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Transport for NSW
Roads Act Feedback Team
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Submission via: <https://www.haveyoursay.nsw.gov.au/roads-act-1993/roads-act-1993-submission>

ROADS ACT 1993 SUBMISSION

City of Newcastle (CN) appreciates the opportunity to provide feedback on the NSW Government's review of the *Roads Act 1993* (the Act). CN recognises the importance of modernising the *Roads Act 1993*, to ensure it supports prosperity, mobility, and great places for all NSW into the future.

CN recognises the extensive work of Transport for NSW (TfNSW) in developing the issues paper and the four key reform objectives. CN supports efforts to create liveable streets, with a greater emphasis on improving safety and supporting a modal shift to sustainable transport. CN also supports the continued work toward meeting the urgent priorities of the NSW Government including increasing housing supply, improving vibrancy, enabling a range of road-based transport modes, and increased resilience across the network.

Role of Local Government as a Roads Authority

The issues paper outlines the important role that councils play as road managers for the majority of the roads in NSW. Approximately 90 per cent of the network of roads and streets in NSW are operated and maintained by councils, however, the role of councils is not fully or clearly recognised by the Act, which affords local government only limited delegations.

It would be highly beneficial for the powers of councils to be clarified under review of the Act, including increased delegation to more effectively and efficiently manage regional and local roads within their jurisdiction, including the ability to set or influence speed zone reductions to, or below 50km/h for local streets (in line with TfNSW standards and guidelines). Road authorities also require enhanced powers to effectively manage utility providers to ensure utility works and locations are appropriate and in consideration of council assets, which would be achieved for clarity between all elements of current legislation related to occupation and works within the road space in NSW.

Complex Workarounds and Lengthy Administrative Processes

The vast array of legislation, regulations, delegations, policies, procedures, standards and guidance documents leads to complex decision making for road authorities. This is compounded by the interaction with other legislative frameworks such as the *Environmental Planning and Assessment Act 1979*, *Local Government Act 1993*, and the *State Environmental Planning Policy (Transport Infrastructure) 2001*.

This complexity, and outdated delegations and guidance documentation has led to different interpretations by councils across NSW. A streamlined and easy-to-use statute that keeps pace with change and remains relevant and effective in the face of rapid technological advancements and shifting community attitudes is critical to achieving the priorities of the NSW Government and delivering the objectives of the Act.

Road User Space Allocation Policy

Newcastle has a dispersed car-orientated settlement pattern, however, in recent decades CN has sought to focus most of our new housing growth in established centres and along defined urban renewal corridors which are close to essential services and public transport. This change inherently requires a shift in focus to move more people and goods within the same limited road space by prioritising more efficient modes of travel, like walking, cycling and public transport.

CN has experienced challenges in delivering road and transport infrastructure projects, notably those which reallocate road space to active and public transport - in line with TfNSW strategic position. While these projects have been directly aligned with a suite a state, regional, and local strategies and plans, CN has faced barriers and complex and lengthy approval processes when seeking concurrence from TfNSW. These challenges result in increased cost, time, and resources required to deliver these important projects.

Having a consistent position with the *TfNSW Road User Space Allocation Policy* in the Act will ensure it is considered in all road and transport network planning and projects across NSW. However it is requested that when incorporating policy, it does not increase any legislative process related to progressing improvements or changes to the infrastructure. Any changes to the Act in regard to including current policy should also be considerate and provide allowance for any future potential changes to strategy or policy, without impacting the accuracy and effectiveness of the legislation.

TfNSW Providing for Walking and Cycling in Transport Projects Policy

Newcastle has a legacy of existing infrastructure which has focused on private vehicle use. Past and current major road projects lack the integration of safe and pleasant active transport options and prioritised public transport corridors. There is existing inertia for the planning and delivery of road infrastructure, rather than a holistic approach to budgeting and provision for different transport options, which has resulted in the current portfolio of projects being dominated by road projects.

Incorporating the *TfNSW Providing for Walking and Cycling in Transport Projects Policy* into the Act will ensure it is considered in all road and transport network planning and projects across NSW, noting the earlier point of ensuring that the legislation allows for the ongoing update to transport policy.

Movement and Place Framework

When we think about public spaces, we often think about our parks, beaches and bushland areas, however, a significant proportion of public space is made up of public roads. Our streets and roads support a variety of uses which all compete for finite road and footpath space, and road authorities have an important role in managing these competing needs. The Act should recognise the dual role of roads and transport networks in facilitating both mobility and community connection. CN supports incorporating consistency with the Movement and Place framework in the Act to ensure the function and objective of streets is considered in all road and transport planning and projects.

CN cautions the oversimplification of the functional difference between roads and streets in the Issues Paper, stating that 'roads are for saving time', and 'streets are for spending time' (Page 15). The connotation that roads are for saving time creates an expectation that movement along roads at an increased/higher speed. Speeding is the single biggest contributor to death and injury on NSW roads. A better explanation of the functional role of roads would remove any reference to time and focus on their movement or 'through' function. Further, CN suggests Figure 6 in the Issues Paper (also page 15) be amended to show main streets as being in the centre of the continuum, with equal TfNSW/council involvement. Councils have a considerable interest in the place function of main streets, and councils are best placed to represent this interest.

While it is important to note that roads prioritise movement or 'through' function, they often pose significant barriers for councils when delivering a comprehensive active transport network. CN has faced challenges in the past when delivering infrastructure which enables people walking and cycling to cross main roads safely, for example when delivering a new signalised mid-block crossing on a state road. This challenge has principally been due to the crossing facility reducing the level of service for private vehicles, despite their lower stated position in the adopted movement prioritisation framework.

A Common Language for Roads and Streets

Currently a wide range of terms are used to describe roads and streets in NSW. This includes legal classifications (e.g. freeways, controlled access roads, state highways, main roads, secondary roads); administrative categories (state, regional and local roads; and subcategories of classified and unclassified roads); terms used to define network hierarchy (e.g. arterial, distributor, collector and local road); and more contemporary street typologies of the Movement and Place framework.

This array of terms is used in legislation, regulations, delegations, policies, procedures, standards and guidance documents. While some terms are interchangeable, others have unique nuances, which leads to complex decision making for road authorities and leads to confusion in the community. Providing clarity under the Act for the definition and terms of use would benefit the ongoing work to improve our road network.

The Act should include a definition or a statement as to what works are/are not considered to be 'regulating traffic' and what is considered 'closing' of a road. This clarification will assist the delegated approval process for road infrastructure projects.

Contemporary Uses of Streets and Roads

The Act should be updated to reflect contemporary uses of roads, including as places that bring communities together including for events as well as everyday activities.

In 2022/23, CN ran a six-month Streets as Shared Spaces trial in Darby Street, Cooks Hill. The Trial reallocated road space to improve the outdoor dining experience in this popular eat street, and improved safety and accessibility for pedestrians and cyclists. The project returned the following outcomes through the trial:

- foot traffic increased 18% compared to 2022, and by 67% compared to 2021 (COVID-19 affected).
- average daily number of cyclists increased by 13%
- the 85th percentile speed of vehicles decreased from 43km/h to 30km/h.
- the trial was well received with 69% of respondents in agreement that the changes made for the trial were positive, and the same number of respondents said they would like to see the infrastructure remain in place.

Based on the success of the trial, CN (through support of the elected council) resolved to retain the trial infrastructure as the updated road framework for the future precinct-wide renewal the Darby Street commercial area.

Development Assessment

When assessing development applications, a comprehensive assessment is completed to determine the likely impacts to the road and transport network and if any mitigating road works or improvements are required. Any proposed changes to the network often require review or require concurrence from TfNSW, and by a council's Local Traffic Committee. CN requests the Act be amended to set out when assessment under the *Environmental Protection and Assessment Act 1979* is sufficient to approve the changed traffic conditions

and when a resolution of elected Council is required under Part 8 Division 2 of the *Roads Act 1993*.

Section 138 Approvals

It is requested that consideration is given under the Act to provide that Section 138 approvals should lapse after a defined period unless physical works have commenced, similar to Development Applications. This would prevent applicants from delaying works under a Section 138 approval and enacting it years later at a time when development and road standards may have changed. The Roads Act should also include provisions for how to modify a Section 138 consent, similar to Section 4.55 of the *Environmental Planning and Assessment Act 1979*.

Enforcement Powers

Section 107 of the *Roads Act 1993* empower a roads authority to give directions in relation to obstructions and encroachments. However, Sections 238 & 247 of the Act currently provide for a road authority to give effect to any direction given and recover costs in performing that work (should the direction not be complied with). But it is noted that any penalty for non-compliance cannot be issued by the road authority, only by the Local Court. This process is usually cost prohibitive for councils as legal representation is required to commence such an action. Most matters subject to a direction are predominantly not major, and made with the intent of maintaining public safety and amenity, and effective application of penalties would be an effective deterrent to reducing illegal obstructions and encroachments in the road space

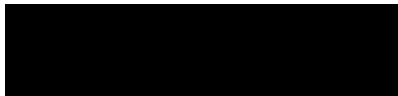
It is requested that as part of the review that the Act consider including a penalty notice offence for non-compliance with a Roads Act direction. This would assist road authorities to ensure timely compliance with a direction, as a penalty notice can be issued for the continuing offence of non-compliance. This would also bring the Act into alignment with other acts, including the *Environmental Planning and Assessment Act 1979* and *Protection of the Environment Operations Act 1997*.

Further Opportunities to be Involved

City of Newcastle look forward to further opportunities to work collaboratively with the NSW Government on the review of the Roads Act 1993. Please also find attached some additional information in response to the questions raised under the Issues Paper for your consideration.

Please do not hesitate to contact me on (02) 4974 2817 or rtranter@ncc.nsw.gov.au should you wish to discuss CN's submission further.

Yours sincerely



Ryan Tranter
EXECUTIVE MANAGER TRANSPORT & REGULATION

Attach. CN Issues Paper Responses

CN Issues Paper Responses

Questions 4.1

a. 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**

Definition should be towards clarification and consistency, rather than covering elements which should remain under policy, strategy, or guidelines.

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

These items should be covered under policy, strategy, or guidelines to maintain clarity of the legislation.

- **Simplify the types of roads and streets defined in the Act**

Clarification and consistency of road and street types would benefit administrative and legislative process.

- **Include desired outcomes for the design and operation of local streets and civic spaces**

These items should be covered under policy, strategy, or guidelines to maintain clarity of the legislation.

- **Other (please specify)**

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

Safety is best addressed through ensuring efficient and effective pathways for road authorities to enact required infrastructure changes is supported through the revision of the Act.

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

Health and environmental benefits are best recognised through ensuring efficient and effective pathways for road authorities to enact required infrastructure changes is supported through the revision of the Act.

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

No comment.

Questions 4.2

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

Ensure that the Act is revised to match current terminology, with an emphasis that matches current road user policy to reinforce this position as the required standard.

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

Due to the age of the Act, and the issues noted through the submission, there are ongoing issues when navigating the Act in review of management of the local road network.

c. What other issues would you like to raise for accommodating all road users?

The age of the current Act is shown with the lack of consistency with current policy and terminology, with an over emphasis on vehicle movement.

Questions 4.3

a. What issues have you experienced due to overlapping classification systems to determine roles and responsibilities for NSW roads? (select all that apply)

All listed issues are current and repeated barriers to working under the current Act.

- Confusion between legal, functional and administrative systems
- Hard to find which legal classification applies to which road segment
- Confusion about who has authority for which segment of road
- Too many legal classifications
- Other (please specify)

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

Clarity in terminology, clarity in delegation, and update to address all pieces of legislation that also impact the management of the public roads in NSW.

Questions 4.4

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

- 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)

In some circumstances the parallel approval process does have benefit in that it can allow a developer to address key components in the public domain separate to the approval for the development of private land. If developers are appropriately equipped and have addressed their planning requirements, it is possible to align the approvals of both the development and the public space, which addresses issues for cost or confusion. But the separated process allows Councils to reinforce and refine the outcomes in the public space if the planning completed for a project was not sufficient to address the impact on the public road space.

However there are confusions that exist through planning approvals that have progressed outside of councils, either through state approval or through court action. It is often these cases that lead to increased issues due to the expectations of the developer in these instances which can be out of step with the requirements of the Act to ensure that the S138 approvals meet the development outcomes.

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

No comment.

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

No comment.

Questions 4.5

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

All outlined items would assist in improving the clarity of responsibilities, which should be a clear focus of reviewing the Act.

- 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)

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

It is requested that these delegations are reviewed and updated to significantly improve the clarity and consistency of the delegations to council to support positive outcomes for road safety and environment improvements.

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.

The Temporary Delegations to Council has done little to streamline the approvals process, as it still requires the consultation and tabling to the elected council for determination for infrastructure changes within the road reserve. These delegations require extensive review to improve, provide clarity, promote consistency in application, and make effective outcomes to assist councils and other authorities to improve efficiency and effectiveness of approvals for changes to the road infrastructure.

Questions 4.6

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

No comment.

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?

No comment.

c. How could compliance and penalty frameworks be changed to address environment and safety compliance?

Please refer to written response.

Questions 4.7

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

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

This matter should be covered through ensuring that the described functions allows for temporary changes in line with approvals as delegated under the Act.

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

Providing management of speed limits, in line with TfNSW standards, would provide an effective way for Councils to support the safety of our local road networks.

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

This should be included within the delegations to councils to support positive projects towards improvement of safety, amenity, and modal shift for local road networks.

- **Other (please specify)**

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

No comment.

c. How could these Acts better support new developments in sustainability?

No comment.