

City of **HOBART**

**Feedback on the
Tasmanian Road
Management Review**

About the City of Hobart

The City of Hobart is the local government body covering the central metropolitan area of lutruwita/Tasmania's capital city nipaluna/Hobart.

The present-day council entity was legislated in 1852 with the role of Lord Mayor created in 1934.

As enshrined in legislation, the key function of local government is:

- To provide for the health, safety and welfare of the community;
- To represent the interests of the community; and
- To provide for the municipal area's peace, order and good government.

The City of Hobart delivers a range of services to over 56,000 residents and employs over 550 staff.

The Role of Local Government

Local government in Tasmania is responsible for the management of local roads which make up the majority of the road network. While the State government is responsible for State Highways (arterial roads) there are many instances of State roads running through towns and cities where local councils are responsible for maintaining footpaths, parking areas, retaining walls, embankments and other infrastructure as these are seen as having a 'local benefit'. The State is responsible for maintaining the carriageway and median strips, overtaking lanes, culverts and bridges.

Introduction

The City of Hobart welcomes the opportunity to provide comments on the Road Management Legislation Review. As Road Manager for local roads, the City of Hobart plays a critical role in ensuring the road network connects communities and businesses to vital services and economic activity.

The City supports the development of a contemporary single statutory framework for road management similar to the framework in Victoria.

The importance of an integrated well-managed road network that support community and business needs and provides a range of travel options is a key message from the community and stakeholders in [Hobart: A community vision for our island capital](#). This is also reflected in the refreshed Capital City Strategic Plan 2023 with a key outcome being 'An accessible and connected city environment helps maintain Hobart's pace of life.'

Improving connectivity in the region can only be achieved through the Greater Hobart councils and state and federal governments working together on regional initiatives to improve road networks and travel options. Clarifying the roles and responsibilities of road managers and refining processes can only lead to improved cooperation and better community and economic outcomes from Tasmania's road network.

Ongoing collaboration

There are several issues raised in the discussion paper and explored in this submission that are deeply known by local government practitioners, but which might not be as well-known at a State level. The City of Hobart suggests that the State work closely with local government officers to ensure these issues are thoroughly examined and to shape advice and the drafting of legislation.

Submission

The City is pleased to provide responses below to the questions and discussion points in the Road Management Legislation Review discussion paper.

Discussion paper prompts	CoH 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 City of Hobart agrees with the three draft principles and suggests that a further two principles are considered for inclusion to inform the review:</p> <ol style="list-style-type: none"> 1. Clarity on roles and responsibilities for State and local roads between the State Government and local governments. Noting this could be an extension of principle 3. 2. Any changes should not result in cost shifting from the State to local government and, should this occur, financial support be provided to local government to manage this cost shift.
<p>Do you support moving to a single consolidated road management act? If not, why and what option would you prefer?</p>	<p>The City of Hobart’s preferred option is for a contemporary single consolidated road management act. We acknowledge that achieving this will be complex and resource intensive. If it is not possible to consolidate into a single statute, the City’s preference would be to review the <i>Road and Jetties Act 1935</i> (R&J Act). As the primary piece of legislation governing State Highway infrastructure in Tasmania, a review would help to clarify roles and responsibilities for the management, maintenance and associated costs for State Highways.</p>

<p>Statutory Framework - Regulations removing detail</p>	<p>The City acknowledges that the R&J Act and the <i>Local Government Highways Act 1982</i> (LGH Act) contain a level of detail that is not seen in modern legislation and would welcome steps to simplify the legislation.</p> <p>We agree that the use of the State’s powers to make regulations could support a more contemporary approach, however, it is important that in making regulations, the State does not shift costs onto local government without appropriate consideration and compensation.</p> <p>Any use of the State’s powers to make regulations should follow a rigorous regulatory impact statement process that clearly identifies the costs and provides for appropriate compensation.</p>
<p>Statutory Framework -Other Categories of Road (private or quasi-public roads)</p>	<ul style="list-style-type: none"> • It’s important that the review of the road management legislative framework recognise and consider that councils are required to maintain a Council map under s. 208 of the <i>Local Government Act 1993</i>. <p>The City of Hobart suggests that the State establish a working group with local government representatives to explore and understand these issues and to determine if there can be a legislative remedy.</p>
<p>Proclaimed roads</p> <p>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>The proclamation of roads should remain a state government responsibility. The City notes that the process as described could be simpler but that is matter for the state government to decide so long as there are relevant checks and balances in the process to protect the rights of landowners.</p> <p>The location and boundaries of roads in an electronic or hard copy system can be indicative only. The actual location of road boundaries can only be determined by a Registered Land Surveyor in Tasmania and should remain the case to maintain the integrity of the cadastre.</p>

<p>Subdivisions</p> <p>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>Highways created by subdivisions are mostly local highways and are the responsibility of local government. It is suggested that the requirements in sections 10, 11 and 12 of the LGH Act could be redrafted in the framework to make them easier to understand.</p> <p>The cost to administer, audit and issue permits for subdivision works are an ongoing and significant expense for local government. As the ultimate asset owner, any deficiencies in the design and construction lead to expenses in rectification and maintenance costs which impact on amenity and on residents through increased rates. The City of Hobart encourages the reviewed legislation be robust and holds developers' engineers to an acceptable standard and allows for penalties for non-compliance or malpractice.</p> <p>We acknowledge that there needs to be a balance between the requirements for subdivision and the cost of development, however, ensuring subdivision requirements are met should not be seen as a disincentive to supply. The assets being built during development need to serve the community for a century or more, any deficiencies or below standard infrastructure will fall on later generations to live with or fund rectification.</p> <p>A related issue that the City would like to mention here is small boundary adjustments or minor subdivisions of property titles in to create space for a footpath or signalisation of a road junction. A simple process for the minor subdivision (say less than 20m squared) of a title and adherence to the adjacent road, or declaration of such land to a road would be useful.</p>
<p>Defining the road manager</p> <p>Would the Victorian model work in Tasmania? Do you have any concerns with how it operates?</p>	<p>The City of Hobart welcomes steps to simplify and clarify the definition of the road manager.</p> <p>Should a model similar to Victoria's be introduced, there are a number of issues that would need to be addressed and clarified, including:</p> <ul style="list-style-type: none"> • Who is responsible for retaining walls the State built to support the highway, or retaining walls that were built to accommodate the width of the highway through terrain?

	<ul style="list-style-type: none"> • Who is responsible for maintenance of service sub-ducts and pits which have been placed to preserve state highway pavements from service authority works? • Who is responsible for upgrading footpaths and bus stops to meet the requirements of the Disability Discrimination Act? • If an arterial road has a bicycle path incorporated into the road reserve – which is used for through bicycle traffic – would responsibility for that part of the roadway transfer to the State? • How are new assets / crossing points determined and who has responsibility for them? • What about if there is a desire for bus lane in an area which was not previously used by through traffic – does that transfer to the State?
<p>Permanently closing a road</p>	<p>Clarification of what constitutes closing a road would be useful – for example does making a road “one way” constitute a road closure in one direction or is it traffic management.</p> <p>Likewise, if the road reserve has only certain classes of users permitted, for example pedestrians, bicycles, scooters etc – but not cars – is that a closure or is it traffic management.</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 several examples where it has been unclear or ambiguous which authority is responsible maintenance. Some examples are provided below:</p> <ul style="list-style-type: none"> • Maintenance of the retaining walls which were built to develop the Tasman Highway. These assets were never handed over to the City and responsibility to maintain them should fall to the state government as provided by section 5 of the R&J Act. The City should not be responsible for assets that were built to support or create space for a State Highway. • Maintenance and repair of pits and lids to service subducts under the Brooker Highway which are on the nature strip. • Vegetation over-hanging a footpath on a state highway from a private property. The City does not have the power to act under the LGH Act as it is

	<p>not a local highway. The state department does not have sufficient powers to enforce compliance and relies on the City to do so.</p> <p>It is also unclear who has responsibility for creation, construction and maintenance of pedestrian islands, traffic signals, zebra crossings, underpass / overpass on state highways.</p> <p>Amending the R&J Act or developing a single statute that addresses such issues could help to resolve this ambiguity fairly.</p> <p>The City also considers that the statutory framework should include provision for the transfer of assets of items that the state builds and then transfers to local governments. Assets should be built and transferred only with agreement with the authority who will ultimately manage the asset.</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>It is noted that the transfer of a bridges on local roads to local government is not done automatically when a road is transferred. Without specific agreement to transfer control of a bridge, only the road that runs over the bridge is the responsibility of local government. Bridges are treated in this way as they are complicated and expensive to maintain and are a significant impost on councils' costs.</p> <p>The City notes that a number of other assets are transferred that are also complex assets and have a similar asset risk profile to bridges. These include retaining walls, some embankments, large culverts and heritage structures. As with bridges, all require specialist engineering and maintenance.</p> <p>The City considers that a consistent state-wide approach be adopted for the transfer and maintenance of these complex assets that provides clarity, certainty and appropriately recognises the cost impost.</p>
<p>Management and Maintenance - Statutory Duties - Liability</p>	<p>Meeting this obligation is a complex task requiring: 1) an inspector</p>

<p>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>2) a policy for inspection, 3) set intervention levels, 4) documented timeframes for repair 3) record keeping.</p> <p>The City of Hobart has a funded program in place for the inspection, maintenance and repair of local roads. A framework to establish maintenance standards based on the importance of the road type and how this might affect the liability of the responsible authority would provide more certainty. It would also be beneficial to update the terminology as mentioned in the discussion paper (page 16).</p> <p>While the City of Hobart has a program to inspect, maintain and repair local roads many councils in Tasmania may not as it is not currently required. Any statutory requirement to do so is likely to impose a financial impost on the council and ratepayers.</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>The City of Hobart supports any changes that will improve the way road managers and utility owners work together. We see benefit in introducing a model similar to the Victorian model that includes a reference panel and requires service authorities to seek consent to works on roads.</p> <p>A framework or model similar to the one in Victoria should consider developing a hierarchy of needs that balances public amenity, e.g., street trees, against work being undertaken by service providers.</p> <p>A new legislative framework should also provide clarity on the powers that different service authorities (e.g., telecommunication providers, TasWater, TasGas) have and their requirements to seek consent or notify the road manager of works.</p>
<p>Footpaths and other infrastructure What is the best way to fairly apportion responsibility between road authorities for State roads running through urban areas?</p>	<p>The City encourages the State to introduce a framework that considers local benefit in determining responsibility for service provision.</p>

Are there any examples where the current framework has had poor outcomes?

In cases where the infrastructure primarily serves a local benefit (e.g., a footpath providing access to urban, rateable properties or where a high standard of roadside amenity is required to demonstrate a tidy town) then it would be reasonable to argue that the most benefit is to the ratepayer and would therefore be the responsibility of local government. However, if the infrastructure primarily serves a regional, intercity, or state-wide purpose then it should be maintained by the State.

Examples of where the current framework has had poor outcomes include:

1. Pedestrian fencing to stop people walking/falling onto the carriageway (e.g., Hobart Railway roundabout). Under s.11 of the R&J Act local government must maintain which is a significant cost impost as it is regularly damaged by vehicles. Where such infrastructure is regularly damaged by vehicles it could be argued that the site warrants installation of a guard fence/crash barrier which would be the responsibility of the State.
2. Embankments and retaining walls built by the State to support or create space for a State Highway should not be the responsibility of local government (e.g., Tasman Highway retaining walls along Government House frontage). This infrastructure would not be necessary if the State Highway was not present.
3. Brooker Highway subducts and associated access pits were installed by the state to mitigate risk to the pavement from service trenches. Council should not be responsible for this infrastructure.

Works to maintain or reconstruct assets that have not ever been handed over by the State Government to local governments and which are primarily to support a regional or state function should be funded by the State - regardless of who carries out the works.

Sections 4 & 5 of the R&J Act provides for the State to fund maintenance and reconstruction activities on the State Highways. However, these funds have not been made available to local government. Provision for this funding should not be removed from legislation without full consideration of what funds should have been provided to Councils. The City of Hobart has recently received legal advice on this matter and has

	shared this advice with the Department of State Growth and other Local Government road managers.
Parking fees	Under the current legislation, if a property is not a highway under the LGH Act, local government has no legal ability to install parking metres. The courts have held that a carpark does not fit within the definition of a highway. This is problematic as it limits the options available to local government to manage some car parks. The City of Hobart recommends that the legislative framework extends the ability of local governments to impose parking fees be extended to all land which is owned or administered by councils. This will allow for a more contemporary approach to managing car parks leading to better outcomes for road users and managers.
Statutory Duties – Drainage	Road managers need to have the explicit authority to drain onto lower lying land. The LGH Act, through s. 56, obliquely allows this. However, explicit legislated authority would lead to better outcomes.
Limited Access Roads	Through our Central Hobart Plan, the City has expressed that limiting property crossovers (by way of Active Frontage Overlay) or other planning control mechanisms to properties is a key component to operating a city transport network. Consideration of such planning scheme tools to achieve the safety and amenity outcomes on roads in cities and towns should be considered by the review.
Statutory Duties – Trees, hedges, and other obstructions	The LG(H) Act provides guidance regarding heights above footpaths, carriageways, and other areas. This provides excellent guidance for road managers but is regularly ignored by tree owners. An emerging issue is the desire of Councils to allow property owners to establish gardens on nature strips within road reservations. While guidelines exist to help manage this, enforcement is not resourced. This can create hazards to people, particularly around access to the passenger side of lawfully parked vehicles or other lawful public access.

<p>Ownership of Retaining Walls</p>	<p>Local Governments regularly grapple with issues relating to retaining wall ownership. Retaining walls are high risk, high-cost items in the landscape and ownership disputes are common. Section 35 of the LGH Act deals with driveways but does not mention retaining walls on the Highway that have been constructed to support driveways.</p> <p>Another area that requires clarification is responsibility for retaining walls on Highways that have been constructed to support a private property (e.g. create a flatter yard or parking area). Each Council would have an approach for determining ownership and some do have policies. There would be great benefit in legislating an approach to this issue to assist road managers and also provide consistency in practice across the State.</p>
<p>Penalties for unauthorised works by third parties</p>	<p>Current penalties are insufficient and difficult to enforce (either through the LGH Act or by-laws). The City of Hobart advocates for meaningful penalties for unauthorised works to be included in legislation in order to control risk to the public and impacts on asset condition.</p>
<p>Responsibility for hazards relating to third party works or third-party assets</p>	<p>Legislation should make it clear the Local Governments cannot be responsibility for hazards created by third party assets, failures or works. This should include explicit reference to management and responsibility of assets which are not managed by any incorporated body (e.g. old town gas in Hobart) or Private Underground Electrical Connections.</p>
<p>Ancillary areas</p>	<p>The City of Hobart agrees that ancillary areas should be considered in the legislative framework. In addition to the type of ancillary areas mentioned in the discussion paper, we encourage the inclusion of public transport / bus layover and amenity stops for consideration.</p>
<p>Land use planning</p>	<p>The City of Hobart welcomes the review considering the interaction with land use planning. One area of concern to the Road Manager's functions that has emerged in recent years is the use of Significant Tree registers under the planning scheme. This has been used, not only to protect trees of venerable age or cultural significance but also to protect relatively young "avenue plantings". This can have a negative impact on the ability for the road manager to carry out its statutory duties. Balancing these</p>

	objectives across the road management and land use planning legislative frameworks is an important part of the review.
Dispute resolution	Inclusion of a dispute resolution procedure is suggested by the City of Hobart. This would provide a clear path to resolve disputes between road managers would ensure that assets are not left unmanaged and will likely improve relationships between road managers.
Items currently covered by By-Laws	The City of Hobart suggests that a review of Local Government By-Laws should be undertaken as part of the RMLR process to identify laws that could be incorporated into road management legislation. This will have the benefit of providing consistency of law and application in practice across the State.
Future Proofing: Electric vehicle charging and other emerging issues	<p>Emerging issues in technology such as the move to Electric Vehicles require solutions that may not be supported by legislation or current practice. A particular risk with on road EV charging is the (presumed) requirement for underground electrical cables on the road. This raises issues around worker safety (e.g., from electrocution), as well as issues around equitable access.</p> <p>Another potential issue is around the move towards alternatively fuelled busses and heavy vehicles. This is likely to result in increased axle load and consequently increased degradation of road pavements and bridges. This may create a significant impost on the public purse at a local and state level.</p> <p>Infrastructure requirements relating to emerging technologies presents challenges to Road Managers e.g. provision of space for bike, e-scooter parking, uber delivery drivers and in future 'on demand' busses may be a major user of local roads. The City of Hobart encourages the review to explore how emerging technologies might impact road management in future.</p>
Traffic Control including signs and line marking	<p>Traffic signals</p> <p>There is sense in including some aspects of traffic signals in the review.</p>

	<p>The changes that a local road authority could make at a signal-controlled junction are inter-related to the signals operation and an approval is currently required by the Transport Commission (TC).</p> <p>Management of the junction by Department of State Growth could require kerb works in order to support the signals operation, but this kerb would be under the control of the local government.</p> <p>There is also an issue with TC Directions 2022/1 and 2022/2, primarily regarding the inability to comply with certain Australian Standards and Austroads Guidelines and specifications and drawings from the State, as well as limits on councils' ability to use emerging technology. These issues would need to be addressed if these are moved into the legislative framework.</p> <p>Other jurisdictions publish Road Design Notes and Supplements to the Austroads guide to Road Design. For example, see - https://www.vicroads.vic.gov.au/business-and-industry/technical-publications/road-design</p> <p>Line marking</p> <p>The City of Hobart has identified line marking as an area that has historically seen cost shifting from the State to local governments.</p> <p>The Transport Commission Direction 2022/2 relates to the delegate authority to "installation" signs and line marking not the "maintenance" of signs and line marking.</p> <p>This review must consider and have clear distinction between the responsibilities with regards to the installation and maintenance of signage and line marking.</p>
<p>Temporary road closures</p> <p>How could the temporary road closure process be optimised to balance flexibility for road authorities with other needs?</p> <p>Consider:</p> <ul style="list-style-type: none"> • The needs of property owners and tenants 	<p>The current legal requirement to advertise temporary road closures in a "local newspaper" is difficult and expensive, with advertisements required to be submitted in increasingly longer times prior to publication and at greater expense, as the newspaper classified model has reduced in importance over the last 20 years. The reach of classified advertising to the community is also decreasing. For the City of</p>

<ul style="list-style-type: none"> • Access for emergency services • Operation of the public transport network • Differing community needs • Methods for communicating closures 	<p>Hobart, Variable message signage, hand delivered letters to impacted frontages, and emailed circulation of road closure licences to interested parties (public transport providers, emergency services etc) are the primary effective sources of notification to stakeholders.</p> <p>We suggest that the legislation should provide only a general requirement for appropriate notification / consultation with stakeholders, and that provisions in the legislation for compensation (See section 29) be retained, requiring “No compensation is payable under this section in respect of any obstruction of the highway or any means of access to it during the carrying out of any highway works if that obstruction is reasonably necessary for the carrying out of the work and cannot reasonably be avoided”.</p> <p>The Transport Commission could then provide published guidance on what is reasonable in terms of notification / consultation for temporary traffic management and road closure impacts on the community, if the Transport Commission wished to provide direct guidance to road authorities.</p> <p>It should also be noted that currently some road authorities are issuing permits for temporary traffic management for works and events that do not involve a road closure. There isn't a clear power for this under the LGH Act, and the City of Hobart has utilised its by-laws to allow for this. While functional, there may be benefit (particularly for contractors who work across many different road authority areas) in including the ability to issue permits for these less significant works in the new legislation, so that the process is more standardised for industry.</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>Public transport bus providers own and are responsible for the provision and maintenance of bus stop infrastructure – including shelters and signage.</p> <p>Taking on this responsibility (establishment and maintenance) for bus stops, associated Disability Discrimination Act compliance, and bus shelters is a significant impost on local government.</p>

	<p>Local government has legal advice that it is not the provider for the purposes of the Disability Discrimination Act. It is the legislative requirement of public transport providers to have upgraded their bus stops to be compliant.</p> <p>There is a perceived view that all bus stops can be upgraded to meet full Disability Discrimination Act compliance. Due to the nature of the topography, the standard gradients for bus stops can't simply be achieved, not without significant upgrades. Guidance from the State will need to consider this issue and particular in relation to associated risks in non-compliance before handing over responsibilities (and risk).</p> <p>The City of Hobart is currently working with the Greater Hobart councils to develop a discussion paper on this topic which will go towards informing this review at a later date.</p>
<p>Cost recovery 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>The City of Hobart supports the introduction of a licencing model for cost recovery from road users with special requirements.</p>