility as a Service (MaaS) project.



### **Appendix 1: Definitions**

**Personal Hire Devices (PHD)** Non-vehicular devices intended to be used to transport 1-2 people short distances; which are located in public spaces and available for hire, usually for periods of short duration.

For clarity, these include but are not limited to bicycles and scooters, which may be standard (manual) or electric (battery) powered and meet NZTA<sup>5</sup> definitions as described on the NZTA website<sup>6</sup>. These are summarised below:

- AA (pedal cycle) A vehicle designed to be propelled through a mechanism solely by human power;
- AB (power-assisted pedal cycle) A pedal cycle to which is attached one or more auxiliary propulsion motors having a combined maximum power output not exceeding 300 watts;
- Low-powered vehicles that do not require registration or a driver licence;
- All other low-powered vehicles such as:
  - o Motorised skate boards, e-scooters above 300W, and roller skates
  - o Segways and similar
  - o Powered Self Balancing Unicycles
  - o Cycles fitted with either petrol motors or designed to be propelled by an engine.

#### **Exclusions**

- Personal devices owned and used by individuals.
- Mobility devices designed and constructed for people needing help with mobility because of physical or neurological impairment and powered by a motor of up to 1500 watts. For the purposes of this Code of Practice, a Segway is not considered a mobility device.

**Docked** - The device is collected or returned from/to a designated rack, shop or other fixed location for storage or charging of PHD's.

**Dockless** - Does not rely on customers collecting or returning their PHD from/to a designated rack, shop or other fixed location.

Operator - A person or company that runs a PHD business.

Permit - As per the Hamilton City Public Places Bylaw 2016

Public service providers – means any person or entity that provides products or services to the public.

Hamilton City Council (Council) - For this Code of Practice, Hamilton City Council refers to Hamilton City Council and any person or organisation delegated by Hamilton City Council to act on its behalf.



<sup>&</sup>lt;sup>5</sup> New Zealand Transport Agency

<sup>&</sup>lt;sup>6</sup> https://www.nzta.govt.nz/

### **Appendix 2: Specific Requirements:**

Hamilton City Council reserves the right to include specific requirements for each type of Personal Hire Device (e.g. bicycle, scooter etc)



