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The Hon. Jo Haylen, MP
Minister for Transport, NSW

Submitted via: Have Your Say - NSW Portal

Dear Minister Haylen,

Dungog Shire Council Submission on the Roads Act 1993 review issue paper

Dungog Shire Council welcomes the opportunity to provide feedback on the issues paper released by Transport for NSW regarding the review of the *Roads Act 1993* (the Act). We support efforts to modernise the legislative framework for road and street management and appreciate the recognition that roads must serve multiple functions beyond vehicle traffic.

Dungog Shire Council endorsed this submission at its Ordinary meeting on 19 March 2025

This submission highlights key areas where improvements to the Act can enhance decision-making, streamline road categorisations, and better support local councils in managing road infrastructure effectively.

Road Categorisation

Dungog Shire Council manages an extensive local road network that is critical for connectivity, economic development, and community access. However, the current road categorisation system under the Act is unclear, inconsistent and unfair, creating challenges in determining responsibilities and securing adequate funding.

Council supports Transport for NSW's proposal to introduce a streamlined, data-driven categorisation system that allows for continuous evaluation rather than periodic reviews. However, clear, consistent and equitable criteria must be established in close consultation with councils to avoid subjective assessments and unnecessary delays.

Dungog Shire Council has encountered challenges in navigating the existing categorisation system, particularly due to the overlap between legal, functional, and administrative categorisations. We recommend that the Act review:

- Clearly define the distinction between state, regional, and local roads within the legislation.
- Establish a rapid, transparent process for councils to propose road categorisation changes.
- Align the statutory categorisation system with administrative funding arrangements to ensure consistency.

Importance of Bridges

Dungog Shire Council notes the lack of attention given to the role of bridges in the issues paper.

Dungog Shire Council strongly recommends the review explicitly address the management, maintenance, and replacement of bridges across NSW. With 6,283 road bridges State-wide, the review should align with its broader objective of ensuring coherence in the administration and regulation of roads and bridges.

Council urges the NSW Government to integrate bridge management into the framework of the review to improve long-term planning, funding, and preservation efforts, particularly for heritage-listed structures.

Delegation and decision-making

Dungog Shire Council acknowledges recent improvements, such as the Temporary Delegation to Councils for low-risk street improvements. However, the broader delegation framework remains complex and reliant on workarounds. The current delegation process, which interacts with multiple legislative instruments, slows down decision-making and creates unnecessary administrative burdens for councils.

To improve operational efficiency, Council recommends:

- Strengthening coordination between Transport for NSW and councils to align road management with regional development objectives.
- Providing more consistent and equitable funding for local roads to reduce reliance on competitive grant programs.
- Long-standing administrative practices, such as the Delegation to Councils, be formally integrated into the Act to reduce reliance on temporary instruments.

Opening and Closing Roads

Key Issues

The Process for Closing a Public Road is Overly Complex

- Rural roads with little public use should be subject to a simplified closure process.
- Current requirements for consultation, ministerial approvals, and administrative processes create unnecessary delays for councils seeking to close underutilised roads.
- A "low-impact closure" category should be introduced to streamline minor road closures without excessive regulatory hurdles.

Ownership and Use of Closed Roads Needs Greater Flexibility

- When councils close roads, land ownership often defaults to the Crown, limiting opportunities for local repurposing.
- Councils should retain ownership of closed roads for community benefit, including open spaces and commercial uses OR allow the sale of property to adjoining landowners, which is consistent with exiting permissions.

Road Opening and Dedication Should be More Responsive to Local Needs

- Councils should have a faster process to open roads when clear local benefits exist.
- Road dedications should be accompanied by appropriate funding support to prevent councils from inheriting unfunded liabilities.

Improved Processes for Temporary and Seasonal Road Closures

- Councils need a streamlined mechanism for temporary closures due to flooding, bushfires, or seasonal conditions.

Proposed Amendments:

- Introduce a "low-impact closure" category allowing councils to close minor local roads without requiring ministerial approval.
- Ensure councils retain ownership of closed roads, for community purposes or potential sale, unless required for state-managed functions.
- Establish clear provisions for temporary and seasonal road closures.

Road Boundaries, Widening, and Adjustments

Key Issues

Road Boundary and Widening Processes Are Bureaucratic and Slow

- Councils should have greater authority to realign road boundaries without unnecessary delays.

Road Level Adjustments Must Consider Rural Flood Resilience

- Greater flexibility should be provided for councils to raise road levels to mitigate flooding risks.

Clarifying Compensation Rules for Road Boundary and Level Changes

- Compensation rules should be streamlined to prevent disputes and excessive legal costs for councils.

Simplifying Land Acquisition Processes for Road Modifications

- Councils should have the authority to acquire land for road widening and realignment without requiring ministerial approval.

Proposed Amendments:

- Introduce a fast-track process for road boundary adjustments.
- Permit councils to alter road levels for flood resilience without excessive regulatory burdens.
- Clarify compensation rules to reduce legal disputes.
- Streamline the land acquisition process for council-driven road projects.

Road Authorities and Road Work Powers

Key Issues

Local Councils Should Have Greater Autonomy Over Regional and Local Roads

- Reduce state oversight on minor roadwork decisions affecting Regional and Local Roads.
- Councils should have the final say on key matters currently requiring Transport for NSW approvals, including:
 - Deviations or alterations of classified roads.
 - Approval for works above \$2M on any Public Road.
 - Consent to undertake traffic control on classified roads.
 - Approval for works and structures on classified roads.
 - Approval for road events.

Funding for Maintenance of Local Road Works is Insufficient and Inequitable

- Councils without State Roads should receive supplementary state funding to maintain critical infrastructure.

Utility and Developer Responsibilities Should be Strengthened

- Utility providers must be held accountable for properly restoring roads after infrastructure work.

Tree Management and Council Indemnity

- A clause should be introduced to provide councils with indemnity regarding naturally self-sown trees.

Proposed Amendments:

- Recognise councils as the primary decision-makers for Local Roads.
- Provide dedicated state funding support for councils without State Roads.
- Ensure utility providers restore roads after infrastructure work.
- Introduce indemnification for councils regarding naturally self-sown trees.
- Expand council autonomy over classified regional road approvals.

Protection of Public Roads

Key Issues

Heavy Vehicle and Agricultural Machinery Damage Needs Better Regulation

- Introduce a "Freight Impact Levy" requiring industries using council roads for heavy transport to contribute to maintenance costs.

Councils Need Greater Enforcement Powers Against Road Damage

- Strengthen penalties for illegal road use, dumping, and unauthorised modifications.

Improved Clarity on Compensation for Minor Works

- Clarity is required around the process for compensation when undertaking minor works such as cleaning out a drainage channel or flattening a batter into a property.

Clarification of "sand, soil and other matter"

- The section should be reworded as "removal of debris and material" and specify whether it includes trees.

Clearer Process for Road Protection Enforcement

- The process for enforcing road protection regulations e.g. unauthorised works, placement of structures that interfere with road safety, illegal dumping, unauthorised heavy vehicle usage etc. is unclear and can be misleading.

Proposed Amendments:

- Establish a "Freight Impact Levy" for industries relying on council roads for heavy transport.
- Strengthen penalties for unauthorised road use and damage.
- Clarify justifiable compensation processes for minor roadworks.
- Reword "sand, soil and other matter" for clarity and specify whether trees are included.
- Provide clear procedural guidance for enforcement measures.

Regulation of Works, Structures, and Activities on Roads

Key Issues

The Approval Process for Roadworks and Infrastructure is Overly Bureaucratic

- Councils should be able to approve minor road modifications without state intervention.

Stronger Powers to Enforce Compliance by Utility Providers and Developers

- Private developers should be required to restore roads to pre-existing conditions.

Definition of a Special Crossing

- The definition of "special crossing" should be clarified in clear terms to aid public understanding.

Public Gates and Ramp Requirements Need Clearer Definition

- The Act should provide better guidelines on the placement, design, and safety requirements for public gates and ramps.

Proposed Amendments:

- Simplify approvals for minor council-led roadworks.
- Ensure third parties restore roads after excavation.
- Provide a clearer definition of "special crossing."
- Clearly define the maintenance responsibilities for "special crossings", public gates and ramps
- Introduce specific requirements for placement, design and safety for public gates and ramps.

Interaction of Rail Crossings and Road Reserves

Key Issues

- Under Section 100 of the Roads Act 1993, railway authorities are responsible for maintaining railway bridges, level crossings, and the road surface beneath railway infrastructure.
- Councils are often unable to undertake even minor road works within the railway corridor and must engage a railway-approved contractor, which results in significantly higher costs.
- This requirement places a financial burden on councils, particularly in rural areas where small-scale road repairs or reconstructions near rail infrastructure become cost-prohibitive.
- The approval and coordination process with railway authorities is lengthy and complex, often delaying essential road maintenance.

Proposed Amendments

- A more efficient approval pathway should be established for councils carrying out routine maintenance and reconstruction near rail crossings.
- A cost-sharing arrangement must be introduced to ensure that railway authorities contribute to road maintenance where their infrastructure and legislation impacts council-managed roads.
- The Roads Act must include a provision requiring railway authorities to respond to council roadwork applications within a defined timeframe, reducing unnecessary delays in road maintenance programs.

Road Safety and Environmental Regulations

Key Issues

- The Biodiversity Conservation Act 2016 and related environmental regulations often delay essential road maintenance and safety improvements.
- Councils face challenges in clearing vegetation for sight distance improvements, managing overgrown areas for bushfire risk reduction, and removing hazardous trees or obstructions on road reserves.
- The conflict between road safety priorities and biodiversity regulations creates inefficiencies, particularly when councils must seek multiple approvals for works that should be routine.
- There is no clear legislative framework prioritising road safety over biodiversity obligations, leading to delays that can compromise public safety.

Proposed Amendments

- The Roads Act should take precedence over the Biodiversity Conservation Act where public safety is at risk.
- Legislative amendments should streamline the approval process for councils conducting vegetation clearing and risk reduction works on road reserves.
- A clear exemption for road safety works should be established, ensuring that necessary maintenance activities can proceed without unnecessary environmental approvals.
- State government agencies should be required to respond to council applications for environmental approvals within a set timeframe, preventing excessive delays in urgent safety works.

Utility Provider Consultation with Councils

Key Issues

- Utility providers (e.g. power, telecommunications, water, and gas companies) frequently install or replace infrastructure within road reserves without prior consultation with councils.
- The lack of coordination leads to inefficiencies, increased costs, and, in some cases, damage to council-maintained roads and footpaths.
- Councils often find out about new infrastructure (such as power poles or communication towers) only after installation, limiting opportunities to ensure proper placement and mitigate impacts on road users.
- Existing legislation does not provide a clear mandate for utility providers to consult councils before undertaking new installations or major replacements.

Proposed Amendments

- The Roads Act should be amended to require utility providers to notify and consult councils before installing or replacing infrastructure within road reserves.
- A mandatory notification period should be introduced, giving councils sufficient time to assess the impact of proposed works on traffic, road safety, and maintenance.
- Utility providers should be obligated to restore roads, footpaths, and other affected infrastructure to the condition prior to works, ensuring councils do not bear additional repair costs.
- A formal consultation mechanism should be established, ensuring councils have a say in infrastructure placement to avoid unnecessary disruption to public spaces and road reserves.

Conclusion

Dungog Shire Council appreciates the opportunity to contribute to this important review. We urge Transport for NSW and the NSW Government to consider the specific challenges faced by regional councils in managing critical infrastructure. The Act must evolve to support efficient road planning, clear decision-making responsibilities, and sustainable funding models for all road authorities.

We look forward to further engagement on this review. Should you require further details, please do not hesitate to contact Trevor Ryan, Director Planning and Environment at Dungog Shire Council.

Yours sincerely,


Gareth Curtis
General Manager
Dungog Shire Council