

From: [Jenny Lapham](#)
To: [REDACTED]
Subject: FW: Local Government Official Information and Meetings Act 1987 Request
Date: Wednesday, 13 January 2021 10:40:15 a.m.
Attachments: [E-mail.pdf](#)

Dear [REDACTED]

I refer to your request below for “for a copy of the Sue Bidrose’s email to Anderson Lloyd of 24 January 2019 requesting legal advice on ‘a number of issues relating to the operation of Lime scooters in Dunedin.’”

The Council has considered you request for a copy of the e-mail from Dr Bidrose and it is noted that this e-mail is legally privileged pursuant to section 7(2)(g) of LGOIMA and the Council does have the right to withhold this information. In considering whether or not we would withhold this information consideration was given to the public interest and if this outweighed withholding the information.

In this instance it has been decided that there is public interest in the e-mail from Dr Bidrose, seeking legal advice from Anderson Lloyd and therefore the Council has decided to waive legal professional privilege. A copy of the e-mail is attached.

Regards

From: [REDACTED]
Sent: Sunday, 29 November 2020 4:25 p.m.
To: Official Information <officialinformation@oa.dcc.govt.nz>
Subject: Typo...Fwd: LGOIMA request

Whoops - made a typo - I meant --- Please provide me with a copy of the Sue Bidrose’s email to Anderson Lloyd of 24 January **2019** requesting legal advice on ‘a number of issues relating to the operation of Lime scooters in Dunedin’.

Thanks

[REDACTED]

Begin forwarded message:

From: [REDACTED]
Subject: LGOIMA request
Date: 27 November 2020 at 8:27:01 PM NZDT
To: officialinformation@dcc.govt.nz

Kia ora

Thank you for your response to my previous LGOIMA request. The information provided has prompted another request. Please provide me with a copy of the Sue Bidrose’s email to Anderson Lloyd of 24 January 2018 requesting legal advice on ‘a number of issues relating to the operation of Lime scooters in Dunedin’.

Nga mihi

[REDACTED]

Vivienne Harvey

From: Sue Bidrose
Sent: 24 January 2019 8:31 AM
To: Michael Garbett (michael.garbett@al.nz)
Subject: Limes - legal advice please

Kia ora Michael

I need legal clarity around Limes. I kinda feel like the legal ground shifts too much, and I know there is an awkward intersection of "the CEO wants black and white but legal has nuance" but we must be able to meet somewhere!

Basically, before Christmas (and, re speed limits, after) I was told that the following was the DCC position re the legal framework for Limes, and what DCC could or couldn't do. For clarity, all of these have come in response to different questions, from different people, so it is probably not surprising they don't necessarily line up.

DCC has no regulatory powers whatsoever re Lime – all aspects apart from parking are the domain of central government. Police have the enforcement function re rider behaviour, and DCC re parked scooter issues. This I and member of my senior management have passed on to Councillors and media, until more opaque positions began to be proffered. Obviously, this has left me feeling very exposed.

DCC cannot charge a licence fee (as is done in Chch and Auckland) as our commercial use of footpaths bylaw doesn't require it (either because the company is registered overseas [but I don't understand how this impacts] or because we don't have a rule that uses wording like "selling things on footpaths"). I need clarity on this.

DCC cannot require riders to wear a helmet because it is government law and when NZTA declared scooters not to be a motor vehicle, the die was cast. More latterly, DCC could require a helmet by bylaw 'if there was an identified problem and this was the only way to fix it'. (For clarity's sake here, let's assume that when we talk about a bylaw creation or amendment, I know every time we need an identified problem and agreement the bylaw is the only way or best way to fix it – and bear in mind that at present the Police position is they have enough levers for enforcement of rider behaviour). So – can we or can't we?

We cannot ban scooters from footpaths.

More latterly, we could do a bylaw banning them from specific footpaths such as George St, as we did for the skateboards, but we cannot ban them unilaterally from footpaths.

We cannot allow them on painted-cycleways. (No-one seems to disagree with this, which is marvellous except for it being probably a good place for them to go!!)

DCC can look to impose a speed limit by bylaw (assuming there was no other way to ensure an identified problem is solved) but the lowest speed DCC is allowed to set is 20kph. But on Monday, when I asked to see this in the legislation, I got this:

I know you weren't asking me this question, but if it came up in discussion with NZTA as part of the response to Lime Scooters, the Council must set speed limits in accordance with Land Transport Rule Setting of Speed Limits 2017 (Rule 54001/2017).

Section three of that rule specifies that we may only set a speed limit as highlighted below:

"Section 3 Categories of, range of, and default speed limits

3.1 Categories of speed limit

This Rule provides for the following categories of speed limit:

(a) the default urban speed limit and the default rural speed limit:

(b) a permanent speed limit:

- (c) a holiday speed limit;
- (d) a variable speed limit;
- (e) a temporary speed limit;
- (f) an emergency speed limit.

3.2 Range of speed limits

A speed limit that is set in accordance with this Rule must be one of the following:

- (a) 10 km/h;
- (b) 20 km/h;
- (c) 30 km/h;
- (d) 40 km/h;
- (e) 50 km/h.”

The full rule is here: <https://www.nzta.govt.nz/assets/resources/rules/docs/setting-speed-limits-2017.pdf>

Michael, I am happy to give you a verbal instruction if needed but I need something clear and unequivocal.

What ARE the regulatory levers available to us at DCC (with the usual ‘here are the caveats around you doing bylaws’ stuff)? We have been clear to Councillors we have none, so we entered into the voluntary MOU to try and increase safety. But should Councillors want something else, are there options? Or was the initial advice pretty right?

Thanks
Sue

Dr Sue Bidrose
Chief Executive Officer/Kaiwhakahaere Matua
Dunedin City Council/Kaunihera-a-rohe o Otepoti

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