



Institute of
Public Works
Engineering
Australia
(NSW Division)

IPWEA (NSW) ROADS & TRANSPORT DIRECTORATE

NSW Local Land Services,
13/36 Darling Street
(PO Box 2105)
Dubbo NSW 2830

4 November 2015

Email: tsr.feedback@lls.nsw.gov.au.

Dear Sir / Madam,

NSW Travelling Stock Reserves State Planning Framework 2016-19 Submission

Introduction

The Institute of Public Works Engineering Australasia (NSW Division) is a registered charity, membership based, professional organisation representing engineers and others involved in the provision of public works and services predominantly in the local government sphere.

The Roads & Transport Directorate has been set up by IPWEA (NSW) in conjunction with Local Government NSW to provide support to its members working in local government across the state. It is supported financially by membership contributions from Local Councils in NSW.

Background

The Roads & Transport Directorate has been set up to meet the demand from members of IPWEA (NSW) to act as a focus for research activities and to provide technical advice.

Its main purpose is to assist Local Government in NSW in the area of road infrastructure and transport related activities by:

- Assisting members in discharging their road management roles in the most effective manner consistent with current legal obligations and the most recent technical practices in the critical area of consistent and cost effective asset management and road safety;
- Assisting the IPWEA (NSW), Local Government NSW, individual Councils and members in lobbying for a higher priority to be placed on road infrastructure provision and maintenance and for a more equitable share of resources and funding; and

- Providing for IPWEA members and Local Government a powerful technical and research resource on transport issues at regional, state and national level. The activities would be, as circumstances dictate, either proactive or reactive to achieve the optimum benefit for the region or state.

The Directorate commenced operation in October 2004 and has been involved in determining the needs of members and developing solutions to meet those needs. Over that period the Directorate has made submissions on a range of issues including the June 2014 *Crown Lands Management Review*.

Basis of this Submission

This submission was initiated by the following submission prepared by Berrigan Shire Council:

BERRIGAN SHIRE COUNCIL

SUBMISSION

DRAFT NSW TRAVELLING STOCK RESERVES STATE PLANNING FRAMEWORK

OCTOBER 2015

Introduction

Local Land Services are to be commended for developing this draft planning framework and believe it can be a valuable tool in developing the required management plans for travelling stock reserves.

It is, however, of concern that roads have not been included as an active use of TSRs given that many traverse them.

Discussion

Travelling stock reserves and stock routes are intrinsically connected with the road network and yet the rights and roles of road authorities and the TSR managers (Local Land Services) are quite blurred in current legislation.

There is a need to have clearer definition in relation to issues such as:

- *Road Authorities rights and obligations where road improvements require widening or realignment and the road is traversing a TSR;*
- *Road Authorities rights and obligations in relation to clearing vegetation for the creation of adequate clear zones from the edge of traffic lanes where the road is traversing a TSR;*
- *Local Land Services obligations in relation to travelling stock interacting with road traffic;*
- *Local Land Services obligations in relation to travelling stock interacting with Road Authority Infrastructure;*
- *Obligations of Road Authorities and Local Land Services in relation to noxious weeds and vermin on reserves that are shared.*

If the State Planning Framework for TSRs is to be credible it must acknowledge the coexistence of roads and TSRs and provide a framework for the planning of this ongoing interaction. There needs to be commentary in the framework that relates the obligations of the parties as set out in current legislation such as the Roads Act and Local Government Act and identifies gaps in the legislation that should be clarified in future planning and legislative changes.

Request

That the draft NSW Travelling Stock Reserves State Planning Framework be amended to include reference to roads as an active use of Travelling Stock Reserves and that consideration be given to the points raised above.

The Roads & Transport Directorate fully supports Berrigan Shire's submission, and provides some additional detail in relation to specific matters contained in the NSW Travelling Stock Reserves State Planning Framework 2016-19 paper.

Relationship with Roads

While TSRs serve a separate function to roads the two frequently intersect or coexist in adjoining land reservations. It therefore seems incongruous that planning for Travelling Stock Routes should be carried out in isolation from the road network which is managed predominately by State (RMS), Regional and Local (Local Councils) Road Authorities. The list of impacting legislation contained in Section 2.2 *Legislative and policy framework* should include the Roads Act 1993 and the implications of this legislation should be considered in the development of the Framework.

Civil Liability Act 2002

The Civil Liability Act 2002 operates to address perceived problems with the application of tort law and resulting increases in insurance premiums. The Civil Liability Act applies in most circumstances where negligence is alleged against a defendant.

Section 5B of the Act sets out some general principles as follows:

- (1) A person is not negligent in failing to take precautions against a risk of harm unless:
 - (a) the risk was foreseeable (that is, it is a risk of which the person knew or ought to have known), and
 - (b) the risk was not insignificant, and
 - (c) in the circumstances, a reasonable person in the person's position would have taken those precautions.

- (2) In determining whether a reasonable person would have taken precautions against a risk of harm, the court is to consider the following (amongst other relevant things):
 - (a) the probability that the harm would occur if care were not taken,
 - (b) the likely seriousness of the harm,
 - (c) the burden of taking precautions to avoid the risk of harm,
 - (d) the social utility of the activity that creates the risk of harm.

The Act provides a framework for making sure that foreseeable risks are properly assessed. It is our view that as a minimum the following matters should be taken into consideration:

Road Safety

Roads and Maritime Services as Road Authorities have responsibility for the provision of motorist' safety on the road networks that they manage. As noted above, there are many instances of TSRs and Road Reserves either running in parallel or intersecting where the safety of motorists needs to be protected. These include the provision of clear zones adjacent to road shoulders and appropriate fencing where traffic volumes and stock grazing are likely to come into conflict. Again, a process of consultation should be built into the new framework.

Rail crossings

The management of TSRs which intersect with rail corridors needs to be specifically managed to provide safe operation for both TSR and rail users.

Risk Management

The Draft paper specifically deals with risk within Schedule 2: Grazing agreement (Part 1 & 2) but does not address the wider assessment of risk necessary to insure that the framework developed minimises the liability for all members of the community that have an interest in TSR usage. In particular, the specific risks detailed above need to be specifically considered.

Consultation

Section 4. **Consultation and liaison** provides:

Locally, Local Land Services regions should identify and form relationships with a range of local organisations that have a particular interest in the management of reserves.

However, there is no mention of Local Government or the Local Council anywhere within the document. It is our contention that the local council should form a critical element of the consultation process.

Noxious weed management

Both Local Land Services and Local Councils (particularly as road authorities) have responsibility for managing noxious weeds. It is essential that actions taken to control weed infestations are coordinated so that maximum outcomes are achieved. A process of consultation should be built into the new framework.

Emergency Management

Both Local Land Services and Local Councils have responsibility for emergency management. This responsibility should be spelt out under the State Emergency and Rescue Management Act 1989 and should currently cover both parties. The new framework should reinforce these arrangements and direct users to the Local and Regional Emergency Management Plans.

Conclusions

As a result of the road network and the TSR network occupying adjacent reservations or intersecting at various locations it is essential the local councils be part of the consultation process employed in developing the NSW Travelling Stock Reserves State Planning Framework.

In particular the following topics should be the subject of detailed discussions at the local and regional level:

- Road Safety;
- Rail crossings;
- Risk Management;
- Noxious weed management; and
- Emergency Management.

IPWEA (NSW) and the Roads & Transport Directorate appreciate this opportunity to have input into the development of the NSW Travelling Stock Reserves State Planning Framework and would value any opportunity to provide additional details arising from the above submission.

For further information in relation to the submission please do not hesitate to contact the undersigned on:



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