

Transport
for NSW

Roads Act 1993 Issues Paper

February 2025



George Street,
The Rocks



Preface

Roads are the arteries of the NSW economy, while streets are the places which define our sense of home and community. These networks support vibrant communities and great places across NSW.

The legislation at the heart of our networks is the *Roads Act 1993*, which guides the creation, regulation, and protection of our roads. This complex Act is now more than 30 years old and much has changed in the interim.

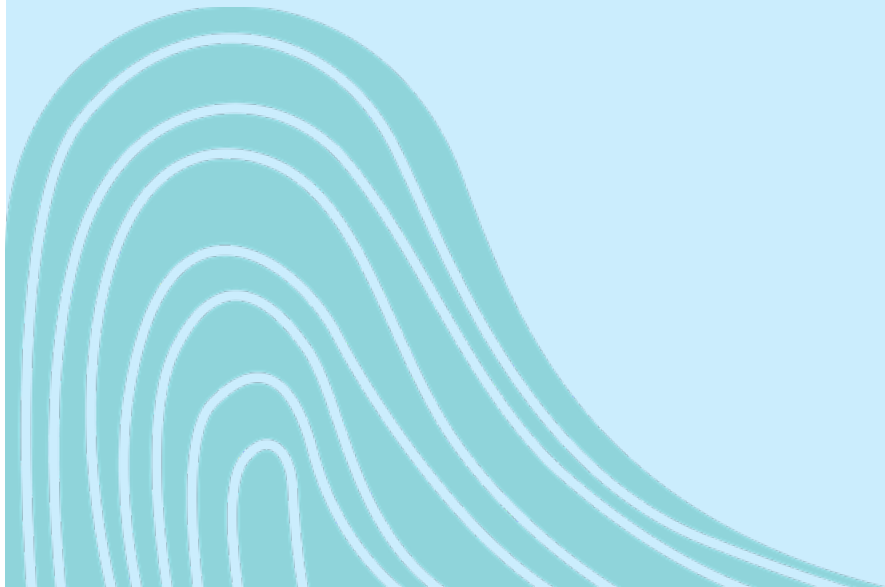
The priorities and ambitions for our road network are always evolving. We need more livable streets, with a greater emphasis on sustainability, safety and meeting urgent priorities, such as resilience and new housing. And we are doing this against a backdrop of major investment to accommodate growing travel demand for goods and people.

In the decades since 1993, our councils have become bigger and more capable but also face new challenges in the face of rapid growth and a challenging climate. Councils manage the vast majority of roads in NSW, but this role is not fully recognised by the *Roads Act 1993*, which affords local government only limited powers. The result is complex workarounds and lengthy administrative processes.

This review is the first step in modernising the *Roads Act 1993*, to ensure it supports prosperity, mobility, and great places well into its next thirty years.

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Acknowledgement of Country

Transport acknowledges the traditional custodians of the land and pays respect to Elders past and present.

We acknowledge Aboriginal people as the traditional custodians of the lands and waterways on which we build infrastructure, deliver projects and serve Transport's customers and are grateful to Elders past and present for their continual leadership.

Transport acknowledges many of the transport routes we use today – from rail lines, to roads and water crossings – follow traditional Songlines, trade routes and ceremonial pathways in Country that Aboriginal people followed for thousands of years.

Our future projects will positively reflect the values, sustainability and spirituality of the Aboriginal cultures in the areas where we work. We acknowledge that our First Nations people and our customers, passengers and community today are still travelling these ancient Songlines, still doing business and still moving resources.

To do this, we will engage early with Aboriginal people on projects; respect and value their expertise; and integrate their understanding of Country and place into the design process and outcome. This is Planning for Country and Designing with Country.



Introduction

1

The regulation of roads in NSW

NSW has a long history of regulating roads. The 19th century colonial government of NSW first enacted legislation in 1858.¹ Passage of this Act coincided with the creation of local government also under colonial government authority.² In the following 50 years the links between local government and the operation of the road network continued to expand until, in the early 20th century, local councils assumed the lion's share of responsibilities for roads in NSW.³

In NSW today, three separate but intersecting Acts govern the planning, use and management of the NSW road network:

Roads Act 1993

This Act is broadly founded on two main principles: the public's right of passage along public roads, and the right of access between public roads and adjacent property. These principles apply to different degrees on distinct parts of the network. For example, on a controlled access road or a freeway we prioritise the right of passage or movement over the right of access to property, but on a local neighbourhood street both principles are given full effect.

The two principles precede changes in transport technology, even including the advent of the motor car. The Act enshrines the right to pass along public roads unimpeded, whether on foot, by bike, horse, car, or any other legal means. Land holders with land adjoining a public road also have the right to access the public road, albeit that constructing works to provide access is regulated.

To fulfil the principles the Act sets out how roads are to be opened and closed, and who constitutes a roads authority for each public road, and what powers they have in respect to the road. Functions with respect to public and private roads are allocated by the Act amongst local councils, Transport for NSW (Transport), the Minister for Crown Lands and the Minister administering the Act. These functions include carrying out road work, regulating structures, and regulating traffic. By defining the way roads are classified and used, the Act also has underlying implications for the future of the road network and its planning.

Road Transport Act 2013

This Act contributes to the creation of a uniform national approach to licencing drivers, registering vehicles (light and heavy vehicles) and the regulation of the use of vehicles in places where other road users are likely to be present (as opposed to on private premises). It is designed to improve road safety (via the Road Rules) and transport efficiency, and reduce the costs associated with administering road transport. The Act consolidates provisions concerning road users, road transport and the improvement of road safety to meet the *Intergovernmental Agreement for Regulatory and Operational Reform in Road, Rail and Intermodal Transport* agreed between the Commonwealth and States and Territories in 2003.

The *Road Transport Act 2013* regulates the way people can use roads and road related areas (such as footpaths, cycleways, road shoulders and so on) to ensure safety in these spaces. It establishes primary roles for Transport for NSW and the NSW Police in administering and enforcing the Act, including monitoring, and managing traffic.

Transport Administration Act 1988

This Act places obligations on various NSW government transport entities to provide for the efficient provision of transport services in NSW, especially by integrating the planning, delivery, and resourcing of the different modes of transport services and transport infrastructure (such as roads), while retaining independent safety regulators. It sets out roles and responsibilities for Transport and other NSW government entities to carry out these functions.

¹ Main Roads Management Act 1858 (21 Vic No.8)

² The Municipalities Act 1858 (22 Vic No.13). Local Government Act 1906

³ Roads Thematic History. Second Edition. 2006

Supporting the Acts are a vast array of regulations, delegations, policies, procedures, standards, and guidance documents. Figure 1 shows the complexity of decision making for roads authorities in NSW currently.

Further complexity arises as Transport legislation and policies interact with other legislative frameworks such as the *Environmental Planning and Assessment Act 1979* which applies to the development, assessment, and maintenance of roads.

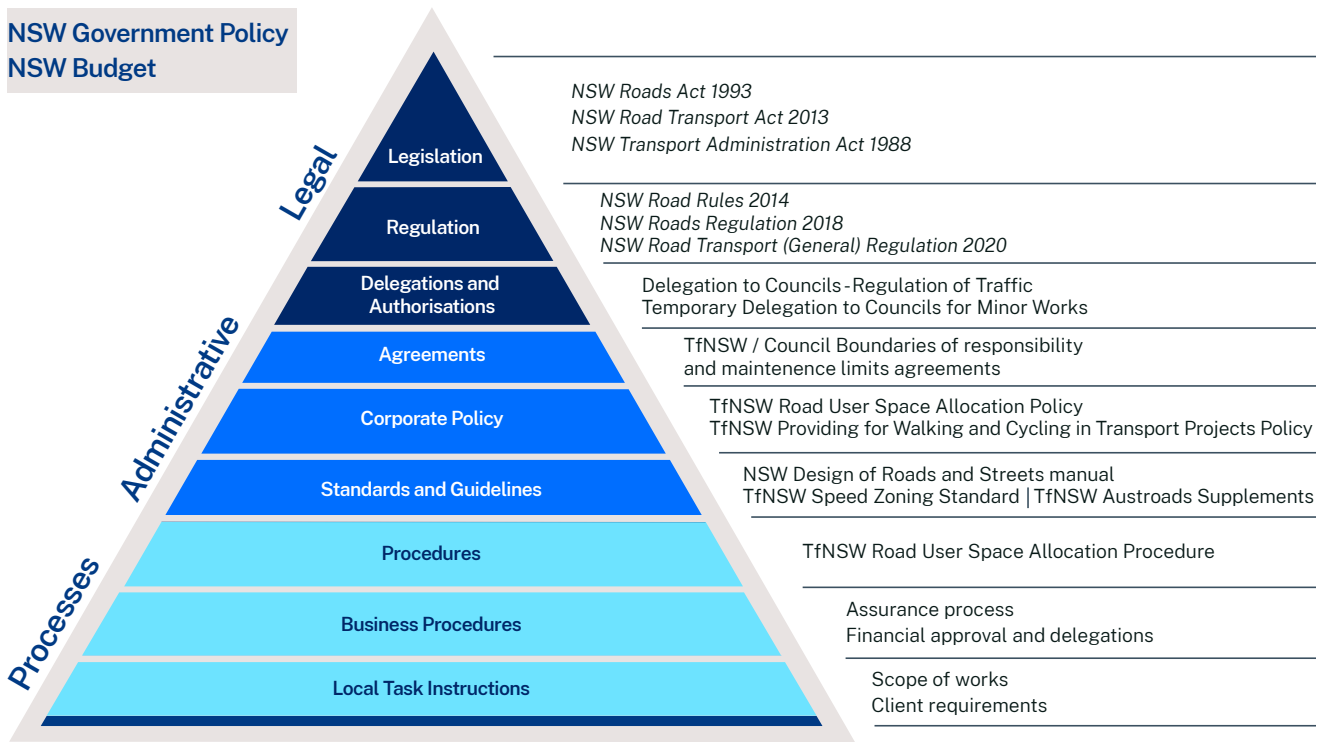


Figure 1. Legislation informs how roads authorities administer the road network and set up business processes.



Snowy Mountains Highway, Tumut
© Destination NSW

Preschool Lane, Maitland



What is this review about?

The NSW Government has a significant reform agenda for a more vibrant, sustainable, resilient, and inclusive state. These reforms include planning reform to facilitate an increase in new housing and enabling infrastructure. Vibrancy reforms that change the way we use outdoor space and streets to bring the community together, support the arts, culture, and tourism. Reforms to reduce our climate and biodiversity impact. Reform that makes our metropolitan and regional roads and bridges more resilient to severe weather. Health and social equity reforms for a healthier and more inclusive state that leaves no one behind.

These reforms require more contemporary transport systems that are responsive to the needs of communities. Central to this approach is the Movement and Place framework, which recognises the dual role of roads and transport networks in facilitating both mobility and community connection. This is an approach where transport infrastructure not only supports the efficient movement of people and goods but also fosters vibrant, accessible public spaces that enhance quality of life.

As NSW works to accommodate future population growth and urban intensification, these reforms underscore the importance of integrating transport and land use planning to meet diverse community needs while driving economic, social, and environmental sustainability. The agenda for roads and streets, therefore, is not just about building roads but about creating a connected, liveable, and responsive environment that aligns with the Government's housing and urban development goals.

Having the right regulatory framework in place is critical to delivering these outcomes.

The Roads Act 1993 commenced on 1 July 1993. Although amended several times over the last thirty years, a strategic objectives-based review of key policy underpinnings is needed now to ensure it remains fit-for-purpose.

Transport's targeted review is designed to create a streamlined and easy-to-use statute that keeps pace with change and remains relevant and effective in the face of rapid technological advancements and shifting community attitudes.

Terms of Reference for the review

The Minister for Roads, Minister for Transport, and Minister for Regional Transport and Roads have asked Transport to investigate and address regulatory barriers to achieving fundamental government priorities like increasing housing supply, improving vibrancy, enabling a range of road-based transport modes, and ensuring coherence in the administration and regulation of roads in NSW.

To achieve this Transport is targeting four key reform objectives:

1. More contemporary uses for roads and streets that are safe and responsive to community needs.
2. Faster local decision making with appropriate mitigations to manage network risk.
3. A streamlined and easy to use statute that keeps pace with change.
4. A more operationally effective statute.

When investigating these reform objectives Transport will consider a range of factors including:

- how the roles of roads and streets have changed since the 1990s
- whether there are better ways to acknowledge and accommodate all road users
- how we can enhance the functionality of roads and streets
- how we can streamline the way we plan for road-based transport and users to improve development outcomes
- how we can simplify decision making for roads authorities and therefore communities
- how the regulatory framework can remain responsive to change and ready to meet future challenges.

While primarily focussed on reshaping key aspects of the *Roads Act 1993*, achieving these objectives may also require consequential change in the *Road Transport Act 2013* and the *Transport Administration Act 1988*.



Out of scope

Some roads-related aspects are out of scope. The review will not be addressing funding arrangements between and within different levels of government. The review will also not be considering changes to the way roads are maintained and the contractual arrangements currently in place.

The Government's tolling reforms, and statutory review of Part 9 Division 7 of the Act are also out of scope and dealt with via separate processes. How you can be involved

Coffs Harbour Bypass,
Coffs Harbour

How you can be involved

The *Roads Act 1993* impacts a wide range of stakeholders across NSW.

Roads authorities, including Transport and councils, work to the Act every day as they manage roads and streets in their jurisdiction. This includes council staff and councillors who represent community interests, as well as Transport for NSW staff involved in network planning, operations, and land use development.

The Act also significantly impacts the broader community, including road users such as people walking, cycling, driving, and using public transport. It affects how public spaces like high streets, parks and promenades, and residential neighbourhoods are accessed, managed, and developed.

The Act influences freight and service operations and accommodates utilities such as energy and telecommunications infrastructure. It affects land use planning that could potentially support freight by regulating access to strategically located precincts (such as renewable energy zones, or distribution hubs) that can impact efficiency of the entire supply chain.

The Act also has implications for the environmental functions of streets, including their role as ‘green lungs’ for cities, supporting tree canopy, stormwater management, urban heat mitigation, biodiversity corridors, and air quality improvement. At the same time roads perform an important function to support communities at times of natural disaster by providing bushfire and safety access, bushfire control lines (high speed access to incidents), local flood response (last route out-first route in island refuges) at challenging times.

In essence, the *Roads Act 1993* touches almost every aspect of daily life in NSW, shaping how we move, interact, and develop as communities.

Transport is keen to hear from stakeholders represented across these various aspects as each will bring a unique perspective to the question of whether the *Roads Act 1993* remains fit for purpose. We want to hear from you now and at different stages of the review process.

Now	Early 2025	Mid-late 2025	Late 2025
<ul style="list-style-type: none"> • Issues Paper • Have your say • What we heard 	<ul style="list-style-type: none"> • Round table • Have your say • What we heard 	<ul style="list-style-type: none"> • Options Paper • Have your say • What we heard 	<ul style="list-style-type: none"> • NSW Government considers and decides.

This Issues Paper is the first step.

Roads and streets are key public assets in NSW. This Issues Paper is the first step to understand some of the challenges presented by the *Roads Act 1993* to maximising the benefits of these assets.

Section 2 illustrates this context with key metrics such as number of trips, societal costs as well as information on how the way we use streets has changed over time.

Section 3 sets out the structure, key parts, and powers of the *Roads Act 1993*.

Section 4 discusses a range of important issues identified in the terms of the reference and poses questions to provide us with more information. Your feedback will help to shape reform options with further engagement on these options planned in mid-2025.



Mount Street, Sydney



Roads and streets in NSW

2

Current landscape of Roads and streets in NSW

The network of roads and streets in NSW is a critical component of the state’s infrastructure, playing a crucial role in how we live and work, and contributing significantly to the economy. Roads are not just conduits for movement; they provide an address for thousands of businesses and form 80 per cent of public spaces in NSW communities. They serve multiple functions beyond traffic flow, including social, economic, and environmental roles that are increasingly important in contemporary urban and regional planning. Roads and streets provide addresses for 3.3 million properties in NSW.⁴

4 Lot, NSW Digital Cadastral Database, accessed October 2024

Length of roads and streets in NSW

About 90 per cent of the network of roads and streets in NSW (166,653km⁵) is operated and maintained by the 128 councils each of whom is a roads authority for the majority of the public roads in their local government area. Almost 80 per cent of the network are Local, unclassified roads (147,617km⁶) and about 10 per cent are council-operated Regional, often classified, roads (19,036km⁷). The estimated replacement value of all council roads in 2022-23 was \$103 billion⁸. Transport maintains a 21,631 kilometre network of classified roads⁹, also categorised as State Roads, which is about 11 per cent of the network.

There are 107,671 kilometres of paved roads¹⁰ and 222,428 lane kilometres of paved roads in NSW¹¹, meaning most paved roads have two or more lanes of travel. Unpaved roads account for over 40 per cent of all roads in the state, having a total distance of 80,613 kilometres (Figure 3). There are 6,283 road bridges¹² in NSW.

The cost of roads and streets in NSW

Roads come at a high cost to the people of NSW. In 2023, 351 people died and 9,927 people were seriously injured on NSW roads¹³. All three tiers of Government collectively spend billions of dollars on roads each year:

- \$1.05 billion was spent on local and regional road maintenance in 2022-23¹⁴
- \$6.1billion NSW Government spending on roads and road funding grants in 2021-22¹⁵
- \$1.7 billion Commonwealth spending on NSW road funding grants in 2021-22.¹⁶

13 NSW Road Toll Progress 2023

14 Consolidated from Council Financial Reporting year ended 30 June 2023

15 Bitre Yearbook 2023 p67

16 Bitre Yearbook 2023 p66

Network distance (km)



Figure 2. Local streets make up almost 80 percent of the network in NSW

Road Surface (km)



Figure 3. Network kilometres of paved roads in NSW

5 Classified Roads extracted from NSW Road Asset Management System 2024

6 Bitre Yearbook 2023 p139

7 Classified Roads extracted from NSW Road Asset Management System 2024

8 Consolidation of Gross replacement cost (GRC) all Councils year ended 30 June 2023

9 Bitre Yearbook 2023 p134

10 Bitre Yearbook 2023 p134

11 Bitre Yearbook 2023 p137

12 Transport Annual Report 2022-23 p23

How we use roads and streets

The terms road and street are often used interchangeably; however, it is helpful to clarify the functional difference between roads and streets. Roads are for longer distance journeys—from a Movement and Place perspective we call this ‘through movement’—and are designed for higher speeds and saving time. Streets provide local access and are places for the community to spend time.

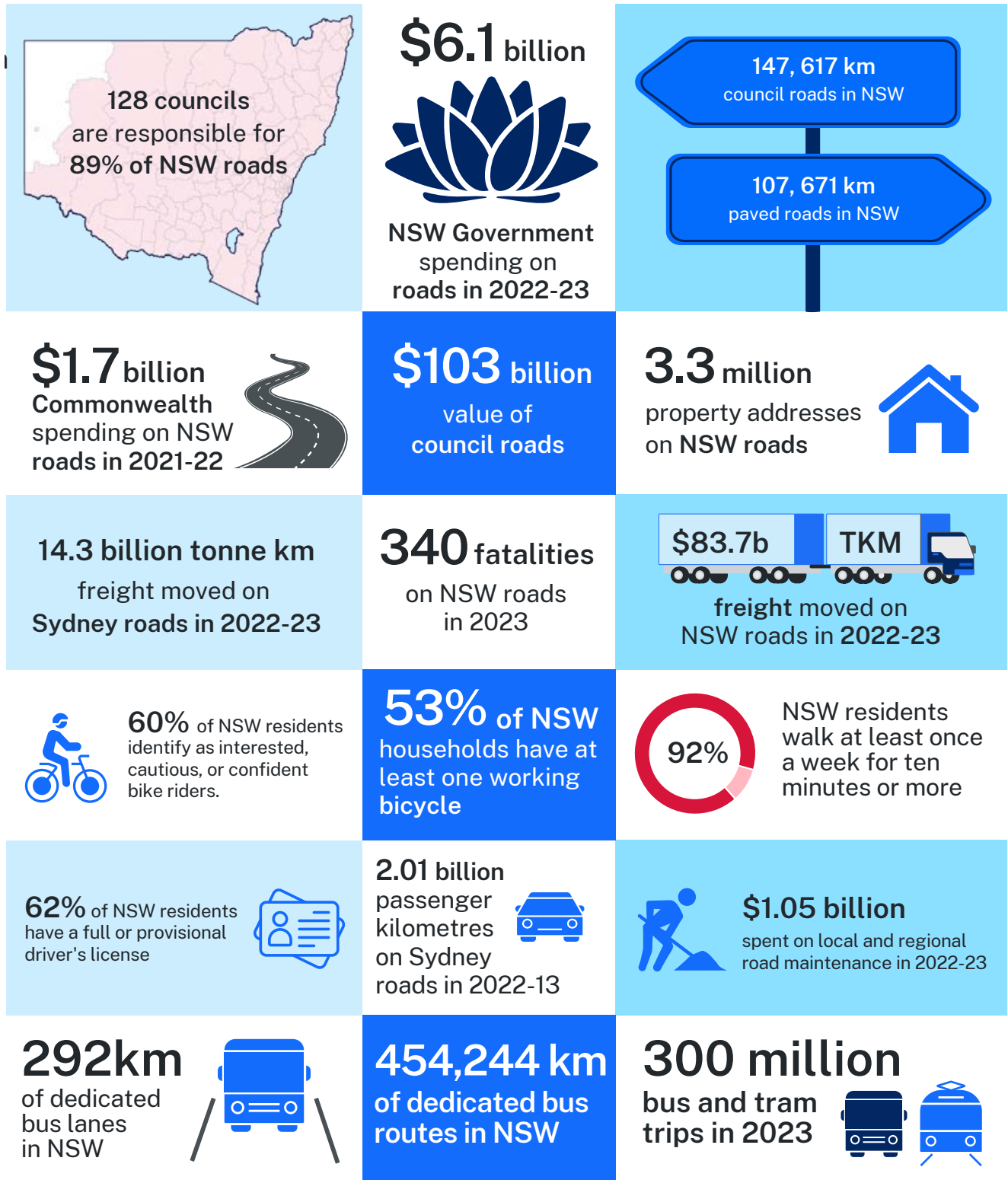


Figure 4. Data trends for roads and streets in NSW



Figure 5. The functional difference between roads and streets

Roads prioritise the right of passage over access to property. They are designed for through movement at higher speeds for broader district or regional connections and have limited entry points, intersections, and driveways. Road users are physically separated or controlled with signals due to the high differential in travel speeds between walking, cycling and general traffic. Roads make up less than 20 per cent of the network in NSW.

Streets make up the greater part of the transport network and focus on the right of access to property. Streets play an important role in local travel and connectivity. They range from quiet and calm local streets to vibrant main streets and lively civic spaces. Streets can be important transport corridors—providing vital connections for public transport, deliveries, cycling, and walking and also creating important places in their own right. Streets have significant meaning for local communities.

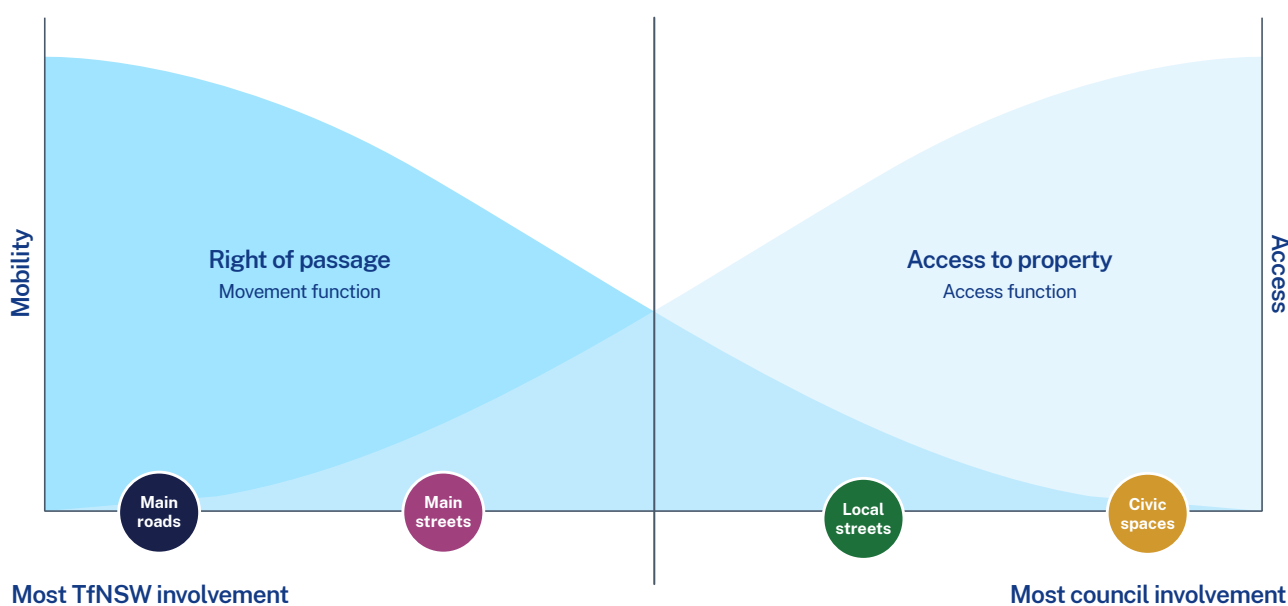


Figure 6. Roads preference right of passage while streets preference access to property

Evolving community needs and expectations

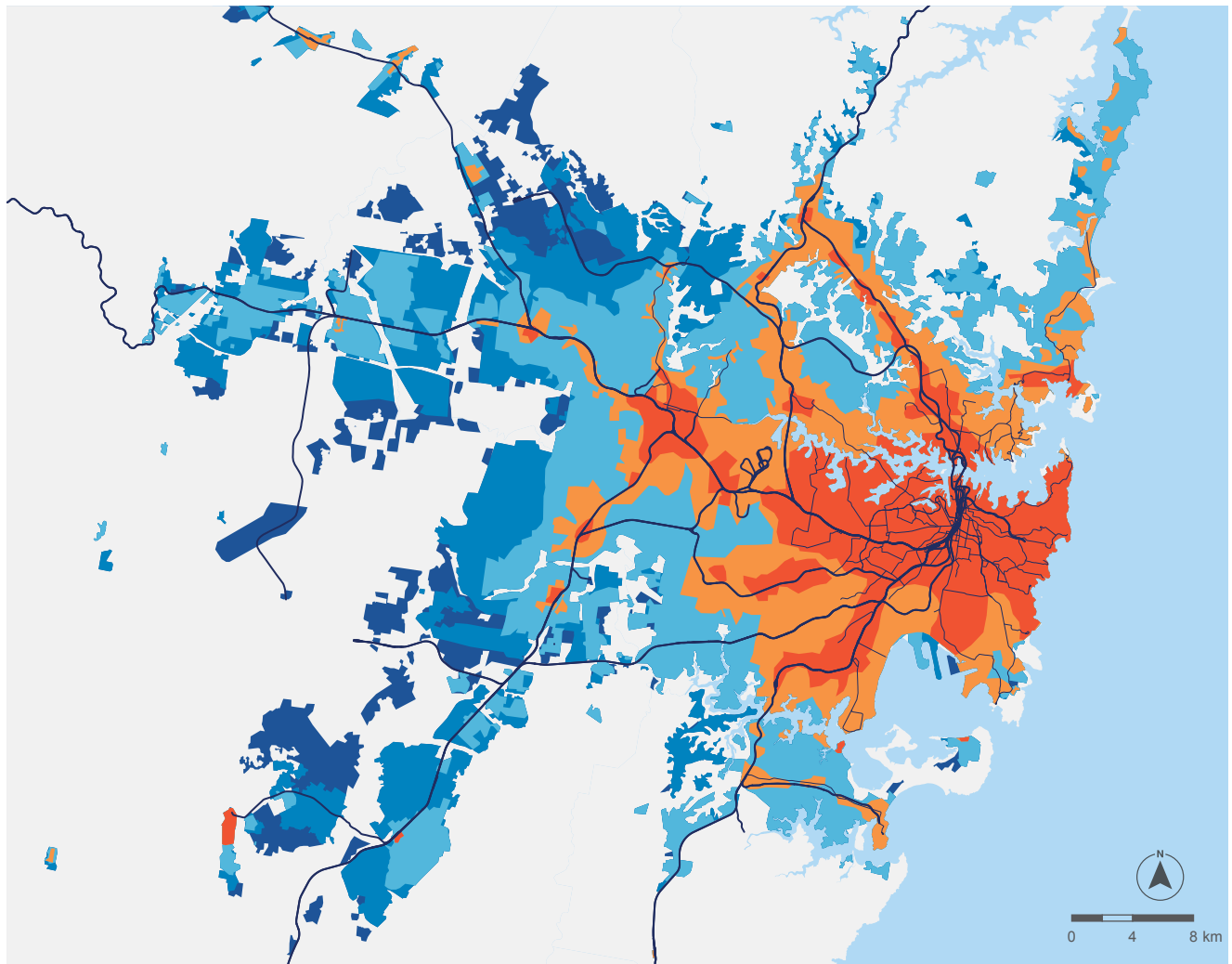
Community needs and expectations of roads and streets have changed with people’s lifestyles and travel patterns.

Early on, NSW cities and towns were established within walkable catchments of water-based transport. This was extended to rail stations then tram corridors in the late 1800s to the 1940s. Government investment in road building from the 1920s to the 1990s led to a change in more dispersed car-oriented settlement patterns. Between 2000 and the 2020s a growing trend emerged to redevelop existing urban areas into more compact forms centred on public transport hubs. This included repurposing former inner-city freight and industrial lands to mixed use urban precincts at the same time as locating freight and logistics hubs closer to new road and motorway networks in outer growth areas.

To serve this intensifying land use, councils and successive transport agencies in NSW have shifted focus to move more people and goods within the same limited road space by prioritising more space efficient modes of travel like public transport, walking and cycling.

The growing demand for infill development in the 1990’s and 2000’s also aligned with a structural shift in economic activity from manufacturing to services.

Growing demand for professional services, community services, and the visitor economy was accompanied by employment growth in urban centres across the state. In metropolitan areas the growth in centres and infill development also aligned with changes in travel demand, with a shift from private vehicles back to public transport and active travel. Over the last three decades these trends have led to a decoupling of vehicle travel and economic growth, see Figure 8.



KEY

Historic transport network	Urban area	1975
— Historic rail network	1915	2005
— Historic tram network	1945	2025

OFFICIAL

Figure 7. Measuring transport disadvantage in NSW

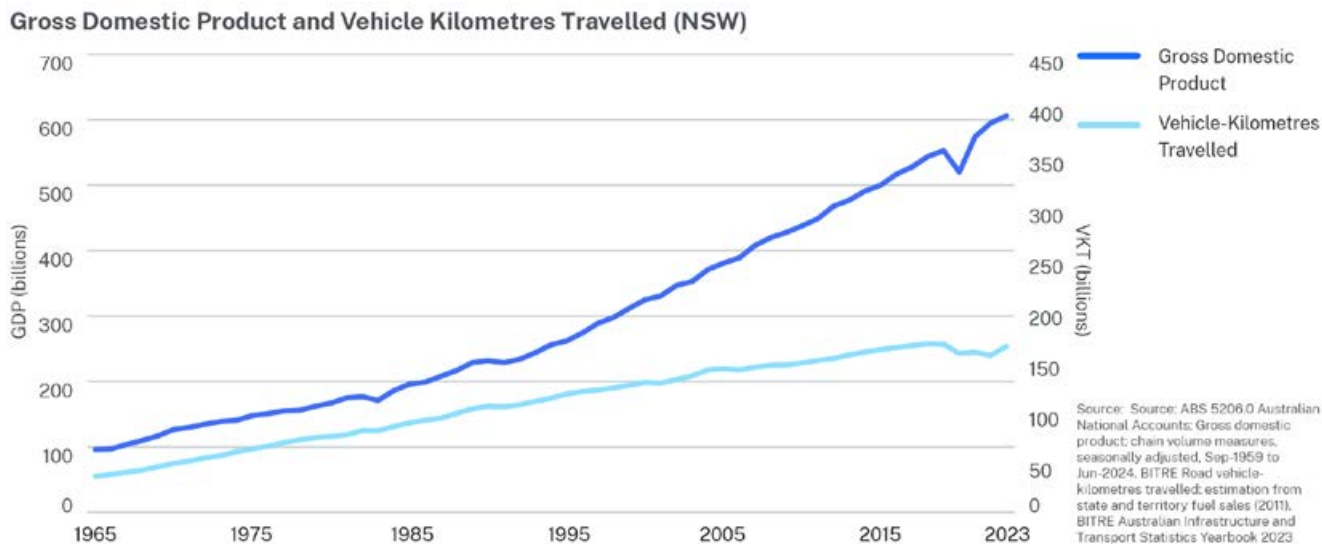


Figure 8. Decoupling of vehicle traffic and economic growth

Today, while demand for freight continues to grow, economic growth in NSW is increasingly aligned with services, placemaking, and experiences meaning that the use of cars is growing at a slower pace.

For the managers of our roads and streets this means there is a greater need to not only facilitate the movement of people and goods but also create great places for people to live, meet, and invest in their local economy.



Contemporary uses of roads and streets

Streets now serve multiple uses including public living spaces, places to walk, cycling routes, public transport corridors, freight routes and general traffic. Four in every ten NSW residents do not hold a driver's licence¹⁷. More than 90 per cent (92.1 per cent) of NSW residents walk at least once a week for ten minutes or more¹⁸. Six in every ten NSW residents identify themselves as interested, cautious, or confident bike riders.

More than half of households in NSW have at least one working bicycle¹⁹ and 15.1 per cent of NSW residents ride a bicycle in a typical week²⁰. On-street transit accounts for 46 per cent, or over 300 million public transport trips statewide annually and covers a much greater area than rail and ferry networks.²¹

Almost 90 per cent of people in regions live within easy walking or cycling distance of a local centre, with access to shops, schools, and workplaces.²² Communities living in regional urban areas typically have shorter commutes than residents of capital cities²³. The proportion of people walking or cycling to work is also higher in many regional towns than in Sydney, see Figure 9.

Road based public transport accounts for a significant portion of overall trips on the road network. There were about 300 million bus²⁴, and 38 million light rail trip²⁵ using road based public transport in 2023. For comparison, over the same 2023 calendar year there were 330 million car trips recorded on NSW tolled motorways.

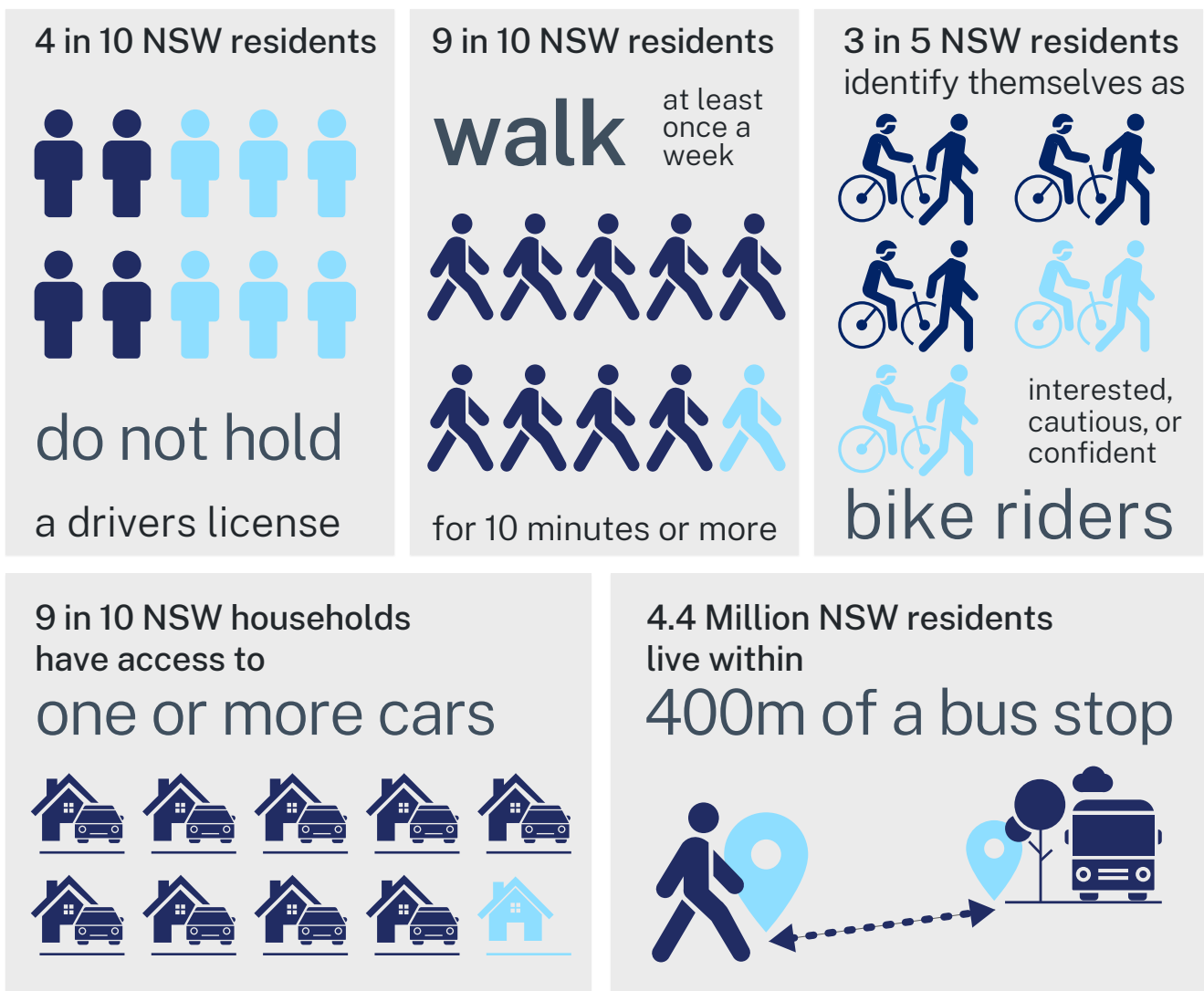
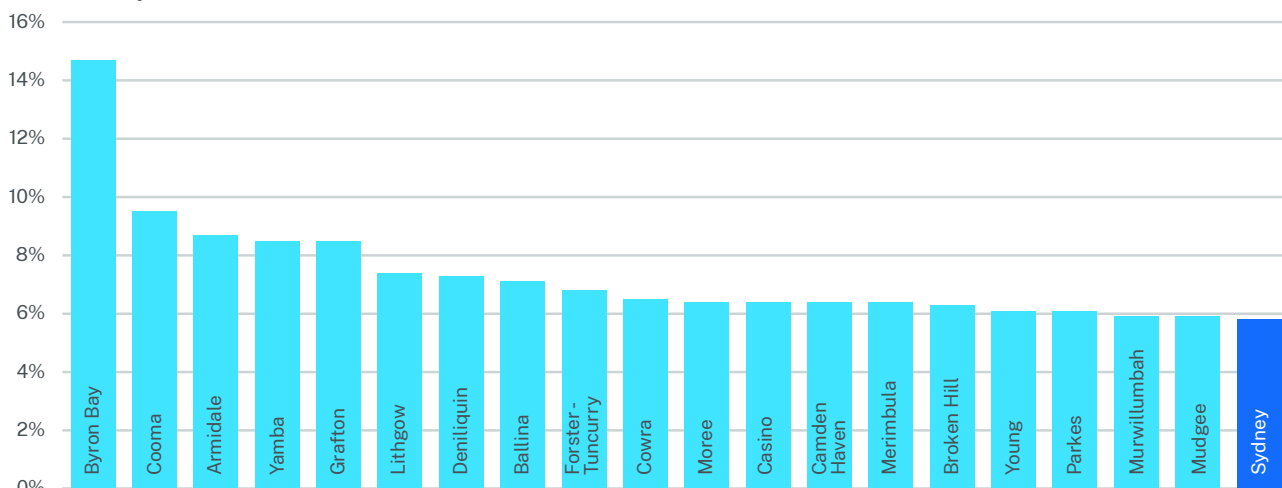


Figure 9. NSW residents who use roads without driving

17 62 per cent of the NSW residents have a full or provisional driver's license, Bitre Yearbook 2023 p150 and p47
 18 National Walking and Cycling Participation Survey 2023, Section 2.1
 19 National Walking and Cycling Participation Survey 2023, Section 3.4
 20 National Walking and Cycling Participation Survey 2023, Section 3.1
 21 Bus Industry Taskforce Third Report, May 2024
 22 Hunter Regional Transport Plan, March 2014
 23 BITRE Australia's commuting distance: cities and regions 2015
 24 Bus Industry Taskforce Third Report, May 2024
 25 Transport for NSW Open Data Hub

Active Transport



Source: ABS Census 2016 JTW, PoE, Mode of Travel by Urban Centres and Localities

Figure 10. Regional towns where active travel is greater than Sydney (pop >5,000)

Trucks move a significant amount of goods across the state. In the 2022-23 financial year, heavy vehicles moved 83.7 billion tonne-kilometres of freight²⁶ on NSW roads with 14.3 billion tonne-kilometres of freight moved on roads in Greater Sydney²⁷ (Figure 11). Heavy vehicle routes often pass through the main streets of regional towns and centres. This supports local economies but also creates challenges for residents as land use intensifies around town centres.

In 2023 91.6 per cent of households in NSW had at least one registered motor vehicle²⁸. People drove a collective 2.01 billion passenger kilometres on Sydney roads in the 2022-23 financial year²⁹.

Freight (tonne-kilometres)

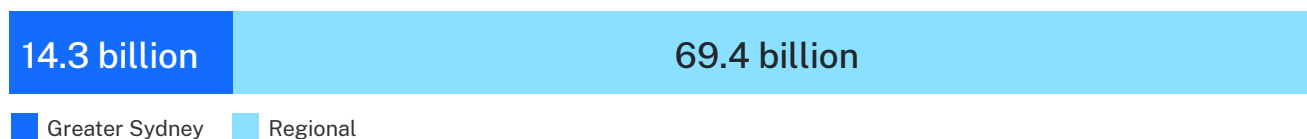


Figure 11. Freight moved on NSW roads in 2022-23



26 Bitre Yearbook 2023 p91
 27 Bitre Yearbook 2023 p98
 28 ABS Census 2021
 29 Bitre Yearbook 2023 p105



Roads Act 1993-
structure, purpose,
and powers

3

The purpose of the *Roads Act 1993*

The Act was introduced in 1993 as a consolidation and harmonisation of existing legislation, bringing together the management of all roads into a single regulatory framework.

[Part 1 of the Act](#) introduces the Act and sets out the 'objects,' i.e. what the Act is designed to achieve, which includes:

- setting out the rights of members of the public to pass along public roads (sometimes called the common law right of passage)
- setting out the rights of access to public roads by owners of adjoining land
- a regime for the opening, closing, naming, and classification of roads
- providing for certain public authorities to be declared roads authorities and set out the relationships between roads authorities
- setting out the functions of roads authorities (including carrying out road work and the regulation of traffic)
- setting out regimes for the regulation of other activities on roads, such as the carrying out works and the management of events
- setting out a regime for the tolling of tollways and certain bridges and tunnels (out of scope for this Review).

The Act sets out a framework for private and public roads and outlines the decision-making powers public roads authorities. It grants specific powers for carrying out road work, regulating traffic and the management of roads, with Transport having discretionary functions with respect to classified roads and to a degree, unclassified roads. The Act aims to ensure that roads authorities can effectively maintain public safety and efficient transport networks across the state.



Opening a public road

[Part 2 of the Act](#) provides for various methods for opening a public road. These methods include dedicating land as a public road by registering a plan of subdivision or other plan; or dedicating Transport or council owned land as a public road by publishing a notice in the NSW Government Gazette. The Act also provides a process for the Minister, the Governor, or councils to dedicate public land as a road, including requirements for notices and declarations concerning Crown roads. Additionally, the Act allows for the resolution of disputes about the status of certain roads, which may involve the Land and Environment Court.

Road Boundaries and levels

[Part 3 of the Act](#) covers road boundaries, widening, and levels. It outlines the process for establishing road boundaries through surveys, with public notice and input from affected landowners. The Act also requires public consultation and Ministerial approval for road widening plans, and provides for the variation of road levels, including compensation for landowners who lose access. Transport is authorised to manage road levels on classified roads.

Closing a public road

[Part 4 of the Act](#) outlines the procedures for closing public roads in NSW, distinguishing between non-council and council public roads, temporary roads, and roads closed through compulsory acquisition. It specifies the processes for both the Minister and councils to propose road closures, including public notices, consultation, and submissions. For non-council public roads, the Minister or Transport may close roads, while councils can close public roads if not needed for public use or road network continuity, and access from adjacent land to the public road network is preserved via another public road.

Temporary public roads can also be closed, with rights to land potentially reverting to the original subdivider. Additionally, land resulting from road closures can be disposed of by the Crown or councils, and land vested in a council as part of a road closure may be treated as operational or community land (if council so resolves). There are provisions on compensation and transfers related to land impacted by road widening orders.

Road classifications

[Part 5 of the Act](#) describes the general classification of roads and outlines various types of classified roads, including main roads, highways, freeways, controlled access roads, secondary roads, tourist roads, tollways, State works and transitways, each of which can be declared by the Minister based on their function or design. Specific provisions are included for tollways and transitways, with ownership of main roads transferring to Transport once they are classified as freeways. Legal classifications in the Act are different from the administrative categories of State, Regional and Local Roads.

The classification can apply to various road parts (e.g. lengths, lanes), and changes to a road's route does not affect its classification. Consultation with roads authorities is required before road classifications are amended, with provisions for appeals. Transport has principal authority over certain roadworks, and roads authority functions may be transferred through agreements or Ministerial directions. Restrictions on access to freeways and controlled roads are set out, with compensation available to affected landowners. Unauthorised access construction is prohibited.

Roads authorities and road works powers

[Part 6 of the Act](#) deals with road work and the powers of roads authorities with respect to road work. Generally speaking, a roads authority may carry out road work on its roads and land under its control. However, Transport may carry out road work on any classified road, and on unclassified roads in various circumstances including in connection with work on an adjoining classified road, as set out in Part 6. Transport may also set standard plans and specifications where any road work is carried out on a classified road. Part 6 requires Transport to be notified of any road work carried out on a classified road, or on any road where the estimated cost is above a specified value and may make requirements in such cases. Part 6 provides for Transport to work with other States and Territories in border situations.

Part 6 also establishes a regime for the crossing of navigable waters, whether by road, bridge, or tunnel, and provides for a hierarchy in terms of the rights of waterway users. Significantly, Part 6 provides for councils to be able to direct the owners of private roads to carry out work in certain circumstances, such as if a private road is becoming unsafe or unsightly. Part 6 provides that Transport may carry out traffic control work on any public road, and a roads authority may do likewise, but only where Transport is not proposing to carry out traffic control work, and only on a classified road with Transport consent. Only Transport is permitted to manage permanent traffic control signal lights.



Oxford Street, Bondi Junction



Protection of public roads and traffic

[Part 7 of the Act](#) addresses the protection of public roads and traffic safety by granting roads authorities various powers to manage adjoining land, remove obstructions, and ensure road stability. It includes provisions for directing landowners to maintain or repair land, fences, drainage systems, and utility services near roads, as well as requiring the restoration of roads after damage or excavation. The Act also allows for the removal of traffic hazards and encroachments on public roads and empowers the roads authority to issue directions for compliance, with penalties for non-compliance. Additionally, affected parties can appeal certain directions to the Land and Environment Court.

Regulation of traffic

[Part 8 of the Act](#) governs the regulation of traffic by roads authorities under the Act. Roads authorities, including Transport, can regulate traffic on public roads for purposes such as road work, protecting roads from damage, and managing traffic hazards, through notices, barriers, and other means. The Act also outlines procedures for applying for consent to regulate traffic beyond these standard purposes, including public notification and submission processes. Additionally, the Minister can direct roads authorities to take specific actions regarding traffic regulation, with the cost of non-compliance recoverable from the authority. Temporary traffic regulations can be enacted to prevent excessive damage to roads, and emergency services are exempt from certain traffic regulations while responding to emergencies.

Regulation of works, structures, and activities

[Part 9 of the Act](#) regulates the use of public roads for various activities, including food and drink premises, street vending, public gates, and other structures. Roads authorities can grant approvals for food or drink businesses to use parts of public roads, with conditions such as rental payments and terms up to 7 years for footways and 12 months for other areas. Public gates may be erected with permits from roads authorities, and specific rules apply to their maintenance, including signage and the prevention of damage. The erection of structures or carrying out works on public roads requires consent, and street vending consents may impose rent and specific conditions, particularly in built-up areas. Roads authorities also manage road events, requiring permits for activities on public roads, and maintain safety standards. Consents and permits can be revoked, and holders are responsible for maintaining the works or structures in good condition, ensuring public safety, and preventing nuisances.

Other road management functions

[Part 10 of the Act](#) outlines the various functions of roads authorities in relation to land, focusing on the ownership, management, and use of public roads. It specifies that freeways are owned by Transport for NSW (Transport), Crown roads by the Crown, and local other public roads by the relevant roads' authorities, with some exceptions for roads outside local government areas. It also covers the nature of ownership, the leasing of air space or land beneath public roads, and the transfer of public roads between authorities, along with conditions related to compensation.

Additionally, provisions are made for the management of Crown roads, including restrictions on their disposal, sale procedures, and the extinguishment of rights of passage. Transport is given specific powers for managing land and infrastructure, including the development of land under its control, and it must maintain records of public roads, which are available for public inspection.

Entry to land and other powers

[Part 11 of the Act](#) grants authorised officers the power to enter land for inspections and investigations, with provisions for notice, use of force, and compensation. Officers can inspect land, dig trenches, take samples, and perform surveys, but must notify landowners in advance, except in emergencies or with consent. Force may be used to gain entry if authorised by the roads authority. Damage must be minimised, and the authority must repair any disturbances caused. Compensation is due to landowners for any loss or damage, except when the inspection reveals a legal contravention. Entry to residential premises requires permission or a warrant. Additionally, the roads authority can take possession of land to carry out road work or provide temporary roads, with compensation and appeal rights for affected landowners.

Acquisition of land

[Part 12 of the Act](#) empowers the acquisition of land by the Minister for Transport, or local councils for public purposes, such as road construction or widening, through either agreement or compulsory process, subject to the Land Acquisition (Just Terms Compensation) Act 1991. It also provides for people to apply to have land acquired by the Minister for the purposes of a public road. Local councils are compensated when public roads are acquired in certain circumstances.

Finance

[Part 13 of the Act](#) covers financial assistance and cost-sharing for road work between Transport and roads authorities, including funding for specific work on classified and unclassified roads, as well as tolls for tollways, bridges, tunnels, and ferries. It outlines how costs for road work on boundaries between local government areas are shared or determined by Transport and requires roads authorities to contribute to infrastructure costs like drainage, kerbing, and footways on classified roads. Roads authorities must also provide plans and cost estimates for work and may pay in instalments. Division 5 addresses fees roads authorities can charge for services, the establishment of trial schemes for heavy vehicle use, and the process for compensation claims, including arbitration or court referral, with roads authorities able to satisfy claims by carrying out work instead of paying compensation.

Enforcement of Act

[Part 14 of the Act](#) addresses the enforcement of road regulations, granting Transport the power to direct roads authorities to provide relevant information and empowering authorised officers to require vehicle owners to produce documents related to suspected offences, with penalties for non-compliance. It includes provisions for issuing written or oral directions, enforcing compliance, and recovering costs from responsible parties.

Division 4 outlines offences such as failure to comply with directions, obstruction of officers, and interference with survey marks, each carrying penalties. It also holds vehicle owners liable for certain driving offences, including toll violations, and outlines procedures for legal proceedings, including the issuance of penalty notices and the liability of corporate directors for offences committed by their corporations. Division 6 establishes evidentiary rules for court proceedings, allowing certificates from roads authorities to be used as evidence, and sets out the use of approved toll cameras in toll offence cases, ensuring the admissibility of photographs and restricting the use of toll camera information.

Administration

[Part 15 of the Act](#) outlines the administrative functions related to the implementation and enforcement of the Act's provisions. It grants roads authorities the power to appoint authorised officers and delegate functions, including the ability to act through employees, agents, or contractors. It establishes procedures for serving documents, including specific methods for serving individuals or corporations.

The Act provides exemptions from personal liability for staff or officers acting in good faith and allows for the correction of defective instruments through orders published in the Gazette. Roads authorities may issue multiple orders or notices in a single document, and certain functions related to land can be restricted to specific depths or airspace. The Act also provides mechanisms for resolving disputes between public authorities, either through ministerial agreement or, if necessary, intervention by the Premier. Additionally, it outlines procedures for referring matters related to roads to the Secretary for inquiry and report.

Miscellaneous

[Part 16 of the Act](#) includes miscellaneous provisions, such as binding the Crown in the right of New South Wales, with exceptions where specified in the Act. It designates Lord Howe Island as a local government area, with the Lord Howe Island Board acting as the council and responsible for all roads on the island. The Governor is empowered to make regulations to support the Act, including provisions on road naming, traffic regulation, toll collection, and the management of service and rest centres. The Act also repeals several older Acts, with savings and transitional provisions outlined in Schedule 2.





Warringah Freeway, North Sydney



After 32 years is the
Roads Act 1993
still fit for purpose?

4

The importance of regulation

Regulation is an important tool for governments. It should create an environment which fosters and is contemporary to good economic, social and environmental outcomes for the communities it regulates.³⁰ Regulation can also impose unnecessary administrative red tape that adds complexity, costs or time to decision making or it can rely on the wrong types of disincentives to deter poor behaviour or decision making.

When enacted in 1993 the Act consolidated several existing pieces of roads legislation: *Public Gates Act 1901*, *Width of Streets and Lanes Act 1902*, sections of *Local Government Act 1919*, *Traffic Safety (Lights and Hoardings) Act 1951*, *State Roads Act 1986*, *Crown and Other Roads Act 1990*, and *Crown and Other Roads Regulation 1992*. The consolidation process carried forward underpinning legal principles which were themselves established in an earlier time.

There is a growing view amongst many practitioners that, after thirty years in operation, the *Roads Act 1993* could better reflect contemporary policy, decision making and processes.

Ministers have set Transport four targeted objectives against which to review and, if required, improve the Act. They are:

1. More contemporary uses for roads and streets that are safe and responsive to community needs.
2. Faster local decision making with appropriate mitigations to manage network risk.
3. A streamlined and easy to use statute that keeps pace with change.
4. A more operationally effective statute.

To meet these objectives, we first need to consider the key issues and potential challenges we are dealing with.

³⁰ NSW Government Better Regulation Guidelines p.5



Condamine Street,
Manly Vale

Question 4.0

a. What is currently working well?

Please provide examples of what is currently working well when working under the Roads Act 1993



Crown Street, Surry Hills

4.1 Does the Act adequately consider key community issues?

With emphasis on access, vehicle traffic, and roads, the *Roads Act 1993* may not adequately recognise the social, economic, and environmental functions that streets now play in communities, where they make up 80 per cent of public spaces.

Community uses

The use of outdoor public space including roads and streets has evolved since 1993. As urban development has increased, streets are increasingly places for playgrounds, outdoor dining, markets, performance spaces, public parks, and gardens. Streets are places that bring communities together including for events as well as everyday activities.



Case study

The NSW Government's Vibrancy reforms and Part 12 of the *Liquor Act 2007*

In response to COVID-19 a range of measures were put in place to support businesses and the economy including innovative approaches to regulation. Part 12 of the *Liquor Act 2007* was introduced to enable faster decision making by local councils in relation to outdoor dining and alternate uses for roads and other public spaces. This included extending foyer space for theatres and outdoor performances. As a result, kerbside space on streets across the state was reallocated to community uses sometimes overnight. Many of these space allocations have since been made permanent.

The Act may create unnecessary red tape to facilitate temporary street closures on roads, or alternative uses, limiting opportunities for community events, outdoor dining, or other activities that could enhance public life. For example, the Act expressly provides for outdoor dining but is silent on other community uses. At the same time, the impact of these temporary street closures needs to be weighed against other considerations like the impact on road-based public transport and freight.

Main streets are some of the most iconic and important places of our cities and towns. They are also major hubs for on-street public transport. They have both significant movement functions and place qualities. They are found in centres where people gather to socialise, work, shop or access essential services, or around public transport nodes. The Act may not do enough to outline the function and objectives of these important streets.

Road Safety

The NSW Government has adopted a Safe Systems approach to achieve the ultimate goal of zero deaths and serious injuries on NSW roads.

This approach is underpinned by the following principles:

- people sometimes make mistakes – a simple mistake should not cost anyone their life
- roads, roadsides, and vehicles need to be designed to minimise crashes or reduce forces if a crash happens
- road safety is a shared responsibility – everyone needs to make safe decisions on and around the road to prioritise safety.

Safe roads, speeds, people, and cars should work together to keep us safe while using our road system. Adjoining land uses and traffic generating development needs to be located and designed to complement the road network and achieve these policy objectives.

Although safety is a consideration throughout the Act the Safe Systems approach was established after the *Roads Act 1993* was legislated and has not been incorporated.

Public health and the environment

Roads and streets are major determinants of health.³¹ People's access to basic human needs can be restricted, for example, by their ability to cross a street. Air pollution from tyre and brake wear and tear and vehicle exhaust contributes to approximately 1000 deaths each year in the NSW Greater Metropolitan Region.³²

31 The Lancet Global Health, Vol. 10, No. 6 Published: June, 2022

32 [NSW Clean Air Strategy](#)

33 [Greenhouse Gas Emissions | NSW State of the Environment](#)
Figure 5.2 Net NSW greenhouse gas emissions as inventoried (2005–2019) and projected (2020–2030)

Roads designed and managed only for vehicle throughput discourage social interaction or physical exercise, potentially disenfranchising up to 40 per cent of our NSW population without a licence.

Roads and streets play an increasingly important role in mitigating the impacts of extreme weather like heat and flooding as well as improving biodiversity in urban areas. Tree canopy and vegetation can reduce the impact of urban heat and help reduce the impacts of extreme heat. Water sensitive design can significantly reduce the impacts of flooding by reducing hard surfaces and increasing the absorption of water into the ground. Street trees also improve biodiversity and provide habitat for a variety of bird, reptile, and insect species.

Roads can also create barriers for biodiversity, for example, the movement of wildlife. New roads assets, and the operation and maintenance of existing roads, contribute to climate change impacts. As emissions from electricity generation decline, transport is becoming an increasingly important source of greenhouse gas emissions in NSW³³.

The Act does not currently include these considerations in its Objects or when making decisions about planning, regulating traffic or road works.

Questions 4.1

- How could the Act be changed to enable more community uses for roads and streets? (select all that apply)
 - Define the different objectives for roads and streets
 - Include outcomes for safety, public health and the environment in the objects of the Act
 - Simplify the types of roads and streets defined in the Act
 - Include desired outcomes for the design and operation of local streets and civic spaces
 - Other (please specify)
- How can safety be better considered in the planning, administration and management of roads?
- How can the Act better recognise the public health and environmental benefits of roads and streets?
- What other community issues would you like to raise in relation to the Act?

In responding to these questions please consider including examples to illustrate your point of view.

4.2 Does the Act sufficiently accommodate all road users?

The law of highways is centuries old and built on the right of the public to move along a road dedicated for that purpose. *The Roads Act 1993* expresses this legal history (statute and common law) in various ways such as in the Objects, in establishing processes to open roads, regulating movement along roads and creating offences for obstructing movement.

The term traffic has taken on a different meaning among practitioners to what was intended by Parliament when the Act was drafted in 1993. While the Act explicitly defines regulation of traffic as covering the regulation of movement for all road users, the term traffic is understood by practitioners to mean motor vehicles. There is an opportunity to clarify the multi-modal intent of the Act.

Over the last 20 years successive NSW governments have increasingly focussed on multi-modal forms of transport, including public and active transport, as a way of improving efficiency and effectiveness in

the operation of the road network. Recently, NSW Parliament voted to update the *NSW Transport Administration Act 1988* to clarify and formally recognise Transport's responsibility to promote and enable active transport, promote mode shift to active transport from other modes and improve the activation and accessibility of public spaces.

Similarly, the needs of freight are specifically called out in the *Transport Administration Act 1988* and [Heavy Vehicle National Law](#). Transport supports the freight industry with a dedicated branch carrying out its functions under the *Transport Administration Act 1988*. NSW's [Heavy Vehicle Access Policy](#) sets out a five-year roadmap to support heavy vehicle access across the state network.

We can consider whether more needs to be done to explicitly recognise all road users in the Act to support roads authority decision making in the planning, management, and maintenance of roads.



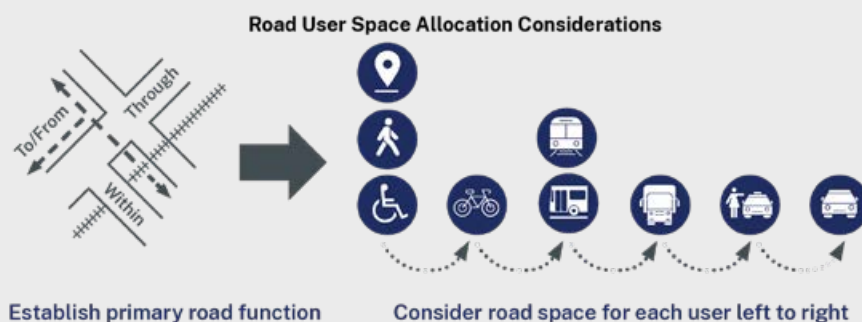
Case study

The Transport for NSW Road User Space Allocation Policy

In 2021 Transport published a corporate policy for staff to follow when allocating road space. The policy's implementation was [reviewed in 2023](#) and the policy was [updated in July 2024](#). This policy sets out the mandatory principles and requirements Transport staff must follow when allocating physical and temporal road user space safely and equitably to support the movement of people and goods and place objectives.

Transport staff must first establish a network vision and primary road functions based on strategies and plans that realises a balance between place and the movement of people and goods. Then staff must allocate road user space based on the network vision and road functions, considering all road users in order of:

1. walking (including equitable access for people of all abilities)
2. cycling (including legal micro-mobility devices)
3. public transport
4. freight and servicing
5. point to point transport
6. general traffic and on-street parking for private motorised vehicles.



Consistent with the road function being performed, the policy aim is for the overall reduction of the mode share of private motor vehicle trips within built-up areas.



Active transport

The *Roads Act 1993* provides a foundational framework against which standards, guidance material and agreements are developed.

When, for example, terms such as ‘traffic’ under the Act are interpreted to mean vehicle traffic - even in instances where the word vehicle is not specifically used - this may lead roads authorities to deprioritise regulatory devices that improve the safety or experience of people walking.

Walking priority is desirable on most street types and facilitating safe crossing points on higher speed roads is key to maintaining connections between local communities. Treatments that lower the exposure, likelihood and severity of a crash involving a person

walking reduce serious injuries and fatalities in built up areas. These treatments require consideration of walking ahead of other road users.

‘Bicycles’ are referred to only once in the *Roads Act 1993*: when defining a ‘footway’ which may also be used by ‘bicycle traffic’. Cycleway infrastructure provision has come a long way since 1993. There is now much greater emphasis on providing a safe, continuous network that covers all road and street types and is separated from both people walking and general traffic at higher volumes and speeds. A successful cycling network requires a strong partnership with Councils and Transport for NSW – especially where a cycleway crosses or interacts with roads that have higher speeds and volumes of general traffic.



Case study

Is council closing a road or regulating traffic?

The *Roads Act 1993* sets out a lengthy, formal process to close a public road which is important given the impact that road closure has on established patterns of movement. There are, however, different legal opinions about when a road is being ‘closed’. Councils may consider they are closing a road when what they want to do is restrict or regulate access for a particular group of road users.

For example, a council might want to turn a section of a street into a public square through which people can walk and cycle but restrict access for motorised vehicles. This is an example of ‘regulating movement’ rather than ‘closing a road’ as the road remains a public road and the right of passage and property access is maintained. It is distinct from situations where a council decides to close part of road for a different civic purpose such as building housing.

Public transport

Many bus services operate on unclassified roads, including some of the most important routes that navigate through urban and regional centres. Most of the places well served by on-street public transport are the historic tramways that have a legacy of well-integrated landuse and transit-oriented road networks. However large parts of NSW also have low access to frequent and reliable public transport services. These tend to be in areas of the state with multiple factors of disadvantage where education, employment and services are not within walking or cycling distance. In these areas, car dependency is a factor in access to education and employment opportunity (Figure 12).

The *Roads Act 1993* focuses on general road management and construction powers, without specific requirements for roads authorities to consider public transport in their decisions about road space, design, or maintenance. The State of Victoria takes a different approach: Victoria's *Road Management Act 2004* sets the framework for road management, while Victoria's *Transport Integration Act 2010* requires roads and public transport to be planned as one integrated network. This Victorian legislation specifically requires roads authorities to coordinate with other transport bodies when making decisions about roads and public transport.

Measuring transport disadvantage in NSW

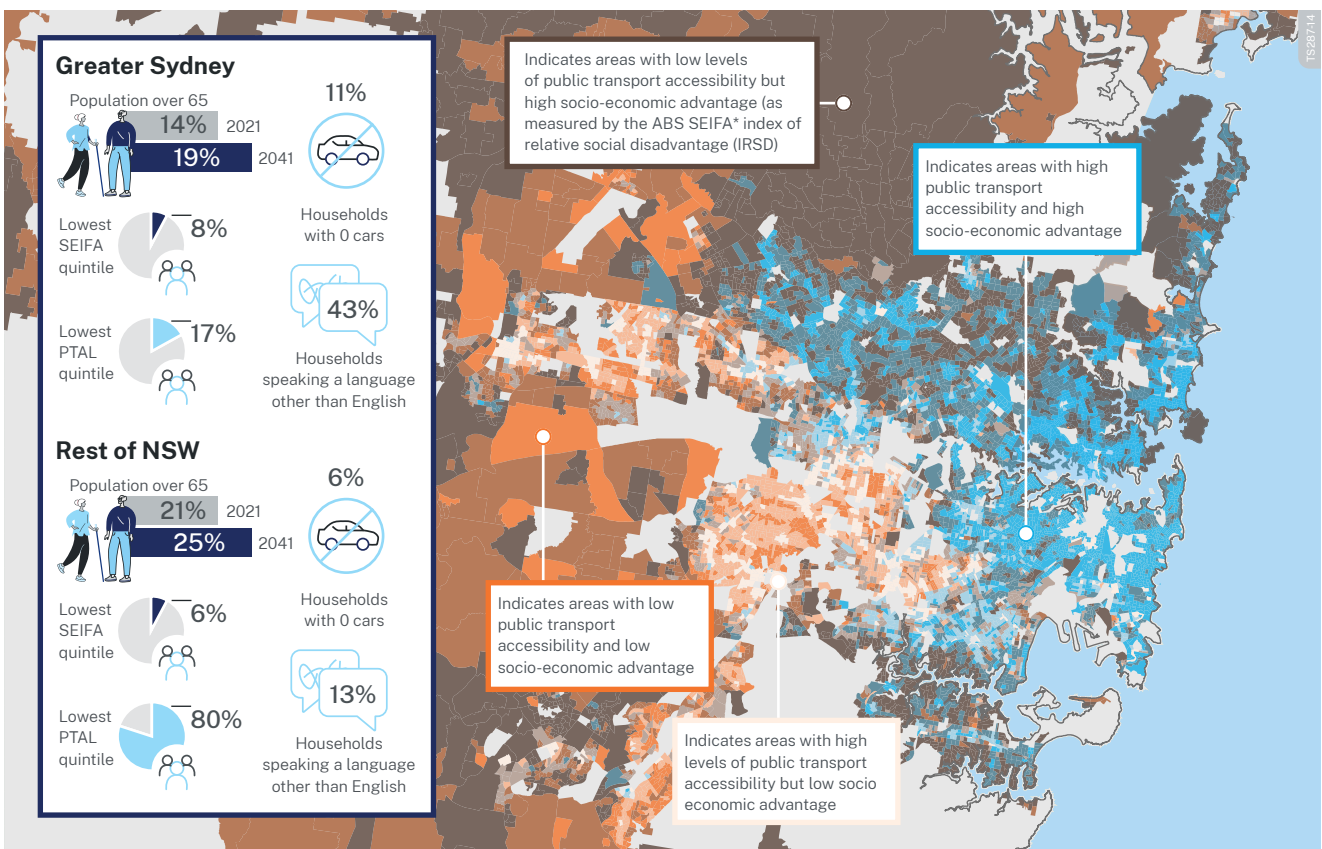


Figure 12. Measuring transport disadvantage in NSW



Case study

Bus Industry Taskforce

During 2023-24, the Bus Industry Taskforce consulted with bus operators, industry experts, workers, and community members. Through twelve months of comprehensive investigation, they identified key challenges and necessary improvements to create a better bus system for NSW - one that is efficient, valued by the community, and properly supported.

The Taskforce made 58 recommendations over three major reports. The second report highlight the responsibilities of councils and their role as a roads authority in supporting bus operations on local roads. The taskforce found that Transport's processes for oversight of local roads and engagement with local roads authorities are often resource-intensive, add limited value, and inconsistent in addressing bus related issues. The taskforce recommended that delegations to councils and supporting guidelines be updated to improve outcomes for bus operations and passenger experience on local roads.



Bowden Street,
Meadowbank



Hawkesbury Road, Westmead

Freight

The transport and delivery of goods and servicing has been a primary reason for roads and streets for centuries. Today without on-road freight we would not be able to get packages delivered, our rubbish taken away, or our produce delivered to market.

The NSW [Heavy Vehicle Access Policy 2024](#) aims to enhance heavy vehicle access across state, regional, and local roads, fostering a more efficient freight network linked to our communities and commercial hubs across NSW and integrated with railways, intermodal terminals, ports, and airports. The Policy sets out a five-year roadmap and actions to optimise access for the safest, most sustainable, and productive heavy vehicles on NSW state roads. Access decisions will be informed by technology and data and delivered in collaboration with key partners particularly councils to enable end to end connectivity across the network. The revitalised policy recognises the need to act now to prepare for the significant growth in demand for freight, along with responding to the changing nature of the business as new markets emerge.

Despite this important role, freight is not mentioned in the *Roads Act 1993* and is not an explicit consideration for the regulation of traffic under the Act. Transport has developed interactive maps that show which roads heavy vehicles can access on the network as well as future plans for expanding the parts of the network that high productivity vehicles can go. Roads authorities are not currently required to consider these maps when regulating traffic.



Questions 4.2

- a. How can the Act be improved to ensure that it considers each category of road user?
- b. Share your personal experience in navigating the Act to provide for a specific group of road users.
- c. What other issues would you like to raise for accommodating all road users?

In responding to these questions please consider including examples to illustrate your point of view.

Freight truck and grain silo in Wee Waa
© Destination NSW



4.3 Is the way we classify NSW roads under the Act still useful?

The *Roads Act 1993* establishes the classification of roads to distinguish their importance and allocate decision-making responsibilities. These classifications include criteria such as access restrictions, works status, and roads authority. However, the Act lacks clear definitions for each classification, leading to inconsistent applications.

Various approaches to road categorisation exist across regulation, administration, and management. Figure 13 illustrates these overlapping systems. Besides the legal classifications in the *Roads Act 1993*, there are categorisations for wayfinding, network planning, and administration, each using different systems.

Current classification systems often overuse functional descriptions, causing confusion about access restrictions and roads authority powers. For instance, the term 'Freeway' can obscure its relation to roads authority powers. Additionally, determining the optimal number of classifications is challenging. Too many classifications create confusion, while too few result in an inflexible system that cannot address the diverse road network, necessitating workarounds.

Each mode of transport overlays its network onto the road network differently. For example, a passenger of a bus, a person cycling, walking, or driving each use the same network in unique ways. A road near a port may be crucial for freight but irrelevant for buses. Conversely, a local connector street may be vital for buses.

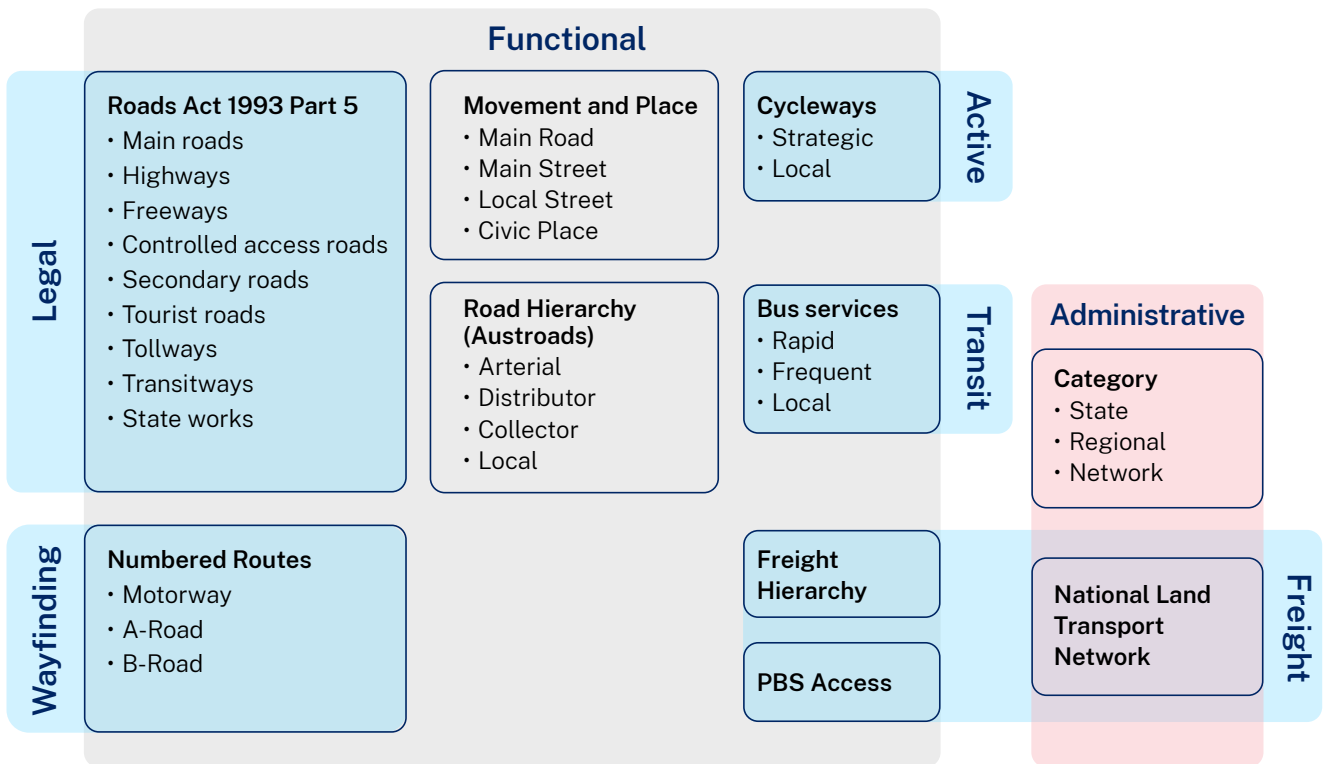


Figure 13. Approaches to road categorisation used in NSW.

Administrative categories

Administrative road categories allocate management and maintenance responsibilities between Transport and local councils. This administrative framework includes State, Regional and Local categories. The administration and management of State Roads is carried out and financed by Transport. State Roads almost always have a legal classification in the *Roads Act 1993*.

Regional and Local roads are administered, managed, and financed by local councils.

Regional Roads perform an intermediate function between the main arterial network of State Roads and council controlled Local Roads. Due to their network significance Transport provides financial assistance to councils for the management of Regional Roads. The Regional Road category comprises two sub-categories: Regional Roads that have been classified under the *Roads Act 1993*, and those Regional Roads that are unclassified.

Local Roads are not classified roads in the *Roads Act 1993*. While councils receive block funding for all roads they control from the Australian Government

through [Financial Assistance Grants](#), they do not receive direct block funding for Local Roads from the NSW Government as they do for Regional Roads. The NSW Government has a number of competitive grants programs that fund works on local roads in partnership with Councils.

These administrative categories do not always directly link with the statutory classification framework under the Act. As a work around, Transport's [Schedule of Classified Roads](#) includes both classified and unclassified 'Regional' roads although the Act only requires a list of classified roads to be maintained and available for the public.

Transport is developing a new streamlined process for road category changes. Instead of periodic reviews, the new always open approach will allow road network managers to self-evaluate and propose category changes at any time. To support this change, a new data-driven process will establish clearly defined evaluation criteria for road categories, ensuring more consistent, timely, and transparent assessments. This will help ensure administrative responsibilities rest with the appropriate road manager.



Case study

Legislative classification and administrative categories vs roads authority

Gardeners Road is classified in the [Schedule of Classified Roads](#) as a main road. As this is a main road in metropolitan Sydney, section 61 of the *Roads Act 1993* states that: "It is exclusively the function of Transport to make decisions as to what road work is to be carried out on any [...] metropolitan main road". Administratively it is therefore categorised as a State Road.

As a main road that is not specified in the *Roads Regulation 2018*, council remains the roads authority for Gardeners Road according to section 7 of the *Roads Act 1993*. Transport for NSW therefore has a separate management agreement with council, as the relevant roads authority, to maintain and undertake works on Gardeners Road (and other Metropolitan Main Roads) so it can carry out works in accordance with Section 61 of the *Roads Act 1993*.

There are 11 road sections classified as tourist road in the [Schedule of Classified Roads](#). Of these, five are in the State administrative category and six are in the Regional administrative category. Similar to the main roads example above council remains the roads authority for most of these except Alpine Way and Kosciuszko Road which are both specified in the *Roads Regulation 2018*.

This demonstrates a complex system of overlapping legal instruments to determine roles and responsibilities under the current framework.



Mitchell Highway, Victoria

National approach

The [National Service Level Standards \(NSLS\)](#) establish benchmarks for road classification and performance which seek to ensure that safety and operational criteria are consistently met across the network.

The framework that underpins the standards consists of national road categories identifying a primary road function (reflecting each road’s social and economic function), secondary attributes (such as whether it has movement or place function) and customer outcomes (the aspects that people value about each road such as safe journeys).

These standards underpin the way NSW will be able to secure Australian Government funding to support infrastructure improvements, ultimately enhancing community well-being.

In relation to heavy vehicle regulations NSW government bears the responsibility of classifying the road networks ensuring compliance with safety, environmental, and operational standards. This classification not only aids in meeting the NSLS but also fosters consistent service quality and reliability throughout the transportation system.

Functional identification – movement and place

The [NSW Movement and Place framework](#) recognises that roads and streets have multiple uses and functions. The framework establishes a system to identify both the movement significance and place intensity of a road or street. Movement significance is displayed on a vertical axis with higher movement significance at the top and lower movement significance at the bottom. Place intensity is displayed on the horizontal axis with higher place intensity on the right and lower place intensity on the left. Roads and streets can be placed along these two axes according to their movement and place role.

Functional identification can align with the legal principles of ‘right of passage’ and ‘access to property’ as well as administration. For example, a Motorway appears at the top left of the two axes because it has a high movement significance and low place intensity. Motorways are limited access roads that preference through movement over access. Motorways are appropriately managed by an authority that can prioritise high speed movement.

At the other end of the spectrum is a pedestrianised public square. While this civic space is still a public road as defined in the *Roads Act 1993*, it primarily functions as a place in itself and people predominately move within the space. Councils are generally the most appropriate authority to manage these streets.

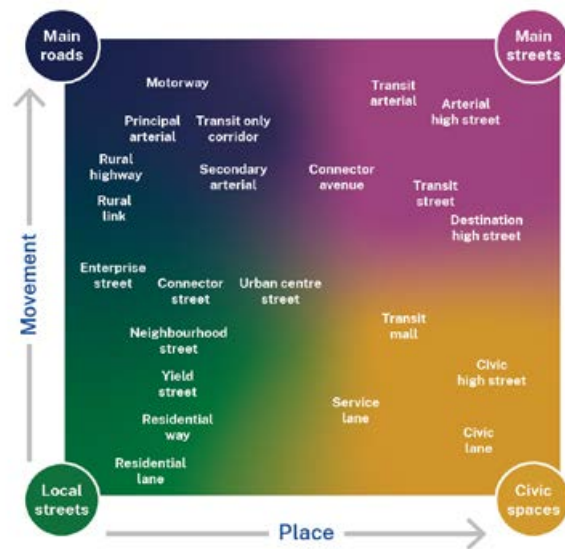


Figure 15. The NSW Movement and Place street environments and types

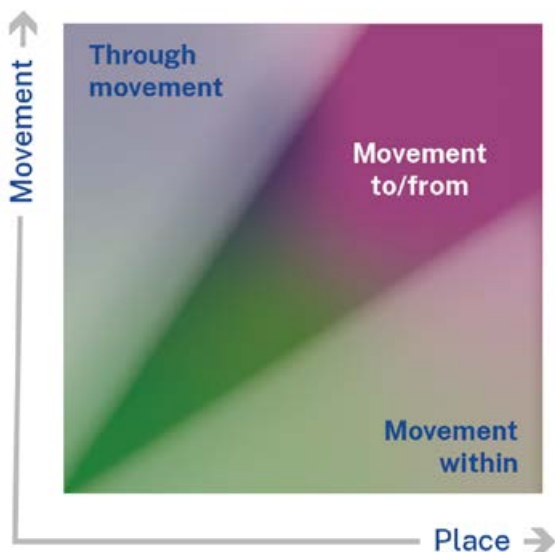


Figure 14. The movement intensity and place significance of a street can be placed on two axes

Streets that have a more equal movement significance to place intensity can be placed on the diagonal from the bottom left to the top right of the two axes. These primarily are for access to or from a property - with increasing levels of movement significance and place intensity. Often referred to as ‘exchange streets’ in other jurisdictions, these are where most bus services run and where traffic control signals and points of interest are located. They connect schools, churches and libraries and can also be higher activity high streets with shops and restaurants. These streets require collaboration between councils and Transport for NSW to work well.

Functional identification helps to describe the planning intent for different sections of the network that takes into consideration both the land use and transport uses and functions. The [NSW Design of Roads and Streets manual](#) identifies four environments and 22 types of roads and streets in NSW as illustrated in Figure 14.

Questions 4.3

a. What issues have you experienced due to overlapping classification systems to determine roles and responsibilities for NSW roads? (select all that apply)

- Confusion between legal, functional and administrative systems
- Hard to find which legal classification applies to which road segment
- Confusion about who has authority for which segment of road
- Too many legal classifications
- Other (please specify)

b. How could the system of road classification in the Act be improved?

c. In responding to these questions please consider including examples to illustrate your point of view.



The Hermitage Way, Gledswood Hills

4.4 Does the Act work well with the Environmental Planning and Assessment Act 1979

Development in NSW is regulated under the Environmental Planning and Assessment Act 1979 although a range of other Commonwealth and NSW regulatory frameworks need to be considered to ensure development outcomes are appropriately assessed and prioritise competing interests.

While the Roads Act 1993 regulates aspects such as road works and traffic it is also underpinned by a classification framework used to describe the types of roads communities need now and into the future. For this reason the Act also has an important planning purpose.

The NSW Government has standardised and streamlined the development assessment process for land use and zoning over the past decade. In the same period the approach under the Roads Act 1993 to referrals, concurrences and other approvals have not kept pace to the same degree.

Figure 16 illustrates the complexity of road network planning and development in NSW. This complexity has developed over a number of decades through ad hoc work practices and ways of working in the absence of a clear legislative framework for road network planning in the Roads Act 1993.

The misalignment may be hampering strategic government initiatives leading to suboptimal outcomes in road planning and management.

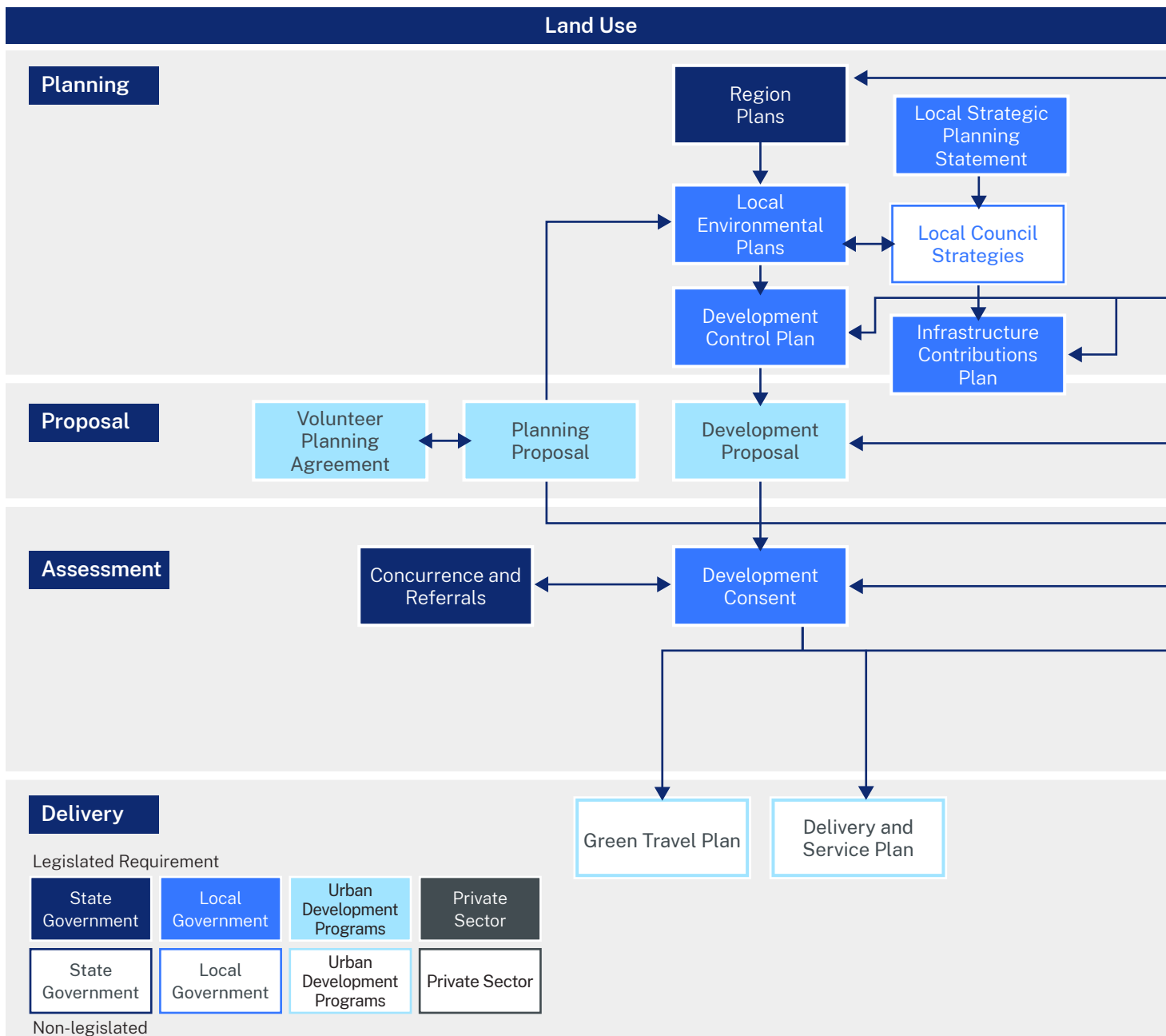


Figure 16. Complexity of road network planning and development

Case study

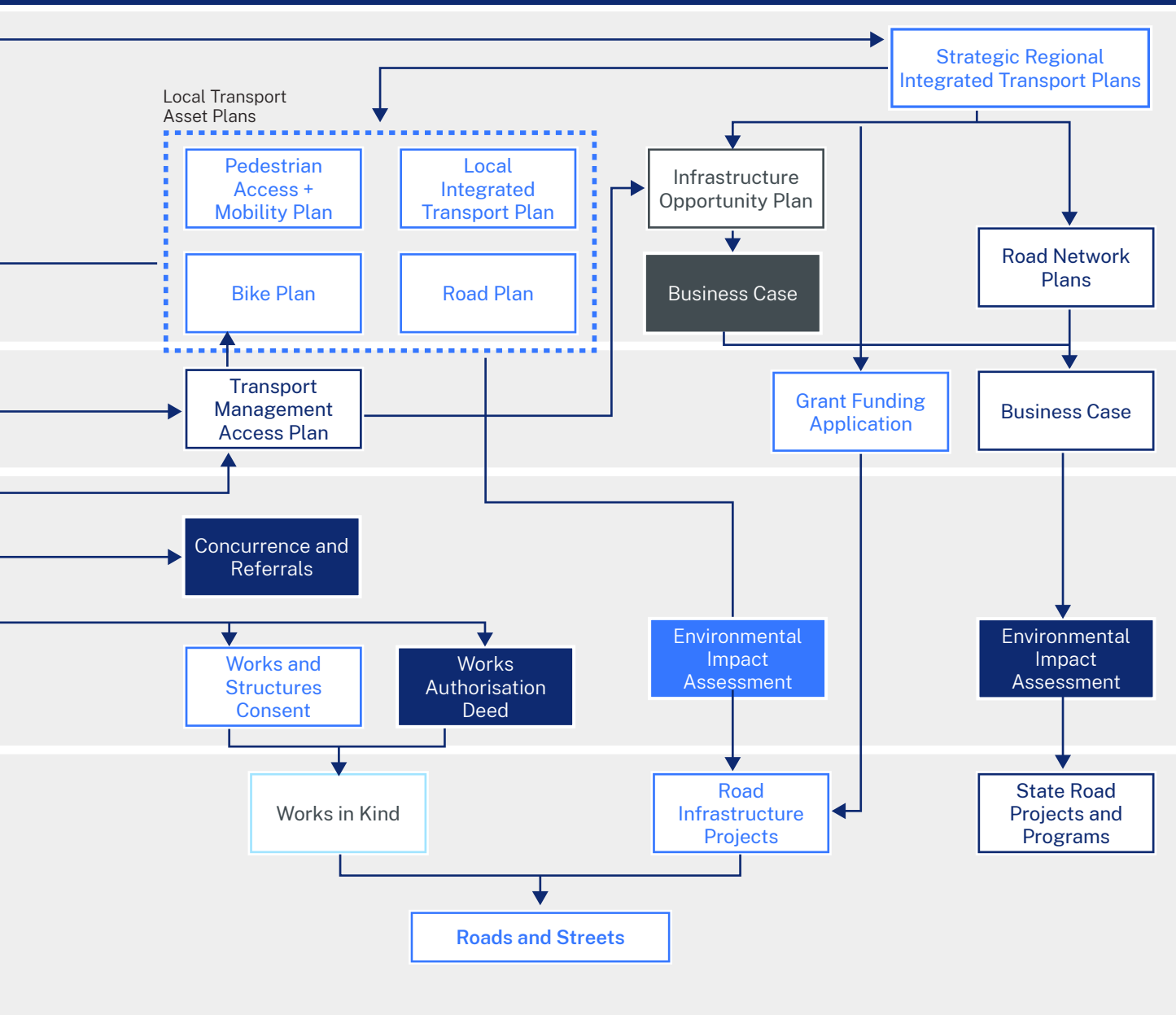
Approvals for a new suburban house

A property owner seeking approval for a new home will typically also propose construction of a new driveway connection to the street. In many instances the construction of a driveway is considered [exempt development](#), or otherwise forms part of a development application (DA) for the new home.

Any driveway cross-over will include works and structures within the street, which in accordance with the *Roads Act 1993*, require the consent of the relevant Roads Authority, most often the council. This *Roads Act* approval occurs separately or in parallel to planning consent. Driveway design needs to be consistent with Australian Standards and be constructed to council's engineering specifications. Driveway design directly relates to interactions between vehicles and people, so road safety and traffic management are primary concerns.

Whilst applicants preparing DAs can refer to a Local Environmental Plan and Development Control Plan to understand requirements for on-site development, the requirements for works and structures within roads are typically found separately. The overlap in approvals, additional fees and parallel approvals can add complexity to the approval process from a customer perspective.

Road Network



A sufficient focus on road network planning?

The *Roads Act 1993* does not provide a clear framework for strategic road network planning that aligns with broader land use and transport planning objectives.

Unlike the NSW Planning framework which comprises Local Environment Plans, standard instruments and standardised land use zones, there is no legislative basis or framework for roads authorities to plan road networks. Having a more systematic approach could provide more certainty by describing the planning intent for each road. This could shift the focus of regulation from reactive and operational to intentional and strategic.

Right now, there is no consistency in approach to network planning and works proposals assessment across the 128 councils and other roads authorities. By better aligning to the planning framework there is an opportunity to create more risk-based standard instruments and systems. This could streamline assessment for low-risk changes to the road network and has the potential to minimise the regulatory burden for industry and landowners.

The absence of such an approach fosters a lack of clarity and uncertainty for developers and adds time and costs to the process of plan making and development approvals.



Case study

Can I connect my development to an existing road?

A developer may wish to zone a parcel of land for residential development but the only existing access to that development is on a controlled access road. To access that land parcel, a developer is required to build an internal road connection that does not directly connect to the existing road. There is no map of the road network classification on the land use zoning map on the NSW Government's ePlanning system and the only map available on the Transport website does not identify controlled access roads. Instead, the developer must look through a PDF text-based table of the schedule of classified roads to find out whether they can connect their parcel to an existing road.

Questions 4.4

- What issues have you experienced with parallel approval processes under the NSW planning system and the Act?
 - Extra time/cost associated with parallel Roads Act 1993 approvals
 - Confusion with different processes for the Roads Act 1993 and land use related approvals
 - Conflicting advice from roads and land use agencies or areas of council
 - Other (please specify)
- Can you provide further information on the issues you have experienced?
- If you've experienced differences in approach to road network planning and land use planning, how have these affected your work?

In responding to these questions please consider including examples to illustrate your point of view.



4.5 Could roles, responsibilities and decision-making processes under the Act be clearer and more streamlined?

Road infrastructure decision making encompasses a range of critical choices that significantly impact the transport network. These decisions include planning for new construction or upgrades, regulating road usage, and determining maintenance and repair priorities.

Planning decisions focus on identifying future road networks based on projected population growth and urban development, while usage decisions establish regulations for traffic management and vehicle restrictions to enhance safety and efficiency. Maintenance involves routine inspections and upkeep to prolong road life, whereas repair decisions address immediate safety concerns, such as potholes or structural damage.

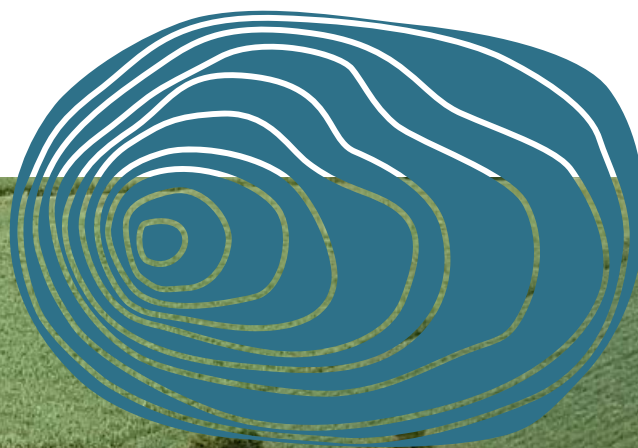
Various factors should inform these decisions including community needs, which provide essential insights into local road usage and concerns. Environmental assessments are also vital, ensuring that road projects minimise ecological impacts. Economic constraints,

such as budget limitations and funding availability, directly affect the scope and timing of maintenance and repair efforts. Safety data, including traffic accident reports, further guide decision-makers in prioritising improvements to enhance overall road safety.

Complex relationships and decision-making

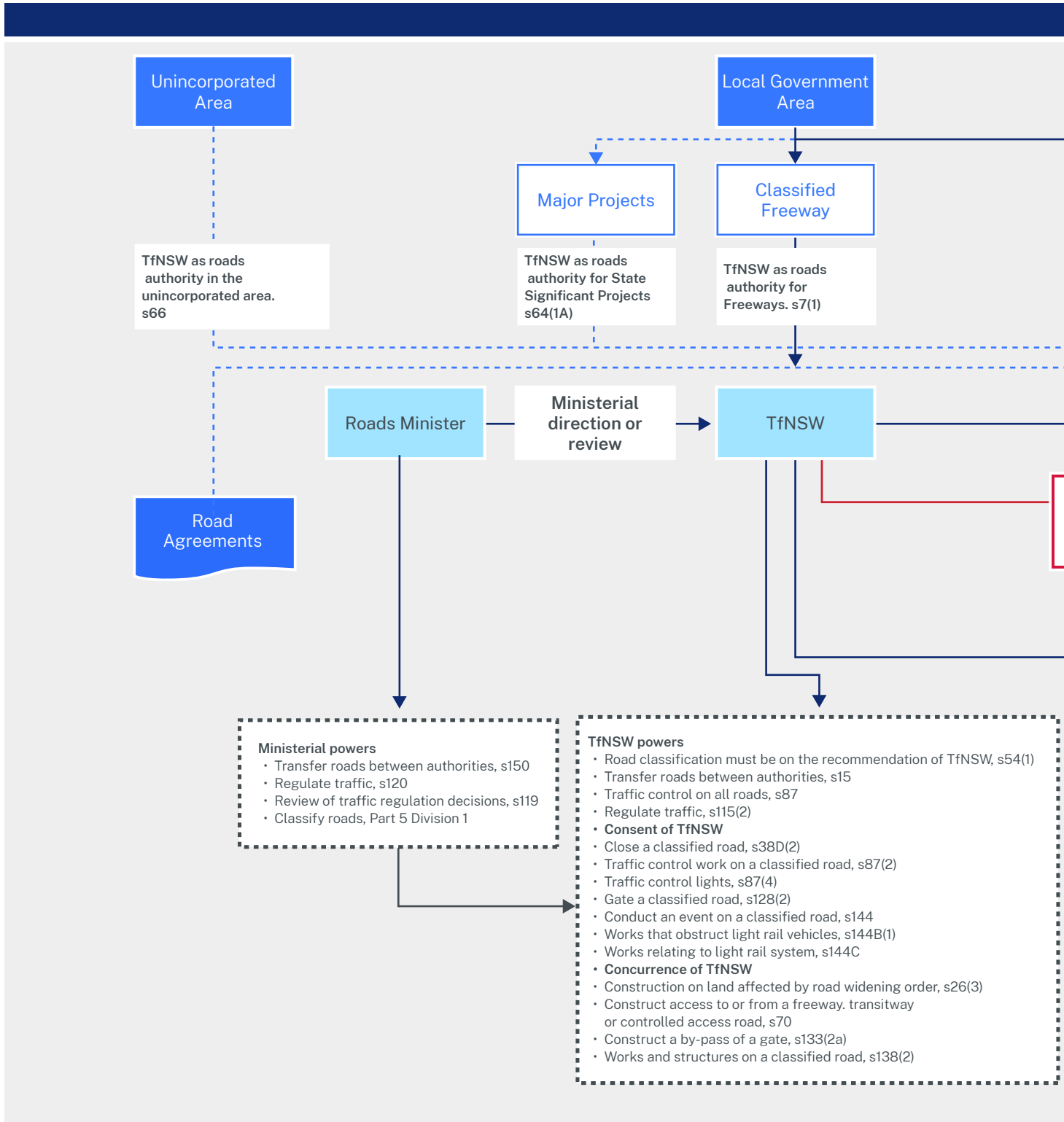
Mapping some key decision-making processes under the Act demonstrates the complexity of the statute but also the way that roles and responsibilities are enshrined. Since being enacted a range of workarounds have been put in place to manage day to day decision making under the Act. Figure 17 illustrates the complexity of relationships and powers for regulating roads.

Although useful at first, these workarounds have now become complicated, overlaid with varying degrees of understanding, inconsistent application of delegated authority, blurred roles, and slowed by sometimes inefficient governance structures (such as Local Traffic Committees - LTC). The Delegation to Councils is a good example of this.



Sportsman Creek Bridge, Lawrence
© Destination NSW





The NSW Productivity and Equality Commission has a strong focus on efficient regulatory frameworks encouraging the use of risk-based or outcomes-based approaches to regulation³⁴. This aligns with the concept of subsidiarity, a principle that decision-making power is best exercised at the lowest level of government at which it can be appropriately and successfully done.

This approach to regulation helps to narrow controls and allocate precious, limited resourcing to key areas of significant risk rather than trying to control for all risks. It also enables roles and responsibilities to be more clearly articulated which, in turn, can streamline decision-making.

34 [Guidance for regulators to implement outcomes and risk-based regulation](#), October 2016.

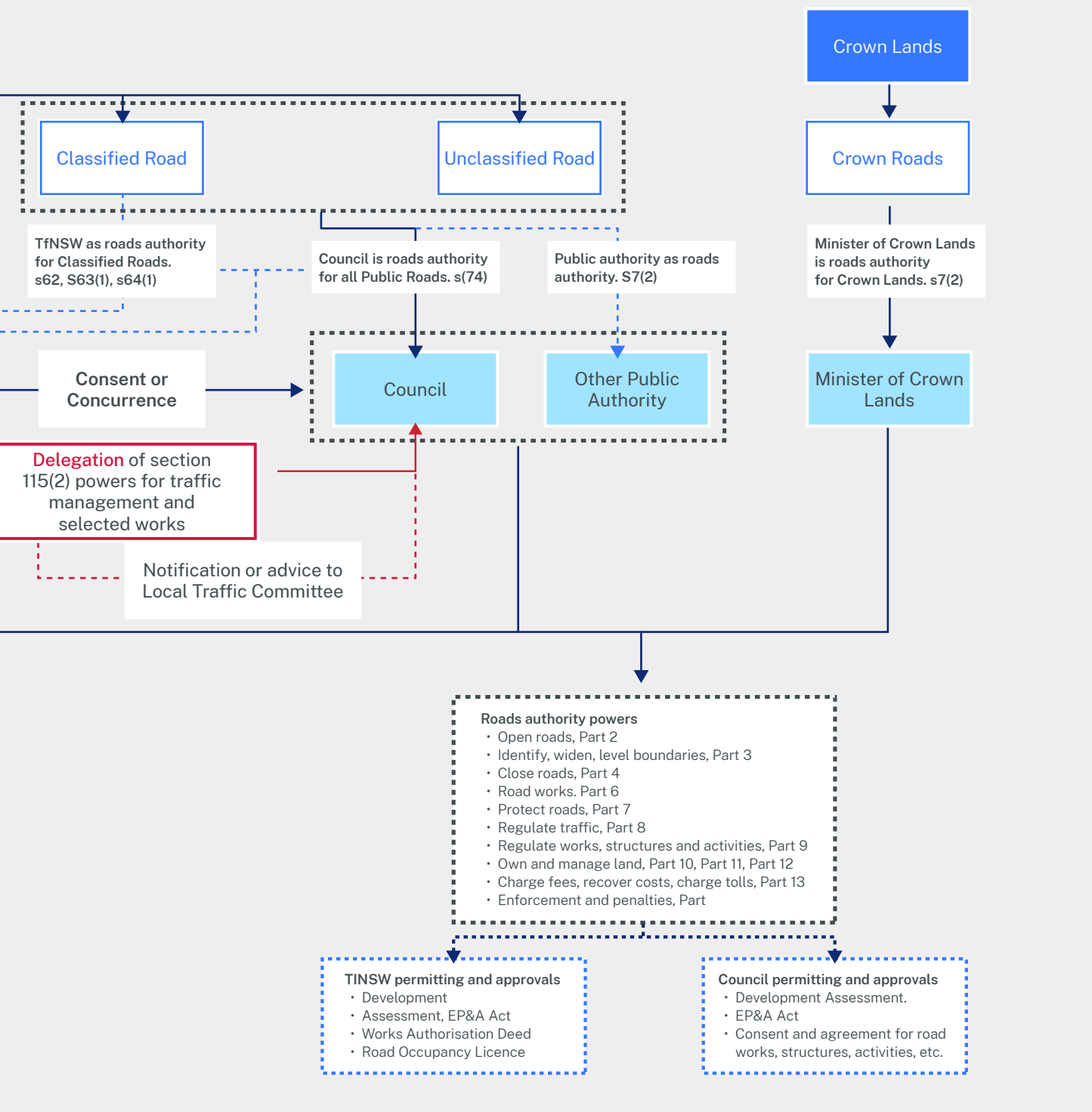


Figure 17. Who regulates roads?



Case study

Scenario:

The Delegation to Councils for the Regulation of Traffic is an administrative instrument made by Transport to allow councils to manage their road network. The delegation can be considered a 'workaround' because it papers over a key gap in the Roads Act – the inadequate powers granted to local councils to manage their networks.

Whilst councils are legally responsible for ~90% of roads (by linear km) across the state, the Act empowers them to regulate traffic for a very limited suite of reasons, mostly relating to maintenance, prevention of damage, and protection from hazards.

The Delegation to Councils itself is heavily conditioned and interacts with other powers and processes set out elsewhere in the Act, the Regulation, or other pieces of legislation. The result is a complex and slow-moving regulatory framework that requires practitioners with even simple projects to understand the Act, Regulation, and Delegation, often for minor works.

Transport has sought to simplify some processes with the recent issue of the Temporary Delegation to Councils. This allows low-risk street improvements to be delivered quickly and with minimal red tape. In addition, Transport is currently developing further revisions to the Delegation to Councils, but in the longer term, council's critical responsibilities should be authorised by powers in the Act itself.

Questions 4.5

- a. How could the Act make roles and responsibilities clearer for decision making? (select all that apply)
 - Agree to how the network is operated between road authorities
 - Less focus on individual regulatory signs and lines on local neighbourhood streets with low traffic volume
 - Codify 30-year-old practices that work in the Delegation into the Act
 - Align network plans with decision making roles based on risk and network implications
 - Other (please specify)
- b. Describe your experience of using the Delegation to Councils and any improvements which could be made.
- c. Describe your experience of using the Temporary Delegation to Councils and if this approach is more streamlined to regulate traffic and deliver local street and place improvements.

In responding to these questions please consider including examples to illustrate your point of view.



Riley Street, Penrith

4.6 Are there ways to improve the operation of certain parts of the Act?

Within the current structure of the Act, some operational challenges for roads authorities have been identified. These include: the ability to respond to natural disasters, the regulatory basis for permits, the costs associated with regulation, and penalties and compliance. In an overarching sense enforcement, and the ability to respond to changing needs of the community.

Responding to natural disasters and catastrophic road failures.

Some regional councils have raised questions about whether there is sufficient flexibility in the operation of section 175 of the Act.

This section provides that a roads authority may take possession of land when carrying out roads works or providing a temporary road where a public road has become impassable, and to use and occupy land along or near the line of the road, for as long as is reasonably necessary. The section also sets out processes for land holders and compensation obligations for roads authorities.

Climate impacts in recent years have had some catastrophic impacts on roads and road surfaces with significant implications for flood affected communities and freight passage through regional NSW. There is a question about whether this provision in the Act allows sufficient flexibility to justify finding an alternate route for recovery infrastructure to be built either for a permanent or temporary road access for communities for which pre-flood there was only one road for egress and access. Within this scenario there may be degrees of impassability (i.e. a reduced level of access for only some vehicles such as heavy vehicles) and whether 'along or near the line of the road' is too restrictive to create reasonable and timely access for isolated communities given regional geography.

Codifying the regulatory framework for permits

Road Occupancy Licences (ROLs) and Works Authorisation Deeds (WADs) are key instruments in regulating activities on NSW's classified roads, yet both face challenges due to a lack of formal legislative recognition. ROLs, which grant conditional rights to occupy road space for specific activities, are governed under section 138 of the *Roads Act 1993*, but the Act does not explicitly reference or define ROLs, creating legal ambiguity. This gap raises concerns about the transparency and consistency of the ROL process, particularly given the varying procedures across different regions and the potential for confusion with other permissions, such as Development Approval (DA).

Similarly, WADs are common law agreements used to authorise developers to carry out works affecting state roads, but like ROLs, they are not formally acknowledged in the *Roads Act 1993*, leading to operational inconsistency. The tension between the need for tailored legal agreements to manage complex projects and the desire for a more uniform, transparent regulatory approach further complicates their effectiveness.

The cost of regulating the network

Cost recovery, setting at an efficient price for a delivered service, benefit, or regulation, is common now across Australia. Cost recovery can ensure that the recipients of government activity bear the costs, rather than the broader community. Identifying costs, at an efficient level, can also influence the demand for the services and increase community understanding of what different government processes cost.³⁵

The *Environmental Planning and Assessment Act 1979* (EP&A Act) provides for local councils to charge fees related to Development Applications (DAs) under sections 4.26(3) (“Carrying out of complying development”) and 4.64, Regulation Part 4(1)(f), which specifically covers fees for processing DAs. Similarly, the *Roads Act 1993* (section 23) provides for a roads authority to recover fees for any service it provides. Similarly, roads authorities under the *Roads Act 1993* (section 223) can charge for supplying a service, product or commodity, information, assessing and granting approvals for applications, carrying out inspections related to the application, and issuing certificates.

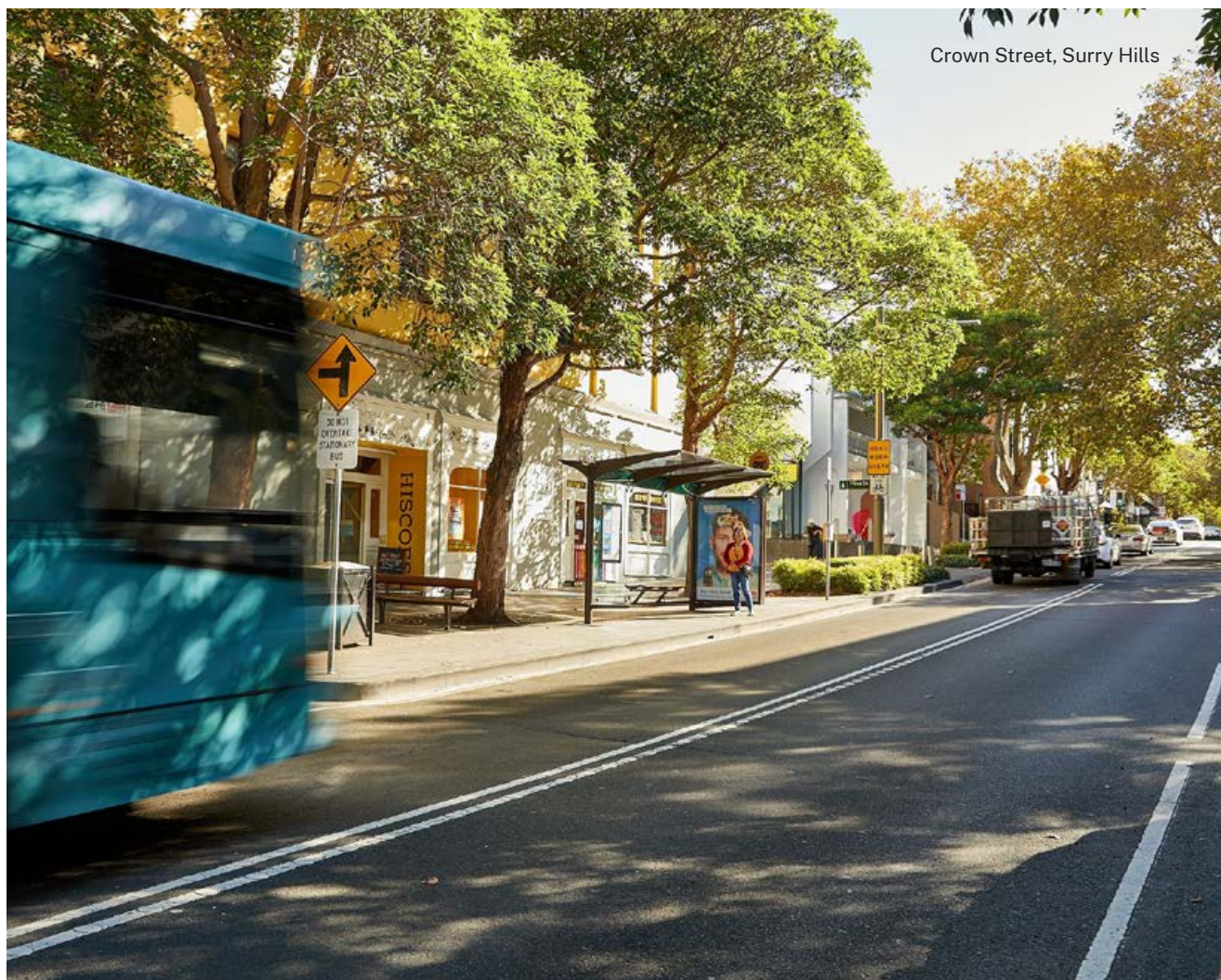
When it comes to classified roads, however, Transport’s concurrence is frequently required but the capacity to recover costs is limited. Transport incurs significant operational costs when issuing, for example, Road Occupancy Licenses or reviewing and considering DAs, particularly in cases that involve state-owned roads or infrastructure. These costs include staff time, technical assessments, and coordination with other government departments.

The cost of regulating the road network is not only financial but also represents an overall regulatory burden on the economy. This burden includes both direct financial costs and indirect costs such as processing time, skills and learning requirements, administrative complexity, and compliance requirements which can affect multiple stakeholders, including businesses, households, and government. The regulatory burden can create inefficiencies in the transportation sector and ripple through the broader economy, potentially impacting broader productivity outcomes like the affordability of housing and access to employment opportunities.

³⁵ NSW [Guidelines for Pricing of User Charges](https://www.treasury.nsw.gov.au/finance-resource/user-charges-and-service-costings) available at <https://www.treasury.nsw.gov.au/finance-resource/user-charges-and-service-costings>

M1 Pacific Motorway,
Tarro to Raymond Terrace





Crown Street, Surry Hills

In principle the regulatory process should be proportionate to the scale and impact of proposed changes to the road network. Minor modifications, such as adjusting signage or repairing a driveway, should have streamlined approval processes with minimal paperwork and swift turnaround times. In contrast, major changes, such as building a new road connection to a classified road, should warrant a more comprehensive regulatory approach.

These larger projects require detailed impact assessments, stakeholder consultations, and thorough analysis to ensure that potential risks and benefits are properly evaluated. This proportional approach helps balance the need for proper oversight with operational efficiency, ensuring that resources are allocated appropriately and that simple improvements are not unnecessarily delayed by bureaucratic processes designed for more complex decisions.

An outdated penalties and compliance framework

The compliance framework under the Act is designed to place strict guidelines and controls on outcomes and actions. The current penalties for breaches of the Act may not reflect the seriousness of offenses or provide adequate deterrence. One penalty unit was set to the value of \$100 in 1987 and raised to \$110 in 1997. The number of penalty units applied to each offence under the Roads Act 1993 has not changed since 1993 even though Consumer Price Index increases mean that each penalty unit has declined in real value over this period (Figure 16).

A further area to consider in relation to compliance is whether the Act gives sufficient emphasis to issues such as protection of the environment and provides sufficient penalties to deter poor decision making and damaging actions. Currently the Act has a range of purposes especially related to the right of passage and the right of access. It also includes efficient road management and administration and promoting the roles and responsibilities of roads authorities. Thinking about roads in their context, the impact that road infrastructure provision and maintenance have there could be a need to consider explicit protections for the environment.

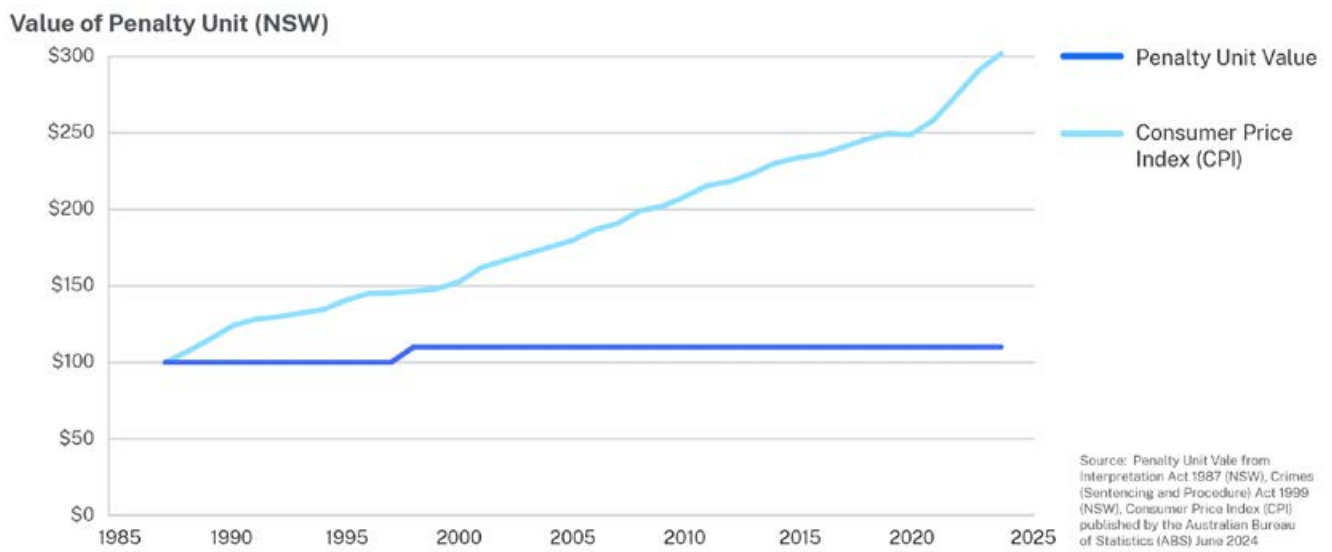
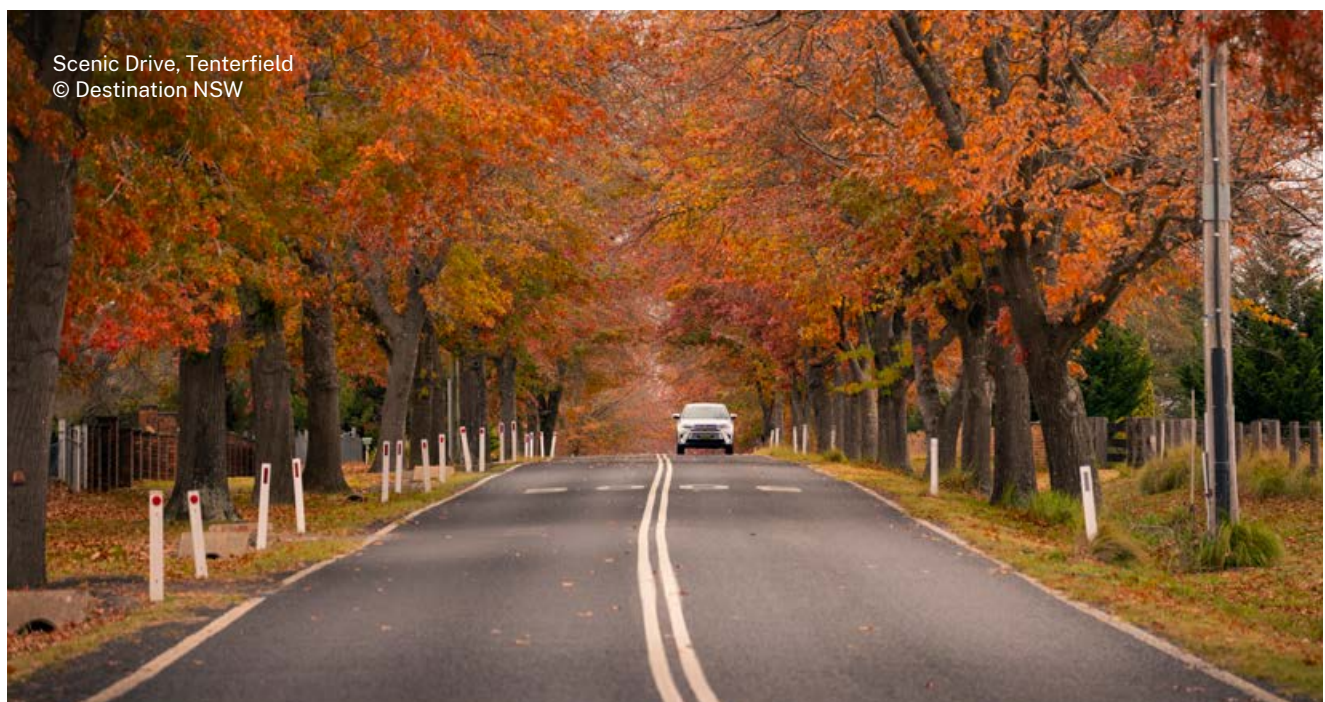


Figure 18. Value of a penalty unit in NSW



Station Street,
Wollongong

Questions 4.6

- What improvements can be made to the Act to increase flexibility in response to natural disasters?
- How can the permit approval process for installing works and structures, undertaking road works, events and activates be made clearer and more consistent across all Road Authorities?
- How could compliance and penalty frameworks be changed to address environment and safety compliance?

In responding to these questions please consider including examples to illustrate your point of view.

To illustrate differences across regulatory frameworks an example to consider is how Crown roads and Crown lands managed. Crown Roads are regulated under the *Roads Act 1993*, but crown lands are managed under the *Crown Lands Management Act 2016*.

In other comparable NSW Acts the compliance framework such as in the *Crown Lands Management Act 2016* establishes a compliance framework with three distinct categories of penalties: civil, criminal, and administrative. Civil penalties typically involve financial penalties or orders for remediation, while criminal penalties can include fines or imprisonment for more serious breaches, and administrative penalties include actions such as suspension or cancellation of permits. This multi-tiered approach allows for flexibility in addressing various levels of non-compliance. In contrast, the *Roads Act 1993* primarily provides for criminal penalties, focusing on offenses related to the management and use of roads, such as illegal activities affecting road safety or unauthorized works. While the *Crown Lands Management Act 2016* incorporates a broader range of penalties to address different types of breaches, the *Roads Act 1993* is more narrowly focused on criminal sanctions for serious violations.

4.7 Looking to the future, could we do more to ensure that the Act keeps pace with change?

The COVID pandemic drove a range of innovative business models and technologies. Regulations were relaxed and tested in response, with some being permanently changed. The NSW Productivity Commission promotes regulatory experimentation to encourage the development of regulation that is fit for purpose.³⁶

It could be argued that the main delegation to local councils issued in the 1990s for the regulation of traffic on unclassified streets was an early example of regulatory experimentation (see section 4.4 above). Section 31 of the *Transport Administration Act 1988* provides for Transport to delegate its functions to a public transport agency such as Sydney Trains, NSW Train Link, Sydney Ferries and State Transit Authority (Buses) - now part of Transport. However, the delegation to local councils has been in place for several decades with limited formal monitoring, evaluation or improvement making. A better example is the Temporary Delegation.

In addition we live in a world of continuous technological change - electric vehicles, automated vehicles, e-micromobility. It's important that, where relevant, the transport regulatory framework can be flexible and responsive to these new or emerging technologies.

Improving regulatory practice under the *Roads Act 1993* via controlled testing environments could be beneficial to the longer-term reduction of red tape, ensuring decision making at the most appropriate level of government, ensuring the legislation keeps pace with change and identifying the risks areas which warrant NSW Government intervention.

This could be supported by the development of regulatory experimentation policy framework which tests new ways of making decisions backed by appropriate principles for monitoring, evaluation, and pathways to update the regulatory framework. This framework could also be applied to other Transport legislation where Transport's powers can be referred to other public authorities.



Case study

Temporary Delegation to Councils

In 2023, Transport for NSW (Transport) issued a temporary delegation of its powers under the *Roads Act 1993* to provide councils an alternative approval pathway for the design and delivery of a suite of specified minor works supportive of walking, cycling, road safety, and local amenity without advance referral to Local Traffic Committee. This delegation sits alongside the existing main Delegation to Councils. It is underpinned by a monitoring and evaluation framework and will be in place for up to 3 years.

Questions 4.7

- What regulatory features should be tested to ensure the Act can accommodate emerging technologies and new approaches? (select all that apply)
 - Ability to change the primary intended function or use of a street at different times of day or days of the year
 - Area wide speed zone reduction on local neighbourhood streets delegated to councils
 - Regulation of traffic on local neighbourhood streets and civic spaces delegated to councils
 - Other (please specify)
- Which provisions in the Act and the Environmental Planning and Assessment Act could benefit from regulatory experimentation?
- How could these Acts better support new developments in sustainability?

In responding to these questions please consider including examples to illustrate your point of view.

³⁶ <https://www.productivity.nsw.gov.au/regulatory-experimentation>



Case study

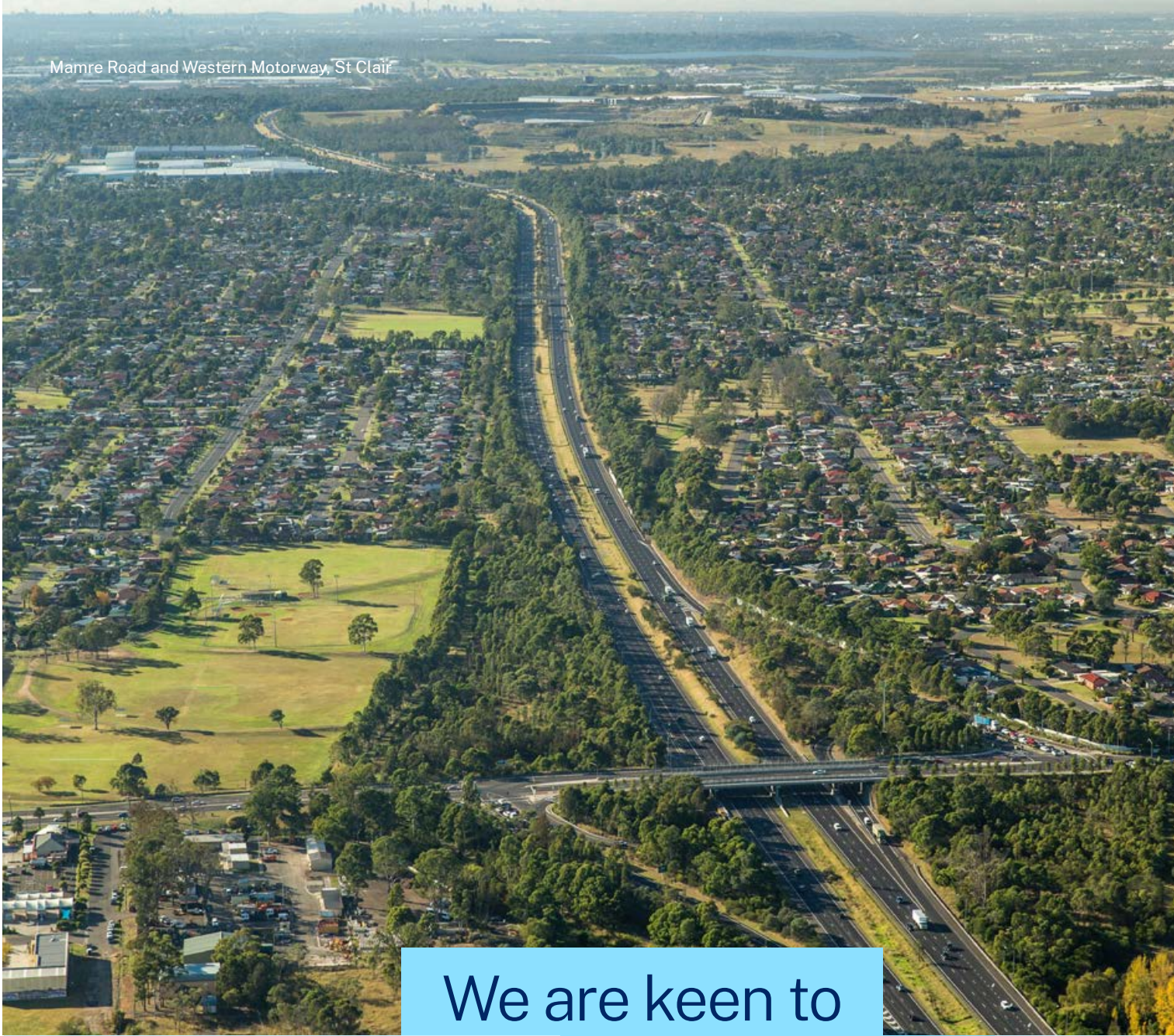
Scenario

A local council is exploring the possibility of using innovative technologies and temporary infrastructure, such as pop-up bike lanes, to address increasing congestion while maintaining flexibility in road management. To improve efficiency and responsiveness, the council is considering requesting TfNSW to expand its delegated powers under the *Roads Act 1993* to streamline decision-making, but concerns remain about balancing innovation with safety and environmental protection, as well as coordinating with the *Environmental Planning and Assessment Act 1979*.



Crown Street, Wollongong

Mamre Road and Western Motorway, St Clair



We are keen to
hear from you

5

We are keen to hear your views

This Issues Paper describes the vital importance the road network plays in our daily lives and how our interactions with it have changed over the last 30 years. The Roads Act 1993 governs the decision making of Transport and local councils in the planning, administration, and management of the road network.

The NSW Government is delivering on a diverse agenda for people in NSW including on housing supply, vibrancy, road-based public transport, and active transport. Transport for NSW will aim to achieve the following objectives, which have been set by our NSW Government ministers. They are ensuring:

1. More contemporary uses for roads and streets that are safe and responsive to community needs.
2. Faster local decision making with appropriate mitigations to manage network risk.
3. A streamlined and easy to use statute that keeps pace with change.
4. A more operationally effective statute.

This is a complex task that will occur during this term of the Parliament. It will be undertaken in stages to identify the key issues, discuss their implications, and design improvements.

Now	Mid 2025	Mid-late 2025	Early 2026
<ul style="list-style-type: none"> • Issues Paper • Have your say • What we heard 	<ul style="list-style-type: none"> • Round table • Have your say • What we heard 	<ul style="list-style-type: none"> • Options Paper • Have your say • What we heard 	<ul style="list-style-type: none"> • NSW Government considers and decides.

This targeted review of the *Roads Act 1993* will occur during the current term of Parliament. It will look at specific policy aspects of the Act to identify improvement to the way we plan for and manage roads and streets in NSW.

NSW councils, peak bodies and the general public are invited to provide their feedback on the issues discussed within this Paper to help inform the next steps for the process.

To view feedback timeframes and submit your feedback on this Issues Paper, stakeholders are encouraged to complete the online survey or provide a written submission via the online Have Your Say portal at haveyoursay.nsw.gov.au/roads-act-1993

Feedback will inform further discussion at an in-person workshop on the Roads Act Review planned for early 2025.

Appendix 1

Questions

Question 4.0

a. What is currently working well?

Please provide examples of what is currently working well when working under the Roads Act 1993

Questions 4.1

a. How could the Act be changed to enable more community uses for roads and streets? (select all that apply)

- Define the different objectives for roads and streets
- Include outcomes for safety, public health and the environment in the objects of the Act
- Simplify the types of roads and streets defined in the Act
- Include desired outcomes for the design and operation of local streets and civic spaces
- Other (please specify)

b. How can safety be better considered in the planning, administration and management of roads?

c. How can the Act better recognise the public health and environmental benefits of roads and streets?

d. What other community issues would you like to raise in relation to the Act?

Questions 4.2

a. How can The Act be improved to ensure that it considers each category of road user?

b. Share your personal experience in navigating the Act to provide for a specific group of road users.

c. What other issues would you like to raise for accommodating all road users?

Questions 4.3

a. What issues have you experienced due to overlapping classification systems to determine roles and responsibilities for NSW roads? (select all that apply)

- Confusion between legal, functional and administrative systems
- Hard to find which legal classification applies to which road segment
- Confusion about who has authority for which segment of road
- Too many legal classifications
- Other (please specify)

a. How could the system of road classification in the Act be improved?

Questions 4.4

- a. What issues have you experienced with parallel approval processes under the NSW planning system and the Act?
 - Extra time/cost associated with parallel Roads Act 1993 approvals
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Questions 4.6

- a. What improvements can be made to the Act to increase flexibility in response to natural disasters?
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Transport for NSW

Roads Act 1993 Issues Paper

February 2025

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