Better Streets

ABN: 91 778 269 030

28 March 2025

Submission to Review of the *Roads Act 1993*

The opportunity to provide a submission on the review of the *Roads Act 1993* is very welcome. Better Streets Australia recognises the importance of updating the Act to cover all road users.

An updated Act is needed to provide the framework that supports growing programs of actions to prioritise people walking and using lower-speed active travel choices including bikes and e-powered micromobility modes. These actions will reduce the reliance of NSW people, communities and businesses on motor vehicles and reduce injuries and fatalities on our roads.

The following response provides information on the Better Streets organisation and our goals; responds to relevant questions posed by the Issues Paper, referencing global examples of best practice; and provides an example of the negative impacts on active transport outcomes resulting from the application of part of the Act in its current form.

Better Streets Australia

Better Streets is the nation's peak body advocating for the faster creation of safe, healthy, people-friendly and climate-friendly streets in communities across all areas of Australia. Our affiliated policy experts, planning advisers and communicators liaise with media, other advocates, community groups and businesses to help shape strategies and programs that lead to better streets in all places where people live, work and play.

Vision

The Better Streets **vision** for Australia is that our streets make people of all ages and abilities feel welcome, safe, and comfortable to walk, ride and rest.

Streets play a crucial role in enhancing our quality of life. They serve as connectors between places, facilitate social interaction and contribute to the overall aesthetic and functionality of a community.

Well-designed streets make it easier for people to walk and engage in other outdoor activities, leading to improved physical and mental health outcomes. Streets that prioritise

public transport, walking and bike-riding enable people to reduce their reliance on cars, thereby decreasing vehicle emissions and improving air quality.

Mission

The Better Streets **mission** is to actively advocate for governments at all levels – Federal, State, Territory and local – to adopt our five key recommendations (see below) and to significantly increase funding and delivery priorities for infrastructure and other initiatives that support better streets for all.

We believe that these changes are not only essential for creating a more sustainable, healthy and equitable Australia, but are also completely achievable through the application of better ideas, better engagement and better actions.

Recommendations

Better Streets Australia makes five key **recommendations** to Federal, State, Territory and local governments.

Get kids active

Set lifelong healthy habits and reduce local traffic, by enabling 75% of school children to walk, ride or take public transport.

Slow vehicles down

Make local streets and shopping precincts safer and quieter with 30 km/hr speed limits.

Boost local businesses

Support local businesses by improving streetscapes, so that people enjoy getting out and about – and spending – in their neighbourhood.

Make more crossings

Make it easy and convenient to walk and cross the street in any neighbourhood.

Provide transport choices

Make it easy and safe to ride by building a connected, direct and convenient cycling network for people of all ages and abilities.

Responses to Issues Paper questions

Questions 4.1

a. *How could the Act be changed to enable more community uses for roads and streets? (select all that apply)*

    - *Define the different objectives for roads and streets*

The Act should clearly distinguish between the roles of thoroughfares (for traffic movement) and community streets (for local activity and amenity). As an example of the latter, Barcelona's 'Superblocks' clearly define some streets primarily as community spaces, significantly enhancing pedestrian and cyclist activity by limiting through traffic and repurposing street space for playgrounds, greenery and cafés.

- *Include outcomes for safety, public health and the environment in the objects of the Act*

Explicitly including these outcomes will provide a legislative tool for councils to use in prioritising interventions that support active travel and community use. As an example of the kind of changes that local government can effect, Paris' ambitious Plan Vélo prioritises cycling infrastructure as a direct method to improve public health, reduce pollution and enhance road safety, resulting in the accelerated delivery of an extensive network of cycle paths and car-free streets.

- *Simplify the types of roads and streets defined in the Act*

Simplification can empower local government to more easily implement modal filters and low-traffic neighbourhoods (LTNs). London's LTNs have been enabled by the availability of simplified street classifications, enabling the rapid transformation of residential roads into safer, more pleasant environments, dramatically reducing traffic volumes and speeds, and encouraging active travel.

- *Include desired outcomes for the design and operation of local streets and civic spaces*

Including explicitly desired outcomes can guide infrastructure and operational decisions, promoting designs like Amsterdam's 'woonerfs' – literally, living streets — places designed explicitly as shared spaces, which enhance pedestrian priority and community interactions, reducing vehicle speeds and increasing safety.

- *Other (please specify)*

Reforms to the Act are needed to:

- Enable **temporary road closures and/or seasonal community-use provisions**. These would be similar to New York City's Summer Streets program, where large arterial roads (e.g., Park Avenue) are periodically closed to motor vehicles, creating temporary public plazas and safe cycling routes

- Provide **statutory support for tactical urbanism projects**, allowing the rapid trial or pilot adaptation of street layouts, inspired by Milan's 'Strade Aperte' ('open streets') program, which rapidly converted roads into cycling and pedestrian areas during COVID-19.

b. *How can safety be better considered in the planning, administration and management of roads?*

Safety should be embedded in planning by adopting principles such as Vision Zero, exemplified by cities like Oslo and Helsinki, where the strategic redesign of streets – reducing speed limits, narrowing roads and prioritising pedestrian and cycle infrastructure – has drastically reduced or eliminated road fatalities. Linking these principles to a legislative requirement (incumbent on the decision-makers applying these principles) to assess and report on road safety performance regularly, as is standard practice under Sweden's Road Traffic Safety Act, would ensure accountability and continuous improvement.

c. *How can the Act better recognise the public health and environmental benefits of roads and streets?*

The Act should explicitly link public health and environmental objectives to street design standards, in a similar way to Copenhagen's comprehensive Bicycle Strategy, which prioritises cycling as a health and environmental imperative. Embedding measurable targets (e.g., for air quality, physical activity, noise reduction, zero deaths) within legislative frameworks encourages infrastructure development that directly promotes active travel. Additionally, providing statutory support for green infrastructure and sustainable drainage systems, like Portland's Green Streets, explicitly recognises streets as integral to urban ecology.

d. *What other community issues would you like to raise in relation to the Act?*

- **Community participation in road governance:** Strengthen provisions for meaningful community consultation and involvement, reflecting successful public engagement processes from cities like Vancouver, which actively involves residents in street redesign decisions.

- **Flexibility for rapid, temporary interventions:** Facilitate easy trials and experimentation, promoting agile methods similar to the 'lighter, quicker, cheaper' approach championed by the Project for Public Spaces (PPS) in various North American cities.

- **Equitable access to road space:** Ensure all neighbourhoods, starting with disadvantaged communities, benefit from street improvements, following equitable distribution models seen in Bogotá's Ciclovía initiative, which democratically transforms streets into pedestrian and cycle spaces.

Questions 4.2

a. *How can the Act be improved to ensure that it considers each category of road user?*

The Act can better address the needs of all road users by:

- Explicitly requiring the consideration of pedestrians, cyclists, public transport users and people with disability in road planning and management decisions, rather than primarily focusing on vehicle users. The Act could directly incorporate a codified version of the Movement and Place guidelines. Overseas models

include the UK's Inclusive Mobility guidelines; and the Netherlands' approach, which legally mandates that roads accommodate safe pedestrian and cycling infrastructure

- Including a clear hierarchy of road users (such as the one adopted in the UK's Highway Code), prioritising road users such as pedestrians, cyclists, mobility scooter users and public transport users above private vehicles, ensuring infrastructure and safety measures systematically support active transport modes

- Requiring formal assessments such as road safety audits and inclusive mobility audits, mandatory for major infrastructure changes, to ensure equitable consideration of all user groups

- Providing legislative support for flexible street designs, such as shared spaces or modal filters, that explicitly serve non-vehicle users, similar to Complete Streets policies widely implemented in cities across the United States and Canada.

b. Share your personal experience in navigating the Act to provide for a specific group of road users.

- **Clearer statutory support for tactical urbanism or temporary trial projects:** Current provisions lack the flexibility seen internationally in cities such as Paris or Auckland in enabling rapid, temporary street transformations (such as pop-up cycle lanes or pedestrianised zones) to trial solutions before permanent implementation.

- **Accessibility provisions for disabled and mobility-impaired individuals:** Explicitly including universal design principles in road and footpath standards, similar to guidance provided by New York City's Department of Transportation in their Streets Design Manual, is needed to ensure equitable access and safe movement.

- **Integration of health and environmental objectives into street design:** Explicit legislative provisions ensuring new road designs actively support health, well-being and environmental sustainability can draw on approaches such as Vancouver's Greenest City Action Plan or Copenhagen's cycling infrastructure strategy.

- **Equity and inclusivity in infrastructure provision:** Reforms that mandate the consideration of diverse socio-economic communities, ensuring equitable access to quality infrastructure, can be informed by lessons from Bogotá's Ciclovía program, which intentionally addresses broad social inclusivity.

c. What other issues would you like to raise for accommodating all road users?

Asset classes

TfNSW does not currently provide for an asset class for footpaths (but does provide for one relating to dolphin enclosures, for example). The reasoning behind this, from our

understanding, is that TfNSW does not manage and maintain footpaths. However, footpaths do exist on State roads and are designed, delivered or otherwise affected through the construction and maintenance of these roads. Councils need TfNSW approval to undertake footpath works next to such classified roads. TfNSW directly funds footpath improvements. The governance of these activities, and the ongoing proper management and valuation of footpaths, would benefit from the introduction of a specific asset class.

Vulnerable road users versus vulnerable road planning

Road users such as pedestrians, cyclists and people with a mobility impairment find themselves labelled 'vulnerable' not because of any inherent risk in the normal practice of human-powered movement, but because previously dominant road planning paradigms have historically prioritised motor vehicles over other transport modes. Assumed vulnerability has become the function of infrastructure design and planning decisions.

For example:

- **Car-centric design:** Roadways designed primarily to maximise vehicle flow and speed naturally increase risks for non-motorised users, making walking or cycling more dangerous.
- **Lack of dedicated infrastructure:** Insufficient footpaths, safe crossings, separated cycle lanes and traffic-calming measures directly increase the risk exposure of active transport users.
- **High-speed environments:** Roads designed for higher speed limits significantly amplify risk for pedestrians and cyclists, making potential collisions far more severe.
- **Vehicle design and size:** Vehicles become more dangerous to people in proportion to their mass, shape, height, speed capability, limited visibility, rigidity and absence of pedestrian-oriented safety features. Adjusting these characteristics through better vehicle design and road environment management significantly reduces the vulnerability of pedestrians and cyclists.

Thus, vulnerability is essentially a product of design decisions and planning practices. By shifting toward road planning that explicitly prioritises safe, accessible, and inclusive environments – such as lower speeds, dedicated pedestrian and cycling infrastructure and traffic-calming measures – contemporary road authorities can effectively reduce or even eliminate the vulnerability that their forebears have created.

Question 4.3

a. *What issues have you experienced due to overlapping classification systems to determine roles and responsibilities for NSW roads? (select all that apply)*

    - *Confusion between legal, functional and administrative systems*

The Act's distinct legal definitions of classified roads (State, Regional and Local) often do not align with their functional use or with administrative responsibilities. This frequently

creates confusion, particularly in relation to the management of roads that have both local and broader strategic functions that go beyond through-movement (such as main streets within towns or other urban centres).

- *Hard to find which legal classification applies to which road segment*

The Act currently lacks clarity or user-friendly accessibility in identifying legal classifications for specific road segments. Determining whether a road segment falls under council or TfNSW responsibility often requires extensive reference to multiple resources, causing delays to maintenance and decision-making. An integrated, online database map providing detailed information would provide clear planning support for all users.

- *Confusion about who has authority for which segment of road*

Responsibility boundaries between state and local authorities can be unclear, particularly in urban areas where a single continuous street might transition between multiple responsible authorities. In metropolitan areas this confusion can slow down crucial interventions like safety improvements or pedestrian upgrades, as agencies navigate jurisdictional complexity. For example, the funding and ownership of footpaths around schools can delay the active transport investments critically needed around these destinations.

- *Too many legal classifications*

Multiple overlapping classifications (e.g., regional, arterial, local, state, Crown roads) complicate understanding who is ultimately accountable for managing road safety, upgrades and new infrastructure projects. This has led to inefficiencies and delays, evident when councils seek approval for changes like pedestrian crossings, speed limit adjustments or cycling infrastructure.

- *Other (please specify)*

- **Lack of clarity around responsibility for non-motor vehicle infrastructure (footpaths, cycleways):** Legal road classifications typically focus on carriageway responsibilities without clearly defining who is responsible for adjacent pedestrian or cycling infrastructure.

- **Complexity in managing transitions between rural and urban road segments:** The classification system does not effectively consider the distinct roles and expectations placed on roads transitioning from rural highways to urban streets, causing confusion about standards and responsibilities.

b. How could the system of road classification in the Act be improved?

Align legal, functional and administrative classifications

The updated Act should clearly align legal definitions with the actual functional use of roads, simplifying categories to ensure responsibilities reflect practical road usage and administration rather than historical or arbitrary distinctions.

Establish a simpler hierarchy

The Act should incorporate a streamlined classification structure clearly differentiating:

- **State roads:** High-capacity roads serving inter-regional movement
- **Local roads:** Primarily residential or local access streets
- **Urban / civic streets:** Explicitly identified roads intended for community use, prioritising pedestrian and cycling infrastructure, with reduced vehicular speeds and volumes.

Mapping these classifications to the Movement and Place framework would offer the most clarity.

Clear jurisdictional boundaries

Navigation of the Act should be facilitated by easy access to publicly available maps and/or online platforms clearly delineating responsibilities between State (TfNSW) and local government, reducing administrative confusion and delays in decision-making processes.

Integrate active and sustainable transport classifications

The Act must explicitly incorporate classifications or designations for roads primarily serving active transport (e.g., pedestrian boulevards, cycleways, shared zones), enabling easier prioritisation of walking and cycling infrastructure.

Clarify responsibilities for non-vehicle infrastructure

Clearly articulated responsibilities for footpaths, cycleways and related active transport infrastructure will reduce ambiguity and directly associate responsibilities for their maintenance and improvement with specific classifications.

Incorporate clear performance-based objectives

The Act should be complemented by clear objectives for each road classification based on measurable outcomes (e.g., safety, congestion, pedestrian activity, environmental sustainability), allowing a more responsive and adaptive management framework.

Facilitate flexible classifications for urban transitions

Clear guidelines and flexible mechanisms are needed to address roads transitioning between rural and urban contexts, ensuring classifications accommodate changing land uses and community needs.

Include a regular review and update mechanism

Regular reviews (e.g., every five years) of road classifications should be mandatory under the Act, ensuring continuous alignment with community expectations, urban growth patterns and emerging transport modes.

Questions 4.4

a. *What issues have you experienced with parallel approval processes under the NSW planning system and the Act? (select all that apply)*

- *Confusion with different processes for the Roads Act 1993 and land use related approvals*
- *Conflicting advice from roads and land use agencies or areas of council*
- Duplication and redundancy of documentation between land use approvals and road-related approvals
- Complexity in coordinating feedback across State (TfNSW) and local council approvals simultaneously.

b. *Can you provide further information on the issues you have experienced?*

- **Additional time and costs:** Projects frequently experience delays due to the separate approval processes required under the Act (such as road access changes, kerb adjustments or new infrastructure on public roads), which often duplicate or overlap approvals required under the EP&A Act. This duplication results in increased administrative workload, consultancy fees, extended timelines and uncertainty around project completion.
- **Confusion between processes:** Applicants regularly find it challenging to navigate two distinct approval streams with differing timeframes, documentation requirements and technical specifications. Projects often require coordination across multiple agencies (local councils, TfNSW, DPIE), each with separate requirements, causing confusion and procedural inefficiencies.
- **Conflicting advice:** Differences in interpretation, standards or strategic objectives from roads authorities (TfNSW / local council engineering departments) and land use planning agencies frequently arise. Such conflicts lead to lengthy negotiations, rework, and sometimes contradictory conditions of consent, complicating implementation and compliance.
- **Duplication and Inefficiency:** The necessity for separate approvals under both the Act and statutory land use planning regulations for the same infrastructure (such as driveway crossings, pedestrian crossings, traffic calming) adds redundancy. This duplication imposes unnecessary administrative and financial burdens on councils, developers and applicants, especially for small or community-driven projects.

c. *If you've experienced differences in approach to road network planning and land use planning, how have these affected your work?*

- **Delayed project delivery:** Misaligned processes between road network planning (which focuses on vehicle throughput and traffic flow) and land use planning (which prioritises liveability, sustainability and pedestrian-friendly design) often

cause delays in obtaining approvals. This results in slowed project delivery, additional expenses and missed community expectations for timely infrastructure improvements.

- **Reduced project quality and innovation:** Conflicting standards or priorities between road and land use agencies can limit innovative street design solutions, such as pedestrian-friendly streetscapes, safe cycling infrastructure and place-making initiatives. Road network priorities (e.g., vehicular efficiency or rigid engineering standards) often override progressive urban design or planning strategies, compromising community health, safety and environmental benefits.

- **Increased administrative burden:** Significant effort and resources are spent reconciling competing advice and requirements from road authorities and planning agencies, diverting attention from the core objectives of the project (such as improved safety, public amenity or sustainability outcomes).

Recommended improvements:

- Integration of approvals under a unified, streamlined planning and infrastructure consent system

- Clearer statutory alignment between the Act and the EP&A Act to reduce duplication

- Improved coordination and shared responsibility between roads and planning authorities, prioritising integrated land use and transport planning approaches.

Questions 4.5

a. *How could the Act make roles and responsibilities clearer for decision making? (select all that apply)*

    - *Agree to how the network is operated between road authorities*

Clarify and formalise joint operating agreements between councils and TfNSW, explicitly outlining each party's responsibilities, especially at boundaries between State-managed and locally managed roads.

    - *Less focus on individual regulatory signs and lines on local neighbourhood streets with low traffic volume*

Simplify regulations and allow greater flexibility for councils to manage low-volume local streets without requiring overly detailed approvals for minor signs and markings, speeding up decision-making and reducing costs (including ongoing maintenance) for active transport-positive initiatives like speed reductions.

    - *Codify 30-year-old practices that work in the Delegation into the Act*

Incorporate proven, effective delegation practices directly into legislation to provide long-term clarity and stability and reduce the administrative burden associated with ongoing delegation renewals or modifications.

- *Align network plans with decision making roles based on risk and network implications*

Clearly differentiate decision-making authority based on the strategic importance, traffic volume and risk profile of different roads. Higher-risk and strategic road decisions should remain with TfNSW, while local and lower-risk streets are managed directly by councils.

- *Other (please specify)*

Formalise streamlined approvals for low-risk, community-driven projects (e.g., modal filters, temporary pedestrian spaces, tactical urbanism projects), empowering local councils to rapidly respond to community needs without extensive State-level oversight.

b. *Describe your experience of using the Delegation to Councils and any improvements which could be made.*

While beneficial, the current Delegation to Councils is often overly prescriptive, limiting council flexibility, especially around minor local traffic management changes. Approval processes for minor works (such as pedestrian crossings, bicycle lane markings or minor signage changes) can be cumbersome and time-consuming.

Suggested improvements:

- **Broaden the scope of delegation:** Empower councils to manage minor traffic and infrastructure improvements without State approval, based on clearly defined risk criteria and established guidelines.

- **Streamline administrative procedures:** Reduce paperwork, shorten timeframes and clarify approval processes to accelerate the delivery of small-scale local traffic improvements.

- **Regularly update delegations:** Periodically review and modernise delegations to reflect contemporary transport and community priorities, ensuring the delegation remains relevant and responsive to evolving community expectations.

c. *Describe your experience of using the Temporary Delegation to Councils and if this approach is more streamlined to regulate traffic and deliver local street and place improvements.*

This has improved councils' ability to deliver local street and place improvements (at least in the case of those councils wanting to take advantage of the opportunity). Better Streets affiliates have referenced the Temporary Delegation (TD) when approaching councils to request new mid-block pedestrian crossings and improvements to other crossings. The TD has opened a door, although councils' movement through this can be slow due to other issues mentioned above.

Questions 4.6

a. *What improvements can be made to the Act to increase flexibility in response to natural disasters?*

- **Introduce clear emergency-response provisions:** Incorporate explicit, simplified procedures allowing immediate road works or temporary infrastructure installation following natural disasters (such as floods, fires or storms), enabling rapid community access restoration without lengthy approval delays.

- **Temporary delegation of powers:** Clearly define temporary delegation of approval powers to local councils during declared emergencies, granting authority to quickly respond to urgent road repairs or traffic management needs without extensive State-level authorisation.

- **Streamlined recovery authorisations:** Include legislative support for councils or other road authorities to conduct immediate remedial works (e.g., debris clearing, infrastructure reinstatement) without prior formal approvals during emergency recovery periods, provided works meet defined safety and environmental standards.

- **Establish flexible funding mechanisms:** Allow councils to access emergency road repair funding or utilise existing road maintenance funds flexibly during disaster recovery without complex procedural barriers.

b. *How can the permit approval process for installing works and structures, undertaking road works, events and activates be made clearer and more consistent across all Road Authorities?*

    - **Unified permit framework:** Establish standardised permit approval criteria, guidelines and documentation requirements across all road authorities (State and local). This consistency will simplify procedures, reduce confusion and facilitate faster approvals for works, structures, events and activities.

    - **Single online approval portal:** Implement a centralised online platform or single portal for applications and approvals related to road permits, streamlining communication between councils, TfNSW and applicants, ensuring transparency and consistency in decision-making processes.

    - **Risk-based categorisation:** Clearly define permit requirements based on project / event risk and impact, allowing simplified approval procedures for low-risk installations (e.g., temporary parklets, community events) and more detailed assessments for high-risk works (major structural changes or high-impact events).

    - **Standardised processing timelines:** Mandate consistent processing timelines for permits across road authorities, providing predictability and reducing administrative delays.

c. *How could compliance and penalty frameworks be changed to address environment and safety compliance?*

    - **Clearer and graduated penalty structures:** Introduce clearer definitions of offences and penalties, adopting a graduated approach that aligns penalty severity with environmental or safety risk and the scale of non-compliance. This

approach promotes proportionate responses, encouraging compliance without overly penalising minor infractions.

- **Stronger enforcement powers:** Provide clear statutory authority for councils and road authorities to quickly enforce environmental protection and safety standards, including issuing immediate rectification orders or stop-work orders for breaches causing significant harm or risk.

- **Incorporate restorative and corrective actions:** Amend the Act to explicitly include provisions for offenders to undertake restorative or corrective actions to remediate environmental or safety impacts (such as revegetation, infrastructure repair or community safety improvements), complementing financial penalties.

- **Regular compliance audits:** Introduce clear legislative support for mandatory regular compliance audits for significant road works or construction projects, proactively identifying and mitigating risks to environmental and public safety compliance.

- **Simplified reporting and transparency:** Require road authorities to publicly report on compliance performance and enforcement actions regularly, fostering transparency and accountability and improving public trust in environmental and safety management processes. This would allow State funding to be better directed to local government under the Act. For example, in the UK Transport for London provides for Local Implementation Plans which allocate funding in line with TfL objectives as well as road regulations.

Questions 4.7

a. *What regulatory features should be tested to ensure the Act can accommodate emerging technologies and new approaches? (select all that apply)*

    - *Ability to change the primary intended function or use of a street at different times of day or days of the year*

Flexible regulatory mechanisms should enable dynamic street functions, such as time-specific pedestrianisation, shared streets during weekends, and the off-peak allocation of kerbside lanes to operate as cycleways instead of providing for car parking.

    - *Area wide speed zone reduction on local neighbourhood streets delegated to councils*

Councils should be able to implement and test neighbourhood-wide reduced speed zones (e.g., 30 km/hr) without individual State approvals, enhancing safety and encouraging walking and cycling.

    - *Regulation of traffic on local neighbourhood streets and civic spaces delegated to councils*

Trialling the delegation of authority to councils to implement traffic management measures such as modal filters, temporary road closures and traffic calming will enable them to quickly respond to local community needs and improve safety.

- *Other (please specify)*

Suggested actions:

- Trial regulatory frameworks for emerging mobility technologies (e-scooters, e-bikes, autonomous vehicles)

- Test simplified approval processes for tactical urbanism and temporary street transformations.

b. *Which provisions in the Act and the Environmental Planning and Assessment Act could benefit from regulatory experimentation?*

See the following section in relation to the Act. In the case of the EP&A Act, these comments are provided:

- **Development application processes:** Experiment with streamlined or fast-tracked approval processes for sustainability-focused and/or active transport projects (e.g., bike hubs, pedestrian infrastructure)

- **Infrastructure contributions frameworks:** Test alternative methods allowing contributions to be directly channelled into sustainability, active transport and/or climate adaptation projects.

c. How could these Acts better support new developments in sustainability?

- **Explicitly incorporate sustainability outcomes into objectives:** Amend both Acts to explicitly include sustainability, climate adaptation and greenhouse gas reduction targets within their objectives, guiding decision-making.

- **Streamlined approval processes for sustainable infrastructure:** Simplify or expedite approval processes under both Acts for projects clearly demonstrating sustainability outcomes (e.g., green infrastructure, stormwater management systems, cycleways, pedestrian facilities).

- **Integration of climate resilience criteria:** Require mandatory consideration of climate resilience and adaptation criteria in all road and land use planning decisions, encouraging infrastructure design that anticipates future climate conditions (e.g., increased flooding, extreme heat).

- **Facilitate innovation through regulatory sandboxes:** Establish legislative support for regulatory 'sandboxes' – experimental processes and frameworks – that allow temporary, controlled trials of innovative sustainability solutions (such as permeable paving, solar roads, electric vehicle charging infrastructure and new mobility technologies) without restrictive barriers.

- **Alignment of funding and incentives:** Provide clear statutory support for financial incentives or dedicated funding streams that encourage sustainable infrastructure, supporting councils and developers to prioritise low-carbon, climate-resilient designs and technologies.

Case study: The impact of the application of *Part 4 – Closing of Public Roads – Division 3* on active transport outcomes

This part of the Act makes it more difficult for local councils to implement partial road closures (such as modal filters for low-traffic neighbourhoods) due to the following key constraints:

Excessively stringent criteria for road closure (Section 38A)

The Act sets strict conditions that councils must satisfy to propose road closures:

- The road must not be reasonably required for current or future public use.
- The road must not be required to maintain continuity of the existing road network.
- Any affected property must have alternative reasonable vehicular access.

These significantly restrict councils from using road closures for modal filters that promote bike access; these commonly require partial closures to restrict through traffic, rather than fully closing roads. Modal filters typically allow pedestrian and bicycle passage, maintaining some level of continuity and utility, but this nuanced usage is not explicitly accommodated by the Act.

Mandatory public notification and consultation (Section 38B)

Councils must:

- Publish notices of proposed closures in local newspapers.
- Notify all adjoining landowners and multiple authorities.
- Provide at least 28 days for submissions.

While transparency is crucial, the procedural burden and mandatory waiting period slow the implementation of modal filters and temporary or experimental closures often used internationally (such as temporary interventions or tactical urbanism initiatives).

Formal objection rights and appeal processes (Sections 38C and 38D)

Any notifiable authority (e.g., utility company, transport agency) has the right to formally object. If they object, closures cannot proceed without either:

- The authority voluntarily withdrawing their objection, or

- The objection being overturned by the Land and Environment Court.

This objection process gives significant power to external stakeholders, potentially delaying or preventing closures designed primarily for local pedestrian and cycling benefit, especially if these interventions are seen as marginally reducing motor vehicle convenience or access.

Appeal rights against closure (Section 38F)

Affected parties can appeal road closures to the Land and Environment Court even after the decision to close is made. If successful, the closure can be reversed retroactively. This introduces legal uncertainty and risk for councils, further discouraging innovative traffic-calming solutions like modal filters.

Restrictions on converting closed roads to community land and effecting the associated disposal of land (sections 38E and 43)

Division 3 of the Act further complicates local councils' efforts to implement modal filters or partial road closures due to a lack of explicit provision for easily converting closed roads into publicly accessible community spaces such as parks or plazas.

When a road is formally closed under Division 3, the land automatically becomes operational land, unless the council proactively resolves it as community land before closure. Operational land classification typically implies the land can be commercially disposed of or developed, rather than automatically becoming public space. Moreover:

- If councils decide to sell this operational land, the proceeds must be used exclusively for acquiring new road land or road infrastructure (Section 38E(4)).
- This restriction prevents councils from using proceeds to directly fund other forms of community infrastructure or park improvements, thereby discouraging the closure of roads specifically for creating non-road public spaces.
- Revenue received from the sale of closed roads is restricted to road-related expenses, preventing councils from reinvesting these funds directly into walking, cycling, or public space improvements (Section 43),

The implications of the above include:

- **Lack of clarity and excessive complexity:** Councils must anticipate and explicitly declare their intent to convert road land into community land before any closure, complicating the implementation of modal filters that often best evolve organically through trials.
- **Financial constraints:** The requirement that sale proceeds fund only roads discourages innovative community-based projects, limiting the incentive for converting redundant roads into parks, plazas or other public amenities.

Summary

As outlined, there are significant restrictions on councils that might otherwise easily use road closures as a low-cost strategic intervention to enhance the public realm and community recreation opportunities. These closures are a common practice in cities globally where closed roads frequently become public plazas or linear parks (e.g., New York's pedestrian plazas or Barcelona's reclaimed street parks).

In summary Part 4 – Closing of Public Roads – Division 3 of the Act imposes a framework that is:

- Overly restrictive in its criteria for road closure
- Procedurally burdensome, slowing or discouraging local experimentation
- Vulnerable to external objections and legal appeals, increasing administrative complexity and risk.

As a result, councils face considerable challenges in implementing modal filters and partial road closures aimed at enhancing community safety, health and environmental outcomes, as opposed to full road closures meant solely for road redundancy.