

REPORT AUTHOR:	Manager Infrastructure [REDACTED]
-----------------------	-----------------------------------

SUBJECT: INFRASTRUCTURE 1: ROAD MANAGEMENT LEGISLATION REVIEW – INFORMATION REPORT

REPORT DATE: 28 September 2023

ATTACHMENTS: Nil.

INTRODUCTION

The purpose of this report is to inform Council with regard to the ongoing, State Government's Road Management Legislation Review.

BACKGROUND

The Tasmanian Government's Road Management Legislation Review (the review) is a review of the State's entire framework of road management legislation for public roads. It is expected to result in major amendments to, or replacement of, the *Roads and Jetties Act 1935 (R&J Act)*, which is the primary statute for State roads. Depending on the findings, it may also lead to changes to other acts such as those governing local roads. It will consider whether a consolidated statute covering both State and local (council) roads, like those in other jurisdictions, would be better than the current model of separate acts.

Tasmania's road management legislation is a patchwork of different acts introduced over the course of nearly 50 years and is layered over the top of common law surrounding highways (sometimes referred to as 'right of user roads' or similar). The oldest of the key statutes, the *R&J Act*, is nearly 90 years old.

The three key statutes which relate to public road management are:

- *Roads and Jetties Act 1935*

The *R&J Act* is the primary piece of legislation governing Tasmania's State road infrastructure and forms a key part of the broader statutory framework for the management of roads. It also deals with jetties and aerodromes, although those are beyond the scope of this review.

- *Local Government (Highways) Act 1982*

This act focuses on the role of local councils in managing highways within their respective municipalities. It outlines the powers and functions of councils in relation to the planning, construction, and maintenance of highways. The act also addresses matters like land acquisition for road purposes and controlled parking.

- *Highways Act 1951*

The *Highways Act* deals with the proclamation of new highways and some other related functions.

The review aims to implement a contemporary road management framework which:

1. **Is more efficient** – streamlined processes, reduced bureaucracy, and optimised resource allocation, resulting in a 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.

The State Government have engaged Council officers to prompt feedback in to the process and have requested answers to the following questions (proposed response below each in italics):

Do you support moving to a single, consolidated road management act? If not, why, and what option would you prefer?

Yes, we are in favour of a single act that replaces the current framework.

Do you agree that the proclamation process should be simplified?

Yes, the process should be simplified and relevant road authority should be responsible for the process. The process needs to ensure the boundaries and extents of the road are accurately surveyed and displayed via road authority mapping made available to the public and all other relevant detail is contained within a central repository, potentially held at a state level.

How could the way subdivisions are dealt with in the framework be improved?

Currently, the statutory period in s10(4) of LGHA is 6 months, this should 12 months. Council condition 12 months defects liability in permits.

Would the Victorian model work in Tasmania? Do you have concerns how it operates? (See below).

Yes, we have several areas of concern that need to be addressed in any review, see below for detail:

- a) It is not reasonable to expect Councils to manage the major infrastructure associated with intersections on state roads such as retaining walls, steep batters, bollards, guardrail, traffic lights/loops etc. All of this infrastructure is not typical in Council management routine and the highway assets rely on these assets. Council would propose that the State retain these critical assets and Councils maintain only the footpath area. This includes how far the responsibility of the State extends into any adjoining Council road.*
- b) There is not a clear or defined meaning to a city boundary or limit, this need clearer definition supported by mapped areas of responsibility. "Urban are" requires definition.*
- c) A clear definition of carriageway is required under the current framework, this may be replicated by the Victorian model if "through traffic" if adopted. Clear definition of this more linear boundary is required. With scenarios such as parking lanes, kerb and channel, drainage pits, sealed and unsealed verges etc.*
- d) The maintenance of median strips within State roads in any area is not acceptable to Council.*
- e) Clear definition of what forms a state culvert or what constitutes Council drainage network and their extent is required*
- f) Maintenance responsibility is clear but it is unclear at times who is responsible to upgrade particular assets.*

Road type	Responsibility of authorities	
	Head, Transport for Victoria	Municipal council
Freeway	Manages the entire road reserve	Not applicable
Arterial road	Manages: <ul style="list-style-type: none"> • The part of the roadway used by through traffic • The roadside in non-urban areas 	Manages: <ul style="list-style-type: none"> • Any part of the roadway not used by through traffic • Service roads • Median strips and pathways • Roadside in urban areas
Non-arterial State road	Responsible if prescribed or declared as such. Otherwise managed directly by the Crown or by another instrumentality of the Crown. Depending on the circumstances, this might be an agency like Parks Victoria or Melbourne Water Corporation.	Not applicable
Municipal road	Not applicable	Manages the entire road

Is there a time when it is ambiguous which authority is responsible for a road management function?

Yes, please see above examples. Furthermore, there is no standard to which the State consult or process defined to guide how assets are created and then “gifted” to Council, a minimum standard of consult and transfer process needs to be established. A single statute may help resolve ambiguity however, like most things; it will be dependent on the detail, the particular drafting of the statute and the supporting tools (such as responsibility mapping).

In addition, lighting on State roads has caused issues, are the lights intrinsic to the highway function or the footpath function. This needs to be clarified and implemented consistently. It is Councils position that the lighting on State Roads should be the responsibility of the State, including power consumption, poles, fittings etc.

How should bridges be treated on local roads?

If a State owned/maintained bridge is present on a local road network, all assets associated with that bridge, including a reasonable setback for approaches should be the complete and absolute responsibility of the State to remove this ambiguity. Degradation of particular elements such as the surface, guardrails, pedestrian handrails, approaches etc can have a broader impact on the life or structural integrity of these assets and a mixed or joint responsibility is simply unwise.

How could the model for service authorities working in road reserves be improved?

If a State owned/maintained bridge is present on a local road network, all assets associated with that bridge, including a reasonable setback for approaches should be the complete and absolute responsibility of the State to remove this ambiguity. Degradation of particular elements such as the surface, guardrails, pedestrian handrails, approaches etc can have a broader impact on the life or structural integrity of these assets and a mixed or joint responsibility is simply unwise.

Public transport infrastructure such as bus stops and related furniture?

Again, the provision of this infrastructure results in Councils being gifted assets they have very little control over, this is unacceptable. It is to the State’s total discretion which bus stops are upgraded and the quality of infrastructure can directly affect the uptake of public transport. Seemingly, allowing Councils to take-over this provision does not enable the

State to provide higher quality and increased amenity at the stops with higher patronage (noting Councils have no data to inform this).

At high frequency routes, at bespoke stops (at major facilities or transfer terminals) and on State Roads, these assets should remain with the State entirely.

On local roads, a hybrid model should be introduced where, if demand presents and the State decide to install a shelter, the local authority should install the infrastructure required that integrated with the surrounding footpath network i.e. all infrastructure at or below surface level. The State should be responsible to install any shelter, lighting, signage and tactiles should remain with the State.

STRATEGIC PLAN

This action relates to the following components of the Strategic Plan 2022-2032:

- Advocate for enhanced accessibility and connectivity across the region, including appropriate public transport.
- Advocate for suitable/appropriate critical road and transport infrastructure and services in the region, including specifically State highways.

STATUTORY REQUIREMENTS & RELATED COUNCIL DOCUMENTS

Not Applicable

RISK CONSIDERATIONS

This issue is deemed low risk however; Council officers should be responsible to continue this engagement and feedback.

FINANCIAL IMPACTS

There are not financial impacts associated with this engagement, rather an ongoing negotiation around road authority duty and responsibility.

CONSULTATION

Ongoing for Council officers

OPTIONS

Council officers are open to feedback on the presented information

OFFICER'S COMMENTS

This information report demonstrates and conveys to Councillors, officers continued efforts to improve ambiguity and consultation between the two road authorities.