

DRAFT SUBMISSION

Review of Roads Act 1993

March 2025

**ONE VOICE
FOR COUNCILS**





Local Government NSW (LGNSW) is the peak body for local government in NSW, representing NSW general purpose councils and related entities. LGNSW facilitates the development of an effective community-based system of local government in the State.

OVERVIEW OF THE LOCAL GOVERNMENT SECTOR



Employ nearly **50,000 people**



Manage more than **1,800 community & public centres**



Maintain more than **168,000km of roads & bridges**



Manage more than **\$220 billion of community assets**



Recycle **1.75 million tonnes of waste**



Spend more than **\$2.5 billion each year on caring for the environment**



Operate more than **380 libraries that attract tens of millions of visits each year**



Make kerbside waste collections for more than **3.1 million households**



Manage an estimated **4 million tonnes of waste each year**



Spend more than **\$2.4 billion on culture and recreation**

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Introduction

Local Government NSW (LGNSW) is the peak body for local government in NSW, representing NSW general purpose councils and related entities. LGNSW facilitates the development of an effective community-based system of local government in the State.

LGNSW welcomes the opportunity to provide initial feedback on the [Roads Act 1993 Issues Paper](#). LGNSW also appreciates the opportunity to participate on Transport for NSW's (TfNSW) Peer Review Advisory Group and the upcoming Stakeholder Roundtable Workshop.

LGNSW recognises that there have been major changes since the Act was introduced and that a comprehensive review is needed. LGNSW supports the four key reform objectives:

- More contemporary uses for roads and streets that are safe and responsive to community needs.
- Faster local decision making with appropriate mitigations to manage network risk.
- A streamlined and easy to use statute that keeps pace with change.
- A more operationally effective statute.

Roads are a major issue for local government with councils responsible for around 90% of the NSW road network and with road construction and maintenance being the largest expenditure item in council budgets.

LGNSW has responded to a number of the questions from the Issues Paper and added broader comments, including matters not addressed in the Issues Paper. In preparing this submission, LGNSW also consulted the NSW Roads & Transport Directorate (RTD). The RTD is a long-standing partnership between Institute of Public Works Engineering Australasia (IPWEA) NSW/ACT and LGNSW. The RTD focuses on addressing roads and transport-related matters for NSW local government.

Please note this submission is provided in draft form, subject to endorsement and approval by the LGNSW Board. If there are any changes following Board endorsement, these will be separately provided.

Response to specific questions

4.1 How could the Act be changed to enable more community uses for roads and streets? (including definitions, objectives, desired outcomes, health and environmental benefits)

The Roads Act currently [defines](#) 'road' as well as numerous types of roads (e.g. public, private, classified, main, metropolitan). There are also definitions at [s32B](#) relating to closing of public roads with further definitions for council and non-council public road for instance added to the definitions. Adding more definitions could cause confusion.

A 'street' is not defined in the Roads Act, but case law has reiterated what a road is (as well as all the definitions in the Roads Act) so differentiating between a road and a street may cause unnecessary complication. It is arguable that a road and a street are interchangeable and there is no need to differentiate between the two let alone all the other types of roads potentially being affected by the addition of "street".

[Part 9 Division 3](#) of the Roads Act governs street vending consents. 'Street' is not defined but this section refers to 'public road'. TfNSW may consider whether there is a need to add a definition for 'street', including for the purposes of this section. Any impacts of doing so on [s68](#) approvals of the *Local Government Act 1993* should be carefully considered.

The Issues Paper raises the point that there are many environmental implications for roads (tree canopy heat mitigation, biodiversity corridors, bushfire access etc) that are not currently contemplated in the Roads Act. It is important that the multi-dimensional role of roads as more than just a conveyor of transport is acknowledged in the objects of the Act. The issues paper comments on different understandings of 'roads' versus 'streets' (*roads are for saving time, streets are for spending time* – p15 of the issues paper). There is a need for more contemporary uses for roads and streets that are safe and responsive to community needs.

While state and local governments are prioritising vibrancy through street activations and night-time economy initiatives, many councils face regulatory hurdles. Specifically, unless such events are outlined in a council's LEP or SEPP, they may require a Development Application (DA) to alter the conditions of use for streets or laneways. To streamline this, it is proposed that the Roads Act be utilised more effectively by expanding the definition of 'road events' to explicitly include street-based activations such as cultural events and markets—enabling councils to permit these without triggering DA requirements.

LGNSW is also of the view that the Roads Act should emphasise public safety and risk assessment as a priority in any vibrancy conversions (e.g. including protecting crowded places and separating diners and pedestrians from fast and proximate traffic). It must also ensure councils, under delegated authority are not legally liable for safety incidents that occur despite appropriate risk management.

4.2 Does the Act sufficiently accommodate all road users?

The Roads Act review should consider equitable access to public spaces. Integrating the principles of universal design will help create more inclusive, accessible environments for all. This should include considering the needs of those driving vehicles as well as wheelchair users, carers assisting others, active transport users. The Act should aim to achieve safety through road design, especially for vulnerable users or those with more complex travel patterns.

The Act should also be fit for purpose across the entire NSW road network. Updating the definition of 'traffic' to reflect the diversity of all road users including pedestrians,

cyclists, cars and freight is important. It should also provide guidance on how different types of traffic are prioritised, linking to a standard classification system.

While reforms to the Act should enhance road user considerations, care must be taken to ensure that the Act does not enshrine preferences for one mode of transport over another. Decisions about transport priorities should remain within government policy and not be reflected in state level legislation.

4.3 What issues have you experienced due to overlapping classification systems to determine roles and responsibilities for NSW roads?

[Classifications of road](#) are already complicated with multiple differing types of roads and their classifications. It would be beneficial to review overlapping classification systems, noting that road classifications may change. LGNSW's recent [submission](#) commenting on the NSW Government's approach to recategorisation is also relevant to this review.

4.4 What issues have you experienced with parallel approval processes under the NSW planning system and the Act?

There could be major benefits from having the planning system and the Act better work together, but this depends on the specific changes implemented.

The Issues Paper acknowledges that the Roads Act and the Environmental Planning & Assessment (EPA) Act need to work well together and that there is no strategic planning framework in the Act. LGNSW supports the Issue Paper's call for "regulatory experimentation" (p. 54), aligning with our [policy positions](#) statements which advocate for local governments to:

- 7.2: Retain planning powers in State plans.
- 7.3: Be treated as a partner in metropolitan, regional and district planning processes.
- 7.4: Represent community engagement in strategic planning.

Furthermore, the NSW Government's hosted Planning Portal is acknowledged by TfNSW as deficient in not mapping road network classification on the land use zoning map. Although the classification of roads mapping would be beneficial, the portal primarily remains as a planning tool that needs urgent improvement, which is consistent with LGNSW's planning position statement 7.14 which calls for the NSW Government to improve the Planning Portal in close consultation with local government by:

- a) Urgently improving operation of the NSW Planning Portal with particular focus on the length of time the portal is adding to assessment timeframes.
- b) Formalising an agreement with local government on the operation and ongoing development of the Planning Portal, including covering all costs incurred by councils to implement and operate the portal.

4.5 How could the Act make roles and responsibilities clearer for decision making?

LGNSW notes concerns that any consideration of changes to the definitions may affect the ability of councils to apply for [road closures](#) and should be approached with caution. Further, LGNSW is supportive of clearly outlining the powers of councils in the Roads Act, and in ensuring they have equal standing with other Roads Authorities. This would include, for example, providing council with similar powers to TfNSW to require consent for any transfer of Crown Roads to a council, as per section 152I of the existing Act.

LGNSW policy positions

LGNSW [Policy Platform](#) areas of intersection to this review include:

- **Roads & Infrastructure** – LGNSW [Fundamental Principle \(C. Infrastructure\)](#) states that “*Local government is best placed to **plan for**, deliver and manage essential local infrastructure.*” This is relevant to TfNSW’s observation on road network planning (p44) that there is no clear framework for strategic planning under the Roads Act 1993 that aligns with broader land use and transport planning objectives. Council standard instruments and standard land use zones can assist in alignment of strategic purpose for local roads, however the strategic planning of State classified roads remains the domain of the NSW Government agencies, to be considered in broader District and Regional and State based plans. LGNSW calls for the Department of Planning, Housing and Infrastructure to lead in the regular update of these plans in consultation with TfNSW and councils to ensure a connected network approach to roads and transport in general.
- **Natural Disaster & Emergency Management** – LGNSW position statements 6.1 calls for emergency management responsibilities to be transferred to the NSW Government and 6.3 a) calls for ensuring that repair of damage to road and bridge infrastructure as the result of natural disasters continues to be funded under Disaster Recovery Funding Arrangements. These positions are relevant to the discussion in the Issues Paper (p49) regarding the timely response of roads authorities (councils) to catastrophic road failures and providing temporary alignments (outside of the line of the road). Allowing sufficient flexibility in the Act for timely response is supported but this should not also shift to councils the responsibility for quick response and repairs if councils are not appropriately funded.

Liveability, biodiversity and roads

Vegetation, and in particular trees, play a significant role creating liveable neighbourhoods and increasing the health and wellbeing of communities. Benefits include:

- Biodiversity support and provision of important habitat corridors for native plants and animals

- Lowering heat through transpiration, shade and passive cooling, reducing the urban heat island effect (trees are widely regarded as one of the most effective large-scale mitigation measures against urban heat)
- Carbon sequestration and reducing energy consumption (and additional carbon emissions) by reducing the need for air conditioning
- Improving air and water quality
- Enhancing water absorption by slowing stormwater and reducing peak flows, therefore reducing the risk of flash-flooding
- Increasing human health and wellbeing.

New housing developments need to provide sufficiently wide verges and require setbacks on properties to allow for the growth of the substantial trees required to provide a tree canopy.

Other comments

- Overall, LGNSW supports the founding principles of the Act:
 - The public right of passage along public roads and:
 - The right of access between public roads and adjacent property.

While recognising that there are other uses of roads and streets on a temporary or permanent basis, the principles remain valid for the majority of roads and streets. This is not inconsistent with the more contemporary references to the roles of facilitating both mobility and community connection. The founding principles will remain the primary purpose of the vast majority of road length.

Alternative uses of roads and streets must not compromise access by emergency services. Furthermore, roads in greenfield areas must be of sufficient width to allow access by emergency vehicles, buses and garbage trucks and other large vehicles.

- The role of roads in providing utility corridors should be formally recognised in the Act.
- The Issues Paper has not recognised the important role that roads and streets play in providing parking, particularly in high density areas. New developments (low to high density) should be required to provide adequate parking to allow residents to park off street.
- Roads and streets should not be seen as a substitute for dedicated public space and should not be used to decrease development contributions for open space.
- Road reserves can contain significant native biodiversity, including ecological communities that may not be represented in national parks, public reserves or private land. They provide important wildlife habitat and corridors, maintaining connectivity between fragmented ecosystems and climate refugia. Such

connectivity will be of increasing importance as the climate changes and extreme weather events become more common.

- Reform is also required in relation to Crown Roads and the ability to transfer such assets to local government. Clearer guidance is required on the circumstances under which a Crown Road can be transferred, and the right of refusal provided to the impacted council. Additionally, consideration should be given to streamlining the process and costs for councils to acquire Crown Roads or Crown Land for the purpose of road improvement or widening.
- Similarly, the review of the Act should consider the role of the Forestry Corporation of NSW as it relates to the quality and standard of forestry roads that connect to the public road network, and the ability for councils to directly recoup costs associated with logging transportation activities that impact the local road network.

Ending

This is LGNSW's initial submission to the Roads Act review. Further and more detailed commentary will be provided as the review progresses. LGNSW is also pleased to contribute through the Peer Review Advisory Group and the upcoming Stakeholder Roundtable Workshop.

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