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Review of the Road Transport Act 2013,
Driver and Vehicle Policy,
Customer Strategy and Technology,
Transport for NSW,
PO Box K659
Haymarket NSW 1240

Attention:
By email: RTActReview@transport.nsw.gov.au

Dear ,

City of Sydney response to Review of the Road Transport Act 2013

Thank you for the opportunity to review and provide comment on the Road Transport Act 2013.

The key issues that the City wishes to raise in its response to the review are provided in the following pages.

Should you wish to speak with a Council officer about the above, please contact Strategic Transport Advisor.

Yours sincerely,

Director
City Planning | Development | Transport

1. Overview

The City is making this submission as part of the “Review of the Road Transport Act 2013”.

The City of Sydney (“the City”) is supportive of a process that reviews the major road and transport legislation, and agrees it is appropriate to consider whether:

- the policy objectives of legislation remain valid; and
- the terms of the legislation remain appropriate for securing the objectives.

Below is a summary of matters that should be, but are not currently, addressed in the review of the Road Transport Act followed by a brief discussion of each matter raised. Comments on the issues raised in the TfNSW “Review of the Road Transport Act” document are provided in the second half of this submission.

The City considers that Transport for NSW (TfNSW) should:

- Undertake a comprehensive root and branch review of road and transport legislation. Multiple acts and regulations are inefficient for the regulated community. The aim of the broader review should be to consolidate the broad suite of transport legislation.
- As part of this broader review, expand the legislation’s objectives support implementation and achievement of the Future Transport strategy’s customer outcomes.
- Review the mechanisms available to delegate authority to persons and public authorities to install traffic control devices to ensure that local place needs are better considered during any process install or remove these devices.
- Broaden innovation from focussing on technology and the movement of motorised vehicles to consider how legislation and regulation can support better places, people walking and people riding bikes.
- Develop and implement a timetable and agenda for the broader review.

2. Issues with the review process for the Road Transport Act 2013

The City has identified several major issues with the overall review process for the Road Transport Act 2013. These include:

- The discussion paper outlines a general review process to explain how submissions will be managed, (e.g.: published unless stakeholder specifically request otherwise). However, it lacks sufficient detail about how issues will be dealt with.
- There is no timeline given for feedback on the review submissions, or if there will be any additional rounds of negotiation.
- The City considers best practice in policy review involves two stages of consultation: a process to identify issues and then a subsequent process to consider the proposed changes to address those concerns/ issues. It is unclear whether the proposed amendments to the Act be circulated prior to being provided to NSW Government.

3. Part One – What is missing from the Road Transport Act review?

This section outlines key issues that are missing from the review.

3.1 Root and branch review of road and transport legislation

There are at least five key pieces of legislation that influence the way that roads and road transport are managed:

- the Roads Act 1993
- the Transport Administration Act 1988 (amendments to the Transport Administration Act are currently before the NSW parliament to dissolve the RMS)
- the Transport Administration General Regulation 2018
- the Road Transport Act 2013
- Road Transport (General) Regulation 2013.

These five main pieces of legislation are intertwined and cross-reference one another. This is inefficient and confusing, and imposes costs on the regulated community. Managing compliance with the acts – cross matching provisions in multiple acts and regulations, assessing how they fit together, judging which provisions prevail and keeping track of what is required to comply, requires staff time and legal resources.

The reform of the Transport cluster, consistent with the desire to abolish the RMS and integrate the road agency into Transport for NSW, should also include a review of the legislative framework for the management of roads and road transport.

During Minister Constance's speech to parliament at the introduction of amendments to the Transport Administration Act he said:

This bill is about integrating transport. It is about bringing Roads and Maritime Services into the agency in an integrated, constructive way. This will enable a better strategic approach to the integration of transport for everybody in the State. With a single transport agency we will not have roads being built in one corner and transport being delivered in another without anybody talking to each other.

While integrating the RMS into Transport is a very important step towards better integrated transport for everybody – legislative reform to support this integration is also required. For example, with the current proposed amendment of the Transport Administration Act 1988 (to dissolve the RMS) what is the purpose of the Roads Act? How will the Act's functions be administered by TfNSW?

As the Independent Review of the NSW Regulatory Policy Framework¹ observed:

piecemeal changes to parts of the current regulatory policy framework will not get the Government the results we think it both needs and wants. There is an opportunity to establish a streamlined and modern framework to ensure the NSW Government is in a position to drive productivity and innovation in an environment of emerging business models and digital technology.

TfNSW should broaden the current Road Transport Act review to encompass a review of the entire package of road transport legislation and provide a timeline for this process.

¹ Regulatory Policy Framework Review Panel, 2017, NSW Regulatory Policy Framework Independent Review

3.2 Review the objectives of transport legislation and regulation

The objectives of transport legislation should be reviewed and expanded to ensure that they are consistent with the broad objectives of Government's policy, particularly objectives consistent with both improving safety, moving people and enabling successful places.

The Government has released *Future Transport* - a strategy for transport in NSW for the next 40 years. All six strategy customer outcomes (Attachment A) are relevant to the Road Transport Act and other road and transport legislation. Any review of transport legislation should take account of the strategy and ensure an act's objectives are consistent with the six Future Transport customer outcomes.

Specifically the objectives should be expanded to incorporate:

- implementing the 30 minute City
- creating a decarbonised sustainable transport system
- creating a road systems where walking and cycling is the most efficient choice for short trips
- providing a mechanism for assigning priority to different modes of transport on specified roads and keeping a register of those specified roads
- improving the equitable allocation of road space between users balancing successful places and movement efficiency
- requiring transport agencies to develop mode share targets to focus efforts on better more efficient movement of people in dense areas
- expanding road safety objectives to achieve both successful place and road safety outcomes. Safety for people walking or riding should be considered in the context of the place and should not be about separating groups with barriers, creating good outcomes for moving vehicles at the expense of the movement for other customer groups.

3.3 Review the mechanisms to delegate authority to persons and public authorities to install traffic control devices

Governance provisions of any review of road and transport legislation should devolve decision making to the appropriate government level. The current mechanisms – partly regulated by the Road Transport Act and partly managed by the Transport Administration Act, are not sufficiently sophisticated to ensure that the needs of all road users are accommodated.

The legislative provisions do not permit local government to control the road assets it owns, rather RMS (soon to be TfNSW) does via the Transport Administration Act 1988, Part 6, Division 1B, Section 52A and the *Road Transport Act 2013, Division 2 Section 122*. These provisions result in local place needs being overlooked when authorising the installation of appropriate traffic control devices.

At the recent Local Government Association annual conference the overwhelming feedback to TfNSW concerned the allocation of road space, particularly on state controlled roads. Councils felt an inability to implement changes to the road environment to provide benefits to people walking and cycling.

3.4 Broaden the scope of innovation

Regulatory innovation should be considered in the broadest context and not be restricted to issues relating to technology or vehicle technology (e.g. automated and electric vehicles). Consideration of innovation should be broadened from a narrow focus on technology and motorised vehicles to consideration of how legislation and regulation can support better place, people walking and people riding bikes.

Specifically the Road Transport Act could consider how it could support innovation such as:

- E- Bikes, bike share schemes, and last mile cargo bike hubs
- Using crowd sourced technology to enhance the performance of traffic signals and reduce delays for people waiting to cross streets
- Delegating more responsibility to local place based authorities to implement changes to streets to benefit more walking and more riding
- Reducing the complexity around mechanisms that allow road authorities such as local government agencies to trial and test innovative approaches to managing road space allocation on local streets before making longer term changes
- Legislative support for decarbonising transport by creating low emission zones for people to walk, ride bikes or drive low emission vehicles

3.5 Develop and implement a timetable and review agenda for the Road Transport Act subordinate legislation

The discussion paper acknowledges that the subordinate road transport regulations and road rules are not being reviewed. This should occur as part of the broader review of legislation discussed in Section 3.1.

4. Part Two - Comments on issues raised in the Road Transport Act Review discussion paper

4.1 Discussion paper section 5.6 – *NSW Safety and Traffic Management Regime*

This section would be improved by discussion of the way traffic management law, and regulation is spread across various pieces of legislation, e.g. Road Transport Act, Transport Administration Act and the Roads Act.

Under the current Traffic Committee delegations the Roads Authority can veto any local government decision relating to the management or operation on a road. This level of control by a state transport over a local authority should be made more consistent with the planning and land use legislation which identifies the NSW Premier as the mediator of complex issues that cannot be resolved between different levels of government.

As discussed Section 3.1, the law for the management of traffic should be consolidated into one Act. As part of this broader review governance arrangements to improve the balance between Road Authority and place agencies should be considered.

4.2 Discussion paper section 5.8 - *Compliance and enforcement regime*

Any review of the compliance and enforcement regime should focus on a risk based approach to safety, a harmonisation of penalties relative to other similar offences, and a clear articulation of the enforcement regime (how will technology be used?).

The Centre for Road Safety can develop a risk based hierarchy focussing on impact severity for safety breaches, and the Department of Justice should establish the relative penalties using their broad knowledge of enforcing penalties across NSW legislation. The Department of Justice is a well-respected, agency that can consider both the social and deterrence impacts when setting penalties.

Penalties for road offences should relate to demerit points, which are more effective in modifying behaviour than financial penalties.

4.3 Discussion paper Section 6.2 - *Connected and Automated vehicles*

The City is supportive of the Connected and Automated Vehicles plan, as long as trials or implementation of this technology is with the consent of the local government authority. Automated vehicles should not be operated or trialled on local roads without the express permission of the local government authority.

4.4 Discussion paper 6.3 - *Electric Vehicles*

Lower emissions technology has been reducing point-source emissions from transport vehicles for more than twenty years. These fleet efficiencies help offset the growth in emissions generated by higher vehicle kilometres travelled, caused by population growth (even though vehicle kilometres per capita has fallen).

The City has adopted a targets for 70% reduction in carbon emissions by 2030 (from 2006 levels) and for net zero emissions across the LGA by 2050 as part of its contribution to Australia meeting the Paris Agreement targets. Transport remains one of the key contributors to emissions, along with buildings.

It is possible that by 2030 half of new vehicle sales are electric, and by 2050 most vehicles are powered by sustainable sources and produce zero emissions from their operations. With the view to this potential accelerated transition, the City has the opportunity to shape and prepare its future responses. This will ensure any transition supports broader City liveability, sustainability, productivity and inclusion outcomes. Streets make up the bulk of the public domain in the City of Sydney, and currently most street space has been allocated to the movement or storage of private vehicles. In the current and future City Centre (and LGA more broadly), allocating space and priority to private vehicles, including electric vehicles, creates a less productive and less liveable city.

Provision for electric vehicles must consider the broader need to make more space for people. Charging facilities at the kerb, in centres and on residential streets should be prohibited – it should occur off-street.

4.5 Discussion paper 7.4 - Future Services

Mobility as a Service needs to be outcomes driven, not about pricing and the market economy. Without sufficient regulation any reduction in road space usage occurring through mode shift could be taken up by ride hailing services constantly circulating on local roads.

4.6 Discussion paper 7.5 - Mobile phones

Any approach to the use of mobile phone by road users while driving should be consistent with the Safe Systems approach. Regulating drivers is one approach, but it needs to be supported by other elements of Safe Systems such as vehicles, and the road environment. Interlock devices were designed to prevent people convicted of a drink driving offence being able to drive when alcohol was detected in their breath. There could be similar innovations that can restrict unsafe use of mobile phones while driving.

Appendix A

