

## Roads Act Feedback -

Thank you,

Penrith City Council Assets – Permits and Inspections team, heavily utilise sections 101, 138 and 142 of the Roads Act in order to provide direction following damages, unapproved or non-compliant works.

The feedback from both Council and members of the public is there opportunities for these sections to be further clarified or re-written to be simplified.

- Where Road is referenced could be further defined as Road Reserve so the public understands this encompasses any works not just confined to on the roadway itself.
- Ownership and maintenance responsibility under Sect 142 to be further defined to include private stormwater infrastructure and driveways.
- Request to increase penalty unit

### Sections

#### **101-ROADS ACT 1993 - SECT 101**

##### **Restoration of public road following excavation etc**

(1) A roads authority may direct any person by whom a public road or **Road Reserve** is dug up to restore to its previous condition.

(2) If a public road or **Road Reserve** is damaged as a result of a leakage from, or breaking or bursting of, any object or work placed in, on or over the road, the appropriate roads authority may direct the person--

- (a) who was responsible for placing the object or work in, on or over the road, or
  - (b) who has the care or control of the object or work, or
  - (c) whose act or omission caused the leakage, breaking or bursting,
- to restore the road to its previous condition.

(3) A direction under this section may specify--

- (a) the manner in which or the standard to which, and
  - (b) the period (being at least 14 days) within which,
- the direction must be complied with.

(4) Instead of giving a direction under this section, a roads authority may take such action as is necessary to restore the road to its previous condition.

(5) The costs incurred by a roads authority in taking action under this section are recoverable from the person referred to in subsection (1) or (2), as a debt, in a court of competent jurisdiction.

(6) Nothing in this section authorises a roads authority to recover an amount greater than that necessary to restore the road to its previous condition.



## **SECT 138**

### **Works and structures – Include description as Road Reserve**

(1) A person must not--

- (a) erect a structure or carry out a work in, on or over a public road, or
- (b) dig up or disturb the surface of a public road, or
- (c) remove or interfere with a structure, work or tree on a public road, or
- (d) pump water into a public road from any land adjoining the road, or
- (e) connect a road (whether public or private) to a classified road,

otherwise than with the consent of the appropriate roads authority.

: Maximum penalty--10 penalty units.

(2) A consent may not be given with respect to a classified road except with the concurrence of TfNSW.

(3) If the applicant is a public authority, the roads authority and, in the case of a classified road, TfNSW must consult with the applicant before deciding whether or not to grant consent or concurrence.

(4) This section applies to a roads authority and to any employee of a roads authority in the same way as it applies to any other person.

(5) This section applies despite the provisions of any other Act or law to the contrary, but does not apply to anything done under the provisions of the Pipelines Act 1967 or under any other provision of an Act that expressly excludes the operation of this section.

## **SECT 142**

### **Maintenance of works and structures**

- (1) A person who has a right to the control, use or benefit of a structure or work in, on or over a public road--
- (a) must maintain the structure or work in a satisfactory state of repair, and
  - (b) in the case of a structure (such as a grating or inspection cover) located on the surface of the road, must ensure that the structure is kept flush with the surrounding road surface and that the structure and surrounding road surface are so maintained as to facilitate the smooth passage of traffic along the road,
- and the person is, by this section, empowered to do so accordingly.

: Maximum penalty--30 penalty units.

- (2) Subsection (1) applies to all structures and works in, on or over a public road, including structures and works for which there is no consent in force under this Division.

- (3) Subsection (1) does not apply to a person whose right to the control, use or benefit of a structure or work consists merely of a right of passage that the person has as a member of the public or a right of access that the person has as the owner of adjoining land.

- (4) If--

- (a) a roads authority has granted a consent under this Division to the doing of anything, and
  - (b) that thing has been or is being done otherwise than in accordance with the consent,
- the roads authority may direct the holder of the consent to take specified action to remedy any damage arising from the doing of that thing otherwise than in accordance with the consent.