

Section 4.5 Roles and Responsibilities – eg delegations, operation of the traffic committee, special events etc.

Councils have traditionally applied, installed or modified regulated traffic control devices (*prescribed traffic control device*) on public road through the operation of its Local Traffic Committee LTC. These actions have applied to the consideration of traffic control lines & signs, local area traffic management and temporary works within and the closure of roads to facilitate special events.

*Note: A prescribed traffic control device is defined within the Road Transport Act 2013 which also defines that a **traffic control authority** means—*

(a) Transport for NSW, or

(b) the Commissioner of Police, or

(c) any other person (or person belonging to a class or description of persons) prescribed by the statutory rules for the purposes of this definition.

The regulation of traffic, in regard to the authority of the LTC, is delegated to Councils from Transport for New South Wales TfNSW subject to their operational guidelines. The LTC may recommend or support actions but has no authority to approve or implement. The LTC activity is restricted to local roads.

In recent times the Instrument of Delegation “TRAFFIC MANAGEMENT AND PEDESTRIAN WORKS TEMPORARY DELEGATION TO COUNCILS No.2 (*Roads Act 1993, Road Transport Act 2013*), has enabled Councils to directly determine traffic regulatory matters outside of the LTC process, subject to the conditions of that instrument. The subject matters are:

- a) Works to regulate parking;
- b) Pedestrian crossings;
- c) Pedestrian refuges;
- d) Conversion of existing pedestrian ('zebra') crossings to raised pedestrian ('wombat') crossings;
- e) Footpaths and continuous footpaths;
- f) Temporary or permanent works to enable alfresco dining;
- g) Temporary or permanent works to improve or expand footpaths or pedestrian space;
- h) Kerb buildouts to reduce crossing distance or manage vehicle speed;
- i) Kerb modifications or median islands for tree planting, landscaping or water sensitive urban design;
- j) Treatments to manage vehicle speed including road humps, road cushions, raised intersections, chicanes and slow points;
- k) Works to create (but not remove) bicycle parking, bicycle lanes, bicycle paths, shared paths, separated footpaths and contra flow access for bicycle riders.

Council must advise its LTC of actions under this delegation or could retain the process of utilising the LTC to evaluate and recommend.

A notable omission from the above relates to special events that required traffic management or temporary road closures. Traffic regulation associated with Special Events involving local roads is again delegated to Council via the LTC process, but in accordance with the TfNSW “GUIDE TO

TRAFFIC AND TRANSPORT MANAGEMENT FOR SPECIAL EVENTS” which in turn relies on the *Roads Act 1993* Part 8 sections 114 & 115:

115 Roads authority may regulate traffic in connection with road work etc

- (f) *for the purpose of enabling a public road to be used for an activity in respect of which a permit is in force under Division 4 of Part 9*

Part 9 Division 4 Road Events

144 Permits for road events

- (1) *A roads authority may grant a permit to any person to conduct a road event on a public road.*
- (2) *A permit may not be granted with respect to a classified road except with the consent of TfNSW.*
- (3) *A permit may not be granted with respect to an activity for which an approval is required under section 115 of the [Road Transport Act 2013](#) unless such an approval is in force.*

(Note: Section 115 of the Road Transport Act refers to road races.)

Councils, at present, regulate traffic when associated with works in local roads pursuant to Section 115 of the Roads Act 1993, sometimes in a similar way to that required to facilitate special events. Traffic Control associated with road works does not proceed through the LTC process.

Summary:

The process of regulating traffic on public roads, which are under the care and control of Local Government, is convoluted by the various sections of the Roads Act 1993, the Road Transport Act 2013 and the TfNSW delegations and guidelines established to provide navigational aids. The review of the Act may provide an opportunity to establish clearly the road network that is controlled by Local Government and empower Local Government to apply regulatory traffic controls on those roads in accordance with accepted design standards.

Part 8 Regulation of traffic by roads authorities

Division 1 General powers

114 Roads authorities may only regulate traffic in accordance with Part

A roads authority may not regulate traffic on a public road otherwise than in accordance with this Part.

115 Roads authority may regulate traffic in connection with road work etc

- (1) A roads authority may regulate traffic on a public road by means of barriers or by means of notices conspicuously displayed on or adjacent to the public road.
- (2) The power conferred by this section may be exercised by TfNSW for any purpose but may not be exercised by any other roads authority otherwise than—
 - (a) for the purpose of enabling the roads authority to exercise its functions under this Act with respect to the carrying out of road work or other work on a public road, or
 - (b) for the purpose of protecting a public road from serious damage by vehicles or animals as a result of wet weather, or
 - (c) for the purpose of protecting earth roads from damage caused by heavy vehicles or by animals, or
 - (d) for the purpose of protecting members of the public from any hazards on the public road, or
 - (e) for the purpose of protecting vehicles and other property on the public road from damage, or
 - (f) for the purpose of enabling a public road to be used for an activity in respect of which a permit is in force under Division 4 of Part 9, or
 - (g) for a purpose for which the roads authority is authorised or required, by or under this or any other Act or law, to regulate traffic.
- (3) A roads authority may not restrict the passage of heavy vehicles or animals along the roadway of an earth road unless clear side tracks have been provided for their passage.
- (4) A person—
 - (a) must not, in wilful contravention of any such notice or in wilful disregard of any such barrier, pass along, or cause any vehicle or animal to pass along, a length of public road, and
 - (b) must not damage, remove or otherwise interfere with a notice or barrier erected for the purposes of this section.

Maximum penalty—10 penalty units.

- (5) It is the duty of a roads authority by which a notice or barrier has been erected under this section to remove the notice or barrier if there is no longer any need to regulate traffic for the purpose for which the notice or barrier was erected.

Division 4 Road events

144 Permits for road events

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ROAD TRANSPORT ACT 2013 - SECT 115

Races, attempts on speed records and other speed trials

115 Races, attempts on speed records and other speed trials

(cf STM Act, s 40)

(1) A person must not organise, promote or take part in--

- (a) any race between vehicles on a road, or
- (b) any attempt to break any vehicle speed record on a road, or
- (c) any trial of the speed of a vehicle on a road, or

(d) any competitive trial designed to test the skill of any vehicle driver or the reliability or mechanical condition of any vehicle on a road,

unless the written approval of the Commissioner of Police to the holding or making of the race, attempt or trial has been obtained.

: Maximum penalty--30 penalty units (in the case of a first offence) or 30 penalty units or imprisonment for 9 months or both (in the case of a second or subsequent offence).

(2) The Commissioner of Police may--

- (a) grant or refuse approval to the holding or making of a race, attempt or trial referred to in subsection (1), and
- (b) impose any condition (whether of general or limited application) on the approval that the Commissioner considers necessary in the interests of public safety and convenience.

Note : Part 7.8 allows a person aggrieved by a decision of the Commissioner of Police under this section to appeal to the Local Court against the decision.

(3) A person taking part in (or the organiser or promoter) of any race, attempt or trial referred to in subsection (1) must comply with any condition imposed on an approval granted under subsection (2) in respect of the race, attempt or trial.

: Maximum penalty--20 penalty units.

(4) If a person is convicted by a court of an offence against this section in relation to a motor vehicle or trailer--

- (a) except as provided by paragraph (b)--the person is disqualified from holding a driver licence by the conviction and without any specific order of a court for 12 months, or

(b) if the [court](#) at the time of the conviction thinks fit to order a shorter or a longer period of disqualification--the person is disqualified from holding a [driver licence](#) for the period specified in the order.

Note : [Section 207](#) provides for the effect of a disqualification (whether or not by order of a court).

(5) Any disqualification under this section is in addition to any penalty imposed for the offence.

(6) This section does not apply to any test of the slow running of a [vehicle](#).

Part 5.3 Traffic control and monitoring

Division 1 Interpretation

121 Definitions (STM Act, s 50)

In this Part—

camera device means a device that is capable of taking photographs (whether or not in the form of digitised, electronic or computer-generated images).

dimension, in relation to a vehicle, means the length, width or height of the vehicle.

installation of a prescribed traffic control device includes the painting or formation of any marks or structure that constitute, or form part of, the device.

maximum dimension requirement, in relation to a vehicle, means a requirement concerning a maximum dimension for the vehicle.

prescribed traffic control device means a sign, signal, marking, structure or other device to direct or warn traffic on a road (or part of a road) that is prescribed by the statutory rules for the purposes of this definition.

speeding offence means an offence against this Act or the statutory rules of failing to obey a speed limit (including an average speed limit calculated in accordance with Division 3), and includes—

- (a) an offence against the [Heavy Vehicle National Law \(NSW\)](#) or the regulations in force for the purposes of that Law where the speed at which a heavy vehicle has travelled is relevant for the purpose of establishing that the offence has been committed, and
- (b) a speed limiter offence.

traffic control authority means—

- (a) Transport for NSW, or
- (b) the Commissioner of Police, or
- (c) any other person (or person belonging to a class or description of persons) prescribed by the statutory rules for the purposes of this definition.

Division 2 Use of prescribed traffic control devices

122 Appropriate authority for the purposes of this Division (STM Act, s 51)

For the purposes of this Division, a person has appropriate authority to install or display (or to interfere with, alter or remove) a prescribed traffic control device if—

- (a) the person is a public authority that has been directed by Transport for NSW under Part 2A, Division 3 of Schedule 1 to the [Transport Administration Act 1988](#) to install or display (or to interfere with, alter or remove) the device, or
- (b) the person is authorised in writing by Transport for NSW to install or display (or to interfere with, alter or remove) the device, or

(c) the person is permitted or required to remove the device by or under section 124.

Note.

Part 2A, Division 3 of Schedule 1 to the [Transport Administration Act 1988](#) enables Transport for NSW to give certain public authorities directions in respect of safety and traffic management.