

Department of Natural Resources and Environment Tasmania

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Secretary
DEPARTMENT OF STATE GROWTH

Road Management Legislation Review - Discussion Paper

I am writing in relation to the Department of State Growth (DSG)'s email dated 14 September 2023 inviting the Department of Natural Resources and Environment Tasmania (NRE Tas) to provide feedback on the Road Management Legislation Review – Discussion Paper.

NRE Tas, through the Parks and Wildlife Service (PWS), manages over 1 000 km of core and secondary core roads across the State that provide access for private residents and visitor access to tourist destinations.

NRE Tas believes that public roads on all Crown land must be considered in scope of the review. A tenure blind approach is necessary to realise an outcome of consolidating management under a single authority, where appropriate, which will deliver a user centric, cost effective and administratively efficient outcome to road management.

Review scope and principles

The review notes that "*some other acts deal with the management of private or quasi-public roads – for example, Forestry, Parks, or Hydro roads. These are not currently considered in-scope for the review.*" These roads make up a significant component of the public road network in Tasmania, with the road network the main enabler of the tourism industry and other industries such as apiarists. As such, NRE Tas proposes and supports moving to a single, consolidated Road Management Act containing a framework and set of guiding principles similar to the Victorian model with consideration being given to a classification of 'other' Crown managed roads.

Option of a consolidated Act

Moving to a single, consolidated Road Management Act similar to the Victorian model would remove ambiguity in ownership of roads, assist planning processes and should be drafted to facilitate 'quasi-public' road managers adapting the framework at a later date for their own use.

The challenge of multiple authorities being responsible for the management of a road reserve, when a Crown road is made into a public road, could be mitigated by the entire corridor becoming part of the public road and under the management of one relevant authority. This would consolidate the administration of the subject land and avoid conflicts in legislation (the *Roads and Jetties Act 1935*, the *Local Government (Highways) Act 1982* and the *Crown Lands Act 1976 (CLA)*).

NRE Tas supports a consolidated road management model that provides clarity around who is responsible for maintenance and renewal.

Other categories of road (private or quasi-public roads)

Public roads and quasi-public roads are not defined in the Discussion Paper, although the description on page 6 broadly outlines what is meant. PWS roads are public roads. There are no restrictions on access, and they are used by communities, tourists/visitors and commercial interests to access well promoted tourism sites, public parks and reserves. Some PWS roads and road assets such as Sumac Road and Kanunnah Bridge, are as much a public road as any State Highway or Council managed road. NRE Tas requests that in reviewing options for road management legislation, PWS roads are considered public roads.

Crown roads prior to being made into a public road require the provision of easements to provide the required road frontage for planning purposes. The ability to open Crown roads to meet legal access requirements for planning would remove the current planning difficulties experienced by members of the public.

Allocation of responsibility between authorities

Access to key tourism destinations should qualify for special management so that the responsibility for management is transferred to the agency with most capacity to manage the road. For example, Lake Dobson Road at Mt Field and Dove Lake road at Cradle Mountain are DSG's responsibility to maintain despite the roads being on PWS tenure (National park). Kanunnah Bridge however, is on PWS managed land and is a critical Road / highway asset, but it is not managed by DSG. The inconsistency in approach needs to be resolved.

NRE Tas requests that consideration be given to enabling consistency of management across similar roads of similar status in the new road management legislation. Clear thresholds where Council/DSG agree to take over road management could be explored, whether through legislation, regulations or enabling policy.

Ancillary areas

NRE Tas supports any future consolidated Road Management Act providing for ancillary areas to be added to public roads, including roads that are not in-scope.

Trees, hedges and other obstructions

The removal of trees for the creation or maintenance of a state/highway road, while exempt under the *Land Use Planning and Approvals Act 1993* from requiring a Forest Practices Plan, may still require a permit under the *Threatened Species Protection Act 1995* and/or the *Nature Conservation Act 2002*.

Section 35(1) of the *Roads and Jetties Act 1935* allows the road authority to cut down and carry away all indigenous timber as required for making, repairing or fencing etc. This section prescribes full compensation to be made to the owner of the land for the timber taken. Section 35(2) of this Act prohibits the road authority from allowing the owner/occupier of the land on which the tree is located to use the felled tree for the purpose of ornament or shelter. NRE Tas believes that amendments to section 35 of the Act are warranted to allow options for the use of the timber: by the owner/occupier in lieu of compensation; or perhaps put up for tender by the road authority to offset costs and reduce burn-offs.

Putting the trees/area required for clearing up for tender to allow for salvage harvesting, where state roads are being built/upgraded, could have a range of potential benefits, notably:

- reduce compensation paid to the landowner as required under section 35(1) for the value of the timber.
- timber is used in Tasmania to value-add, rather than being burnt or removed and sold as firewood.

- if the timber is not burnt and is removed by the road authority/contractor – this is a cost. The cost of harvesting and removal could be considered as part of the tender.
- potentially assist local, small timber processors in securing access to a limited resource that is otherwise not used.
- reduce wasteful practices and embrace the concept of a Circular Economy.

Private roads and user-maintained highways

Where roads provide access to more than one private property and where a Council receives rates, such roads should be managed by the relevant Council.

Spatial systems

NRE Tas manages LISTmap, and within the web-based mapping system, there already exists a spatial data road layer that references the authority responsible for the management and maintenance of public roads. In addition, LISTmap contains a spatial data road layer for parts of the State road network that are subject to declarations of Limited Access made in accordance with Part IVA of the *Roads and Jetties Act 1935*.

While the current LIST Transport Model does not accommodate the collection of all of the legislative instruments which define roads, these could certainly be considered in future iterations of the LIST Transport Model but would require involvement from all road authorities, including State and Local Government to achieve the desired spatial solution.

I would again like to thank DSG for providing the opportunity to comment. Should DSG have any queries in relation to this submission the NRE Tas contact officer is [REDACTED]



Jason Jacobi
SECRETARY

4 November 2023