

Impounding Act 1993

Shared Bicycle Management Guideline

For councils and other impounding authorities

OFFICE OF LOCAL GOVERNMENT

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Table of contents

PART 1 - Introduction	03
PART 2 - Working with the shared bicycle legislation	06
PART 3 - Shared bicycle policies and resourcing	12
PART 4 - Working collaboratively with shared bicycle operators	14
PART 5 - Further information and resources	18



Part 1 - Introduction

1.1 Purpose

The *Impounding Act 1993* (the Act) and *Impounding Regulation 2013* (the Regulation), enable councils and other impounding authorities to impound vehicles, animals and other items in public places and on certain other land. They also set out how impounded items may be reclaimed by their owners, or sold or disposed of by authorities.

Dockless shared bicycles arrived in NSW in mid-2017 offering the public an innovative, alternative transport service that can play a valuable part of the transport network. The NSW Government welcomes any initiative that makes walking and cycling, or active transport, more appealing and accessible. The role of bicycle sharing services as a 'first mile/last mile' solution to connect people with our public transport network will be supported by new rules to better manage safety risks and amenity issues in the community.

On 30 November 2018, the *Impounding Amendment (Shared Bicycles and Other Devices) Act 2018* (the Amendment Act) came into force in NSW. This provides new laws specifically for dockless shared bicycle services.

The new laws place responsibility for shared bicycles with shared bicycle operators. They provide stronger powers to impounding authorities to ensure that operators remove shared bicycles within clear, risk-based time limits to address safety risks and reduce amenity issues caused by dumped, broken and poorly parked bicycles.

This *Shared Bicycle Management Guideline* (the Guideline) supports impounding authorities to interpret and apply the new laws. It builds on

voluntary guidelines developed by inner Sydney councils and consultation feedback on regulating dockless shared bicycles from councils, other authorities, operators and community groups.

The Guideline includes:

- Information for councils and other impounding authorities about new provisions of the Impounding Act that apply to dockless shared bicycles (Part 2 of the Guideline);
- Guidance on how councils and other impounding authorities may develop shared bicycle policies and consider resourcing issues (Part 3);
- Areas that councils and other impounding authorities may wish to work on collaboratively with operators of shared bicycle services in the interests of the community, such as around user education and parking (Part 4); and
- Further useful information and resources (Part 5).

This will help to ensure that dockless shared bicycles remain a viable transport option for the public while minimising any negative impacts on public safety and amenity.

1.2 Audience and scope

This Guideline provides information to assist councils and other impounding authorities (see full list in Part 5) to implement the new provisions in the Impounding Act relating to dockless shared bicycle services.

The Guideline does not provide legal advice, nor cover all provisions of, nor act as a substitute for the Impounding Act. Impounding officers should seek and be guided by internal advice or, at times, independent legal advice. The Office of Local Government (OLG) cannot provide legal advice nor give advice to impounding officers on specific incidents or circumstances.

Operators of dockless shared bicycle services are also encouraged to read and understand the information in the Guideline.



Part 2 - Working with the shared bicycle legislation

This part of the Guideline provides further information on key provisions of the Amendment Act to support councils and other impounding officers to carry out their new functions.

Currently, the new rules only apply to dockless shared bicycle services. Under the NSW Road Rules, 'bicycle' includes 'a power-assisted pedal cycle', so the laws also cover shared electric bicycles.

The NSW Government will monitor the effectiveness of the new laws and the evolution of shared bicycles and other potential sharing services. This will help to determine whether to provide further standards for shared bicycles, including a mandatory Code of Practice, and/or regulate other sharing services in the future.

2.1 Meaning of 'sharing service'

Section 19C defines a 'sharing service' able to be regulated under the new laws.

A 'sharing service' is an arrangement that can be in writing or established through a smartphone application based on the following characteristics:

- the device is provided for hire (either for a fee or at no cost);
- access to the device is restricted until unlocked by a customer or otherwise unlocked remotely; and
- customers are not required to hire the device from a particular location nor are they required to return it to a particular location, including the premises of an operator, a fixed docking station or any other specific premises.

The only sharing service currently regulated is dockless shared bicycle services. However, this section is important in enabling other sharing services, and/or sharing service characteristics, to be further defined in the future as business models evolve and further regulation may be needed. For example, while the use of electric foot scooters is not currently legal on NSW roads or footpaths, shared e-scooter services have emerged in other cities.

Other relevant definitions under the Act are provided in Part 5 of the Guideline.

2.2 Bicycles causing an obstruction or safety risk

Section 19D enables councils, impounding authorities, users and members of the public to take rapid action on shared bicycles causing an obstruction or safety risk.

An 'obstruction or safety risk' is defined as a situation in which a shared bicycle is causing a vehicular or pedestrian obstruction, or is likely to be a danger to road users or the public, including blocking access to a footpath, fire exit, lift, access ramp or stairs (s.19D(7)).

Section 19D(4) places an obligation on operators to remove a shared bicycle that is causing an obstruction or safety risk within three hours of being notified. Any impounding officer, user or other person can notify an operator that the bicycle poses such a hazard.

If the operator fails to remove the shared bicycle within this timeframe, and where it is causing an obstruction or safety risk, the operator is taken to have abandoned the shared bicycle in a public place. This is an offence carrying an on-the-spot fine of \$500 or a maximum court-imposed penalty of \$2750 (s.32(1)(a)).

When a council ranger or other impounding officer becomes aware of a shared bicycle that they believe on reasonable grounds poses an obstruction or safety risk, the powers available to them include:

- impounding the shared bicycle immediately (s.19D(2));
- moving the shared bicycle to another place (s.19D(3)); and
- notifying the operator to move the shared bicycle within 3 hours (s.19D(4)) or more formally through s.19G (see section 2.6) and, if the shared bicycle is not removed within 3 hours, a penalty can be issued.

Impounding officers will be guided by their own policies, procedures and expert assessment of the situation on a case-by-case basis, including the level of risk. If the risk to public safety is immediate and significant, an impounding officer may take immediate action to reduce that risk if it is safe to do so – either impound immediately or move the bicycle themselves. In other cases, an impounding officer may be satisfied that the level of risk is low and allow the operator three hours to take responsibility and remove the shared bicycle themselves. Risk and liability issues are discussed further in Part 2.5 below and in Part 3.

2.3 Bicycles left in the one place for too long

Section 19E of the Act makes it clear that a shared bicycle is not to be left in a public place in the same location for more than seven consecutive days. This is to ensure that it does not negatively impact on public amenity and is located where it is used most often. It also creates an expectation that operators regularly monitor and redistribute their shared bicycles.

Again, impounding authorities, users and members of the public can all notify an operator of a shared bicycle left in one location for more than seven consecutive days, and this places an obligation on that operator to remove it within four days (s19E(2)).

An impounding authority cannot immediately impound a shared bicycle it is satisfied has been left in one location for more than seven consecutive days as they can under section 19D. Instead, after notification, the operator has four days to remove the bicycle and deploy it in a more suitable location.

If the operator fails to remove the shared bicycle within the time limit they are taken to have abandoned the shared bicycle in a public place. Abandonment of the bicycle is an offence carrying an on-the-spot fine of \$500 or a maximum court-imposed penalty of \$2750 (s32(1)(a)).

The impounding authority could then choose to impound the shared device (under section 15) or order the operator to move the shared bicycle via a removal notice (see part 2.6).

2.4 Notice to operators

A fundamental aim of the new laws is to encourage responsible business practices by operators of sharing services. Key to this is ensuring that operators are the first point of contact if a shared bicycle is parked in contravention of the Act.

This is the reason for enabling any member of the public to notify an operator that a shared bicycle belonging to that operator may be in breach of sections 19D or 19E of the Act. In this way, it is possible for councils and other impounding authorities to not be involved, unless proactively notifying the operators of potential contraventions, or unless a member of the public requests involvement due to an operator failing to act on a notification.

Section 19I of the Act enables notification via email to the operator or, if the operator has consented to this means of communication, an SMS text message or any other electronic means. Operators should make these contact details clear on their bicycles and in their apps, indicating their preferred method of communication. As operators agree to notification methods, contact details will be made public on the 'Share Bike' page on the OLG website. Impounding authorities may wish to put these details on their websites for the community and negotiate additional channels of communication with operators.

For impounding officers, this notification process is in addition to the already existing means of notification provided for under section 49 of the Act, namely delivery in person or via post. Impounding authorities also have the ability under section 19I(1)(c) to agree to a different method of notification with the operator concerned.

Importantly, a notice in this context is not a removal notice, which can only be issued by an impounding officer. Details regarding removal notices are provided at 2.6 below.

2.5 Assessing risk level and time limits

Once an operator is notified, the risk-based time limit starts counting down – three hours for shared bicycles causing an obstruction or safety risk and four days for shared bicycles left in one place for over seven days.

However, to determine and take the most appropriate course of action, councils and other impounding authorities may need to put processes in place to assist impounding officers to assess whether or not a shared bicycle is causing an obstruction or safety risk, and whether or not the removal time limits have been exceeded.

For example, if a member of the public sends an email to an operator notifying them that in their opinion a bicycle is causing an obstruction, and the operator does not remove the bicycle within three hours of being notified, that person may then want to escalate the issue to the local council. The impounding officer may then determine the level of risk the shared bicycle poses and whether the operator has been given appropriate time to remove the bicycle. Councils may encourage members of the public to copy the council directly into the email or message they send to the operator.

Impounding authorities may also need processes to determine if a bicycle has been stationary for over a week. As for ordinary bicycles believed to be abandoned, they may choose to secure a tag to a shared bicycle, or otherwise mark its location, to signal to the community that the device has been noticed and to monitor and build evidence to support the next decision of the council.

2.6 Removal notices

Issuing a removal notice under section 19G provides a flexible and additional option to impounding authorities to order an operator to remove a shared bicycle left in a way that contravenes the Act.

Where a bicycle is considered to be causing an obstruction or safety risk, enforcement action will be available under section 19D. Where a bicycle has been left in the same location for more than seven consecutive days, then enforcement action will be available under section 19E. This is because an operator that fails to remove a shared bicycle in accordance with a removal notice is taken to have abandoned the bicycle under the relevant section.

It is anticipated that it will be in the operator's interest to act quickly upon receipt of information about the whereabouts of a device because of the range of enforcement options available to impounding officers. Waiting until a removal notice is issued under section 19G will likely mean that the operator has already committed an offence against the Act.

A removal notice is formal notification to the operator to move the bicycle. It must at least include details about the:

- shared bicycle and where it is located;
- the section of the Act the impounding officer alleges the device contravenes; and
- the timeframe for removal of the device.

Situations in which an impounding officer may choose to use the removal notice option include:

- Where it is considered appropriate to require the operator to be responsible for removal of a shared bicycle within a timeframe longer than that specified in the legislation. This could include situations in which a shared bicycle is obviously damaged, such as where it has a missing or broken wheel;
- Where follow up enforcement action is appropriate. This could be a situation where an operator has already failed to remove a shared bicycle within three hours or four days (depending on the circumstance). In this case, a removal notice may order the operator to remove the shared bicycle within a set period of time; and
- Where the impounding authority would prefer to have a more formal method of providing notification to an operator.

The timeframe specified on the removal notice must be reasonable and cannot be more onerous than that specified in the Act.

Where a removal notice relates to a contravention of sections 19D or 19E then the Act deems the abandonment arising from a failure to comply with the notice as an abandonment under section 19D or 19E (depending on the circumstances). This will expose the operator to the risk of further enforcement action.

If notices are ignored and a council decides to impound the device, then the council will have available to it the full range of remedies under the Act, including the ability to recover the cost of the impounding from the operator.

There is also scope to introduce new offences under the regulations including through a Code of Practice (see part 2.7).

2.7 Regulations and a mandatory Code of Practice

Section 19F of the Act provides for the ability to make regulations that would extend the application of the Act to other types of shared devices or introduce further obligations on the operators of shared bicycle services or other shared device services via a mandatory Code of Practice, if needed in the future.

Such obligations could include further provisions relating to public safety and amenity, managing risk and public liability or planning for the operation of an integrated transport network. It could also widen the circumstances under which an operator is taken to have abandoned the shared device in a public place, broaden the definition of 'obstruction or safety risk' or lengthen the period of time operators have to remove a shared bicycle or other device under section 19D(4) or 19E(2) of the Act.

However, impounding authorities and operators are encouraged to work cooperatively to facilitate the successful introduction of new and innovative shared transport options for the community. Suggestions for how to do this are included in Part 4 of this Guideline.

Further regulatory action will only be taken if it becomes apparent that further action is needed to manage public safety and amenity effectively, after a period of implementation and monitoring of the current amendments.

2.8 Penalty amounts

The maximum penalty amount for abandoning a shared device in a public place under section 32 of the Act varies according to the type of offence.

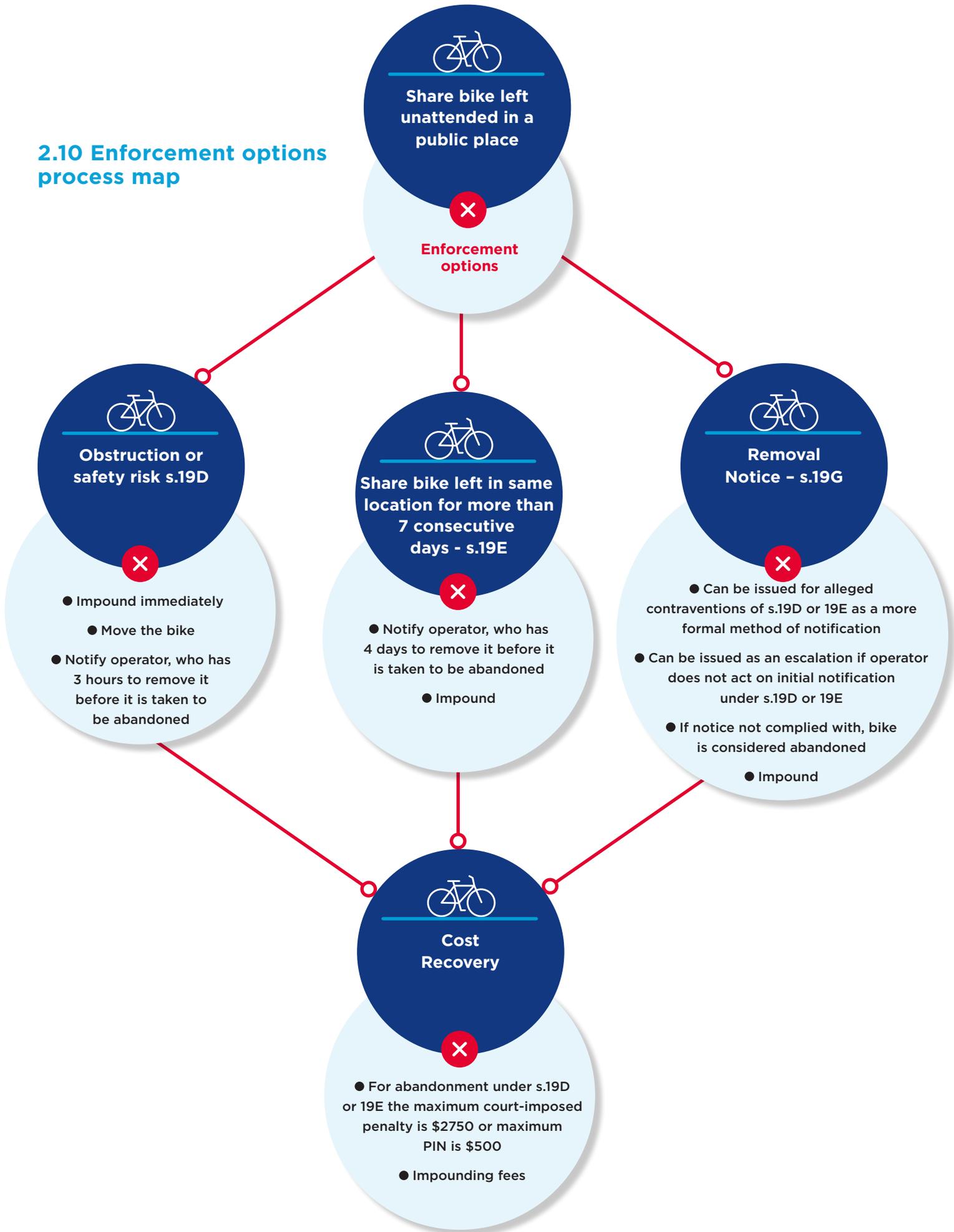
For abandonment under section 19D or 19E of the Act, the maximum penalty is 25 penalty units or \$2750. This reflects the seriousness of the risk that may be posed by a shared device causing an obstruction or safety risk or the impact on public amenity caused by a shared device left in a public place for more than seven consecutive days.

Penalty Infringement Notices (PINS) or on-the-spot fines of \$500 may also apply under section 19D or 19E.

2.9 Other considerations under the Act

Section 19B(2) of the Act gives impounding authorities the right to unlock devices in order to impound or move them. How this works in practice should be negotiated with each operator.

2.10 Enforcement options process map



Part 3 - Council policies and resourcing

3.1 Shared bicycle policies

All councils that have dockless shared bicycles operating in their local area should consider having in place a publicly available shared bicycle policy setting out their intended approach to support these schemes and manage their impact on public land. Other impounding authorities may also wish to consider developing a policy.

In developing their own policy, councils should consider the benefits of taking a consistent approach to adjacent councils and other relevant impounding authorities. Councils may also wish to develop their policies at a regional level, through Regional Organisations of Councils (ROCs) in urban areas and Joint Organisations (JOs) in regional NSW.

The policy should address, at a minimum:

- a position on the role of shared bicycles in increasing the uptake of cycling;
- an overview of the powers available to them as an impounding authority;
- how they intend to approach their compliance and enforcement role (eg. whether enforcement will be based on complaints etc);
- an overview of the procedures which impounding officers will use when undertaking enforcement action; and
- an overview of any agreements entered into with shared bicycle operators, potentially covering issues listed in Part 4 (eg. preferred parking and parking exclusion areas, user education etc).

In drafting local shared bicycle policies, councils and other impounding authorities should also take into account a set of dockless shared bicycle enforcement principles, such as those developed during consultation sessions held in Sydney in late July 2018 including:

- **Fairness and consistency** – shared bicycle laws should be applied fairly and consistently across areas under the jurisdiction of an impounding authority;
- **Access and equity** – all members of the public should be able to benefit from the services and be protected over commercial interests. People with disabilities, such as vision impairment, should not be negatively affected;
- **Shared responsibility** – greater understanding and clear responsibilities between operators, users, councils and other impounding authorities and others;
- **Clear communication channels** – a set of practical requirements for operators and authorities to communicate and share information, including data;
- **Minimal community impacts and complaints** – proper parking protocols followed by users, less anti-social behaviour, increase in safe practices and timely response to issues;
- **Cost recovery from market regulated** – where possible, the cost of regulating shared bicycles should be born by the operators, not local communities; and

- **Environmental responsibility** – operators should be responsible for shared bicycles throughout their lifecycle, including ensuring sustainable recycling and the role of shared bicycles in sustainable modes of transport should be acknowledged.

Each council should review its policy from time to time to ensure it remains fit for purpose.

3.2 Infrastructure funding

Councils and other impounding authorities are encouraged to work with operators, the NSW Government and, where appropriate, with each other to plan and fund cycling infrastructure.

This may include developing strategies that identify priority projects as well as funding and resources for things like bicycle paths, signage and other infrastructure designating preferred parking and parking exclusion areas for shared bicycles. Councils should link the development of their policies to their Integrated Planning and Reporting (IP&R) consultation and planning processes, where possible.

Councils and other land managers in their area are encouraged to work together on developing consistent approaches to signage and parking area design. The more consistent the messaging and design, the more likely it is that users of shared bicycles will recognise it and comply.

3.3 Enforcement and cost recovery

Councils and other impounding authorities already have the function and are already able to impound vehicles, animals and other items under the Impounding Act. In the case of councils, these functions are primarily funded by local ratepayers.

It is the position of the Government, however, that wherever possible the costs of certain kinds of regulation should be borne by the market being regulated, not the councils and their local communities.

As for vehicles and other items that are impounded, the Act provides that an impounding authority can recover the costs of impounding shared bicycles by charging impounding, storage and release fees to the shared bicycle operators. In certain circumstances shared bicycles can also be sold to recover impounding costs.

The new laws also enable councils and other impounding authorities to impose penalties on any operators of shared bicycle services that breach the legislation by failing to meeting the time limits for removing bicycles (sections 19D & 19E of the Impounding Act).

If an operator fails to remove a bicycle within the legislated time limits under sections 19D and 19E, a court may impose a maximum penalty of up to \$2750. Alternatively, an impounding authority may deal with the matter by issuing a Penalty Infringement Notice (on-the-spot fine) of up to \$500.

Importantly, all fines or penalties recovered in enforcement proceedings instituted by a council, including those under the Impounding Act, are to be paid to the council to help recover the costs of enforcement, in accordance with the *Local Government Act 1993* (section 694).

As the new laws take effect and shared bicycle operators manage their businesses more responsibly, it is expected there will be fewer abandoned bicycles over time, resulting in a decrease in ongoing compliance and enforcement costs.

Part 4 - Areas for collaboration with operators

Councils and operators are encouraged to work collaboratively together on a range of shared bicycle matters not currently covered in the legislation but which build on the voluntary guidelines developed by councils in late 2017 and further refined through consultation in mid-2018.

Collaboration on the areas below may result in a further iteration of the voluntary guidelines, potentially auspiced and negotiated at a regional level, or could result in formal multilateral or bilateral agreements.

4.1 Contact details and council access to shared bicycles

Councils and other impounding authorities are encouraged to work with operators to ensure that shared bicycles are clearly identifiable as belonging to the operator and include easy to read contact details for users and broader public to contact operator directly.

Communication protocols should be developed between impounding authorities and operators on issues including:

- key contact details, including telephone and email, and updating any changes;
- special contact details for notifications and removal notices under the Act; and
- access to bicycles if impounding authorities need to swiftly move or impound them.

4.2 Preferred parking areas and parking exclusion areas

One advantage of dockless shared bicycle over the docked model is the convenience for the user of parking the bicycles at their destination without having to look for a docking station. However, this can result in parking congestion and other issues.

Councils and other land managers may wish to work with operators, and consult with their communities, to provide for preferred parking areas for shared bicycles and encourage users to park in these areas.

Collaboration and consultation on parking may extend to discouraging parking of shared bicycles in particular areas, for example, in high profile sites or where there is already congestion. This may be done by erecting signage under relevant legislation to designate particular places where shared bicycles (and indeed any bicycle) may not be parked.

Operators can assist with this by using technology to provide incentives to users to park in preferred parking areas, and geofencing to prevent users from trying to park and complete their journey in an inappropriate place.

Importantly, if an operator and a council come to a voluntary agreement specifying parking arrangements (for example, certain exclusion areas are agreed to or preferred parking areas are established), this does not mean the service is no longer a sharing service as defined by the Act. Any agreement may also extend to treatment of shared bicycles left in preferred parking areas under the laws, potentially including not taking enforcement action where they are left for over seven days.

Councils are able to apply for funding for cycling infrastructure under the Active Transport (Walking and Cycling) Program. Portal and application guidelines are here: <https://www.rms.nsw.gov.au/business-industry/partners-suppliers/lgr/active-transport/index.html>

This could include infrastructure associated with shared bicycle parking areas.

Transport for NSW recognises that many customers may wish to connect to public transport using active transport options including shared bicycles. Space for parking shared bicycles will be provided around transport hubs and Transport for NSW will work with councils and public land authorities to identify key locations across the city. The aim will be to provide a consistent experience for users of shared bicycles to maximise the likelihood that parking areas will be used.

4.3 Data sharing

Impounding authorities and operators are encouraged to negotiate the sharing of certain de-identified trip data, ideally on a quarterly basis, in order to contribute to future transport planning and infrastructure development, such as the location of preferred parking areas. The type of data shared should include the location of the start and finish of each trip and the time and date. Appropriate measures should be taken to maintain confidentiality and data security.

4.4 Avoiding shared bicycle build-up

Operators should use their best endeavours to match the supply of shared bicycles to the demand to avoid a build-up in particular locations. This may include, for example, partnering with councils to receive intelligence on bicycle build-ups in real time and monitoring usage patterns and identifying hotspots where a build-up of bicycles is likely to occur and potentially become an obstruction or a safety risk. To prevent enforcement action, it is in an operator's best interests to proactively manage their fleet of bicycles to monitor and redistribute bicycles where necessary.

4.5 Removing damaged, faulty and unsafe shared bicycles

Operators should ensure that if any of their shared bicycles are damaged, faulty or otherwise unsafe to ride, appropriate action is taken to resolve the issue. In the first instance, the bicycle in question should be disabled (remotely or otherwise) so that it cannot be accessed by a user. This bicycle should then be removed from service as soon as practicable. If it remains in the same location enforcement action could be taken.

4.6 Public liability insurance

Operators should maintain public liability insurance to a value of \$5 million and indemnify impounding officers for the areas of operation in which their shared bicycles are deployed.

4.7 User education and conduct

Operators should be encouraged to educate users of shared bicycles so they are aware of the need to comply with the *Road Rules 2014* and other requirements that apply to bicycle users. This is about ensuring their own safety and comfort as well as that of other bicycle riders and members of the public.

With that in mind, it is critical that users of dockless shared bicycles pay particular attention to safe and appropriate parking. Impounding authorities can play a valuable role in supporting users and operators to understand that users should choose to park:

- in an upright position in a location where they are not an obstruction or safety hazard;
- without interfering with pedestrian access or amenity or access to buildings;
- near the kerbside of roads and away from buildings; and
- near but not on public bike racks, leaving space for other bicycle users that need to lock their bikes to a fixed point.

Impounding authorities should also work collaboratively with operators to ensure that information they provide to their users about their conduct and safe parking is correct and also targeted to their local area. This may mean, for example, providing information to operators about preferred parking areas, parking exclusion areas as well as specific issues and risks in their local area. Taking a positive approach helps to identify what users should do, rather than specifying only inappropriate conduct.

4.8 Bicycle and helmet standards and legal requirements

Everyone has a role to play to keep bicycle riders safe and in supporting a safe cycling culture in NSW.

Each bicycle rider is responsible for ensuring that he or she rides safely, complies with the *Road Rules 2014* and obeys traffic signals and street signs. To keep as many people as possible safe, bicycle riders of all ages must always wear an approved bicycle helmet and are also encouraged to wear highly visible, bright, reflective clothing.

In addition, all bicycles that are sold or rented in NSW need to meet all applicable legal requirements, including safety standards designed to ensure that they are safe to use.

To support users of dockless shared bicycles to comply with the law, operators should ensure that:

- shared bicycles and helmets deployed and relocated always meet these standards;
- they proactively monitor and maintain their fleet and equipment; and
- they work with their users to help make sure that they know and comply with the law and report any damage or missing items.

It is important that impounding authorities do what they can to help keep bicycle riders safe. This is a key consideration in determining whether to act and, if so, what action to take under the Act. Where possible, impounding authorities should work collaboratively with operators to help keep riders safe in their area.

4.9 Shared bicycle numbers when commencing and ceasing operations

Careful, shared planning about the operation of a dockless shared bicycle service can help to ensure dockless schemes are successfully managed.

Key times to work collaboratively are when a new operator commences operations, extends their dockless service to a new area or ceases operations.

It is particularly important that, wherever possible, impounding authorities and the operators of shared bicycle services collaborate and agree on how many shared bicycles will be released and a schedule for roll out. This helps all parties to prepare for and resource their functions, minimising the risk of unnecessary community concerns.

In considering an appropriate number of bicycles:

- operators should bear in mind the long term interests of all parties in balancing transport, environment, health and other related goals as well as safe access to public spaces; and
- impounding authorities should bear in mind the commercial objectives of the service and the importance of promoting competition to an existing market, where relevant.

Equally, when it appears to an operator that they are likely to withdraw from an area or cease operations in NSW entirely, it is critical that they make all possible efforts to alert relevant impounding authorities and work closely with those authorities to ensure bicycles are removed within 15 days, or other negotiated period, after an operator ceases operation. The default position in these cases is that it is the primary responsibility of the operator to locate and take possession of their bicycles and any other infrastructure – this reduces any potential impact on ratepayers, the NSW taxpayer and private landholders of removing abandoned bicycles.

Part 5 - Further information and resources

5.1 Further information

For further information contact the Policy Team in the Office of Local Government (OLG) on (02) 4428 4100 or olg@olg.nsw.gov.au.

Further resources can be found at the links below:

- OLG has developed a number of resources that can be accessed at:
www.olg.nsw.gov.au/sharebikes
- Transport NSW provides useful information on cycling and commuting at:
<https://transportnsw.info/travel-info/ways-to-get-around/walking-cycling/cycling>
- The City of Sydney has developed a useful share bike infographic, available here:
<https://www.cityofsydney.nsw.gov.au/explore/getting-around/cycling/what-is-bike-share>
- The *Impounding Act 1993* is available here:
<https://www.legislation.nsw.gov.au/#/view/act/1993/31>
- The *Impounding Amendment (Shared Bicycles and Other Devices) Act 2018* is available here:
<https://www.legislation.nsw.gov.au/acts/2018-51.pdf>
- The *Impounding Regulation 2013* is available here:
<https://www.legislation.nsw.gov.au/#/view/regulation/2013/449>

5.2 Relevant definitions under the Impounding Act

Device - means:

- a bicycle; or
- any other thing used for transporting persons that is prescribed by the regulations as a device for the purposes of this Act.

Impounding Authorities:

- a council
- the Minister administering the Forestry Act 2012
- the Minister administering the Ports and Maritime Administration Act 1995
- the Chief Executive of the Office of Environment and Heritage
- the Minister administering the Crown Lands Act 1989
- the Rail Corporation New South Wales
- Sydney Metro
- Sydney Trains
- NSW Trains
- Residual Transport Corporation of New South Wales
- Transport for NSW
- State Transit Authority
- Sydney Ferries
- Roads and Maritime Services
- the Regulatory Authority within the meaning of the Water NSW Act 2014
- the Centennial Park and Moore Park Trust
- Royal Botanic Gardens and Domain Trust

- Parramatta Park Trust
- Sydney Olympic Park Authority,
- Venues NSW
- Local Land Services
- the Sydney Harbour Foreshore Authority
- the Sydney Olympic Park Authority
- the Western Sydney Parklands Trust
- a public or local authority prescribed by the regulations as an impounding authority for a particular place or class of places.

Leave - means leave shared device includes park a shared device.

Obstruction or safety risk - means a shared device causes an obstruction or safety risk:

- if the shared device is left in a way that causes an obstruction to traffic (whether vehicular or pedestrian), or that is likely to be a danger to road users or the public, including because it blocks access to a footpath, fire exit, lift, access ramp or stairs; or
- in any other circumstances prescribed by the regulations. (section 19D(7)).

Operator of a sharing service - means a person who carries on the business of providing the sharing service.

Public place - means a place (other than a place declared by the regulations not to be a public place) that is open to or frequented by the public:

- whether or not payment for admission to the place is required; and
- whether or not the place is usually open to or frequented by the public;

and, in particular, includes:

- any place dedicated or reserved for a public purpose; and
- a place which, although privately owned, is a place to which the public are permitted to have access for the purposes of business or leisure or to use as a thoroughfare.

Shared device - means any device that is provided for hire under a sharing service.

Sharing service - means an arrangement (including an arrangement in writing or one established through a smartphone application) under which:

- devices are provided for hire (whether or not a fee is payable);
- the devices are self-locking, or access to the devices is otherwise able to be limited, including remotely; and
- the devices are not hired from the premises of the operator of the sharing service or from a fixed docking station; and
- the devices are not required to be returned to:
 - the operator, or
 - the premises from which they were picked up; or
 - a fixed docking station; or
 - other specific premises; and
 - any other features prescribed by the regulations exist, (Section 19C).

User - means a person who hires a shared device under a sharing service.

