

Proactive Release

This document is proactively released by Te Manatū Waka the Ministry of Transport.

Some information has been withheld on the basis that it would not, if requested under the Official Information Act 1982 (OIA), be released. Where that is the case, the relevant section of the OIA has been noted and no public interest has been identified that would outweigh the reasons for withholding it. *Note - N/A (see below)

Listed below are the most commonly used grounds from the OIA.

N/A - Document released in full. Some information has been marked out of scope.

Section	Description of ground
6(a)	as release would be likely to prejudice the security or defence of New Zealand or the international relations of the New Zealand Government
6(b)	as release would be likely to prejudice the entrusting of information to the Government of New Zealand on a basis of confidence by <ul style="list-style-type: none"> (i) the Government of any other country or any agency of such a Government; or (ii) any international organisation
6(c)	prejudice the maintenance of the law, including the prevention, investigation, and detection of offences, and the right to a fair trial
9(2)(a)	to protect the privacy of natural persons
9(2)(b)(ii)	to protect information where the making available of the information would be likely unreasonably to prejudice the commercial position of the person who supplied or who is the subject of the information
9(2)(ba)(i)	to protect information which is subject to an obligation of confidence or which any person has been or could be compelled to provide under the authority of any enactment, where the making available of the information would be likely to prejudice the supply of similar information, or information from the same source, and it is in the public
9(2)(ba)(ii)	to protect information which is subject to an obligation of confidence or which any person has been or could be compelled to provide under the authority of any enactment, where the making available of the information would be likely otherwise to damage the public interest
9(2)(f)(ii)	to maintain the constitutional conventions for the time being which protect collective and individual ministerial responsibility
9(2)(f)(iv)	to maintain the constitutional conventions for the time being which protect the confidentiality of advice tendered by Ministers of the Crown and officials
9(2)(g)(i)	to maintain the effective conduct of public affairs through the free and frank expression of opinions by or between or to Ministers of the Crown or members of an organisation or officers and employees of any public service agency or organisation in the course of their duty
9(2)(h)	to maintain legal professional privilege
9(2)(i)	to enable a Minister of the Crown or any public service agency or organisation holding the information to carry out, without prejudice or disadvantage, commercial activities
9(2)(j)	to enable a Minister of the Crown or any public service agency or organisation holding the information to carry on, without prejudice or disadvantage, negotiations (including commercial and industrial negotiations)

In Confidence

Office of the Minister of Transport
Chair, Cabinet Business Committee

GOVERNMENT RESPONSE TO THE REPORT OF THE REGULATIONS REVIEW COMMITTEE ON THE COMPLAINTS OF BARRY PREDDLE, JANE CARRIGAN AND THE DUNEDIN PEDESTRIAN ACTION NETWORK ABOUT THE E-SCOOTERS (DECLARATION NOT TO BE MOTOR VEHICLES) NOTICE 2018

Proposal

- 1 I am seeking approval of the Government's response to the Regulations Review Committee's (the Committee) second interim report on the complaints about the E-Scooters (Declaration not to be motor vehicles) Notice 2018 (the declaration).
- 2 The previous government was required under Standing Order 256 to respond to the Committee's report by 1 September 2023. It did not do this. As such, I am proposing that the Government responds now.

Background

- 3 In 2019, the Committee received complaints from Barry Preddle, Jane Carrigan and the Dunedin Pedestrian Action Network about the declaration. The Committee resolved to consider the complaints together.
- 4 The New Zealand Transport Agency (NZTA) made the declaration on 18 September 2018 under section 168A(2) of the Land Transport Act 1998 (the Act). This section provides a power for NZTA to declare that a vehicle or type of vehicle propelled by a motor with a maximum power output not exceeding 300 watts is not a motor vehicle for the purposes of that Act.
- 5 Declaring e-scooters not to be motor vehicles means they do not have to be registered before operating on a road, and a person does not need to hold a driver licence to ride on a road. It also allows them to be ridden on footpaths. E-scooter users must follow the requirements of the Land Transport (Road User) Rule 2004, including that they must use the device in a careful and consideration matter, give way to pedestrians and must not travel at a speed that constitutes a hazard.
- 6 The concerns of the complainants centred on a perceived lack of transparency in the declaration process, a lack of consultation by NZTA before making the declaration, and safety concerns about the use of e-scooters on footpaths.

The Regulations Review Committee findings

- 7 The Committee considered the complaints and published a first interim report in November 2021. This report:
- expressed concern that regulating the use of e-scooters solely through the Land Transport (Road User) Rule 2004 was inconsistent with promoting safe road user behaviour and may not be in accordance with the intentions of Standing Order 327(2)(a);
 - supported changes to section 168A of the Act and the introduction of stricter requirements for declaring vehicles to not be motor vehicles;
 - expressed concerns about the delays to the Accessible Streets package which was intended to address some of these issues.
- 8 The Committee published a second interim report in May 2023. This report:
- noted the Committee's disappointment with the lack of progress on Accessible Streets and resolution of the issues raised in the previous report;
 - recommended that the Government progress changes to section 168A of the Act swiftly to improve the regulation of e-scooters.

NZTA renewed the declaration in September 2023

- 9 The 2018 Notice expired on 30 September 2023. On 28 September 2023, NZTA renewed the declaration for a further five years. I am advised that as part of the renewal, NZTA undertook safety, effectiveness, compliance and enforcement reviews, and conducted public and stakeholder engagement. The process followed by NZTA was in line with proposed changes the Committee had supported in its first interim report.
- 10 In its decision to renew the declaration, NZTA noted it considered a range of factors to balance the contribution of e-scooters to an effective and efficient land transport system with safety concerns. It concluded that e-scooters continue to make a useful contribution to the land transport system, and e-scooter safety is comparable to other modes such as cycling.
- 11 NZTA also noted its intention to explore improvements to existing systems and processes for ensuring the safety of e-scooter users and pedestrians. The decision and supporting documents are available on the NZTA website.

The Government's response to the Committee recommendation

- 12 I propose that the Government's response to the Committee notes my focus on progressing the Government's 100-day commitments and that I will consider these issues in line with my ministerial priorities. It also notes NZTA renewed the declaration in September 2023 for a further five years.

- 13 Following our 100-day commitments, I will be considering and determining my road safety objectives and work programme priorities, including the land transport legislative programme. As part of this process, I will consider possible changes to the Act and regulations for the use e-scooters.
- 14 I seek Cabinet agreement to submit the attached response to the House of Representatives.

Consultation

- 15 This Cabinet paper and Government response were prepared by the Ministry of Transport in consultation with NZTA. The Department of the Prime Minister and Cabinet was informed.

Financial implications

- 16 This paper has no financial implications.

Publicity

- 17 I expect this response will generate some media interest given the recent incidences of e-scooters in the news. This will be managed through my office.

Proactive Release

- 18 I intend to proactively release this paper within 30 business days of final decisions being taken by Cabinet, subject to any redactions appropriate under the Official Information Act 1982.

Recommendations

I recommend that the Cabinet Business Committee:

- 1 **note** that in early 2019 the Regulations Review Committee received complaints from Barry Preddle, Jane Carrigan, and the Dunedin Pedestrian Action Network about the E-Scooters (Declaration not to be motor vehicles) Notice 2018;
- 2 **note** that in November 2021 the Regulations Review Committee presented its first interim report to the Minister of Transport entitled “Complaint about the E-Scooters (Declaration not to be motor vehicles) Notice 2018”;
- 3 **note** that in May 2023 the Regulations Review Committee presented its second interim report to the Minister of Transport entitled “Complaint about the E-Scooters (Declaration not to be motor vehicles) Notice 2018”;
- 4 **note** that the Government is required to respond to the report in accordance with Standing Order 256;
- 5 **note** that the previous government did not respond within the timelines under Standing Order 256;
- 6 **note** that the 2018 Notice was renewed for another five years in 2023;

- 7 **approve** the Government response, attached to this submission, to the Report of the Regulations Review Committee entitled “Complaint about the E-Scooters (Declaration not to be motor vehicles) Notice 2018”;
- 8 **invite** the Minister of Transport to present the Government response to the House.

Authorised for lodgement

Hon Simeon Brown
Minister of Transport

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TE MANATŪ WAKA MINISTRY OF TRANSPORT

APPENDIX ONE: GOVERNMENT RESPONSE TO THE REPORT OF THE REGULATIONS REVIEW COMMITTEE

PROACTIVELY RELEASED BY
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**Government Response to the
Second Interim Report of Regulations Review Committee
regarding
complaints about the E-Scooters (Declaration not to be motor
vehicles) Notice 2018**

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Presented to the House of Representatives

In accordance with Standing Order 256

Government response to Report of the Regulations Review Committee of May 2023

Introduction

- 1 The Government has considered the Regulations Review Committee's (the Committee) report (the report) on the complaints from Barry Preddle, Jane Carrigan, and the Dunedin Pedestrian Action Network about the E-Scooters (Declaration not to be motor vehicles) Notice 2018.
- 2 The response was due by 1 September 2023 but the deadline was not met by the previous government. The Government is now responding to the report in accordance with Standing Order 256.
- 3 In response to the report, the Government will explore changes to the declaration process and the regulation of e-scooters in line with its priorities. The Government also notes the 2018 Notice was renewed by the New Zealand Transport Agency (NZTA) in September 2023 for a period of five years. The Government is advised that as part of the renewal, NZTA followed a thorough process that was in line with what the Committee had previously supported in its first interim report.

Background

- 4 In 2019, the Committee received complaints from Barry Preddle, Jane Carrigan and the Dunedin Pedestrian Action Network about the E-Scooters (Declaration not to be motor vehicles) Notice 2018 (the declaration). The Committee resolved to consider the complaints together.
- 5 NZTA made the declaration on 18 September 2018 under section 168A(2) of the Land Transport Act 1998 (the Act). This section provides a power for NZTA to declare that a vehicle or type of vehicle propelled by a motor with a maximum power output not exceeding 300 watts is not a motor vehicle for the purposes of that Act.
- 6 Declaring e-scooters not to be motor vehicles means they do not have to be registered before operating on a road, and a person does not need to hold a driver licence to ride on a road. It also allows them to be ridden on footpaths.
- 7 The concerns of the complainants centred on a perceived lack of transparency in the declaration process, a lack of consultation by NZTA before making the declaration, and safety concerns about the use of e-scooters on footpaths.

NZTA renewed the declaration in September 2023

- 8 The 2018 Notice expired on 30 September 2023. On 28 September 2023, NZTA renewed the declaration for a further five years. The Government is advised that as part of the renewal, NZTA undertook safety, effectiveness,

compliance and enforcement reviews, and conducted public and stakeholder engagement.

- 9 In its decision to renew the declaration, NZTA noted it considered a range of factors to balance the contribution of e-scooters to an effective and efficient land transport system with safety concerns. It concluded that e-scooters continue to make a useful contribution to the land transport system, and e-scooter safety is comparable to other modes such as cycling.
- 10 NZTA also noted its intention to explore improvements to existing systems and processes for ensuring the safety of e-scooter users and pedestrians. The decision and supporting documents are available online at <https://nzta.govt.nz/regulatory/e-scooter-declaration-renewal-decision/>.

Recommendations and Government response

- 11 In response to the Committee's first interim report, the then Minister of Transport stated his intention to make changes to section 168A of the Act to clarify the process NZTA must follow in making a declaration, and changes to the Land Transport Rules to strengthen the regulations for e-scooter use.
- 12 In the second interim report, the Committee supported the proposed changes and recommended the government progress changes to the Act to improve the regulation of e-scooters.
- 13 The Government is focusing on the implementation of its 100-Day Plan. Following this, it will be considering and determining its road safety objectives and work programme priorities, including its land transport legislative programme. As part of this process, the Minister of Transport will consider changes to the Act and regulations for e-scooter use to encourage innovation and emerging technologies while ensuring the safety of all road users.

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TE MANATŪ WAKA MATATIA



Cabinet Legislation Committee

Minute of Decision

This document contains information for the New Zealand Cabinet. It must be treated in confidence and handled in accordance with any security classification, or other endorsement. The information can only be released, including under the Official Information Act 1982, by persons with the appropriate authority.

Government Response to the Report of the Regulations Review Committee on the Complaint about the E-Scooters (Declaration not to be motor vehicles) Notice 2018

Portfolio Transport

On 29 February 2024, the Cabinet Legislation Committee:

- 1 **noted** that in early 2019, the Regulations Review Committee received complaints from Barry Preddle, Jane Carrigan, and the Dunedin Pedestrian Action Network about the E-Scooters (Declaration not to be motor vehicles) Notice 2018 (the Notice);
- 2 **noted** that in November 2021, the Regulations Review Committee presented its first interim report to the Minister of Transport entitled “Complaint about the E-Scooters (Declaration not to be motor vehicles) Notice 2018”;
- 3 **noted** that in May 2023, the Regulations Review Committee presented its second interim report to the House entitled “Complaint about the E-Scooters (Declaration not to be motor vehicles) Notice 2018”;
- 4 **noted** that the Government is required to respond to the report in accordance with Standing Order 256;
- 5 **noted** that the previous government did not respond within the timelines under Standing Order 256;
- 6 **noted** that the Notice was renewed for another five years in 2023;
- 7 **approved** the government response, attached to the submission under LEG-24-SUB-0018, to the Report of the Regulations Review Committee entitled “Complaint about the E-Scooters (Declaration not to be motor vehicles) Notice 2018”;
- 8 **invited** the Minister of Transport to present the government response to the House in accordance with Standing Order 256.

Rebecca Davies
Committee Secretary

Attendance: see over

Present:

Rt Hon Winston Peters
Hon David Seymour
Hon Brooke van Velden
Hon Shane Jones
Hon Chris Bishop (Chair)
Hon Simeon Brown
Hon Paul Goldsmith
Hon Judith Collins
Hon Nicole Mckee
Hon Casey Costello
Hon Simon Watts
Hon Andrew Bayly
Scott Simpson, MP
Todd Stevenson, MP
Jamie Arbuckle, MP

Officials present from:

Officials Committee for LEG
Office of the Leader of the House

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Cabinet

Minute of Decision

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Report of the Cabinet Legislation Committee: Period Ended 1 March 2024

On 4 March 2024, Cabinet made the following decisions on the work of the Cabinet Legislation Committee for the period ended 1 March 2024:

Out of Scope



LEG-24-MIN-0018

Government Response to the Report of the Regulations Review Committee on the Complaint About the E-Scooters (Declaration Not to be Motor Vehicles) Notice 2018
Portfolio: Transport

CONFIRMED

Out of Scope



Out of Scope



Rachel Hayward
Secretary of the Cabinet

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