

From: [Jenny Lapham](#)
To: [REDACTED]
Subject: FW: LGOIMA requesting the independent legal advice options in responding and dealing with e scooters and the Lime Company
Date: Monday, 23 November 2020 03:44:23 p.m.
Attachments: [image001.png](#)
[Legal Opinion.pdf](#)

Dear [REDACTED]

I refer to your request below seeking a copy of the legal opinion referred to in a letter to the Human Rights Commission signed by the then CEO Dr Sue Bidrose.

The Council has considered your request for a copy of the legal opinion and it is noted that the Council does have the right to withhold this information pursuant to section 7(2)(g) of LGOIMA to maintain legal professional privilege. In considering whether or not we would withhold this information we also gave consideration to whether the public interest outweighs the withholding of this information.

In this instance it has been decided that there is public interest in the legal opinion and therefore the Council has decided to waive legal professional privilege. A copy of the legal opinion is attached for your information.

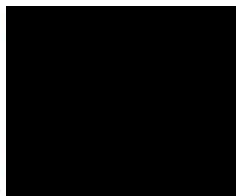
Regards

Received 27 October 2020

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Requester Details

Name:
Organisation:
Address:
Phone:
Email:



Request

Request Text

In her response of 16 September 2019 to my HRC complaint ref. 126238, Dr Bidrose wrote: "I can confirm that the Council had obtained independent legal advice regarding its options in responding to and dealing with e-scooters and the Lime Company..". Please provide me with a copy of that advice.

[Rebecca Murray](#)

**GOVERNANCE SUPPORT OFFICER
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28 January 2019

Sue Bidrose
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Dear Sue

Lime Scooters

- 1 In your email dated 24 January 2019 you requested legal advice on a number of issues relating to the operation of Lime scooters in Dunedin.

Advice

- 2 Scooters such as those operated by Lime have been declared by NZTA to not be a motor vehicle¹. This means that even though they have an electric motor, they are not deemed a motor vehicle for the purposes of the Land Transport Act 1998 (**LTA 1998**) and the relevant rules that regulate the use of roads.

Use of cycleways (Attachment 1)

Current situation

- 3 Where there is a lane or path identified for cycle use only by signage, scooters are not supposed to use them.

What Council could do

- 4 Any cycle path physically separated from the carriageway could be made into a shared use path for cycles, pedestrians and scooters.

Reasoning

- 5 The proper use of cycleways and paths is governed under the Land Transport Rule: Traffic Control Devices 2004, with appropriate signs.
- 6 Lime scooters are not allowed to use a cycle lane which is a lane on the road marked for cycles only.
- 7 "Cycle paths" are defined as being part of the road physically separated from the roadway and intended for use of cyclists. A "cycle path" can be available for the shared use of pedestrians,

¹ E-Scooters (Declaration Not to be Motor Vehicles) Notice 2018

cyclists, mobility devices and "riders of wheeled recreational devices", which we would interpret to include scooters. Shared use is supposed to be authorised by Council with proper signs².

- 8 This means under these rules to make a path available for scooter use the shared path needs to have a sign to authorise "wheeled recreational devices", as well as cycles.
- 9 The relevant rules are contained in the Land Transport (Road User) Rule 2004 (**LTR 2004**). "Cycle lane" and "cycle path" are separately defined as set out below:

cycle lane means a longitudinal strip within a roadway designed for the passage of cycles

cycle path—

- (a) means part of the road that is physically separated from the roadway that is intended for the use of cyclists, but which may be used also by pedestrians; and
 - (b) includes a cycle track formed under section 332 of the Local Government Act 1974
- 10 Rule 2.3 of the LTR 2004 prevents a driver using a special vehicle lane, unless using that class of vehicle. Where there is a "cycle lane" on the road carriageway designed for cyclists, then that is for cyclists only and scooters would breach this rule using it.
 - 11 Where there is some physical separation from the road carriageway, then that is classified as a "cycle path" and can be made available for cyclists, pedestrians, mobility devices and scooters. This does require Council to designate a shared path by signage.

Wearing helmets (Attachment 2)

Current situation

- 12 This is a Central Government issue and Council currently has no role.

What Council could do

- 13 We consider this should remain a Central Government issue which Council should not attempt to regulate.

Reasoning

- 14 The use of safety helmets on roads is regulated by the LTR 2004. This requires wearing of helmets for motorcycles, mopeds and all-terrain vehicles³ and for bicycles⁴.
- 15 There is no rule requiring helmets for other vehicles or recreational devices on roads or footpaths such as mobility scooters, skateboards or scooters.

² Rule 11.4(3)

³ Rule 7.12

⁴ Rule 11.8

- 16 We therefore conclude there is currently no regulation or rule requiring the rider of a scooter to wear a helmet.
- 17 We also consider that it is the statutory function of the Government under these road user regulations to regulate the types of vehicles on roads and the conduct of users. Council has no formal statutory enforcement powers to enforce breach of these regulations, it being a Police issue. We therefore consider it is outside Council's functions to attempt to regulate the use of helmets in any way, including in a bylaw.

Charging a licencing fee

Current situation

- 18 The current bylaws are not sufficiently wide to allow Council to charge a licence fee.

What Council could do

- 19 Council could consider widening the Use of Footpath Bylaw to licence such things as Lime scooters.

Reasoning

- 20 We conclude Council cannot currently charge a licencing fee for the use of roads and footpaths by Lime scooters.
- 21 The Dunedin City Council Roding Bylaw and the Traffic and Parking Bylaw do not appear to make any offences, nor require Lime scooters permission to park scooters on footpaths.
- 22 The Mobile Trading Bylaw is also too narrow to catch the scooters in any clear and enforceable way. That Bylaw only applies to "mobile trading" as defined and includes hawking, peddling or touting, trading from a mobile shop and trading from a store. We do not consider the ordinary meaning of these terms reasonably includes what Lime scooters are doing.
- 23 By way of comparison the Auckland City Bylaw relating to trading in public places requires any trading in a public place to be first authorised by Council, enabling Council to impose conditions and fees.
- 24 To create a charge, or licence we consider a new Bylaw would be needed.

Speed limits (Attachment 3)

Current situation

- 25 Scooters would be currently governed by the existing speed limits on roads and the offence for careless use of vehicles⁵.

What Council could do

- 26 Council could consider whether it is justified to pass a bylaw to regulate the speed of scooters in certain locations where a problem may exist.

⁵ LTA 1998, sections 8 and 37

Reasoning

- 27 As road controlling authority Council has the power to establish speed limits under section 22AB of the LTA 1998. This provides:
- (1) A road controlling authority may make any bylaw that it thinks fit for 1 or more of the following purposes:
 - ...
 - (d) for the safety of the public or for the better preservation of any road,—
 - (i) fixing the maximum speed of vehicles or of specified classes of vehicles on any road:
- 28 The Ministry of Transport in 2017 has established a Land Transport Rule that sets out a consistent procedure and rules for road controlling authorities to apply to speed limits around the country⁶. This provides that a road controlling authority can establish a range of speed limits on a road ranging from 10km/h, to 110km/h (with special approval). These increase in increments of 10km/h⁷. We therefore conclude that Council has the power to establish a speed limit for specified classes of vehicles on any road. In theory we therefore consider that there is a statutory power available for Council to consider whether a bylaw could be passed say on George Street for a scooter to not exceed 10km/h.
- 29 As you point out in your instruction you are well aware of, but we reiterate that the ability to validly pass a bylaw does depend on:
- (a) Whether there is lawful power in the first place (discussed above);
 - (b) The substance of the bylaw is justified under the Local Government Act 2002 (**LGA 2002**), and in particular determining a bylaw is the most appropriate response to the perceived problem and a bylaw is the most appropriate form and does not give rise to Bill of Rights issues⁸; and
 - (c) Bylaws made under the LTA 1998 also need to be sent to the Minister who is entitled to disallow the bylaw or any part of it⁹.
- 30 We also point out the obvious practical side of needing to consider compliance and enforcement and whether that is realistic.
- 31 From the legal point of view we are satisfied that Council has statutory jurisdiction to identify an area where scooters could be subject to a bylaw regulating their speed. Whether such a bylaw is justified to resolve a problem, and is valid would depend on an assessment of the merits of it in light of the problems and the type of response Council was providing to that problem.

⁶ Land Transport Rule: Setting of Speed Limits 2017, Rule 54001/2017

⁷ Rule 3.2 Range of speed limits

⁸ LGA 2002, section 155

⁹ LTA 1998, section 22AB(4)

Scooters on footpaths

Current situation

- 32 Scooters are entitled to ride on footpaths.

What Council could do

- 33 Council could consider whether there is a problem in certain locations to prevent scooter use on footpaths by a new bylaw.

Reasoning

- 34 You have further asked whether scooters can be banned from use of the footpath. The same answers we set out above for speed limits generally apply to use on footpaths. Council has the power in section 22AB(1)(h) of the LTA 1998 to pass a bylaw to "prescribe the use of roads and cycle tracks". There is also a catchall power that provides:

(zk) regulating any road-related matters not addressed by paragraphs (a) to (zj), including (but not limited to) enhancing or promoting road safety or providing protection for the environment.

- 35 It is also relevant to note that bylaws may apply to any specified road or any part of a specified road under Council's control, and to any specified class of vehicle using a road, or at a specified time or times¹⁰.
- 36 Council has a broad power to manage the use of roads to promote road safety and to regulate the use of all or part of the road by any specified class of vehicle.
- 37 We therefore consider theoretically Council has the power under the statute to consider a bylaw for preventing scooter use on footpaths.
- 38 Whether such a bylaw could be justified under the relevant tests under the LGA 2002 would need to be considered in light of evidence, and be proportionate to the issue identified.

Yours faithfully

Anderson Lloyd



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¹⁰ LTA 1998, section 22AB(2)

cycle—

- (a) means a vehicle that has at least 2 wheels and that is designed primarily to be propelled by the muscular energy of the rider; and
- (b) includes a power-assisted cycle

cycle lane means a longitudinal strip within a roadway designed for the passage of cycles

cycle path—

- (a) means part of the road that is physically separated from the roadway that is intended for the use of cyclists, but which may be used also by pedestrians; and
- (b) includes a cycle track formed under section 332 of the Local Government Act 1974



New Zealand Legislation

Land Transport (Road User) Rule 2004

- with search matches highlighted

2.3 Use of lanes

- (1) A driver, when driving, must not use—
 - (a) a lane that has been declared unavailable by an over-head traffic sign showing a red diagonal cross; or
 - (b) on a two-way roadway marked in 2 or more lanes, a lane on the right side of the centre line unless the driver is passing another vehicle travelling in the same direction; or
 - (c) on a two-way roadway marked in 3 lanes,—
 - (i) the lane on the right side of the roadway; or
 - (ii) the centre lane unless the driver is turning right into another roadway or a vehicle entrance or is passing another vehicle travelling in the same direction; or
 - (d) a lane to the driver's right of a no-passing line; or
 - (e) the area on the right side of a row of traffic cones or other delineators placed so that they separate traffic travelling in opposite directions; or
 - (f) a special vehicle lane reserved for a specific class or classes of vehicle unless—
 - (i) the vehicle is one of the class or classes of vehicle for which the lane is reserved; or
 - (ii) the vehicle is an emergency vehicle being used in an emergency.
- (2) A driver, when driving on a road marked in lanes,—
 - (a) must drive as far as practicable entirely within a lane except when complying with subclause 2.1(2) or when changing lanes; and
 - (b) must not move from a lane until he or she has first ascertained that the manoeuvre may be made safely.
- (3) However, a driver may drive wholly or partly in a lane that is unavailable to the driver under subclause (1) or clause 4.6(2) to (4) if—
 - (a) it is impracticable to proceed otherwise because of—
 - (i) the size of the driver's vehicle; or
 - (ii) the size of the load on the driver's vehicle; or
 - (iii) a road obstruction; and
 - (b) driving in that lane can be done safely and without impeding other traffic.
- (4) A driver may also drive wholly or partly in a lane that is unavailable to the driver under subclause (1) or clause 4.6(2) to (4) if the driver—
 - (a) drives in the lane to cross it to—

- (i) make a turn; or
 - (ii) leave a road; or
 - (iii) enter a marked lane or line of traffic from the side of the road; or
 - (iv) enter a marked lane or line of traffic from another marked lane; or
 - (v) park in a place clear of a special vehicle lane, if the lane that the driver crosses is a special vehicle lane; or
 - (vi) enter a specified stopping place or loading zone to pick up or drop off passengers or a load, if the driver is driving a passenger service vehicle or goods vehicle and the lane that the driver crosses is not reserved for a vehicle of that class; and
- (b) drives in the lane for the minimum length necessary to complete the manoeuvre and for no more than a maximum length of 50 m; and
- (c) gives way to vehicles entitled to use the lane.
- (5) A driver who is turning across a light rail vehicle lane or safety zone must not impede the progress of any light rail vehicle travelling along the same roadway in the same or opposite direction.

Compare: SR 1976/227 rr 5, 7(1A), (1B)

Clause 2.3(1)(a): amended, on 1 November 2014, by clause 7 of the Land Transport (Road User) Amendment Rule 2014 (LI 2014/285).

Clause 2.3(1)(f): substituted, on 17 January 2008, by clause 7 of the Land Transport (Road User) Amendment Rule (No 2) 2007 (SR 2008/2).

Clause 2.3(3): substituted, on 1 November 2009, by clause 7 of the Land Transport (Road User) Amendment Rule 2009 (SR 2009/253).

Clause 2.3(4): substituted, on 1 November 2009, by clause 7 of the Land Transport (Road User) Amendment Rule 2009 (SR 2009/253).



New Zealand Legislation

Land Transport (Road User) Rule 2004

• with search matches highlighted

11.1A Use of shared path

- (1) This clause applies to a path that—
 - (a) may be a cycle path, a footpath, or some other kind of path; and
 - (b) may be used by some or all of the following persons at the same time:
 - (i) pedestrians:
 - (ii) cyclists:
 - (iii) riders of mobility devices:
 - (iv) riders of wheeled recreational devices.
- (2) A person using the path—
 - (a) must use it in a careful and considerate manner; and
 - (b) must not use it in a manner that constitutes a hazard to other persons using it.
- (3) A rider of a cycle, mobility device, or wheeled recreational device on the path must not operate the cycle or device at a speed that constitutes a hazard to other persons using the path.
- (4) If a sign or marking on the path gives priority to pedestrians or cyclists, the following rules apply on the path:
 - (a) pedestrians, riders of mobility devices, and riders of wheeled recreational devices must give priority to cyclists if the sign or marking gives priority to cyclists:
 - (b) cyclists must give priority to pedestrians, riders of mobility devices, and riders of wheeled recreational devices if the sign or marking gives priority to pedestrians:
 - (c) no user may unduly impede the passage of any other user, whatever priority the sign or marking gives.

Clause 11.1A: inserted, on 1 November 2009, by clause 37 of the Land Transport (Road User) Amendment Rule 2009 (SR 2009/253).

Section 11

Traffic control devices for special classes of vehicle and road user

11.1 Provision of signs and markings

A road controlling authority that is providing a special route or setting aside a specific area of roadway for a class or classes of road user that is intended to impose restrictions on other road users must provide signs and markings as specified in 11.2, 11.3 or 11.4.

11.2 Special vehicle lanes

- 11.2(1) If defining a part of a road as a special vehicle lane, a road controlling authority must, at the start of the special vehicle lane and [after each intersection, along its length:]
- (a) mark on the road surface a white symbol, that complies with *Schedule 2*, defining the class or classes of vehicle for which the lane has been reserved; and
 - (b) if for other than a 24-hour restriction, install a special vehicle lane sign that complies with *Schedule 1*:
 - (i) defining the class or classes of vehicle for which the lane has been reserved; and
 - (ii) stating the periods for which the reservation applies.
- 11.2(2) A road controlling authority may provide the following traffic control devices to discourage use of a special vehicle lane by other vehicles, or to draw attention to the likely presence of vehicles entitled to the use of the lane:
- (a) additional white special vehicle lane symbols described in 11.2(1)(a) or signs described in 11.2(1)(b) along the length of the lane; or
 - (b) if for a 24-hour restriction, special vehicle lane signs; or
 - (c) a surface treatment that provides a contrasting colour or texture to that of adjacent lanes used by other vehicles:
 - (i) at locations along the length of the lane; or
 - (ii) along the length of the lane.

11.3 Light-rail vehicle facilities

Lanes

- 11.3(1) If a light-rail vehicle track is within, and runs parallel to, a roadway, a road controlling authority may:
- (a) separate the track from other traffic by installing a traffic island, kerbs or other physical means of channelling traffic; or
 - (b) define a special vehicle lane for light-rail vehicles by marking symbols or words defining the class and, where appropriate, installing signs conforming with 11.2(1)(b).

Safety zone

- 11.3(2) At a designated light-rail vehicle stop, a road controlling authority may provide a safety zone to warn drivers of, and provide some protection for, passengers entering or leaving the light-rail vehicle.

11.4 Facilities for cycles, wheeled recreational devices and mobility devices

Paths shared by cycles and other users

- 11.4(1) For a shared path used by cycles, a road controlling authority:
- (a) must install an appropriate sign, or combination of signs, defining the class or classes of path user, that complies with *Schedule 1*:
 - (i) at the start of the shared path; and
 - (ii) after each roadway or any other pathway with which it intersects; and
 - (iii) at the end of the shared path; and
 - (b) may install signs at other intervals along the shared path.
- 11.4(2) If pedestrians, cycles, wheeled recreational devices or mobility devices are restricted to a specific side or part of a path, or where the path is separated for users travelling in different directions, a road controlling authority:
- (a) must provide signs and appropriate markings indicating the nature of the restriction:
 - (i) at the start of the path; and
 - (ii) after each roadway or any other pathway with which it intersects; and
 - (iii) at the end of the restriction; and

- (b) may mark cycle, pedestrian, wheeled recreational device or mobility device symbols at other intervals along the path.

Cycle, pedestrian, wheeled recreational device and mobility device signs

- 11.4(3) A road controlling authority may install on the same pole a combination of signs that relate to cycles, to pedestrians, to riders of wheeled recreational devices or to riders of mobility devices.

Parking on footpaths, cycle paths or shared paths

- 11.4(4) A road controlling authority may install facilities for the parking, standing or storage of cycles, wheeled recreational devices or mobility devices on a footpath, footway, cycle path or shared path.

Control where a cycle path or shared path crosses a roadway

- 11.4(5) When a cycle path or a shared path used by cycles crosses a roadway, a road controlling authority may, as appropriate, control either the movement of users of the path or traffic along the roadway by means of stop or give-way signs or by the installation of traffic signals, in the same manner as described in 10.5 for an intersection.]

11.5 Special motor vehicle facilities

Motorways

- 11.5(1) A road controlling authority that designates a road as a motorway under *section 73 of the [Government Roading Powers] Act 1989* must erect appropriate motorway signs, described in *Schedule 1*, that clearly advises road users of the extent of the motorway designation.

Weight and dimension restrictions

- 11.5(2) If a road controlling authority restricts the use of a road, it must install, in advance of the restricted area, signs complying with *Schedule 1* that detail the extent of the restriction, so that drivers have reasonable notice of the restriction.

Special routes or zone restriction for motor vehicles

- 11.5(3) A road controlling authority that is defining a special route or zone restriction under any enactment must provide signs that comply with *Schedule 1*:
- (a) for special routes:
 - (i) in advance of the start of the route; and
 - (ii) in advance of any changes in direction and at intervals to confirm route choice[; and]
 - [(iii) at the end of the route.]
 - [(b) in advance of, at each entry point to and at each exit point from, a zone restriction.]

Road construction zones

- 11.5(4) If a road controlling authority designates a road, or any specified part of a road as a road construction zone, it must mark the boundaries of that zone by signs that comply with *Schedule 1*.

11.6 Stock traffic

The owner, or the person in charge, of stock on a road must take steps to ensure that approaching drivers are given reasonable warning of the presence of the stock, and, if a road controlling authority has required and approved a traffic control device for this purpose, must ensure that the device is installed.

11.7 Hand-held stop signs

- 11.7(1) A hand-held stop sign, other than a school patrol sign in 8.3(7), may be used only:
- (a) to control traffic for an activity approved by a road controlling authority under a traffic management plan; or
 - (b) to control traffic as part of the movement of an overdimension or overweight vehicle that is operating under *Land Transport Rule: Vehicle Dimensions and Mass 2002*.
- 11.7(2) The operator of a hand-held stop sign must control the approach of the driver of a vehicle by displaying the sign to the driver and keeping the sign displayed so that its wording is clearly visible to the driver and may, at the same time, direct vehicles that are travelling in the opposite direction to proceed.
- 11.7(3) The reverse side of a hand-held stop sign may be blank or display either the word “go” or the word “slow”.

11.8 Barrier arms

If a road controlling authority considers it necessary to control the movement of vehicles beyond a point on a roadway and considers that, to achieve this, it is desirable to use a physical barrier, the road controlling authority may install a barrier arm that:



New Zealand Legislation

Land Transport (Road User) Rule 2004

- with search matches highlighted

7.12 Safety helmets for all terrain vehicles, motorcycles, and mopeds

- (1) A person must not drive or ride on an all terrain vehicle, on a motorcycle, in a sidecar, or on a moped on a road unless the person is wearing a safety helmet of an approved standard that is securely fastened.
- (1A) However, subclause (1) does not apply in respect of the driver or rider of an all terrain vehicle if—
 - (a) the all terrain vehicle is fitted with a roll bar; and
 - (b) the driver and every rider are each—
 - (i) occupying a seat equipped with a seat belt; and
 - (ii) wearing that seat belt (unless, in the case of the driver, he or she is not required to do so under clause 7.11(3)(b)); and
 - (iii) while the vehicle is in motion,—
 - (A) wearing that seat belt correctly, so that he or she is properly restrained; and
 - (B) keeping that seat belt securely fastened.
- (2) The approved standards for safety helmets are—
 - (a) UN/ECE Regulation No 22, Uniform provisions concerning the approval of protective helmets and their visors for drivers and passengers of Motor Cycles and Mopeds (E/ECE324 –E/ECE/TRANS/505/Rev.1/Add.21);
 - (b) Australian Standard AS 1698, Protective helmets for vehicle users;
 - (c) New Zealand Standard NZ 5430, Protective helmets for vehicle users;
 - (d) Snell Memorial Foundation, Helmet Standard for use in motorcycling;
 - (e) Federal Motor Vehicle Safety Standard No 218, Motor-cycle helmets;
 - (f) British Standard BS 6658, Specification for protective helmets for vehicle users (for type A helmets only);
 - (g) Japan Industrial Standard T8133.
- (3) The approved standard in subclause (2)(e) applies only to motorcycle safety helmets that are manufactured and purchased in the United States of America.
- (4) A safety helmet must comply with the version of an approved standard for safety helmets that is—
 - (a) applicable in the relevant standard-setting jurisdiction to the date of manufacture of the safety helmet or as specified in the standard; or
 - (b) a more recent version of the standard if the safety performance of the safety helmet is not adversely affected.
- (5)

An approval of a safety helmet under the Traffic Regulations 1976 that was published in the *Gazette* before 27 February 2005 remains valid after this rule comes into force.

- (6) In proceedings for an offence of breaching this clause, proof that a safety helmet worn by the defendant did not bear a standard specification mark or a registered trademark is, until the contrary is proved, sufficient evidence that the helmet was not of an approved standard.
- (7) A safety helmet must be free from damage, wear, tear, or modifications that may adversely affect its safety.
- (8) A person is not in breach of subclause (1) if the person proves that at the time of the commission of the alleged breach he or she was an adherent of the Sikh religion.
- (9) Subclause (8) does not apply if the vehicle was being driven at a speed exceeding 50 km per hour.

Compare: SR 1976/227 r 31(1), (4), (6)

Clause 7.12(1A): inserted, on 1 June 2013, by clause 7 of the Land Transport (Road User) Amendment Rule 2013 (SR 2013/101).



New Zealand Legislation

Land Transport (Road User) Rule 2004

- with search matches highlighted

11.8 Safety helmets for cyclists

- (1) A person must not ride, or be carried on, a bicycle on a road unless the person is wearing a safety helmet of an approved standard that is securely fastened.
- (2) The approved standards for safety helmets are—
 - (a) AS/NZS 2063, Bicycle helmets; or
 - (b) EN 1078, Helmets for pedal cyclists and for users of skateboards and roller skates; or
 - (c) AS 2063.2, Lightweight protective helmets (for use in pedal cycling, horse riding and other activities requiring similar protection)—Helmets for pedal cyclists; or
 - (d) any safety helmet manufactured to the Snell standard for protective headgear for use with bicycles; or
 - (e) any safety helmet manufactured to ASTM F1447; or
 - (f) any safety helmet manufactured to the Consumer Product Safety Commission Safety Standard for Bicycle Helmets (reference 16 CFR) Part 1203, complying with the CPSC certification process.
- (3) A safety helmet must comply with the version of an approved standard for safety helmets that is—
 - (a) applicable in the relevant standard-setting jurisdiction to the date of manufacture of the safety helmet or as specified in the standard; or
 - (b) a more recent version of the standard if the safety performance of the safety helmet is not adversely affected.
- (4) An approval of a safety helmet under the Traffic Regulations 1976 that was published in the *Gazette* before 27 February 2005 remains valid after this rule comes into force.
- (5) A person riding a cycle that is towing a trailer must ensure that every person carried on the trailer is wearing a safety helmet of an approved standard that is securely fastened.
- (6) A person riding, or being carried on, a cycle on a road who is stopped by an enforcement officer must, if so requested by that or any other enforcement officer, produce for inspection by the officer the person's safety helmet or proof of an exemption granted under subclause (7).
- (7) Subclauses (1) and (5) do not apply to a person if the Agency grants the person a written exemption from the requirement to wear a safety helmet on the grounds of religious belief or physical disability or other reasonable grounds.
- (8) The Agency may at any time revoke in writing an exemption granted under subclause (7).
- (9) The Agency may, by notice in the *Gazette*, approve types of safety helmets for use under this clause.
- (10)

In proceedings for an offence of breaching this clause, proof that a safety helmet worn by the defendant did not bear a standard specification mark or a registered trademark is, until the contrary is proved, sufficient evidence that the helmet was not of an approved standard.

Compare: SR 1976/227 r 38A

Clause 11.8(2)(a): amended, on 1 November 2012, by clause 9(1) of the Land Transport (Road User) Amendment Rule 2012 (SR 2012/303).

Clause 11.8(2)(b): replaced, on 1 November 2012, by clause 9(2) of the Land Transport (Road User) Amendment Rule 2012 (SR 2012/303).

Clause 11.8(2)(c): replaced, on 1 November 2012, by clause 9(3) of the Land Transport (Road User) Amendment Rule 2012 (SR 2012/303).

Clause 11.8(7): amended, on 1 August 2008, by section 50(2) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Clause 11.8(8): amended, on 1 August 2008, by section 50(2) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Clause 11.8(9): amended, on 1 August 2008, by section 50(2) of the Land Transport Management Amendment Act 2008 (2008 No 47).



New Zealand Legislation

Land Transport Act 1998

- Warning: Some amendments have not yet been incorporated

Bylaws

Heading: inserted, on 1 December 2009, by section 8 of the Land Transport (Enforcement Powers) Amendment Act 2009 (2009 No 36).

22AB Road controlling authorities may make certain bylaws

- (1) A road controlling authority may make any bylaw that it thinks fit for 1 or more of the following purposes:
- (a) controlling, restricting, or prohibiting cruising, including (but not limited to)—
 - (i) specifying the section of road or roads on which cruising is controlled, restricted, or prohibited:
 - (ii) prescribing the period of time that must elapse between each time a driver drives on a specified section of road for the driver to avoid being regarded as cruising:
 - (b) prescribing fines, not exceeding \$1,000, for the breach of any bylaw made under this section.

Vehicle and road use

- (c) prohibiting or restricting, absolutely or conditionally, any specified class of traffic (whether heavy traffic or not), or any specified motor vehicles or class of motor vehicle that, by reason of its size or nature or the nature of the goods carried, is unsuitable for use on any road or roads:
- (d) **for the safety of the public or for the better preservation of any road,—**
 - (i) **fixing the maximum speed of vehicles or of specified classes of vehicles on any road:**
 - (ii) designating any area, where that designation will have the effect of determining the speed limit in that area:
- (e) prohibiting or restricting engine braking in any area where the permanent speed limit does not exceed 70 kilometres per hour:
- (f) prohibiting or restricting the use of vehicles on beaches:
- (g) restricting the use of motor vehicles on unformed legal roads for the purposes of protecting the environment, the road and adjoining land, and the safety of road users:
- (h) **prescribing the use of roads and cycle tracks,** and the construction of anything on, over, or under a road or cycle track:

Heavy traffic

- (i) providing for the giving and taking of security by or from any person that no special damage will occur to any road, bridge, culvert, ferry, or ford by reason of any heavy traffic:
- (j) prohibiting any specified class of heavy traffic that has caused or is likely to cause serious damage to any road, unless the cost of reinstating or strengthening the road, as estimated by the Minister or the relevant road controlling authority, as the case may be, is paid previously:

- (k) providing for the annual or other payment of any reasonable sum by any person concerned in any heavy traffic by way of compensation for any damage likely to occur as a result of the heavy traffic to any road, bridge, culvert, ferry, or ford:
- (l) providing for the establishment, in accordance with section 361 of the Local Government Act 1974, of a toll to be levied on any class of heavy traffic:

Parking

- (m) prohibiting or restricting, subject to the erection of the prescribed signs, the stopping, standing, or parking of vehicles on any road; limiting the stopping, standing, or parking of vehicles on any road to vehicles of any specified class or description; limiting the period of time that vehicles may park on any part of the road where parking is limited to such vehicles; and providing that a vehicle used for the time being for any specified purpose must be treated for the purposes of the bylaw to be of a specified class or description, whether or not the vehicle belongs to any other class or description for any other purpose:
- (n) prohibiting or restricting, subject to the erection of the prescribed signs, the parking of heavy motor vehicles, or any specified class or description of heavy motor vehicle, on any specified road during specified hours or for a period that exceeds a specified period:
- (o) prescribing the use of parking places and transport stations, which includes (but is not limited to)—
 - (i) specifying the vehicles or classes of vehicle that may be entitled to use any parking place or transport station:
 - (ii) reserving any specified parking place or transport station for use, either generally or at specified times, only by members of the judiciary, medical practitioners, members of the diplomatic corps or consular corps, or disabled persons as defined in section 2 of the Disabled Persons Community Welfare Act 1975:
 - (iii) if in the relevant road controlling authority's opinion it would be reasonable to reserve parking places or transport stations for use by persons who reside in the vicinity,—
 - (A) reserving specified parking places or transport stations for those persons to use, either generally or at specified times; and
 - (B) setting the fees that those persons must pay to the relevant road controlling authority, whether annual or otherwise, for the use of those parking places or transport stations (provided that the fees do not exceed the reasonable cost to the relevant road controlling authority of the service involved in granting a permit to park in any parking place or transport station, collecting fees, or otherwise in relation to the reserving of any parking place or transport station):
 - (iv) prohibiting or restricting parking (being the stopping or standing of a vehicle for a period in excess of that specified in the bylaws) on specified roads or part of roads in residential areas by specified classes of vehicles, either generally or at specified times, where in the relevant road controlling authority's opinion the parking is likely to cause a nuisance or danger:
 - (v) prescribing the conditions under which any parking place or transport station may be used:
 - (vi) prescribing the charges to be paid to the relevant road controlling authority in connection with the use of any parking place or transport station, as measured by parking meters or in any other manner specified in the bylaws:
 - (vii) providing for the removal of vehicles from parking places or transport stations or roads where those vehicles are using those places or stations in breach of the bylaws, and requiring the payment of the reasonable cost of such removal:

Signs and markings

- (p) providing that, subject to the erection of the prescribed signs, vehicles on roads must travel in 1 specified direction only:

- (q) prohibiting, subject to the erection of the prescribed signs, vehicles on a roadway turning from facing or travelling in 1 direction to facing or travelling in the opposite direction, or prohibiting vehicles on a road, other than vehicles of a specified class, from turning to the right or to the left:
- (r) prescribing, subject to the marking of lanes on the roadway, that on any road any traffic lane may be used or any turning movement may be made only by vehicles of specified classes or vehicles carrying specified classes of loads or no fewer than a specified number of occupants:

Livestock

- (s) prohibiting, either absolutely or conditionally, the crossing of any bridge or culvert by horses, cattle, sheep, pigs, or other animals, or vehicles and regulating the times at which or the manner in which any horses, cattle, sheep, pigs, or other animals, or vehicles, may cross or be taken over any bridge or culvert:
- (t) prescribing the routes by which and the times at which horses, cattle, sheep, pigs, or other animals, or specified classes of vehicles, may pass over any road:
- (u) prohibiting the driving of loose horses, cattle, sheep, pigs, or other animals along any road, otherwise than at the times and by the routes so prescribed, except with the permission of the Minister or of the relevant road controlling authority, as the case may be, and on the conditions that the Minister or the relevant road controlling authority, as the case may be, thinks fit:
- (v) prohibiting, either absolutely or conditionally, the driving of horses, cattle, sheep, pigs, or other animals along any road, and requiring that no horses, cattle, sheep, pigs, or other animals may be taken upon or enter any road unless they are confined within a motor vehicle:

Displays, vegetation, and access

- (w) regulating the use of any means of access constructed under section 319(1) of the Local Government Act 1974:
- (x) requiring the owner or occupier of any area of land on which a building is situated or the owner or occupier of any building or part of a building, being land or a building or part of a building to which a number has been allocated under section 319B of the Local Government Act 1974, to display that number in a position visible from the road:
- (y) regulating, controlling, or prohibiting the display or continuance of the display of posters, placards, handbills, writings, pictures, or devices for advertising or other purposes on or over public buildings or bridges, or on or over buildings, walls, fences, posts, trees, pavements, or hoardings, that are situated—
 - (i) in or on or adjoining any land or road that is the property of, or under the control of, the relevant road controlling authority; or
 - (ii) where that display is visible from a road or public place:
- (z) restricting or prohibiting the planting or erection, at or within a specified distance from corners, bends, or intersections on roads, of trees, shrubs, hedges, scrub, or other growth, or of fences or walls, that, in the opinion of the relevant road controlling authority are, or are likely to constitute, a source of nuisance or danger to traffic, and requiring the trimming or cutting down of such trees, shrubs, hedges, scrub, or other growth:
- (za) requiring any allotment in such parts of the district as are specified in the bylaws to be fenced along its line of frontage to any road and to be kept clear of noxious plants:
- (zb) prohibiting the cutting of grass for seed on roads or on any specified roads without the previous consent in writing of the relevant road controlling authority, either at all times or during any specified part of the year:
- (zc) regulating the use of, and protecting, grass plots, flower beds, and shrubberies laid out in roads or on land vested in or under the control of the relevant road controlling authority by or under the authority of the relevant road controlling authority, and protecting trees growing on any roads or on

land vested in or under the control of the relevant road controlling authority (whether or not planted by the relevant road controlling authority):

- (zd) regulating or prohibiting the construction of cellars or the making of excavations within a specified distance from any road or any adjoining land, and preventing cellars and excavations from becoming a receptacle for stagnant water or other impure matter:

Weights

- (ze) providing for—
 - (i) the weighing or measurement of vehicle loads:
 - (ii) the computation of the weight or measurement of loads from the cubical or superficial measurements of vehicle loads:
- (zf) prescribing the quantity of material that, for the purpose of a computation, may be conclusively treated as a specified weight or measurement of vehicle loads from the cubical or superficial measurements of vehicle loads:
- (zg) providing for the drivers of vehicles to—
 - (i) give information as to vehicle loads and as to the quantity, weight, size, or measurement of vehicle loads:
 - (ii) do any thing for the purpose of enabling the quantity, weight, size, or measurement of the loads to be ascertained, as may be requested by any person authorised in this regard:
- (zh) regulating the weights of vehicles or loads that may pass over bridges or culverts:

Pedlars

- (zi) prohibiting or permitting the occupation of stands or stalls (including vehicles used as stalls) by hawkers, pedlars, and keepers of mobile or travelling shops (subject, in the case of a State highway, to the prior consent of the Agency and to any conditions imposed by the Agency)—
 - (i) in roads, public places, and State highways as the relevant road controlling authority thinks fit; or
 - (ii) in specified roads or State highways or parts of specified roads or State highways; or
 - (iii) in any public place adjoining specified roads or State highways or parts of specified roads or State highways if the presence of the stall or stand is likely to cause an obstruction or a danger to traffic:
- (zj) prescribing charges in respect of any permits that may be granted in relation to matters specified in paragraph (zi):

General

- (zk) regulating any road-related matters not addressed by paragraphs (a) to (zj), including (but not limited to) enhancing or promoting road safety or providing protection for the environment.
- (2) A bylaw made under subsection (1) may apply—
- (a) to all roads, any specified road, or any part of a specified road under the care, control, or management of the road controlling authority making the bylaw:
 - (b) to all vehicles or traffic or to any specified class or classes of vehicles or traffic using a road under the care, control, or management of the road controlling authority making the bylaw:
 - (c) at any specified time or times.
- (3) A bylaw made under subsection (1) may leave any matter or thing to be regulated, controlled, or prohibited by the road controlling authority by resolution generally, for any specified classes of case, or in a particular case.
- (3A)

A relevant road controlling authority may, by resolution that is publicly notified, limit a parking place or transport station or any specified part of that parking place or transport station to vehicles belonging to or used by particular persons or classes of persons or to vehicles used for particular public purposes.

(3B) If, under subsection (3A), a parking place or transport station is limited to vehicles belonging to or used by particular persons or classes of persons or to vehicles used for particular public purposes, no person in charge of any other vehicle may allow the vehicle to stand in the parking place or transport station.

(4) **A copy of every bylaw made under this section by a road controlling authority must, within 1 week after being made, be sent by the road controlling authority to the Minister, who may at any time disallow the bylaw or any part of the bylaw under section 22AC.**

(5) Nothing in this section—

- (a) applies to any railway on, over, or across any road; or
- (b) limits any provision in this Act or any other Act, or any provision in any rules or regulations made under this Act or any other Act, regarding the regulation of traffic on roads; or
- (c) limits the power to make bylaws conferred on a road controlling authority under any other Act.

(6) In this section,—

keeper, in relation to a mobile or travelling shop, means the person by whom or on whose behalf any business is carried on by means of the mobile or travelling shop

mobile or travelling shop—

- (a) means a vehicle, whether self-propelled or not, from which goods, wares, or merchandise are offered or available for sale in the road, or from which goods, wares, or merchandise may be ordered in the road (whether or not in response to any invitation) or from which services are offered for sale in the road; but
- (b) does not include any vehicle on or from which food is sold for consumption in or at the vehicle, or any vehicle used for the purpose of transporting and delivering goods, wares, or merchandise ordered previously

parking place has the same meaning as in section 591(6) of the Local Government Act 1974

railway has the same meaning as in section 4(1) of the Railways Act 2005

transport station has the same meaning as in section 591(6) of the Local Government Act 1974.

Section 22AB: inserted, on 1 December 2009, by section 8 of the Land Transport (Enforcement Powers) Amendment Act 2009 (2009 No 36).

Section 22AB(1)(b): amended, on 11 August 2017, by section 90 of the Land Transport Amendment Act 2017 (2017 No 34).

Section 22AB(1)(c) heading: added, on 10 May 2011, by section 10(1) of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Section 22AB(1)(c): added, on 10 May 2011, by section 10(1) of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Section 22AB(1)(d): replaced, on 22 July 2015, by section 11 of the Land Transport (Speed Limits Validation and Other Matters) Act 2015 (2015 No 64).

Section 22AB(1)(e): added, on 10 May 2011, by section 10(1) of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Section 22AB(1)(f): added, on 10 May 2011, by section 10(1) of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Section 22AB(1)(g): added, on 10 May 2011, by section 10(1) of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Section 22AB(1)(h): added, on 10 May 2011, by section 10(1) of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Section 22AB(1)(i) heading: added, on 10 May 2011, by section 10(1) of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Section 22AB(1)(i): added, on 10 May 2011, by section 10(1) of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Section 22AB(1)(j): added, on 10 May 2011, by section 10(1) of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Section 22AB(1)(k): added, on 10 May 2011, by section 10(1) of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Section 22AB(3B): inserted, on 10 May 2011, by section 10(2) of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Section 22AB(6): substituted, on 10 May 2011, by section 10(3) of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

2.13 Speed limits set under previous enactment

A speed limit set for a road by a road controlling authority prior to the commencement of this Rule, including a speed limit for a road in a designated urban traffic area, remains in force until, in accordance with this Rule,—

- (a) the road controlling authority changes the speed limit;
or
- (b) the Agency changes or modifies the speed limit.

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;



New Zealand Legislation

Land Transport (Road User) Rule 2004

- with search matches highlighted

Part 5 Limits

5.1 Drivers must not exceed speed limits

- (1) A driver must not drive a vehicle at a speed exceeding the applicable speed limit (being a permanent, variable, holiday, urban, rural, temporary, or other speed limit).
- (2) The fact that a vehicle is driven at a speed that does not exceed the applicable speed limit does not excuse an alleged breach of a provision of any other Part of this rule.
- (3) A driver who drives at a speed exceeding the applicable speed limit is not in breach of subclause (1) if the driver proves that, at the time the vehicle was being driven,—
 - (a) the vehicle was being used by an enforcement officer engaged on urgent duty and compliance with the speed limit would be likely to prevent the execution of the officer's duty; or
 - (b) the vehicle was an emergency vehicle being used in an emergency and was operating a red beacon or a siren, or both; or
 - (c) the vehicle was being used (on a road subject to a speed limit of 60 km per hour or more) to convey a member of the Executive Council engaged on urgent public business, or to convey any other person authorised for the purpose by the Minister and engaged on urgent public business in the execution of the person's functions.

Compare: SR 1976/227 r 21(11)