

Review of the Roads Act 1993

1. Introduction

The **Roads Act 1993** is a key piece of legislation governing road management and the use of roads in New South Wales (NSW). Over the years, it has provided a framework for road authorities to manage the state's vast road network, facilitating transport and mobility while ensuring safety and accessibility for all road users. However, given the changing landscape of transportation, urban development, and community expectations, there is a growing need to review and update the Act.

The **Issues Paper** from February 2025, developed by **Transport for NSW**, highlights the pressing need for reform to address the evolving challenges in road management. This paper outlines several concerns and potential improvements that could modernize the Act and enhance its effectiveness in managing roads in NSW.

2. Identified Issues with the Current Act

2.1 Complex Regulatory Processes

One of the primary issues raised in the Issues Paper is the **complexity of regulatory processes** under the current Act, particularly concerning road closures and the repurpose of road spaces for non-transport-related uses.

In urban environments, temporary road closures are frequently necessary for events such as festivals, street markets, construction works, or community events. The current procedures, however, are seen as **bureaucratically burdensome** and can create delays, particularly for local governments and event organizers. For instance, lengthy approval processes and the requirement for extensive documentation can cause frustration and result in missed opportunities for community engagement.

This complexity also hampers the flexibility of local councils to repurpose road spaces for other uses, such as community parks, pedestrian zones, or outdoor dining areas. The **lack of flexibility** in the current system inhibits the ability of local authorities to effectively manage public spaces and address the changing needs of communities.

2.2. Ambiguities in Roles and Responsibilities

The **delegation of responsibilities** between different road authorities is another area of concern identified in the Issues Paper. The Act currently contains ambiguities about the roles and functions of various entities responsible for road management, including the **Transport for NSW**, local councils, and private entities such as developers.

For example, it is often unclear which authority is responsible for managing road safety, maintaining road infrastructure, and overseeing specific projects (such as road upgrades or new developments). These ambiguities can lead to **inefficiencies in decision-making**, duplication of efforts, or gaps in service delivery, especially in areas where different authorities overlap or fail to communicate effectively.

This lack of clarity can also lead to **delays in road infrastructure projects**, as stakeholders may need to clarify their roles and responsibilities before they can proceed with work. Moreover, the absence of clear lines of accountability can hinder the effective allocation of resources, particularly in emergency situations when quick decisions need to be made.

2.3. Inadequate Adaptation to Modern Needs

The **Roads Act 1993** was enacted at a time when the transportation and urban planning landscape in NSW was quite different from what it is today. Over the last few decades, there have been significant changes in transportation technologies, urbanization, and community expectations. However, the Act has not evolved at the same pace, and several provisions in the Act are now outdated.

A key issue is the **failure to adequately incorporate modern priorities**, such as **sustainability**, **road safety**, **resilience**, and the facilitation of **new housing developments**. For example, the increasing demand for **electric vehicle infrastructure** is not well addressed in the current framework. As cities become more congested, there is also a growing need for **smart mobility solutions**, such as autonomous vehicles, ride-sharing services, and more efficient public transport systems. The Act does not fully account for these developments, leaving a gap in its ability to regulate and plan for future transportation needs.

Moreover, the Act does not sufficiently promote **sustainability goals**, such as reducing carbon emissions and enhancing the resilience of the road network to climate change. While some progress has been made in incorporating sustainability measures in planning processes, the Act itself remains limited in its ability to enforce and incentivize environmentally friendly practices in road construction, maintenance, and management.

2.4. Asset Ownership of Structures under the Roads Act 1993

One of the critical aspects of road management in NSW is the ownership and maintenance of road-related structures, including bridges, tunnels, overpasses, and other infrastructure that supports road networks. Under the Roads Act 1993, issues surrounding asset ownership and responsibility for maintenance have become areas of concern, as they have significant implications for effective road management and the allocation of resources.

2.4.1. Ownership and Maintenance Responsibility

The Roads Act 1993 establishes that road authorities, such as Transport for NSW and local councils, have responsibility for managing the road network, which includes maintaining road-related assets. However, the specific ownership of structures and the maintenance obligations can be ambiguous or inconsistently defined across different types of assets and jurisdictions.

For example, the ownership of bridges and tunnels may be vested in state authorities (such as Transport for NSW), but the maintenance responsibility can be shared with local councils, especially where roads intersect or cross regional boundaries. This creates potential gaps in

accountability or duplication of effort when it comes to funding repairs, upgrades, or the management of deteriorating infrastructure.

In some cases, infrastructure may be built or upgraded by private entities (such as developers or private water utilities) under certain agreements with the government. However, the transition of ownership and the ongoing maintenance responsibility after completion can be unclear, potentially leading to conflicts or delays in addressing infrastructure issues.

The lack of clarity in asset ownership, particularly regarding structures that may not be explicitly classified as "roads assets," has resulted in confusion among authorities about who is responsible for maintaining or upgrading specific parts of the road network. This can result in inconsistent maintenance schedules, delays in necessary repairs, and insufficient funding allocated to key assets that may pose safety risks if left unchecked.

2.4.2. The Impact of Asset Ownership on Road Safety and Maintenance

The ownership and management of road-related structures directly impact road safety. Bridges, for instance, require ongoing inspections, load assessments, and potential structural repairs. If asset ownership is unclear or misaligned with the maintenance responsibilities outlined under the Act, it can lead to delays in necessary repairs, which may increase the risk of accidents or structural failure.

As urban areas grow and infrastructure ages, asset management becomes even more critical. Road authorities must be able to clearly define ownership to ensure that both maintenance and upgrade programs are appropriately funded and implemented. The allocation of resources can be particularly challenging when multiple stakeholders are involved, and without clearly defined ownership and responsibility, vital infrastructure may be overlooked or inadequately funded.

Additionally, as the state seeks to enhance resilience to climate change and extreme weather events, the structural integrity of key assets such as bridges and tunnels becomes increasingly important. The management of these assets must be properly integrated into the broader road planning and investment processes to address vulnerabilities and ensure long-term safety.

4. Recommended Reforms to Address the Identified Issues

4.1. Streamlining Regulatory Processes

One of the central recommendations from the Issues Paper is to **simplify the regulatory processes** governing road closures and the use of road spaces for non-transport purposes. This would allow local councils and event organizers to respond more quickly and efficiently to community needs.

To achieve this, the Act could include provisions that streamline the approval process for temporary road closures, reducing the amount of paperwork and administrative burden required. Authorities could also be empowered to grant approvals more flexibly, allowing road spaces to be repurposed for events or public activities with fewer delays.

Additionally, the process for approving new road infrastructure or repurposing existing infrastructure could be made more transparent and less time-consuming. By adopting a more

agile and responsive approach, the Act could better support community engagement and the activation of public spaces, contributing to a higher quality of urban life.

4.2. Clarifying Roles and Responsibilities

To improve operational efficiency and accountability, the Act should **clarify the roles and responsibilities** of various road authorities, including state and local governments, as well as private sector entities. Clear definitions of authority would help avoid overlap, duplication, and confusion in road management.

For example, the Act could define more precisely the **jurisdictions** of different road authorities for maintaining and upgrading roads, ensuring that there is no ambiguity regarding who is responsible for specific tasks. It could emphasize the need for **collaboration** between different authorities when it comes to complex projects, such as major road upgrades or the integration of new transport technologies.

Additionally, the Act could introduce **mechanisms for joint decision-making**, especially when multiple authorities or stakeholders are involved in a particular project. This would streamline the process and ensure that all parties are working towards a common goal, reducing delays and improving project outcomes.

4.3. Updating Legislative Provisions for Modern Needs

Given the rapid pace of technological advancements and urbanization, the **Roads Act 1993** should be updated to reflect current and future transportation needs. This includes providing greater support for emerging technologies such as **electric vehicles, autonomous vehicles, and smart mobility systems**.

The Act could include provisions that require road authorities to incorporate **smart road infrastructure** in their planning and development processes. This could involve the integration of **vehicle-to-infrastructure (V2I) technologies, electric vehicle charging stations, and data-sharing systems** that enable real-time traffic management.

Moreover, the Act should promote **sustainable transportation practices** by encouraging the use of **public transportation, cycling infrastructure, and pedestrian-friendly urban design**. It could also mandate that new road developments and upgrades consider the **climate resilience** of infrastructure, ensuring that roads can withstand extreme weather events such as floods and bushfires.

4.4. Improving Decision-Making Processes

The decision-making processes under the Roads Act should be **more flexible and responsive** to evolving needs. This could include the introduction of **fast-track approval mechanisms** for certain types of projects, particularly those that address urgent safety concerns or emerging technologies.

Additionally, the Act could be amended to incorporate **public participation** processes that allow stakeholders, including local communities and businesses, to have a more active role in the planning and decision-making stages of road projects. This would help ensure that road management reflects the needs and desires of the people it serves.

4.5. Enhancing Community and Stakeholder Engagement

Finally, the Act could be strengthened by fostering **greater community and stakeholder engagement**. The process for consulting with the public, local councils, industry experts, and other stakeholders should be more inclusive and transparent. This would help ensure that road management decisions are well-informed, socially inclusive, and aligned with the broader public interest.

By incorporating public input into the legislative framework, the Act could become more responsive to the needs of diverse communities and better equipped to manage the challenges of modern transportation systems.

4.6. Clarify Asset Ownership and Management

To improve the management of road-related structures and ensure that they are appropriately maintained, the following reforms are recommended:

Clarify Asset Ownership: The Roads Act should be updated to provide clearer definitions and guidelines around the ownership and maintenance responsibilities for road-related structures. This would include a more detailed framework for allocating responsibility between state authorities and local councils, as well as clarifying situations where private developers or contractors are involved in the construction or management of these assets.

Streamline Asset Transfer: For infrastructure built by private entities or developers, the process for transferring ownership and responsibilities for maintenance should be more transparent and standardized. Clear guidelines should be set for when and how assets transition from private to public ownership to avoid confusion and ensure that road authorities are prepared to assume responsibility for ongoing maintenance.

Establish a Unified Asset Management Framework: To improve the maintenance of key structures like bridges and tunnels, the Roads Act should include provisions for a unified asset management system. This framework could be used to track the condition of assets, identify upcoming repair needs, and allocate resources efficiently. It would also ensure that maintenance schedules are adhered to, and necessary upgrades are planned in a timely manner.

Provide Funding and Resourcing for Key Infrastructure: As part of the reforms to the Roads Act, there should be an emphasis on ensuring that road authorities have sufficient funding and resources to maintain and upgrade critical road-related structures. This could include specific funding mechanisms dedicated to infrastructure repairs and improvements, especially for assets that have significant safety implications.

Implement Regular Inspections and Safety Audits: A system of mandatory inspections for key structures, such as bridges and tunnels, should be established to ensure that their condition is regularly assessed. This would help identify potential risks before they escalate and facilitate timely repairs. Safety audits could also ensure that assets are being maintained to the required standards and address any vulnerabilities in the road network.

By clarifying asset ownership, streamlining the transfer of maintenance responsibilities, and implementing a unified asset management framework, the Roads Act can be updated to better support the effective management of road-related structures. These reforms will not only ensure that infrastructure is safely maintained but also contribute to the broader goals of sustainability, resilience, and community safety in the evolving transportation landscape of New South Wales.

5. Conclusion

The **Roads Act 1993** has served NSW well for many years, but it is now clear that the Act must evolve to meet the demands of the 21st century. The recommendations outlined in the **February 2025 Issues Paper** point to several key areas for reform, including simplifying regulatory processes, clarifying authority roles, adapting to modern transportation needs, clarifying asset ownership & management, and improving decision-making processes.

By implementing these reforms, the Roads Act can be modernized to better serve the needs of the community, promote sustainability, and support the development of a future-ready transport network. These changes will help ensure that the roads of NSW continue to be safe, efficient, and adaptable to the challenges and opportunities of the future.

Comments from Survey of Roads Act – Silas Darby

Please provide examples of what is currently working well when working under the Roads Act 1993?

While the Act itself is reasonably self-explanatory and robust, we do not see it as hindrance to road usage or closure with reasonable notice. the traffic committee system works well and resolves most any and every issue quickly and easily. While it might be controversial, it is the "Roads Act", so by definition it needs to first and foremost administer to roads and all ancillary issues need to take a back seat. Traffic Committees are the tool to link the Roads Act with other desired usages, and in the rural areas this works extremely well.

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

Define the different objectives for roads and streets

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

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

Once again, the roads Act fulfills its task as to roads. The ancillary usages could be covered in the act but in the writers, opinion make for a more complex document and potentially more difficult to use. refer also hierarchical issues below.

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

The definition of what Act takes precedence is a burning issue. Environmental, Roads, Wildlife etc all clash at one point or another and the usual hierarchy of which Act takes precedence is murky and causes considerable issues of time and cost trying to negotiate the route through. E.g. - does work in a road reserve require an REF? if so, when?

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

Traffic committees can be an effective way to bring community desires to the Roads Act. the addition of environmental guidelines and a hierarchical tabular relationship would again improve the TC process.

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

The introduction of a cycle network has made road usage that much more complicated as there is now a new network of pathways (roads?) that seem not to be covered by the Act. Once again, does the act get expanded, even further, making an even more ponderous document?

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

A simple and ongoing issue is the introduction of on road cycle ways, at what point does the cycleway need to be painted green? No information is given or definitions created through TfNSW. No AS code, no Austroads where is this new network covered and where is it interfaced with roads?

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

The current classification is good but has outlived its use and new definitions will need to be included .

Describe issues you've experienced with parallel approval processes under the NSW planning system and the Act?

Confusion with different processes for Roads Act and land use related approvals
Conflicting advice from roads and land use agencies or areas of council
Extra time/cost associated with parallel Roads Act approvals

Can you provide further information on the issues you have experienced?

No! It is a nightmare the relationships are poorly defined and as before the hierarchy is murky. What is required and under which circumstances is not clearly defined.

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

Cost and time in simple terms. The requirements for and REF are or seem to be at the behest of the local office rather than a robust coordinated document showing the interfaces between the two acts.

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

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

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

Useful to an extent and we would like to see an expansion thereof. We have some questions concerning longevity of these delegations and when and how they are rescinded or if they are intended to be an ever increasing list?

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.

It certainly is a better way of accomplishing certain delegated issues. The only problem we have is that we still have state roads within our shire that are not covered by these delegations.

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

We believe that the current Act makes suitable provision for access to an adjacent land to bypass disaster affected roadways. Any expansion would be welcome but not, in our opinion, urgent

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

We suggest number of definitions regarding suitable bearing capacities which would need to be ascertained in order to decide on a suitable route as this may not be adjacent.

How could compliance and penalty frameworks be changed to better meet the objects of the Act and to address environment and safety compliance?

We find the use of WAD's and ROI's to be a suitable and flexible contracting mechanism and would like to see them defined and recognised under the act.

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

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

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

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

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

Local speed zones for precincts could benefit, however, this is always a double-edged sword as consistency of application becomes a local issue requiring more governance and oversight at council level. The balance between added workload and community benefit would need substantially greater consideration.

How could these Acts better support new developments in sustainability?

The Active travel initiative started with very little in the way of "legislative/specification" requirements. as time has passed the rules have become more and more restrictive such as prescribed path width of 3m, previously 2,5m minimum. This width cannot be fitted into existing footways without interfering with poles and wires or private property. none of this is the doing of the Roads Act but several parallel and conflicting regulation sets that need attention.

Do you have any further comments or general feedback about the Roads Act Review?

The Act itself has been and is a utilitarian piece of legislation which, when utilised with traffic committees, has produced excellent outcomes. Yes, tweaking around the edges may improve the overall BUT it is the interface with existing and new legislation where we think the most attention needs to be paid.