

Feedback on the Tasmanian Road Management Review

Submission

Discussion paper prompts	KC response
<p>Do you agree with the draft principles? If not, why?</p> <p>Draft principles:</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 moder, 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>The draft principles make no comment about fairness for all stakeholders in the new road management framework and/or about consistency. There is a significant risk that changes in the framework will involve cost shifting to councils.</p>
<p>Do you support moving to a single consolidated road management act? If not, why and what option would you prefer?</p>	<p>It would be short sighted to take an easier path and only update one piece of legislation. This would not be consistent with other jurisdictions and will leave a fair bit of ambiguity associated with the various residual acts and questions over which act may apply for particular situations.</p>
<p>Governance and responsible authorities</p>	<p>Supportive of trying to make the governance arrangements less onerous and confusing. At the moment various clauses may refer to several areas of governance from Ministers to Transport Commission, to Magistrates to the Governor etc. Provided the change did not involve a level of cost shifting to LG would be supportive.</p>
<p>Legal status of roads</p>	<p>Common law highways are quite complicated with there being many roads where the ownership is vested in others, in many cases it is unclear where that ownership now resides. There are many user roads and many areas where there are encroachments of</p>

	<p>road onto private land and vice versa. Resolving these under current legislation or lack of is very difficult and only embarked upon if it is absolutely necessary. I think having a statutory process to manage this would be useful, but it would need to be such that it decomplicates the possible issues associated with original land tenure.</p>
<p>Proclaimed roads Do you agree that the proclamation process should be simplified?</p> <p>What would be a better process> Consider:</p> <ul style="list-style-type: none"> - 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>Agree that proclamation process should be simplified. I believe this should sit with the road authority to manage. For councils under Section 208 of the Local Government Act 1993 there is a requirement to already keep a map of all the roads maintained, for most this is via their GIS which will generally provide boundaries that are reasonably accurate, many get the cadastral feed from the LIST. The LIST should hold the accurate details on any parcel of land including a road parcel. There may be some issues with existing roads but for new proclamations this should be straight forward.</p>
<p>Subdivisions How could the way subdivisions are dealt with in the framework be improved? Consider how changes might:</p> <ul style="list-style-type: none"> - reduce financial impost for councils - incentivise better design - maintain or improve the supply of land 	<p>Clauses dealing with this aspect in the LGH Act could be simplified but should also reflect where additional work is required by LG to manage sub standard plans which require a higher level of assessment and resource. Sub standard plans may be ones lacking required detail, not in accordance with relevant standards, not taking into account buildability including future replacement and/or ongoing maintenance costs.</p>
<p>Defining the road manager Would the Victorian model work in Tasmania? Do you have any concerns with how it operates?</p>	<p>The Victorian model would work in Tasmania; however, some thought would need to be given to fairness associated with delegating or transferring road functions between authorities. At the moment this is not well defined and causes much of the angst associated with not only who does what but who pays for it.</p> <p style="text-align: center;">•</p>
<p>Permanently closing a road</p>	<p>Further clarification and consistency would be useful here. Under definition a highway can consist of not only a road for vehicles but also a standalone footpath. Section 14 of the LGH Act talks about closure and it references the final arbiter being a magistrate. There is an instance that I am aware of where a footpath between two</p>

	<p>streets (highway by definition) was recommended for closure on lack of use and safety reasons with the magistrate ruling being that it was required to stay open even if only one person expressed a wish for this to happen. The power should sit with the Road Authority not the Magistrate.</p>
<p>Management and Maintenance - Ambiguity Can you think of an example of a time when:</p> <ul style="list-style-type: none"> - 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? <p>Examples of road management functions include maintaining a footpath, culvert, drainage, road surface or retaining wall.</p> <p>Do you think a single statute would help resolve ambiguity?</p>	<p>There are numerous examples of ambiguous responsibilities as relates to State roads in particular, some examples.</p> <ul style="list-style-type: none"> • Section 11 of the Roads and Jetties Act is a constant area of contention for Local Government- For example if Council or the State Road Authority installs a footpath and it only needs to be on one side of the road it implies that Council then takes on board maintenance on both sides of the road as defined, unless an agreement outside the act is made. The definition of when this may apply is not clear as there have been attempts to apply this on state highways which are not in a city, town, or village. It effectively means that expensive assets and significant ongoing maintenance costs can be passed to councils effectively by stealth. • Line marking on local roads. • Responsibility for bus stop infrastructure <p>I think making responsibilities clear is critical but also trying to do this without cost shifting between road authorities.</p>
<p>Management and Maintenance –Bridges on Local Roads 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>Where a bridge is built on a local road to span either a state highway or railway it can become complicated as the structure may be more to suit the state highway and/or railway underneath it. These bridges can be large and expensive to maintain and replace as such more clearly defining the ownership and maintenance of such structures is important.</p>
<p>Management and Maintenance - Statutory Duties - Liability 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>The biggest issue with liability for the road authority is that invariably the corridor is not fully controlled by them. Service authorities not only maintain assets within the corridor that can impinge on the road but also apply their own controls on what the road authority can do in this space in terms of working near their assets. Road authorities do not have over riding legislative ability to control work within the corridor. Based on this taking on a liability for the road over and above what is currently in place would have some challenges.</p>

	<p>For Kingborough Council we have a set of service level standards for maintenance in the road corridor that we aim to achieve with varying levels of achievement. For example, we may have a standard that says we will repair a pothole on a particular class of road once it reaches a particular intervention level and we will do this in x number of days, and we will aim to achieve this say 90% of the time. This provides a framework to work under without it being overly prescriptive.</p> <p>To take on a more onerous legislated approach would undoubtedly mean that road authorities would need to change their systems and increase their resources, this would need to be balanced against what overall community gain would be achieved from the status quo situation.</p>
<p>Statutory Duties -Service authorities How could the model for service authorities working in road corridors be improved? <i>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.</i></p>	<p>As mentioned above one of larger concerns is how service authorities interact with road authorities. Currently have a working relationship with service authorities but is reliant on the limited ability road authorities have in legislation to control the use of the road corridor and/or, MOUs with relevant service authorities and/or relationships/understanding at an officer level. The differing acts governing service authorities vary significantly in power and for example in the case of communication providers they rely on legislation that can effectively ride “roughshod” over other legislative pieces. At a minimum the following should be in place and be able to be enforced:</p> <ul style="list-style-type: none"> • Formalised liaison between all parties on work within the road corridor • Consistent reinstatement that does not reduce the life of the road assets. • Installation of service authority assets in accordance with their own standards e.g., avoid Telstra cables at inappropriate depths. At the moment it is common for road authorities to make contact with service authority assets as they may not be known and/or in many cases close to the surface, the liability then sits with the road authority. • Ability to meaningfully control what services are being installed and what this may mean for future management of a road corridor. In many cases service authorities apply onerous conditions associated with working near or relocating their assets within the road corridor. • Consistent and reasonable timing for responding to requests for altering or relocating services within the road corridor. At the moment necessary road

	works can be delayed for substantial periods of time waiting for the service authority to undertake works as part of the project.
<p>Footpaths and other infrastructure 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>Reference has been made to the limitations of section 11 of the Roads and Jetties Act above but below are a couple of comments:</p> <ol style="list-style-type: none"> 1. On what basis is Council best placed to manage footpaths, cycle paths, parking areas that abut a highway. This appears to be a general statement without too much to back it up. Focus for all road authorities should be on all users and trying to split this out inevitably can lead to a poorer result. 2. There is a lack of communication between State and local government road authorities on installation of footpaths on state highways. If it was just the local authority taking over the footpath it may or may not be an issue but the fact the legislation requires local government to take on other assets that are clearly associated with the road on both sides of the corridor makes very little sense. 3. The current legislation suggests there is or should be a fund set aside for all work on the state road corridor which in some way would alleviate the financial burden imposed on local government, but it appears that this fund, although in legislation, has never been put in place. 4. If there was to be an apportionment it should be for Local Government to look after the footpath only. Parking areas and bus bays form part of the road and are more easily maintained with the rest of the road pavement. 5. Drainage under a State highway should be managed by the State authority this includes kerb and channel. Drainage under a highway should be chosen so as not cause downstream or upstream issues.
<p>Statutory Duties – Drainage</p>	<p>Powers to drain onto lower properties needs to be allowed for in the review. At the moment for urban areas there is the Urban Drain Act 2013 but there is not similar instrument for rural areas.</p>
<p>Ownership of Retaining Walls</p>	<p>Ownership of retaining walls is a common dispute point between property owners and LG. The argument normally centres around the wall is to support the highway and the counter argument was the wall was to allow better use to the adjacent land i.e flatter.</p>

<p>Land use planning</p>	<p>The exemptions for roadworks under LUPA hinge largely on the interpretation of the term minor infrastructure. Some examples are provided to try and ensure clarity but interpretations vary. Although this may be out of scope for this review it has implications that allow for certain works to proceed in a timely and efficient manner. Eliminating the “grey” area would assist greatly in improving outcomes.</p>
<p>Temporary road closures How could the temporary road closure process be optimised to balance flexibility for road authorities with other needs? Consider:</p> <ul style="list-style-type: none"> • 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>Generally, it is accepted that temporary closure of a road will happen for a myriad of reasons, include emergency, service repairs, road works, particular events, and to facilitate sale of goods. It is accepted that not all road closures need consultation with LG, but they do need communication. The ones that do need consultation are those relating to all matters outside of an emergency or an unforeseen service breakdown (e.g., burst water main, downed power line etc). If LG organises a road closure it will inform all other stakeholders such as emergency services, Metro and other affected transport providers and affected residents/users of the road. In many cases there are other considerations that operate in tandem with a road closure such as approvals from other areas. Examples of where LG has had less involvement in road closures are Targa Tasmania.</p>
<p>Public transport infrastructure</p> <ul style="list-style-type: none"> • 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>Kingborough Council currently accepts no responsibility for new, replaced or maintenance of bus infrastructure. The exception will be the repair to pavement damage at bus stops and where Council may have elected to install their own bus infrastructure. To legislate to pass on more responsibility to councils would be an example of cost shifting. Department of State Growth (DSG) are the transport provider and I would disagree with the comment that it is difficult for them to maintain standalone assets on roads and footpaths not managed by them as this is currently what they do. Council has a responsibility to consider access to and from a bus stop as to whether it is appropriate to have a footpath linkage, however Council has limited vested interest in bus stop location (as long as it is safe) and infrastructure this is more driven by the needs of the users and understood best by the transport provider. The exception to this is where councils are undertaking significant street scaping works in a major transport terminus in which case having appropriate infrastructure that suits</p>

	<p>may be of more importance. DSG/Metro organise (and change as required) bus routes to best meet the needs of providing an effective and efficient Public Transport (PT) system councils' say in this is limited. To legislate for councils to take a larger role in this aspect would potentially dilute the effectiveness of the PT system as the interpretation/practice of what each council did would invariably vary meaning the community would receive a poorer service. Communication between parties is always going to be an important factor as there are some shared goals in this space but the control of the service sits with DSG and therefore so should be the complete provision of the assets, including the risk/liability unless another agreement to the contrary exists.</p>