



Tasmanian Road Management Legislation Review Discussion Paper

Feedback Prompts	GCC Response
<p><u>Feedback prompt – principles</u> Do you agree with the draft principles? If not – why?</p> <ol style="list-style-type: none"> 1. Is more efficient – streamlined processes, reduced bureaucracy, and optimised resource allocation, resulting in more cost-effective and time-efficient framework. 2. Promotes better outcomes – improvements to the framework should ensure it is modern, fit for purpose, and consistent with contemporary road management practices. They should focus on improving road-user satisfaction and safety by focusing on outcomes. 3. Is easier to understand – a focus on clarity and simplicity by reducing convoluted processes and complex language. 	<p>GCC agree with the three draft principles</p>
<p><u>Feedback prompts – framework structure:</u> Do you support moving to a single, consolidated road management act? If not, why, and what option would you prefer?</p>	<p>GCC supports moving to a single, consolidated road management act, that clearly defines the roles and responsibilities of the road managers.</p>
<p><u>Feedback prompts – proclaimed roads:</u> Do you agree that the proclamation process should be simplified? What would be a better process? Consider: Who should be the responsible authority How to make location and boundaries clear and legally certain How the creation of a road is documented and searchable</p>	<p>GCC agrees that the process should be simplified, but should remain with the state government.</p> <p>GIS maps are the best way to show road boundaries.</p> <p>There may still need to be times when common law highways are still recognised and capable of being added as mapping errors and omissions are still likely over vast areas.</p>

	<p>We should continue to have something like the “roads not maintainable by the local authority category” where we can impose service limitations. An example might be where two farmers at the end of a 10 km gravel road, allow public access as a right in return for council replacing the wooden bridge in the middle, where it would not otherwise be practical to leave it as 100% public road, or 100% private road.</p> <p>This would also be the case for Parks and Wildlife Roads, Fire Trails and Forestry Roads that are used by the public but not maintained by local authorities.</p> <p>Would be good to have recognition of “Formation Roads” where a road may have been cut in but not completed as part of a subdivision, however a building may have been constructed and the residents has historical user rights on the formation, but the formation only is maintained by the local authority.</p> <p>Road closure should be easier, and not subject to judicial review simply because there is one objection. The Director could adjudicate them for local highways, with some presumed closure if the area is not currently in use as a carriageway for motor vehicles, i.e., its obsolete.</p>
<p><u>Feedback prompts – subdivisions:</u> How could the way subdivisions are dealt with in the framework be improved? Consider how changes might: Reduce financial impost for councils Incentivise better design Maintain or improve the supply of land</p>	<p>The creation of new local highways through subdivisions creates large costs in inspecting and approving road construction.</p> <p>There have been many examples of poor road construction by developers, that hasn't been caught during construction, being handed over to Council. This results in a renewal and maintenance burden for Council's when assets are failing well before their estimated useful lives.</p> <p>The legislation should hold developers and their engineers and contractors to high standards, so that any works that insufficient works are the responsibility of the developer to fix. This may include longer defects liabilities periods, penalties for non-compliance.</p>

	<p>We don't believe this would deter supply.</p> <p>Bonds still need to be provided for, as there are developers going broke after shortcutting on standards before liquidating, forcing the public to be the de-facto road builder/defect rectifier.</p>
<p><u>Feedback prompt – defining the road manager:</u> Would the Victorian model work in Tasmania? Do you have any concerns with how it operates?</p>	<p>Yes, we think it would work, but the following needs consideration:</p> <ul style="list-style-type: none"> • Ownership of retaining walls and guardrails built for highways • DDA responsibilities for upgrading footpaths and bus stops • Highways with cycle lanes • How are new assets defined and who has responsibility?
<p><u>Feedback prompts – ambiguity:</u> Can you think of an example of a time when: it was unclear or ambiguous which authority (local government or the State government) was responsible for a road management function? it was clear who was responsible for a road management function, but it seemed inefficient or not sensible? Examples of road management functions include, maintaining a footpath, culvert, drainage, road surface or retaining wall. Do you think a single statute would help resolve ambiguity?</p>	<p>Highway boundaries may be conflicting depending on LG highways Act vs Roads & jetties Act.</p> <p>Definition of the Road/highway between the different Acts.</p> <p>Clearer boundaries and definitions of Cities, Villages and Towns. Some areas that sit on the edge of a city or town or village have minimal pedestrians but Council's still having to take over a footpath on the side of a highway and with this comes kerb, gutter, pits, stormwater systems, the responsibility to replace these assets, vegetation control and responsibility to close the highway by the Council to undertake the works safely.</p> <p>There is the complicated use of the terms road, highway, street, way, local highway, footway</p>
<p><u>Feedback prompt – bridges:</u> The Tasmanian Government is interested in hearing views on how a new framework should deal with bridges on local roads. Any changes to the current approach should be fair, efficient and ensure safe outcomes.</p>	<p>The process for transferring a bridge structure to local government needs to be formalised, similar to retaining walls. Transfer of ownership and maintenance needs to be formalised and recognise the cost associated with these structures and how the maintenance activity can be undertaken, e.g.; giving the Council the right to close or partially close a highway.</p>

<p><u>Feedback prompt – liability:</u> Should there be an explicit statutory duty for road managers to inspect, maintain and repair? If so, should there also be a framework for establishing the standard to which a road manager will maintain a road, taking into consideration its strategic importance?</p>	<p>This would be hard to achieve for local government. Most Council's do not have dedicated inspectors to do this task, and it would be hard to agree on a level of service that suits everyone.</p> <p>The non-feasance rule in s.21(4) has been around for centuries because it is the only way to make road management financially viable. A minimum standard over thousands of kilometres of road opens up endless liability claims, themselves a huge expense, let alone the payouts. We would likely struggle to get insurance cover for any of these claims.</p> <p>State Roads in Tasmania strictly adhere to a rigorous road maintenance inspection system. However, this method is not suitable for councils, which operate differently due to various factors, including slower road speeds, concentrated populations with easy access to report issues, and readily available maintenance management software. Instead of an Inspection Regime, councils should consider a risk-based approach that incorporates hierarchy and defect severity, utilising maintenance software to demonstrate due diligence in resource allocation. Statutory maintenance requirements, as opposed to this flexible approach, would be excessive, impractical, and counterproductive.</p>
<p><u>Feedback prompt – service authorities:</u> How could the model for service authorities working in road corridors be improved? Consider the need to balance the competing needs of road managers and service authorities, and for the efficient installation and maintenance of all infrastructure in the corridor.</p>	<p>The new legislation framework should provide clarity on the powers that service authorities have and their notification requirements to Council to provide.</p> <p>There is no reason why there couldn't be a uniform access code for utilities with a requirement that they create meaningful specifications for the way they will do their work. There should be scope to agree on hold points for major works damaging public infrastructure. In certain circumstances even bonds could be considered. Management of sub-contractors e.g., NBN is particularly poor.</p> <p>Any additional power that could be provided to road owners to help deal with sub-par reinstatement of roads would be greatly beneficial.</p>

Service authorities working in road corridors are causing significant issues, particularly in two areas:

1. Quality and Compliance: Many of these authorities do not prioritise quality reinstatement or adherence to specifications, if they bother to perform reinstatements at all.
2. Traffic Management: Traffic management during their work often falls short of requirements.
3. The method of reinstatement needs to be considered, should a service provider be allowed to reinstate a narrow strip in a footpath when it is near new or should the whole bay be replaced. Consistent Standards need to be developed.

It is essential to establish a regulatory or Ombudsman-type body to address these concerns, possibly imposing fines or charges to hold them accountable for the extensive damage they cause.

Bigger providers, holding annual road opening permits, rarely share their work schedules, making it challenging to inspect sites before they start work, resulting in difficulties quantifying damages and enforcement.

Regarding traffic management (b), it appears that Councils, not the Police or WorkSafe, are responsible for enforcement. However, there seems to be confusion about Councils' roles as State Authorities with project managers.

It's worth noting that a significant portion of footpath and over 50% of road damage is attributed to utility providers who often hide behind legislation. They sometimes act aggressively, and a long-term solution involves education and relationship development. In the interim, the presence of an external regulator is crucial for cost recovery and specification adherence.

<p><u>Feedback prompt – footpaths and other infrastructure:</u> What is the best way to fairly apportion responsibility between road authorities for State roads running through urban areas? Are there any examples where the current framework has had poor outcomes?</p>	<p>The current legislation passes the ownership and maintenance responsibility of the footpath, verge and drainage onto Council if the State Road includes a footpath.</p> <p>Footpaths need to link areas, not just be placed beside highways to transfer maintenance responsibilities.</p> <p>This system can work to actively discourage the development of footpaths beside State roads, instead of supporting active/pedestrian transport. i.e., “We don’t want a footpath there otherwise we’ll have to take on looking after the whole road side area”. Handover of assets and maintenance due to State Government projects such as the Bridgewater Bridge and Elwick Rd/ Brooker Highway.</p> <p>Local Government should only be responsible for assets from the back of kerb, provided the design of footpaths, nature strips and embankments have been agreed upon.</p> <p>State Government should be responsible for drainage up until the point that it connects in the local government network draining other areas.</p>
<p><u>Feedback prompts – temporary road closures:</u> How could the temporary road closure process be optimised to balance flexibility for road authorities with other needs? Consider: The needs of property owners and tenants Access for emergency services Operation of the public transport network Differing community needs Methods for communicating closures</p>	<p>Section 46 of the LGHA for Road Opening Permits (ROP) needs to include the acceptance of plans by Council prior to lodging to undertake the works.</p> <p>This section is currently set up to ensure that works are undertaken safely, but there is no formal requirement to ensure the works proposed are to Council’s satisfaction.</p> <p>The plans are often lodged with council as part of the planning process but sometimes not all works are captured by this process and there is no formal mechanism to ensure that driveways are being reconstructed to the current standards, as an example.</p> <p>The need for Traffic management plans for public events, local markets and sporting events is not consistent with TMPs for roadworks.</p>

<p><u>Feedback prompts – public transport infrastructure</u> What examples of models are there in other states for delivery and maintenance of bus stops that may work in Tasmania? What are councils’ key concerns in relation to taking responsibility for the upgrade and maintenance of bus stops on local roads and ownership of the asset?</p>	<p>Public transport providers own and are responsible for maintaining bus stop infrastructure, including shelters and signs.</p> <p>This responsibility, covering the establishment and upkeep of bus stops, ensuring Disability Discrimination Act compliance, and maintaining bus shelters, imposes a significant burden on local government.</p> <p>There will be ongoing responsibilities along the Rial corridor when this is activated with Rapid Bus Transport stops, level crossings, signage, etc.</p> <p>Legal advice suggests that local government is not the provider as defined by the Disability Discrimination Act. The responsibility for upgrading bus stops to comply with the Act lies with public transport providers.</p> <p>It's important to acknowledge that not all bus stops can easily meet full Disability Discrimination Act compliance due to topographical challenges. Achieving standard gradients may require substantial upgrades. State guidance must consider this and the associated risks of non-compliance before transferring responsibilities and risks.</p> <p>It is particularly illogical that the public would provide transport infrastructure also used by private bus companies, that is in effect, a hidden subsidy.</p>
<p><u>Feedback prompts – cost recovery</u> Would a licensing model be an appropriate mechanism for cost recovery from road users with special requirements? Is there an alternative model that might work better?</p>	<p>Yes - This could also apply to utilities using the road corridor for fixed infrastructure.</p>

Additional Comments:

1. Process for **approval of plans** prior to works being undertaken within the highway, other than by works being undertaken by Council. The plans could be approved either pursuant to LUPAA (i.e., planning process signing off plans), any Tasmanian or Commonwealth legislation or service provider (i.e., TasNetworks, TasWater, NBN) or by Council. Example a resident wants to change their driveway crossover or development wants to improve the streetscape outside the planning process, section 46 of the LGHA only allows Council to sign off on the doing of the works not on what they are doing.
2. Better clarity on the responsibility under section 46 of the LGHA when we are giving permission for third parties to **undertake works (ROP)** in the highway. Are we required check their insurances, risk assessment, traffic management plans and audit the site. Our view is that we should sight these documents but are not responsible for their work. The legislation needs to be made clear if service providers (i.e., TasNetworks, TasWater, NBN) require our permission and what their and our responsibilities are.
3. **Service providers** need to be held to account for the works, damage and issue they cause i.e., pipe burst and it washes out the road surface below but they do not fix this just the pipe; or they did through a ramp and do not put it back to the standards; or they damage tree routes and the tree then needs to be removed, or a cabinet blocking the footpath. Service providers also need to keep records of their infrastructure and maintain it even if not used anymore such as old gas main or old pipes that burst and damage our road.
4. When works are being done on our highways, but they are **not physically digging**, we have no regulations apart from our by-law and TMP. However, the TMP is related to the company undertaking the traffic management not the works. This is an issue if works are being come and our infrastructure is damaged such as a crane damaging the footpath. It is also unclear what is required for minor works such as a resident mowing their nature strip alongside a road.
5. Understanding of our requirement with **Traffic Management Plans**. We currently sight them to ensure they have been undertaken by an accredited person and are comfortable with the delays on our network. We do not have the resources to be checking, approving and auditing. However, we have little power to ensure that appropriate consultation is undertaken for TMP unless it involves a road closure.
6. Section 30 of the LGHA which gives **Council the power to undertake works** in the highway is quiet limiting by detailing what we can do and little clarity on what responsibility we have on highways that cannot meet the standards and/or costly. Example is a gravel narrow rural road on a steep slope serving half a dozen properties in which council does not have the fund or wish to upgrade or a highway in which we do not have sufficient space to put in a footpath or very expensive to put in a complaint pedestrian kerb ramp. This type of road would be similar to an unconstructed road or private road in other councils. Glenorchy council full maintains and owns all our highways.

7. **Driveway crossovers**, section 35 LGHA would be good to make clear these are the responsibility of owners to maintain and undertake. It would be very beneficial if a path could be included in the act with the same requirements as a driveway, so that property owners can put in a path from their boundary over the nature strip to the footpath. Currently this informally occurs but there are no regulations to say owners can do this and then who is responsible for this path.
8. Legislation should look at responsibility of **private retaining walls** in our highway or on the boundary, too often get driveway access or a less steep property area. These walls can be on the low side or high side of the highway. They are often more critical on the low side as they are holding up the road but where not put in for the road but for the benefit of the property owner. We have a Council policy that explains this in more detail.
9. Consideration should be given to looking at a mechanism for **development contributions**. This more aligns with a road that is adequate for the volume of traffic now but if each lot puts an extra property on it, then the road will require improvements. Each extra property on its own is not an issue but combined along the street over time it is.
10. There should be more powers for Council to **refuse a highway that a developer has proposed** that is not in Council's interest due to such things as costly to maintain or possible safety issues (i.e., Montrivale Rise road in HCC). Under LGBMP section 85, council can refuse to approve a plan of subdivision, but this is after it has been given planning approval and built which is too late. This should also extend to development works that are not satisfactory and more requirement on the developer to certify their work.
11. **Notifications** in legislation needs to be updated and likely remove the requirement for items to be placed in the newspaper. It is costly to put a notice in the paper (app. \$600 per notice) and often does not reach the community.
12. It would be a good exercise to go through Tasmanian Council's **by-laws** to determine what are the common themes that are in their and thus missing from other legislation.