



28 March 2025

Transport for New South Wales
NSW Roads Act 1993 Review Team
By email: roadsactfeedback@transport.nsw.gov.au

Dear Sir/Madam

Subject: Lake Macquarie City Council Feedback – Roads Act 1993 Review

Lake Macquarie City Council staff welcome the opportunity to provide feedback on the Roads Act 1993 [the Act] Review and Issues Paper. We appreciate the NSW Government's initiative to review and modernise the Roads Act to better reflect contemporary needs and priorities.

Council staff's submission highlights key areas of concern and provides recommendations to ensure the Act supports the effective management of our local road network and meets the needs of our community.

The overarching themes emerging from Council staff's review of the issues paper and discussion questions, are those focused on defining responsibilities, simplifying processes, ensuring consistency across legislation, and improving the Act's responsiveness to future challenges.

The following conclusions and recommendations summarise the necessary reforms:

- Clarification on responsibilities – clearly define which authority is responsible for different road functions, including traffic regulation, speed limits, and infrastructure approvals. Resolve conflicts between administrative (State, Regional, Local) and legal road classifications.
- Streamline decision-making – simplify approval processes for councils, particularly for minor works and traffic management. Codify long-standing delegations and clarify when a Works Authorisation Deed (WAD) is required from Transport for NSW.

Our Ref: Your Ref:

126-138 Main Road
Speers Point NSW 2284
Box 1906 HRMC NSW 2310

T 02 4921 0333
E council@lakemac.nsw.gov.au
W lakemac.com.au

ABN: 81 065 027 868



- Align with other legislation – ensure consistency with the *Environmental Planning and Assessment Act 1979*, *Road Transport Act 2013*, and *Local Government Act 1993*. Clarify the relationship between Section 138 of the Roads Act and the Traffic Facilities Committee (TFC) approvals.
- Support all road users – mandate consideration of all user categories in road projects, embed active transport provisions, and ensure integration of public transport needs, including bus stop responsibilities.

To reduce ambiguity, we suggest TfNSW develop a comprehensive guidance note supporting future amendments to the legislation, outlining:

- Which authority is responsible for what (including approvals for traffic control devices, road classifications, and maintenance obligations).
- A clear table of specifying the relevant approval authority for different road-related activities. An example is provided in **Table 1** below.
- Clarifications on when additional approvals (e.g. WADs, TFC approvals) are required.

This guidance would help both councils and TfNSW operate within a consistent, well-defined regulatory framework, while ensuring road networks effectively serve all road users and future-proof the system for evolving transport needs.

This submission from Council also detail specific responses to the questions posed in the Issues Paper and is included on the following pages.

Should you require further information or wish to follow up on any matters within this submission, please contact Dayne Harris, Section Manager Infrastructure Assets on (02) 4069 0043 or by email dcharris@lakemac.nsw.gov.au.

Thank you in advance for your consideration of this submission.

Yours faithfully



Brendan Callander
Director Built and Natural Assets

Table 1: Example – Table of Responsibilities per Road Type

Traffic control device / activity	Road type	Approval authority
Traffic Control Signals (TCS)	All roads	TfNSW, WAD required
Speed zones	All roads	TfNSW
Bus stops	All roads	TfNSW
Warning and guidance signs	State roads	TfNSW
Warning and guidance signs	Regional roads Local roads	Council
Other traffic control devices (e.g. regulatory signs and line marking)	Regional roads Local roads	TfNSW
Road closures	Regional roads Local roads	
Footpaths, kerb ramps	State roads	TfNSW – this is the preferred scenario but not clear who is responsible
Footpaths, kerb ramps	Regional roads Local roads	Council

Question 4.0

QUESTION – ISSUES PAPER	COUNCIL RESPONSE
a. What is currently working well?	<ul style="list-style-type: none">• Section 138 works approval (public works certificate): Allows Council to manage works within the road reserve effectively. Council has developed an online application form for applicants.• Part 7 of the Act – Protection of public roads: Enables Councils to undertake specific works (e.g., maintenance) on local roads without requiring State approval, such as vegetation trimming, installation of fences, and lights. This is particularly important for managing overgrown vegetation that affects vehicle and pedestrian access or sight distance.• Part 8 of the Act – Regulation of traffic by roads authorities: Powers granted to councils are sufficient.

Questions 4.1

QUESTION – ISSUES PAPER	COUNCIL RESPONSE
<p>a. How could the Act be changed to enable more community uses for roads and streets? (select all that apply)</p> <ul style="list-style-type: none"> • Define the different objectives for roads and streets • Include outcomes for safety, public health and the environment in the objects of the Act • Simplify the types of roads and streets defined in the Act • Include desired outcomes for the design and operation of local streets and civic spaces • Other (please specify) 	<p>It would be helpful to define street objectives – the intended functions and therefore design treatments.</p> <ul style="list-style-type: none"> • This would provide clarity on design requirements for different road and street types. • The Act should outline the function and objectives of important streets, such as main streets and transit corridors.
<p>b. How can safety be better considered in the planning, administration and management of roads?</p>	<ul style="list-style-type: none"> • Safety should be a core principle in the Act, ensuring all road users are considered. • The principles of the Safe System should be reflected—reducing the risk of injury and fatalities should be at the core of all works and road-related operations. • Equally, consideration should be given to financial constraints and the ability to stage improvements over time.

<p>c. How can the Act better recognise the public health and environmental benefits of roads and streets?</p>	<ul style="list-style-type: none"> • These issues are important but may be better suited under other legislation. However, the Act should reference these considerations where relevant.
<p>d. What other community issues would you like to raise in relation to the Act?</p>	<ul style="list-style-type: none"> • The Act should clarify when a Work-as-Executed Drawing (WAD) is required, as councils have received inconsistent advice from TfNSW regarding capital works projects. • The Act does not define responsibilities for different types of roads, including traffic regulation, speed limits, and bus stops. • Section 218 of the Act does not state that a driveway is the responsibility of the residential property owner. Council proposes that “the owner of land adjoining a public road is responsible for the construction and maintenance of the vehicle crossing of the public road from the property boundary to the formed road” • Section 218 of the Act refers to a “special crossing”, yet no definition is provided. • Furthermore, a driveway mentioned within the act, does not include guidance on

	<p>shared driveway crossings, or dual crossing points.</p> <ul style="list-style-type: none"> • Legacy issues are present from time-to-time whereby road infrastructure has been constructed over private property. There are no provisions in the act on how to deal with this situation, unlike stormwater as highlighted in the Local Government Act. • Division 3 of the Roads Act includes provisions regarding Road Levels. The requirements within this Division 3 are unclear and outdated. The requirements with respect to road work are unclear. • Part 6 Division 1 Section 76. This proposal for works in excess of \$2mil is outdated and requires updating, or preferably removal. • Part 13, Division 3, Section 219. Confirmation is required regarding this clause as applicable to utilities companies and cost recovery, in light of other legislation. • There is no provision within the Act for utilities companies to be directed by Council or a roads authority to repair or relocate shallow services within the road reserve.
--	--

Questions 4.2

QUESTION – ISSUES PAPER	COUNCIL RESPONSE
<p>a. How can the Act be improved to ensure that it considers each category of road user?</p>	<ul style="list-style-type: none"> • The Act should prescribe that road works must consider all user categories. • Road User Space Allocation Policy (TfNSW) should be incorporated. • Clarify terminology: "transport" vs. "traffic."
<p>b. Share your personal experience in navigating the Act to provide for a specific group of road users.</p>	<ul style="list-style-type: none"> • Absence of explicit road user considerations in the Act leads to reliance on road design guidance. <p>Example: Newcastle Inner City Bypass Stage 5 - TfNSW refusal to build adjacent shared path connecting Lake Macquarie with Newcastle.</p>
<p>c. What other issues would you like to raise for accommodating all road users?</p>	<ul style="list-style-type: none"> • The Act should accommodate road user groups to ensure legal standing. <p>Example: Responsibilities for bus stops - reflect Bus Industry Taskforce recommendations.</p>

Questions 4.3

QUESTION – ISSUES PAPER	COUNCIL RESPONSE
<p>a. What issues have you experienced due to overlapping classification systems to determine roles and responsibilities for NSW roads? (select all that apply)</p> <ul style="list-style-type: none"> a. Confusion between legal, functional and administrative systems b. Hard to find which legal classification applies to which road segment c. Confusion about who has authority for which segment of road d. Too many legal classifications e. Other (please specify) 	<ul style="list-style-type: none"> • All apply. • It is particularly confusing that Council is the roads authority for State classified roads, but has limited powers to make changes on these roads and must notify, seek concurrence or approval from Transport for NSW for most activities. • Division 1 Financial assistance roads to authorities – Clause 207 states TfNSW may provide financial assistance, e.g. for regional classified roads. TfNSW provides BLOCK grant funding to local government. This clause should be amended to “must provide financial assistance”.
<p>b. How could the system of road classification in the Act be improved?</p>	<ul style="list-style-type: none"> • Administrative classification is State, Regional, and Local, while legal classifications are defined in Part 5 of the Act. The Act should simplify the road classification system. • Clarify responsibilities, particularly where permissibility does not equate to responsibility. For example, Council <i>can</i> construct footpaths on State classified roads, but TfNSW should be responsible. In recent years,

	<p>TfNSW has advised Council staff Council is responsible.</p> <ul style="list-style-type: none"> • Address potential conflict between the Road Transport Act and the Roads Act definitions.
--	---

Questions 4.4

QUESTION – ISSUES PAPER	COUNCIL RESPONSE
<p>a. What issues have you experienced with parallel approval processes under the NSW planning system and the Act?</p> <ul style="list-style-type: none"> • Extra time/cost associated with parallel Roads Act 1993 approvals • 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 • Other (please specify) 	<ul style="list-style-type: none"> • The Roads Act should point to other Acts where approvals are required (e.g., environmental approvals under EP&A Act in association with an s138 certificate). • The relationship between approval by Council's Traffic Facilities and Road Safety Committee, enabled through delegation under the Road Transport Act, and s138 approvals under the Roads Act is unclear, for example, which approval should be sought first? • Developers face challenges due to varied approval requirements, some of which are not included in the DA process under EP&A.
<p>b. Can you provide further information on the issues you have experienced?</p>	<ul style="list-style-type: none"> • In a recent example, a NSW Government public development authority was not aware of the requirement to undertake an environmental assessment under Part 5 of the EP&A Act, in parallel with the s138 approval process.
<p>c. If you've experienced differences in approach to road network planning and land use planning, how have these affected your work?</p>	<ul style="list-style-type: none"> • Inconsistent advice and in the case of TCS projects, no limit to design reviews by TfNSW, impacts project budgets and timeframes.

	<ul style="list-style-type: none"> • In one case, Council's Deputy CEO had to write to TfNSW explaining how conflicting advice provided by TfNSW in relation to whether a Works Authorisation Deed was required or not would result in significant cost and timeframe impacts on a major shared path project Council was delivering, adjoining the Pacific Highway.
--	--

Questions 4.5

QUESTION – ISSUES PAPER	COUNCIL RESPONSE
<p>a. How could the Act make roles and responsibilities clearer for decision making? (select all that apply)</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"> • Reduce focus on individual regulatory signs and lines on low-volume local streets (use risk-based assessment). • Codify existing delegations into the Act. • Align network plans and decision-making roles with risk and network implications. • Clarify responsibilities for verge works and maintenance on State roads. • Part 8 regulation of traffic by roads authorities. It is unclear if the Act enables local government to confer traffic regulation functions to developers. Compare to Section 138 which states “A person must not---”, whereas Part 8 is confined to a “road authority”. Our interpretation is that the Local Government Act enables Council to enter into agreements (Road Licence Agreements) with developers to undertake traffic regulation; the relationship with the Roads Act is unclear.

<p>b. Describe your experience of using the Delegation to Councils and any improvements which could be made.</p>	<ul style="list-style-type: none"> • Enabled by the delegation, Council has developed a three-category system for classifying works and reporting to our Traffic Facilities and Road Safety Committee and/or Council for approval. Category 1 and 2 matters are approved by Council's CEO while Category 3 matters are reported to the elected Council. • However, a risk-based approach to works could be developed that enables local government to operate independently but within a framework approved by TfNSW. This would streamline approval for minor changes to local streets, for example, where TfNSW does not need to be involved, while giving greater certainty to Council regarding risk and liability.
<p>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.</p>	<ul style="list-style-type: none"> • Not currently used as Council finds it helpful to retain the TFC from a risk perspective.

Questions 4.6

QUESTION – ISSUES PAPER	COUNCIL RESPONSE
a. What improvements can be made to the Act to increase flexibility in response to natural disasters?	<ul style="list-style-type: none">• Review how the Act addresses temporary road closures and road deviations.• Ensure councils have the power to manage emergency road changes beyond the road reserve where needed (road deviation).
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?	<ul style="list-style-type: none">• Section 138 process should be clearer for installing works, road events, and activities.
c. How could compliance and penalty frameworks be changed to address environment and safety compliance?	<ul style="list-style-type: none">• The Act should include a clear and efficient approval process.

Questions 4.7

QUESTION – ISSUES PAPER	COUNCIL RESPONSE
<p>a. What regulatory features should be tested to ensure the Act can accommodate emerging technologies and new approaches? (select all that apply)</p> <ul style="list-style-type: none"> • 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 (please specify) 	<ul style="list-style-type: none"> • Council supports speed zone reductions as part of Local Area Traffic Management (LATM) but should not be responsible for setting speed zones on all local streets.
<p>b. Which provisions in the Act and the Environmental Planning and Assessment Act could benefit from regulatory experimentation?</p>	<ul style="list-style-type: none"> •
<p>c. How could these Acts better support new developments in sustainability?</p>	<ul style="list-style-type: none"> •