



***RESPONSE
Roads Act 1993
Issues Paper***

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RESPONSE

Roads Act 1993 Issues Paper

Introduction

The Country Mayors Association of NSW (CMA) represents 92 councils located in remote, rural and regional NSW as well as five associate members. The CMA's goal is to promote and advocate for our Member Councils and the communities they represent across a broad range of matters as well as for Local Government sector as a whole.

In operation for over 45 years, the CMA looks to create genuine, respectful and productive relationships with the State Government to empower, engage, promote and deliver positive outcomes for regional NSW.

For our Members, roads are a particularly important issue. The Issues Paper ("**the Paper**") notes that almost 80% of the public road network are local, unclassified roads for which the Local Government is responsible. In addition, Local Government is also responsible for almost 20,000 kilometres of Regional roads, most of which fall to our Member councils for maintenance and repair. The Paper acknowledges that Local Government is responsible for 166,653 kilometres of the road network while the State is responsible for 21,631 kilometres or just 11% of the network.

Consequently, roads matter to Local Government and the CMA welcomes the review of the *Roads Act 1993* ("**the Act**"). We agree that the road network in NSW is a critical component of the State's infrastructure, and it plays a crucial role in the economic, social and environmental outcomes for the State.

We believe that the road network must cater to the full spectrum of users, light and heavy vehicles, pedestrians, cyclists and public transport as well as planning for an anticipating new and emerging transport technologies such as e-bikes and micro-mobility devices.

It is imperative that long-term planning replace reactive or *ad hoc* decision-making and that investments in road infrastructure consider future growth, climate impacts, emerging mobility modes and evolving user needs.

The CMA welcomes the opportunity to provide input into the review of the Act and after consulting with its membership provides the following response to the Paper.

4.1 Does the Act adequately consider key community issues?

Our members agree that streets now serve multiple uses including public living spaces, places to walk, cycling routes, public transport corridor, freight routes and general traffic. The Objects of the Act:

- a) *to set out the rights of members of the public to pass along public roads, and*
- b) *to set out the rights of persons who own land adjoining a public road to have access to the public road, and*
- c) *to establish the procedures for the opening and closing of a public road, and*
- d) *to provide for the classification of roads, and*
- e) *to provide for the declaration of TfNSW and other public authorities as roads authorities for both classified and unclassified roads, and*
- f) *to confer certain functions (in particular, the function of carrying out road work) on TfNSW and on other roads authorities, and*
- g) *to provide for the distribution of the functions conferred by this Act between TfNSW and other roads authorities, and*
- h) *to regulate the carrying out of various activities on public roads.*

are out of date and do not adequately reflect those multiple uses nor Movement and Place Principles. In particular, the Objects do not accommodate community needs and demands in relation to place-based community activities.

In addition, our Members have expressed concerns about the amount of red tape that accompanies a request to use a road for a community purpose. Many of our Members have main streets that are classified roads and therefore under s144 of the Act are required to obtain TfNSW approval for a road event. There is a 3 month lead-in time for the request, our Members believe a shorter lead-in time would better facilitate temporary community uses.

- **Community Uses**

Our Members support the ability for councils to fast-track applications for temporary community activities on classified roads. The referral process to TfNSW for very short-term events creates red tape that is not conducive to community groups embracing opportunities to deliver place-based activities. There should be a process put into place that delegates approvals for short-term events to councils.

Our Members agree that roads, speeds, people and vehicles including bicycles need to work together to keep us safe while using our road system. Therefore, our Members support the adoption of a Safe Systems approach within a revised Act. We agree that roads also play an important role in the general health of a community, whether it is mitigating the impacts of extreme weather like heat and flooding to supporting increased physical activity through shared pathways and bike paths.

- **Road Safety**

Again, the Act's Objects are largely silent on road safety matters. Our Members agree that an objective that supports road safety and community health outcomes should be included in the objectives of the new Act.

A number of our Members have identified the conflict between the *Biodiversity Conservation Act 2016* and the road safety. Councils are reporting significant 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 is creating inefficiencies, particularly where councils are required to seek multiple approvals for works that should be routine.

Our Members agree that the Act should take precedence over the Biodiversity Conservation Act where public safety is concerned. Our Members would support a legislative exemption be introduced for road safety works ensuring that necessary maintenance activities can proceed without the need for environmental approvals. Where an approval is required for works that are required to address road safety, State agencies should be required to provide those approvals within a set timeframe, for example 10 Business Days.

Utilities, rail and other Commonwealth or State agencies and their contractors should be required to lodge traffic management plans when proposing work on roads where council is the Road Authority. Our Members regularly report being surprised at finding these bodies working in road reserves without appropriate traffic controls in place resulting in road safety issues for road users and the workers.

- **Public Health and Environment**

Roads can be used to facilitate public health outcomes by supporting Active Transport options. This is covered below in addressing the matters concerning the Act accommodating all road users.

Recommendations - Community Uses:

- Update the Objects of the Act to recognise the civic, cultural and placemaking roles of roads and streets as well as its role in natural disaster response.
- Act be amended to restore a balance between Movement and Place by aligning the Act with Movement and Place Principles.
- The Act should recognise and facilitate a broader set of temporary community uses such as festivals, performances and community events.
- Amend s138 to empower councils to approve a broader range of temporary community activities, including the ability to fast-track approvals.
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Recommendations - Road Safety:

- Update the Objects of the Act to include a Safe Systems approach and to recognise the role that roads play in community health and wellbeing.
- Alignment of the Act with Safe Systems principles
- Expand definitions within the Act to recognise a broader category of road users, rather than just traffic or vehicle traffic.
- Provide councils with the ability to change access to roads in order to regulate movement, rather than just “close a road” for particularly vehicles.
- Exemption process from the Biodiversity Act for clearing vegetation to address road safety issues.

Recommendations – Public Health and Environment:

- Update the Objectives of the Act to recognise the role that roads play in promoting positive public health and environmental outcomes.
- Make provision as to how Movement and Place will evolve as areas change e.g. land use types. Densities.

4.2 Does the Act sufficiently accommodate all road users?

We agree that the term “traffic” needs to encompass all road users not just motor vehicles. Our Members would like to see the adoption of a broader definition of traffic to facilitate the ability for councils to create/improve the road environment for pedestrian and cyclists.

In addition, our Members have suggested that roads authorities should be legislatively empowered to streamline the creation of new infrastructure required to support the electrification of the transport network e.g. power supply and charging stations etc.

- **Active Transport**

The 2021 National Walking and Cycling Participation Survey identified that in NSW around 15.4% residents rode a bicycle (including e-bikes) in the previous week and 36.0% over the previous year. This equates to around 1.24 million residents riding in a typical week and 2.91 million riding in the previous year. The participation rate has increased in metropolitan Sydney since 2019 and remained steady in regional NSW¹

The NSW Government has published number of strategies and policies to prioritise walking and cycling in transport and land use planning over the last few years. These include:

- *The Movement and Place Framework*
- *Providing for Walking and Cycling in Transport Projects* policy
- *Road User Space Allocation* policy and the accompanying *Road User Space Allocation Procedure*
- *Future Transport Strategy*
- *Active Transport Strategy*
- *Strategic Cycleway Corridors* program
- *Design of Roads and Streets* manual
- *Cycleway Design Toolbox*
- *Walking Space Guide*

It is clear that the State has a commitment to Active Transport and that this should be factored into the revised Act, including the Objectives of the Act.

¹ Cycling and Walking Australia and New Zealand *National Walking and Cycling Participation Survey 2021*. Pg. iii

Our Members are suggesting that consideration be given to opportunities to promote greater utilisation of road corridors to achieve Active Transport outcomes, including enabling powers for councils to regulate and trial emerging modes such as e-scooters.

- **Public Transport**

We agree with the Paper's assessment that *"...large parts of NSW...have low access to frequent and reliable public transport services"*.

For most of the communities our Members represent public transport is the school bus system. In the main it is only our Regional City members that have access to reliable and frequent public transport services like buses. Many of the school buses operate on unclassified roads.

Taxis are also in short supply in many communities and Uber has not really made an impact in many of our smaller communities. The lack of frequent and reliable public transport impacts on residents' ability to access health, education and employment opportunities. It is of constant concern to our Members that residents that do not have ready access to a motor vehicle are unable to access services that our city-cousins take for granted.

Our Members support the suggestion that NSW consider following the Victorian approach whereby a framework for road management that requires roads and public transport to be planned as one integrated network. Roads designed to accommodate public transport options from the outset must result in better outcomes for all road users.

- **Freight Transport**

Freight transport is a significant issue for all our Members. Increasingly our Members in western NSW are contending with accommodating road trains, B-doubles, A-doubles and B-triples and the damage that they inflict on our regional and local roads. We are seeing an increasing push for longer wheel-based vehicles (beyond 36 metres) to gain access to our roads. This is likely to continue as the skills shortage in long haul truck drivers grows. The National Road Transport Association estimates that there are 26,000 unfilled driver positions which are threatening the nation's supply chain and economic stability.²

The 2024 International Road Transport Union Truck Driver Shortage Survey found almost half of Australian freight businesses (49%) are already facing severe or very severe difficulties filling driver positions.³ One of the responses to the driver shortage is to increase the use of "high productivity heavy vehicles".

We note that the States Safer Freight Vehicles reform package will increase vehicle width limits from 2.5m to 2.55m. Consequently, high productivity heavy vehicles are likely to become longer and wider. We see a strong need for a commitment to the provision of overtaking lanes on roads that are regularly used by high productivity vehicles.

² National Road Transport Association: <https://www.natroad.com.au/national-approach-needed-to-solve-truckings-urgent-economic-crisis/#:~:text=According%20to%20the%202024%20International,road%20freight%20industry%20skills%20shortages>

³ Ibid.

Our Members are concerned about ensuring that there is an efficient and effective interaction between all road users. One of the ways that safe interaction can be achieved is through the provision of sufficient overtaking lanes to discourage rash or unsafe behaviours. In addition, road width should be sufficient to accommodate all road users simultaneously e.g. sufficient space for a heavy vehicle to pass a bicycle.

Consequently, our Members believe there is merit in considering the identification of High Productivity Routes whether they be Regional or Local roads. High Productivity Routes are those that are heavily trafficked by high productivity heavy vehicles. These routes should be earmarked for the placement of longer passing lanes at regular intervals along a route to ensure safer and more efficient traffic movement. This becomes more imperative on tourist routes where heavy vehicles are interacting regularly with caravans and other forms of tourist traffic.

Our Members would also like to see more focus on the “last kilometre” of freight routes. Roads that make up the last kilometre of a freight route are often local, unclassified roads. Our Members support an integrated approach for these roads to ensure that they are considered in the overall planning for freight transport. They are local roads, consequently are located where heavy vehicles are most likely to interface with suburban road traffic including pedestrians and cyclists.

Recommendations - Active Transport:

- Amend the Objectives to include a commitment to Active Transport outcomes.
- Adoption of a broader definition of “traffic” to facilitate the ability for councils to create/improve the road environment for pedestrian and cyclists.
- Amend the Act to require reference to active transport strategies like the Movement and Place Framework and the Active Transport Strategy in the design and utilisation of roads.
- Consider opportunities to utilise road corridors to achieve Active Transport outcomes.

Recommendations - Public Transport:

- The Act to include a framework whereby public transport requirements are integrated into road management.

Recommendations - Freight:

- Identify High Productivity Routes and require more frequent and longer passing lanes enabling safer and more efficient movement for all traffic.
- Road management planning to include management and maintenance of “last kilometre” regardless of whether it is a classified or unclassified road.

Recommendations – Other:

- Empower roads authorities to streamline the creation of new infrastructure required to support the electrification of the transport network.

4.3 Is the way we classify NSW roads under the Act still useful?

Our Members agree that it is time for an overhaul of the road classification system. The CMA supports the proposal to introduce a streamlined, data-driven categorisation system that allows for continuous evaluation rather than periodic reviews. The CMA believes that to establish clear, consistent and equitable criteria requires close consultation with councils to ensure that classifications are informed by on-ground experience.

Our Members advise that the current system is unclear and inconsistent, in turn it is creating challenges in determining responsibilities and securing adequate funding. Our Members would support amendments to the Act that:

- Clearly define each of the road types that the Act recognises – the statutory categorisation perhaps referencing the NSW Movement and Place Framework to ensure that road uses are incorporated into road categories.
- Establishes a rapid, transparent process for councils to propose a change to a road's categorisation.
- Aligns the statutory categorisation with administrative funding arrangements to ensure consistency.

It has been suggested that current road categories do not reflect place function or modal priorities and that a shift to this type of classification would improve overall planning resulting in a more integrated planning approach. For example, we have mentioned above that there may be scope to identify High Productivity Routes as a categorisation.

Our Members believe there is scope to enhance the categorisation to better reflect the primary use of a road and thus link it to administrative funding arrangements that hopefully adequately fund its primary use. It has also been suggested that consideration be given to creating a category for private roads in large residential developments.

Generally, our Members agree that a permanent, preferably indexed, funding allocation approach for each road category would improve efficiencies, so that valuable staff time and resources are not expended chasing competitive grants. There is very real concern that competitive grants' processes tend to favour large, well-resourced councils that are able to expend time and energy on grant applications, while smaller rural councils that often have responsibility for thousands of kilometres of roads are not appropriately resourced to submit competitive applications.

Our Members have expressed frustration at the operation of s138 of the Act and specifically s138(2) which effectively provides TfNSW with the power of veto in relation to works and structures on classified roads where councils are the Road Authority. Our Members would like to see this amended to permit councils to have the final decision on these matters, perhaps in consultation with TfNSW. At the very least councils should be able to approve minor road modifications without approval from TfNSW.

If TfNSW was to adopt and commit to the principle of subsidiarity in relation to decision making for roads, decision-making would rest with the Authority that has responsibility for the road. This would result in decision making for Regional and Local roads resting with councils.

- **Administrative Categories**

Our Members agree that road categorisation should be consistent across regulation, administration and management. This would create more efficient and effective outcomes for the entire road network.

Our Members suggest that TfNSW consider a category for private roads in large residential developments as well as a category for the maintenance and construction of haulage roads and access roads to major industries such as mining sites, wind and solar farms.

- **National Approach**

Our Members agree with the National Approach proposed in the Paper. Our Members support the national role the NHVR has in approving routes however they are seeking more consultation and advice on the approvals that are granted.

- **Functional Identification – Movement and Place**

Our Members agree that the NSW Movement and Place Framework should be incorporated into a new approach to road classification. Some of our Members have expressed concern however, about an outcome where one road could carry multiple classifications (as in the Case Study provided). This could generate confusion between administrative and regulatory functions.

Recommendations Administrative Categories:

- Introduce a streamlined, data-driven categorisation system.
- Amend the Act to clearly define the road types recognised.
- Establish a rapid, transparent process to propose a change of road categorisation.
- Align statutory categorisation with administrative funding arrangements.
- Adopt permanent, indexed funding allocation approach for each road category.
- Adopt a principle of subsidiarity in relation to decision making or Regional and Local roads.

Recommendations National Approach:

- Adopt a more consultative approach in relation to approvals for Heavy Vehicles.

Recommendations Functional Identification – Movement and Place:

- Act be amended to restore a balance between Movement and Place and aligning the Act with Movement and Place Principles.

4.4 Does the act work well with the *Environmental Planning and Assessment Act 1979*?

Our Members agree that development outcomes in NSW must be better integrated with sound road and transport planning. Road network planning cannot be an afterthought in the planning process. We agree with the Paper's assertion that *"the misalignment may be hampering strategic government initiatives leading to suboptimal outcomes in road planning and management"*.

Our Members agree that the Act requires greater clarity in relation to its alignment with the EP&A Act, specifically which Act takes precedence when they are in conflict. Our Members advise that the lack of

clarity and alignment with the EP&A Act has led to disputes between developers and councils consuming staff time and resources.

- ***Sufficient Focus on road network planning***

Our Members agree that there is insufficient focus on road network planning as part of the considerations in relation to development applications. There should be early planning of road access and upgrades for new developments. It is suggested that s138 of the Act should be fully integrated into the DA process. Where a developer is proposing to connect to an existing road, early consultation with council is needed to determine whether the connection is consistent with current and future plans for the road.

Our Members have also suggested that the provision of risk based standardised instruments and systems could assist with streamlining assessment for specific low risk situations, speeding up the assessment process. The suggested systems could be supported by standard drawings and vehicular crossing procedures for individual jurisdictions.

It has also been suggested that greater clarification when a TfNSW concurrence is required and that there should be a review power included in relation to that concurrence.

Recommendations – Sufficient Focus on Road Network Planning:

- Requirement for road network planning to be integrated into development considerations and consents, perhaps an amendment to the Act requiring s138 applications to be considered within the development process.
- Clarification on the TfNSW concurrence together with a review power

Recommendations – Other:

- Act be amended to identify when the Roads Act takes precedence of the EP&A Act. EP&A Act to be amended to reflect same.

4.5 Could roles, responsibilities and decision-making processes under the Act be clearer or more streamlined?

The fact that the Paper refers to “*a range of workarounds*” being used to address shortcomings in the Act supports the need for the Review that is currently underway. Our Members agree with the Paper’s assessment that the workarounds are complicated, overlaid with varying degrees of understanding which invariably leads to inefficiencies. However, they can also be used during the Review process to identify amendments that are required to the Act.

Our Members support the proposal that regulatory frameworks should align with the principles of subsidiarity. Consequently, we agree with the Paper’s assessment that the key gap in the Act is the “*inadequate powers granted to local councils to manage their networks*”. Our Members agree with the Paper’s recommendation that “*council’s critical responsibilities should be authorised by powers in the Act itself*”.

Consequently, in keeping with the principles of subsidiarity, the CMA believes that councils should be recognised as the primary decision-maker for Local and Regional roads. Further we believe that councils should have the final say on key matters that currently require TfNSW approvals including:

- Deviations or alterations on Regional and Local roads
- Approval for works above \$2million
- Consent to undertake traffic control on classified roads
- Approval for works and structures on classified roads
- Approval for road events
- Setting speed limits on local roads.

Our Members supports an amendment that permanently permits councils to exercise power under Section 115 of the Act in relation to the regulation of traffic on roadworks. The current process of councils operating under a delegation from TfNSW which is renewed annually is inefficient and unnecessary.

- ***Complex Relationships and Decision-making***

Our Members agree that road categorisation should be consistent across regulation, administration and management. This would create more efficient and effective outcomes for the entire road network.

Our Members have recommended that the process for closing low-trafficked public roads should be simplified. Current requirements for consultation, ministerial approval and administrative processes create unnecessary delays for councils seeking to close under-utilised roads. Our Members suggest the introduction of a “low-impact closure” category that provides a streamlined process without excessive regulatory hurdles would be more efficient.

Currently, when roads are closed ownership of the land defaults to the Crown which limits opportunities for local repurposing. Councils should be able to nominate to retain ownership of the road in order to repurpose its use for community benefit including open spaces and commercial uses or permit sale of the land to adjacent landholders where this is consistent with existing permissions.

Our Members are also seeking a faster process to open roads when clear local benefits exist. In addition, road dedications should be accompanied by appropriate funding support to prevent councils from inheriting unfunded liabilities. The CMA also supports simplified land acquisition processes for road modifications. Councils should have the authority to acquire land for road widening and realignment without requiring ministerial approval.

Our Members support improved processes for temporary road closures due to flooding, bushfires or seasonal conditions.

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- ***Other***

Our Members seek a change to the Act giving councils the right to install or change permanent speed limit signage on council controlled local roads, again the requirement for TfNSW to approve changes to council-controlled roads seems an unnecessarily complex.

Many of our Members have expressed concern in relation to the rights granted to utilities working in road reserves which override council's authority. Utilities take the approach that their requirements take precedence over councils and consequently councils find utilities, including rail operators, working on road reserves without approved traffic management plans and sometimes leaving road reserves in a poor state once their works have been completed.

Decision-making in relation to road corridors should prioritise road management and maintenance needs, not the needs of the utility provider or rail authority. The Act should be amended to provide for the Road Authority to be the final decision-maker in relation to works that are proposed by utilities, service providers and rail authorities in road corridors.

In addition, where utilities, service providers and rail authorities and/or their contractors work unsafely on the road reserve or leave the road reserve in a state that requires councils to undertake a clean-ups or restoration works. Our Members suggest a statutory regime be introduced to allow councils to take appropriate action to issue penalties when those failures occur.

Finally, a number of Members have expressed concern that service providers and utilities have buried assets in road reserves of which councils have no knowledge. In addition, there is no statutory requirement for service providers and utilities to consult with councils about where assets are being placed. Our Members believe that the Road Authorities' powers should be increased to enable councils to direct utility and service providers to take responsibility and pay for relocating or protecting services installed in road reserves that hinder road upgrades or maintenance.

Recommendations – Complex Relationships and Decision-Making:

- Amend s115 of the Act to enable broader, standing delegations to councils.
- Amend the Act to allow councils to set speed limits on local roads, in consultation with the Local Traffic Committee.
- Provide for a simplified and streamlined process for the closure of underutilised public roads.
- Amend the Act to allow councils to retain ownership of the land associated with a closed public road and to repurpose it.
- Provide a streamlined mechanism for temporary closures due to floods, bushfires and seasonal conditions.
- Provide a faster process to open and dedicate roads where clear benefits exist.
- Simplify land acquisition processes for road modifications.

Recommendations – Other:

- Act be amended to define a statutory hierarchy that positions the Road Authority as the ultimate decision-maker on activities/work that occur within the road corridor.
- Act be amended to include a dispute resolution process where the Road Authority and the utility or rail authority cannot agree on how works in road corridors will be undertaken.
- Amend the Act to allow councils to take appropriate action to issue penalties to utilities, road authorities and their contractors in relation to failure to meet Road Authority requirements for works on road reserves.
- Mandate that utility and other service providers' asset maps be shared with councils in digital formats.

4.6 Are there ways to improve the operation of certain parts of the Act?

Our Members agree that the current structure of the Act contains operational challenges for Roads Authorities.

- ***Responding to Natural Disasters and Catastrophic Road Failures***

Our Members acknowledge that we are approaching, or have entered into, a period of climate change where severe weather events are becoming more frequent and communities are likely to suffer through more intense storms, floods and bushfires.

TfNSW's recent Customer Journey's project recognised the vulnerability of communities that are served by single access roads. Councils are very aware that "one road in, one road out" communities are particularly vulnerable during natural disasters.

Our Members agree that s175 of the Act does not sufficiently support responses to natural disasters and catastrophic road failures. Specifically, our Members have raised concerns relating to the construction of temporary roads to replace incapacitated or impassable public roads.

Our Members support amendments to the Act to allow the creation of emergency or temporary access roads, as a public road, in locations remote from a major public road failure to provide access to isolated communities. Currently, s175 requires that the detour be created on "*any land along or near the line of the road*", which in some circumstances is an unrealistic expectation during a natural disaster. Councils should be able to create a detour in the location that best fits the needs of the community, providing the safest and quickest access regardless of whether it is near the existing road.

In addition, the Act does not support Roads Authorities to undertake emergency upgrade works to Crown roads to permit these roads to be used for emergency access to isolated communities.

- ***Codifying Regulatory Framework for Permits***

Our Members agree that Road Occupancy Licences (ROLs) and Works Authorisation Deeds (WADs) should be explicitly referenced in the Act to improve transparency and consistency.

- ***Cost of Regulating the Network***

While the principle of cost recovery is recognised, the CMA cannot support an approach that would generate additional costs for councils either in fees or administration. In addition, as road network is a key driver of economic growth, there is a strong argument that the State should bear the costs of regulating the network because it is an economic lynchpin.

We have suggested above that where road changes are required as part of a Development Application improved integration would result in greater efficiencies and lower costs. We can see the merit in the adoption of scaled regulatory processes depending on network impact and complexity for efficiency of administration.

The CMA believes it is important that any cost recovery be proportional and also take into account other fees and charges that are already being levied by the State on the developer e.g. biodiversity offsets.

The adoption of subsidiarity approach to decision making is likely to reduce costs and complexity, as councils would then be making the decisions relating to developments impacting on Regional and Local roads.

- ***Outdated Penalties and Compliance Framework***

Our Members agree that a broader range of penalties should be explored in relation to the Act. We note that reference to the *Crowns Lands Act* penalties being civil, criminal and administrative. A penalty regime that includes remediation orders would be welcomed, so that those that damage a road reserve must meet the cost of restoration works to make the road safe.

The CMA would also like consideration given to increasing the power of councils impose larger penalties on users conducting unauthorised activities on roads.

- ***Temporary Delegation to Councils***

As stated above, the CMA supports the temporary delegations being replaced with a permanent delegation regime.

Recommendations - Responding to Natural Disasters and Catastrophic Road Failures

- Amend the Act to allow for the creation temporary public roads, on private or public land where necessary to provide access to isolated communities.
- Define the circumstances in which a failed road is declared impassable including where the road is subject to load limits that prohibit use by heavy vehicles that provide essential services and supplies.
- Amend the Act to permit a Roads Authority to temporarily assume responsible and control of a road for the purpose of providing a temporary road to an isolated community.
- Amend s175 of the Act to remove the requirement that an essential detour must be “along or near the line of the road” to permit a temporary relocation subject to reasonableness.

Recommendations – Codifying Regulatory Framework for Permits:

- Amend the Act to codify Road Occupancy Licences (ROLs) and Works Authorisation Deeds (WADs)

Recommendations – Cost of Regulating the Network:

- Cost recovery should not generate additional costs for councils.
- Road network changes required for a new development should be integrated in the development assessment process to reduce costs and duplication.

Recommendations – Outdated Penalties and Compliance Framework:

- Explore the option to introduce civil, criminal and administrative penalties, in consultation with councils.

Recommendations – Temporary Delegation to Councils:

- Amend s115 of the Act to enable broader, standing delegations to councils

4.7 What can be done to ensure that the Act keeps pace with change

It has been over 30 years since the last review of the Act. We strongly recommend that more regular review of the Act occur, perhaps every 5 years. We strongly recommend regular consultations with councils to identify issues. In addition, where consultations with councils identify that a “workaround” is needed, then actively consider an amendment to the Act to address the problem.

We agree that the following regulatory features should be tested to ensure the Act can accommodate:

- the ability to change the primary intended function or use of a street at different times of day or days of the year.
- Area wide speed zone reduction on local neighbourhood streets delegated to councils
- Regulation of traffic on local neighbourhood streets and civic spaces delegated to councils

Other Matters

Our Members have identified other issues that have not been captured above, they are as follows:

- Councils should have the same level of consent to accept transfers of Crown Roads as TfNSW has under s152I of the Act. An order to transfer a Crown road to a council should not occur except with the consent of the council.
- When a council is acquiring land for roads from a Crown agency, it should not be subject to a Treasury Directive to pay market value. As stated above the NSW road network is a key driver of economic growth, consequently, forcing councils to pay market value to expand the network is counterproductive.
- Section 38B of the Act requires that notification of a proposed road closure be published in the local paper. This is the only form of publication required and does not represent how today’s communities engage with news. We suggest an amendment that allows multiple forms of communication channels and does not dictate which should be used. Councils should be able to choose the communication channels that are the best fit for their communities.
- The Act be amended to clearly state that responsibility for the maintenance of driveways, access tracks and verges on private properties lies with the property owner.

Conclusion

The CMA welcomes the opportunity to provide feedback on the Roads Act Issues Paper.

Our Members would be pleased to continue to engage TfNSW on the review of the Act and also to work with TfNSW on further consultations in relation to the Review. We look forward to TfNSW’s participation in our Transport Forum to be held in Orange on 12 June, 2025.