


Transport for NSW Roads Act 1993 Review

March 2025

**CENTRAL NSW
JOINT ORGANISATION**



Bathurst
Blayney
Cabonne
Cowra
Forbes
Lachlan
Lithgow
Oberon
Orange
Parkes
Weddin

7 April 2025

Reference: jbjw 250407
Enquiries: Ms J Bennett: 0428 690 935

Transport for NSW
Roads Act 1993 Review
231 Elizabeth St
Sydney NSW 2000

roadsactfeedback@transport.nsw.gov.au

Dear Transport for NSW,

Re: Roads Act 1993 Review

Central NSW Joint Organisation speaks with a unified voice for its collective priorities. This region has a proud history of working collaboratively, representing over 180,000 people covering an area of more than 53,000sq kms comprising the local government areas of its membership - Bathurst, Blayney, Cabonne, Cowra, Forbes, Lachlan, Lithgow, Oberon, Orange, Parkes, Weddin.

Tasked with intergovernmental cooperation, leadership and prioritisation, CNSWJO has consulted with its stakeholders to identify key strategic regional priorities. The CNSWJO Strategic Plan can be found here - www.centraljo.nsw.gov.au.

Thank you for the opportunity to provide feedback to the Roads Act 1993 Review. We understand the Issues Paper (linked [here](#)) asks whether the Roads Act 1993 (the Act) is still fit for purpose, and we welcome the chance to contribute to this discussion.

Councils are Road Authorities that work within the *Roads Act 1993* every day. They make decisions about road infrastructure, safety, maintenance, and approvals often navigating complex and sometimes inconsistent regulatory frameworks. The Act gives councils important statutory powers and is generally a solid foundation. But there are a few areas that could benefit from clarification or adjustment to better reflect the practical realities councils are dealing with, especially as pressures on the road network continue to grow.

This response is informed by policy developed in-region and focuses on the key areas where the *Roads Act 1993* needs to be clearer and more effective for councils. The following section responds to the consultation questions outlined in the Issues Paper.

Q. #	Consultation Question	CNSWJO Response
After 32 years is the Roads Act 1993 still fit for purpose?		
4.0 a	<p><i>What is currently working well?</i></p> <p><i>Please provide examples of what is currently working well when working under the Roads Act 1993</i></p>	<ul style="list-style-type: none"> • Councils are Road Authorities, managing local and regional roads with deep knowledge of road networks, infrastructure asset renewals, safety requirements, and community priorities. As Road Authorities for the classified road reserve, local government is responsible for reviewing and consenting to proposed works, ensuring road infrastructure is maintained, upgraded, and planned to meet local needs while aligning with broader transport and safety objectives. The Roads Act enables councils to carry out their functions as the road authority in an efficient manner. • Section 138 approvals give councils oversight of works carried out on local roads, ensuring they meet safety and infrastructure requirements. Local Area Traffic Management (LATM) tools help councils manage traffic and road safety, while road safety auditing and safe systems principles are already embedded in road design. Provisions under section 138 of the act should be retained.
Does the Act adequately consider key community issues?		
4.1 a	<p><i>How could the Act be changed to enable more community uses for roads and streets? (select all that apply)</i></p> <ul style="list-style-type: none"> • <i>Define the different objectives for roads and streets</i> • <i>Include outcomes for safety, public health and the environment in the objects of the Act</i> • <i>Simplify the types of roads and streets defined in the Act</i> • <i>Include desired outcomes for the design and operation of local streets and civic spaces</i> • <i>Other (please specify)</i> 	<ul style="list-style-type: none"> • <i>Define the different objectives for roads and streets</i> • <i>Include outcomes for safety, public health and the environment in the objects of the Act</i> • <i>Simplify the types of roads and streets defined in the Act</i> • <i>Include desired outcomes for the design and operation of local streets and civic spaces</i> • <i>Other (please specify):</i> <ul style="list-style-type: none"> ○ Clarify the 'grey area' of verge maintenance in the front of properties. Clarify that the property owner is responsible for keeping it safe/ passable. ○ Provide controls/approvals on signage, especially temporary (e.g. Business A-frames, Election Signage). ○ Consideration of explicitly outlining on-road electric vehicle charging provisions and controls. ○ Referral back to the National Construction Code/Disability Standards for some items (e.g. fencing, staircase designs/ ramps etc).
4.1 b	<p><i>How can safety be better considered in the planning, administration and management of roads?</i></p>	<ul style="list-style-type: none"> • Greater enforcement provisions for Rangers/Compliance Officers to issue PINs/Orders. • Increase maximum penalty if a person ignores/contradicts the Orders of the Roads Authority (e.g. excavating a road which has the potential to cause serious harm). • Ability for the Council to recover costs if it is required to undertake works to make a road safe under s138 (such as example above). • Amend section 217 to allow the Roads Authority to recover costs of constructing a formalised driveway crossing for pedestrian safety reasons. • Requirements around road safety auditing/safe systems/safer by design principles.

4.1 c	<i>How can the Act better recognise the public health and environmental benefits of roads and streets?</i>	The Board generally has policy that the less legislation and regulation the better and where more is contemplated, the impacts of regional councils and community be specifically considered. This region would welcome an opportunity to co-design any potential changes in the interest of public health and environmental benefit.
4.1 d	<i>What other community issues would you like to raise in relation to the Act?</i>	Consideration of waste retrieval (bin pickup) in road reserve.
Does the Act sufficiently accommodate all road users?		
4.2 a	<i>How can The Act be improved to ensure that it considers each category of road user?</i>	Road users have a different experience in regional NSW, especially on roads that have a long history that does not lend itself to modern safety expectations, particularly for cyclists and pedestrians. An example is the road network through the orchards and vineyards around Orange. The Act ought consider regional road users.
4.2 b	<i>Share your personal experience in navigating the Act to provide for a specific group of road users.</i>	No further comment.
4.2 c	<i>What other issues would you like to raise for accommodating all road users?</i>	<ul style="list-style-type: none"> • Requirements for bike lanes/share paths and who can use them, including adequate signage and education. • The Act ought to recognise the growing and varied vehicles from a safety perspective for example councils have brought in fast moving scooters for hire, e-bikes are becoming more popular etc.
Is the way we classify NSW roads under the Act still useful?		
4.3 a	<i>What issues have you experienced due to overlapping classification systems to determine roles and responsibilities for NSW roads? (select all that apply)</i> <ul style="list-style-type: none"> • <i>Confusion between legal, functional and administrative systems</i> • <i>Hard to find which legal classification applies to which road segment</i> • <i>Confusion about who has authority for which segment of road</i> • <i>Too many legal classifications</i> • <i>Other (please specify)</i> 	<ul style="list-style-type: none"> • <i>Confusion between legal, functional and administrative systems</i> • <i>Hard to find which legal classification applies to which road segment</i> • <i>Confusion about who has authority for which segment of road</i> • <i>Too many legal classifications</i> • <i>Other (please specify)</i> <ul style="list-style-type: none"> ○ Revise Roads Act to take precedence over all other Acts. All utility providers should be required to obtain approval from the Roads Authority, regardless of their own Acts. ○ Section 142 of the Roads Act 1993 is unclear on driveway and road verge maintenance responsibility, leading to legal uncertainty and inconsistent approaches. Clarification is needed to ensure consistent application and avoid reliance on restrictive covenants. ○ Section 99 - private bodies to maintain or repair certain water supply and drainage works does not specifically relate to bridges and culverts constructed on the roads for the sole purpose of the operation of the irrigation corporation. The bridges and culverts are considered 'part of the road'; and are therefore under the care control and management of councils. For example, in 2020, Forbes Shire Council was advised by a local Privately Owned

		<p>Irrigation Corporation that they would not be maintaining any of the 54 bridges or culverts that were built for the sole purpose of operating the irrigation works. This is a big issue for irrigation councils and can be explained further, if required.</p> <ul style="list-style-type: none"> ○ Review Section 175 of the <i>Roads Act</i> to remove the restriction requiring that an essential detour must be "...along or near the line of the road" and instead provide a mechanism that allows for temporary relocation subject to a test of reasonableness - expanded further in section '<i>Legislative Barriers to Emergency Road Access in Isolated Communities</i>'.
4.3 b	<i>How could the system of road classification in the Act be improved?</i>	Councils must retain their existing statutory powers under the Roads Act 1993, particularly for road classifications and approvals for works on roads (Section 138).
Does the Act work well with the Environment Planning and Assessment Act 1979?		
4.4 a	<p><i>What issues have you experienced with parallel approval processes under the NSW planning system and the Act?</i></p> <ul style="list-style-type: none"> • <i>Extra time/cost associated with parallel Roads Act 1993 approvals</i> • <i>Confusion with different processes for the Roads Act 1993 and land use related approvals</i> • <i>Conflicting advice from roads and land use agencies or areas of council</i> • <i>Other (please specify)</i> 	<ul style="list-style-type: none"> • <i>Extra time/cost associated with parallel Roads Act 1993 approvals</i> • <i>Confusion with different processes for the Roads Act 1993 and land use related approvals</i> • <i>Conflicting advice from roads and land use agencies or areas of council</i> • <i>Other (please specify)</i> <ul style="list-style-type: none"> ○ Make it clear that certifiers must obtain approval for driveway crossings before issuing any approvals for work on private sites. ○ Tree removal as part of the current Section 138 heads of consideration is unclear. ○ Make it clear that certifiers obtain an approval for driveway crossings prior to issuing any approvals for work on private sites. ○ Section 142 of the Roads Act 1993 is unclear on maintenance responsibility, leading to legal uncertainty and inconsistent approaches. Clarification is needed to ensure consistent application and avoid reliance on restrictive covenants. ○ Section 76 - Roads Authorities are currently required to notify TfNSW of proposal to carry out major road work required notification of major roadworks over \$2,000,000. This section should be modernised to reflect current project costs. ○ Clause 138(4) requires councils to apply to themselves for a Section 138 approval, which is unnecessarily bureaucratic. This requirement should be removed where the works are being carried out by the Road Authority itself.
4.4 b	<i>Can you provide further information on the issues you have experienced?</i>	No further comment.
4.4 c	<i>If you've experienced differences in approach to road network planning and land use planning, how have these affected your work?</i>	No further comment.

Could roles, responsibilities and decision-making processes under the Act be clearer and more streamlined?		
4.5 a	<p><i>How could the Act make roles and responsibilities clearer for decision making? (select all that apply)</i></p> <ul style="list-style-type: none"> • Agree to how the network is operated between Road Authorities • Less focus on individual regulatory signs and lines on local neighbourhood streets with low traffic volume • Codify 30-year-old practices that work in the Delegation into the Act • Align network plans with decision making roles based on risk and network implications • Other (please specify) 	<ul style="list-style-type: none"> • Agree to how the network is operated between Road Authorities • Less focus on individual regulatory signs and lines on local neighbourhood streets with low traffic volume • Codify 30-year-old practices that work in the Delegation into the Act • Align network plans with decision making roles based on risk and network implications • Other (please specify): <ul style="list-style-type: none"> ○ Road Authorities should have a better say on who can work on their roads. For example, an approved contractor system. ○ Tree removal as part of the current Section 138 heads of consideration is unclear. ○ Section 142 of the Roads Act 1993 is unclear on driveway maintenance responsibility, leading to legal uncertainty and inconsistent approaches. Clarification is needed to ensure consistent application and avoid reliance on restrictive covenants. ○ Division 2 Public Gates Clause 128 – Clause 137 is very outdated and difficult to understand. This needs to be modernised. The modern version of a Public Gate is a Stock Grid and should be referred to as such. ○ A review of the legislation regulating Crown roads proving a new mechanism that allows a roads authority the opportunity to temporarily assume responsibility for a Crown road for the purposes of providing a temporary road to an isolated community, without the risk of a forced permanent transfer of ownership (unless that is requested) - expanded further in section 'Legislative Barriers to Emergency Road Access in Isolated Communities'
4.5 b	Describe your experience of using the Delegation to Councils and any improvements which could be made.	No further comment.
4.5 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.	No further comment.
Are there ways to improve the operation of certain parts of the Act?		
4.6 a	What improvements can be made to the Act to increase flexibility in response to natural disasters?	<ul style="list-style-type: none"> • Consideration of velocity and depths of stormwater flows within the carriageway/footpaths. • Consideration of requirements in planning for bushfire protection. This includes road widths and grades.

		<ul style="list-style-type: none"> Amend the Roads Act to allow for the creation of temporary public roads, on private or public land, where a temporary road is necessary to provide essential services to an isolated community - expanded further in section '<i>Legislative Barriers to Emergency Road Access in Isolated Communities</i>' Clearly identify and define circumstances in which a failed road can be taken to be "impassable", including where a road is subjected to load limits that prohibits the travel of heavy vehicles the provide essential services and supplies - expanded further in section '<i>Legislative Barriers to Emergency Road Access in Isolated Communities</i>'
4.6 b	<i>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?</i>	Clarify requirements for hoardings and fencing erected in road reserves.
4.6 c	<i>How could compliance and penalty frameworks be changed to address environment and safety compliance?</i>	<ul style="list-style-type: none"> Easier provisions for rangers/compliance Officers to issue PINs/orders. Limited enforcement mechanisms under the Roads Act compared to the Environmental Planning and Assessment Act.
Looking to the future, could we do more to ensure that the Act keeps pace with change?		
4.7 a	<i>What regulatory features should be tested to ensure the Act can accommodate emerging technologies and new approaches? (select all that apply)</i> <ul style="list-style-type: none"> <i>Ability to change the primary intended function or use of a street at different times of day or days of the year</i> <i>Area wide speed zone reduction on local neighbourhood streets delegated to councils</i> <i>Regulation of traffic on local neighbourhood streets and civic spaces delegated to councils</i> <i>Other (please specify)</i> 	<ul style="list-style-type: none"> <i>Ability to change the primary intended function or use of a street at different times of day or days of the year</i> <i>Area wide speed zone reduction on local neighbourhood streets delegated to councils</i> <i>Regulation of traffic on local neighbourhood streets and civic spaces delegated to councils</i> <i>Other (please specify):</i> <ul style="list-style-type: none"> Consideration of explicitly outlining electric vehicle car charging provisions and controls.
4.7 b	<i>Which provisions in the Act and the Environmental Planning and Assessment Act could benefit from regulatory experimentation?</i>	No further comment.
4.7 c	<i>How could these Acts better support new developments in sustainability?</i>	No further comment.

Legislative Barriers to Emergency Road Access in Isolated Communities

Recent events, including the failure of Wolgan Road and Megalong Road, have highlighted a key weakness of the Roads Act 1993 (Roads Act), namely Section 175 relating to the construction of temporary roads to replace incapacitated or impassable public roads.

Following legal review, it appears there is currently no legislation in NSW that allows the creation of an emergency or temporary access road, as a public road, in a location remote from a major road failure on a public road which provides the sole access to an isolated community. The current legislation in NSW, including Section 175 of the Roads Act, does not address the circumstance in which a failed public road, providing single road access into a remote community, is so located that it is impossible due to topographical constraints to construct a detour around that failed section of road. However, Section 175 of the Roads Act is drawn on the expectation that such a detour must be "...along or near the line of the road" (Roads Act 1993, Section 175, part 1(b)).

Specifically, it was found that:

1. Except for good faith and ad-hoc arrangements between the road's authority and private landowners, there is no mechanism in NSW that allows a roads authority to occupy and use existing private roads through private properties to provide short-term public road access to isolated communities in the event their sole legal access becomes impassable.
2. Section 175 of the Roads Act applies when a road becomes "impassable". There is no mechanism that allows a road to be identified as "impassable" if the road which services an isolated community, which was relied on for heavy vehicle access, can no longer support those heavy vehicles.
3. There is no legislation that allows a Council as the roads authority to conduct emergency upgrade works to Crown roads to permit these roads to be used for emergency access to isolated communities.
4. For the roads authority to construct an emergency bypass around an "impassable" legal road, that road must be "...along or near the line of the road". It does not allow for the emergency bypass to be constructed in the event that the bypass must be located elsewhere due to geographic constraints.

It is widely recognised that we are entering a period of accelerating climate change, characterised by more frequent and severe weather events, including intense storms, floods, and bushfires. Roads that serve single access communities are becoming more vulnerable. While we should be strategically targeting the upgrade of these routes, we must at least address deficiencies in today's legislation to allow roads authorities to reasonably and urgently act in the event of disaster.

Address of the above four points will ensure that roads authorities are better equipped to deal with the impacts of future disasters. Directly relating to the above points, we should:

1. Amend the Roads Act to allow for the creation of temporary public roads, on private or public land, where a temporary road is necessary to provide essential services to an isolated community.
2. Clearly identify and define circumstances in which a failed road can be taken to be "impassable", including where a road is subjected to load limits that prohibits the travel of heavy vehicles the provide essential services and supplies.
3. A review of the legislation regulating Crown roads proving a new mechanism that allows a roads authority the opportunity to temporarily assume responsibility for a Crown road

for the purposes of providing a temporary road to an isolated community, without the risk of a forced permanent transfer of ownership (unless that is requested).

4. Review Section 175 of the Roads Act to remove the restriction requiring that an essential detour must be "...along or near the line of the road" and instead provide a mechanism that allows for temporary relocation subject to a test of reasonableness.

The above might also require amendments of the *State Emergency and Rescue Act 1989* and the *Crown Lands Management Act 2016*.

Any proposed changes to the Act should be undertaken in close consultation with local government stakeholders to ensure that Council's operational needs and statutory responsibilities are not compromised.

CNSWJO welcomes the opportunity to work with TfNSW on any changes to the legislation, particularly the impact in this region.

If you require further information or clarification on comments in this submission, please do not hesitate to contact Jenny Bennett on 0428 690 935 or jenny.bennett@centraljo.nsw.gov.au

Yours sincerely,



Jenny Bennett
Executive Officer
Central NSW Joint Organisation