

Councillor Question Time

Question from Councillor Clark:

Given we advocated so strongly for the e-scooter trial, my observations in the last couple of weeks have been at least one in three people are not wearing a helmet. I've seen multiple people riding two on a scooter, one with a helmet and one without, sometimes an adult and a child. I've seen people going pretty fast down the footpaths, and we've seen some very public altercations on St Kilda Road and various other incidents that are all quite unpleasant. Do we have any responsibility or any work that we're doing with the police or is it solely the police's responsibility to police the safety requirements? That would be quite a significant increase on police resources to be reviewing all of the breaches that I've seen just in the last couple of weeks.

Councillor Pearl further advised that the aspect of the question relating to Council liability or safety obligations would be taken on notice. Legal advice has been received and a detailed response will be provided to Councillors.

Response:

1. Officers have collated the following responses to the questions and issues discussed: Victoria Police are the enforcement authority for the Victorian Road Rules. Council officers have worked with the Road Policing Strategy Division and Department of Transport on messaging for their members and facilitating contacts with the operators. Council officers will also respond to request for changes to speed limits, deployment locations, or temporary relocation due to police concerns as well as promotion of safe riding behaviour.

The e-scooter operators have contacted local command to provide information on their e-scooter technology and how their services will operate throughout the trial. They will also discuss with the police any recommendations for introducing speed limits in particular areas and provide information that can assist in the investigation of any police matter where an offence is committed by the user of a trial e-scooter.

2. The following advice has been received from our Risk and Compliance Advisor:

General:

- Only e-scooters that are part of the current e-scooter hire trial are permitted on Victorian local roads and shared paths;
- E-scooters are currently regulated under Victorian road rules which are enforced by Victoria Police;
- People who hire an e-scooters can only ride them on bicycle lanes, shared paths and lower speed roads (up to 50km/h) within the participating local government areas;
- Results of the current trial will help inform the Victorian Government whether any road rules need to be adjusted to accommodate the growing interest in e-scooters.

Insurance:

- The current MOU with the e-scooter operators includes a section on insurance & liability (Section 16). Without going into excessive detail, Section 16 requires the operator to hold a public liability insurance policy in respect to claims for personal injury or property damage with a sum insured of not less than \$20m. Section 16

also includes an indemnity provision covering all councils in the event that any of the participating councils is drawn into a claim arising out of the negligence of the Operator. However the Operator's liability to indemnify each of the Councils shall be reduced proportionally to the extent that any act or omission of the relevant Council, contributed to the loss or liability. Naturally, if it was established that council was negligent then council's MAV public liability policy would respond in accordance with the terms and conditions of the policy.

Safety obligations:

- Agreeing to the e-scooter trial infers that council believes that the relevant road infrastructure in CoPP is fit for the riding of e-scooters. This means that imperfections and defects that would possibly effect the riding of e-scooters have been managed in accordance with council's Road Management Plan.

Legal liability:

- Like any matter involving a personal injury, the legal system would determine who may be responsible for a personal injury on a case-by-case basis. There may be (some) possibility that the Council could be drawn into a claim however, generally any legal liability for the escooters should sit with the owner &/or operator of the e-scooters.

We have also been advised that further discussion around the framework and liability issues will be undertaken in an upcoming MAV forum.

A legal review of the agreement between Councils and the e-scooter operators was completed by the Chief Legal Counsel at the City of Melbourne prior to the signing of these agreements.

**Please note: answers to any questions in Public Question Time and Councillor Question Time which were answered at the meeting are included in the minutes of that meeting.*