

23 October 2018

Ellen Blake
fyi-request-8768-99a2f898@requests.fyi.org.nz

REF: OIA-4225

Dear Ellen

Request made under the Official Information Act 1982

Thank you for your email of 26 September 2018 requesting information under the Official Information Act 1982 (the Act) regarding the recent Gazette Notice of 18 September 2018, declaring certain electric scooters (e-Scooters) not to be motor vehicles.

To provide context, the use of low-powered e-Scooters (and other low-powered devices) has been permitted in New Zealand since 2004, when the *Land Transport (Road User) Rule 2004* (the Rule) was amended. This change determined where and how 'wheeled recreational devices' (WRD), such as e-Scooters, could be used.

The Gazette notice of 18 September 2018 was an action that followed from the 2004 legislative change. The notice was designed to provide clarity around the requirements for the legal operation of e-Scooters as WRD, and give due effect to the intent of the Rule. The intent was to allow the use of WRD without the need for registration and licensing. The Gazette notice itself does not change the regulations governing the use of e-Scooters, rather it is a tool that clarifies its intended interpretation.

With regards to your specific queries, please find my response to each below:

- 1. Can you please provide what evidence was gathered that e-scooters will be safe for use on the footpath? What speed is a safe speed for footpath use? I understand the scooters can travel at 27km/hour.*

The substantive decision-making and associated research regarding the use of e-Scooters occurred in 2004 when the Rule was amended. Prior to the Gazette notice being issued, a report into the regulations and safety of low-powered vehicles was released, which addresses a number of areas including pedestrian safety. This report is available online at:

www.nzta.govt.nz/assets/resources/research/reports/621/621-regulations-and-safety-for-electric-bicycles-and-other-low-powered-vehicles.pdf.

Since 2004, crash statistics show no evidence of e-Scooters having significantly increased safety risks.

I acknowledge there have been claims that Lime e-Scooters in particular have the potential to reach speeds of up to 27kph, however the Transport Agency has been advised that this is not the case as e-Scooters have been depowered to meet the legislated wattage requirements, when necessary.

The Ministry of Transport, as the Government's principal transport policy advisor, has the primary role of developing legislation, regulations and rules. Therefore you may wish to seek further information regarding the 2004 legislative changes from the Ministry of Transport.

- 2. Can you please provide information on how a scooter user is to determine what a safe speed is, and what careful and considerate use is. How will a pedestrian know when an e-scooter is not used in such a manner and what recourse there is for pedestrians?*

During the course of decision-making leading up to the 2004 legislative change, a range of options were considered in the definition of WRD. It was decided that a combination of a watt power limit (not exceeding 300 watts), and strong behavioural rules (refer to Part 11 of the Rule) would achieve the necessary safety outcomes.

While the Rule does not define 'careful' or 'considerate' use, additional information further clarifying these expectations will soon be made publically available. I am therefore refusing this part of your request in accordance with section 18(d) of the Act as the information will soon become publically available.

Should a member of the public witness an e-Scooter being operated in a manner contrary to the requirements specified in part 11 of the Rule, it is advisable they report their concerns to the NZ Police immediately. Failure to comply with these requirements may result in enforcement action against the rider of the e-Scooter.

- 3. What monitoring and review provisions will NZTA take to ensure pedestrians remain safe on footpaths from riders of scooters and from footpath parking of scooters?*

The Transport Agency will continue to maintain oversight of e-Scooter safety through its dialogue with the regional councils and NZ Police, monitoring outcomes from the Accident Compensation Corporation (ACC) and review of crash statistics. Again, anyone riding dangerously on the footpath, cycle lane or road may be subject to Police enforcement.

- 4. Does the NZTA consider that children's toys are suitable to be fitted with electronic motors and used by children on the footpath? If not, what is to stop that use?*

It was not the intent of the Transport Agency to suggest the use of motorised children's toys as being suitable on footpaths. The purpose of this statement was to provide a recognised visual example of the type of transport mode being described, by distinguishing foot-propelled 'stand-up' scooters permitted on the footpath from 'sit-down' scooters used on the road.

Schedule 1 of the Rule specifically refers to e-Scooters being for the use of adults. Alongside this, commercial operators are restricting their use to those 18 years and older. Where e-Scooters are sold privately the majority of retailers have an age restriction in place, which is also 18 years or older.

- 5. What Standards does an e-scooter not meet, and why is it now considered appropriate for e-scooter not to meet those Standards?*

The vehicle standards, to which you are referring, are the classifications by which New Zealand defines its vehicles. Information relating to these standards is publically available in the Vehicle inspection requirements manual (VIRM), available here:

Vehicleinspection.nzta.govt.nz/virms/entry-certification/intro/i-and-c-process/id-vehicle-class.

As the information requested is publically available, I am refusing this part of your request under section 18(d) of the Act.

In accordance with the Gazette notice, an e-Scooter is declared not to be a motor vehicle provided all of the following apply:

- a. The electric scooter is comprised primarily of a footboard, two or three wheels, and a long steering handle;
- b. The electric scooter's wheels do not exceed 355mm in diameter;
- c. The electric scooter has one or more electric auxiliary propulsion motors;
- d. The combined maximum power output of the electric auxiliary propulsion motors do not exceed 300 Watts.

Again, this declaration clarifies the intent of the Rule and allows for an e-Scooter to be operated without requiring vehicle registration or a drivers' licence. Furthermore, as they are not deemed to be motor vehicles, e-Scooters are not required to meet vehicle standards as provided in the VIRM.

More information about the use of low powered vehicles is available here:

www.nzta.govt.nz/vehicles/vehicle-types/low-powered-vehicles/.

6. *Can you please provide the results of your considerable investigation into the appropriateness of allowing this exemption, including the impact of increasing the total number of vehicles declared not to be a motor vehicle?*

No further substantive research was carried out in respect of e-Scooters prior to the Gazetted notice being issued. As referenced in my response to your first question, the relevant research occurred prior to the Rule being signed in 2004 for the purpose of informing the amendment.

The total number of vehicles declared not to be a motor vehicle is not recorded.

I am therefore refusing this part of your request in accordance with section 18(e) of the Act as the document alleged to contain the information requested does not exist.

7. *Can you please advise who was consulted on this exemption? Can you please provide reasons why Living Streets Aotearoa, the New Zealand pedestrian advocacy group, was not consulted on this significant change?*

A considerable consultation period occurred during the development of the Rule changes in 2004, in which Living Streets Aotearoa participated. As the Gazette notice was clarifying this previous legislative change, further consultation was not conducted.

Under section 28 of the Act, you have the right to ask the Ombudsman to review my decision to refuse parts of your request. The contact details for the Ombudsman can be located at www.ombudsman.parliament.nz.

If you would like to discuss this reply with the Transport Agency, please contact Brigid Jenkins, Lead Advisor, by email to Brigid.Jenkins@nzta.govt.nz or by phone on (04) 9782638.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Brandon Mainwaring', is written over a light yellow rectangular background.

Brandon Mainwaring

Senior Manager Operational Policy, Planning & Performance