



**Draft Road Safety (Traffic Management)
Regulatory Impact Statement 2019**

MAV Submission

16 July 2019

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Road Safety (Traffic Management) Regulatory Impact Statement, July 16 2019 has been prepared by the Municipal Association of Victoria (MAV) for discussion with member councils.

The MAV is the statutory peak body for local government in Victoria. The MAV engaged with councils across Victoria to assist the Association undertake this work. The MAV would also like to acknowledge the contribution of those who provided their comments and advice.

While this paper aims to broadly reflect the views of local government in Victoria, it does not purport to reflect the exact views of individual councils.

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1 Introduction

The Municipal Association of Victoria (MAV) is the peak representative and advocacy body for Victoria's 79 councils. Formed in 1879, the MAV is the official voice of local government in Victoria through the Municipal Association Act, 1907.

Today, the MAV is a driving and influential force behind a strong and strategically positioned local government sector. Our role is to represent and advocate the interests of local government, ensure the sector's long-term security and provide policy advice, strategic advice, capacity building programs and insurance services to local government.

Councils are the managers of local roads, responsible for decision making, investment and maintenance. The current Road Safety (Traffic Management) 2009 Regulations are due to sunset on 27 October 2019.

The Regulatory Impact Statement (RIS) for the Road Safety (Traffic Management) Regulations 2019 (the **Regulations**) outlines the responsibilities of road authorities and other bodies delivering traffic management functions, including on-road activities, regulation of road activity and the installation, operation and maintenance of traffic control devices.

The Regulations are described by the State Government as staying substantially the same as the existing Regulations. However, whilst the RIS considers the impact of various options for other interests such as VicRoads, businesses and permit applicants, there is limited assessment of the impact on councils under options relating to bicycle, foot race and highway collection permits. The MAV has concerns that some of the options would shift current State Government responsibilities to councils, increasing administrative responsibilities and potential liability.

The RIS also proposes that councils be allowed to authorise third party use of road safety and prescribed traffic control devices on municipal roads, a responsibility that currently rests with VicRoads.

2. Proposed changes to the Regulations - potential impact on councils

Permits for bicycle and foot races on public roads

Organisers of bicycle and foot races on roads currently require a permit from the Chief Commissioner of Police. A police permit application has to be submitted at least two months before a race and exempts race organisers and competitors from complying with certain Road Rules.

The preferred option 2 in the RIS proposes that police permission be required for all bicycle and foot races with no exemptions for races with less than 30 competitors. This will ensure police are aware of all races and are able to make judgements about required traffic controls.

Option 2 does not appear to change the level of authority for councils when bicycle and foot races take place on local roads. However, with no permit exemptions for smaller competitions, there will likely be an increase in the number of applications and workload for councils. The permit assessment process requires significant officer time, which is a burden for resource-poor councils. An assessment of the administrative and cost implications of option 2 for councils should be further considered by the State Government.

Although options 4 and 5 are not the Department's preferred options, the MAV does not support further consideration of either. Option 4 outlines the scenario where a non-road activity permit would replace a Victoria Police race permit, with an exemption from VicRoads for the relevant Road Rules. This option would abolish the requirement for race organisers to apply for permission from Victoria Police for bicycle and foot races on local roads. Therefore councils would be required to lead a consultation and review process, including consultation with Victoria Police for every race application a council received. This option would achieve cost savings for race organisers and Victoria Police, but place a more onerous administrative burden and responsibility on councils. The MAV considers the current established role of Victoria Police is appropriate to assess the overall suitability of an event.

The one-stop shop approach described in option 5 would empower councils to declare exemptions from Road Rules as part of their conditions for a non-road activity permit. Furthermore, option 5 would require a shift from both the coordinating road authority and the Commissioner for Police issuing separate permits, to one permit being issued by the coordinating road authority. Under this proposal, where a council is the coordinating road authority, the council would be permitting non-compliance with Road Rules.

As the RIS acknowledges, option 5 would require an amendment to the Road Safety Act. The MAV does not support consideration of councils having a function to determine non-compliance with Road Rules. It is also unlikely that all councils would have sufficient capability and skills to determine exemptions.

Highway Collection permits

Currently two permits are required (one month in advance) for fundraisers to obtain a highway collection permit – one from the relevant council and one from Victoria Police to exempt the collectors from certain road rules.

Option 2 in the RIS presents a streamlined Victoria Police permission as the preferred option, with a formal requirement prescribed in regulation that applicants provide evidence of local council approval and permit applications two months in advance. Apart from receiving applications a month earlier, from the description of this option in the RIS, there does not appear to be any change to the current council permit process.

Although not the proposed option, the RIS presents the one-stop shop permission described in option 3 as the superior option, due to the potential cost savings for State Government and applicants. Similar to the issues outlined above for option 5 under the permits for bicycle and foot races on public roads, councils would be expected to liaise with Victoria Police to determine whether an exemption to the Road Rules could be applied, rather than a separate permit application being made to Victoria Police. Option 3 would also increase the administrative requirements for councils assessing highway collection permit applications.

The MAV does not consider it appropriate that councils determine whether Road Rules will be applicable. The associated shift in responsibility would increase their potential liability.

Permit fees

The RIS includes proposals for new and increased fees for VicRoads. New fees are proposed for processing Memorandum of Authorisation (MoA) applications for permission to use major and minor traffic control devices. For example, an increase in fees from \$72 to \$307 is proposed to obtain a non-road activity permit issued by VicRoads to allow bicycle and foot races. The new and increased fees include exemptions for utilities, providers of public transport and non-commercial organisers of events. This fee should be waived for councils when working on municipal roads using major traffic control devices such as traffic lights.

The draft Regulations also cover stock control crossing permit fees. The current regulations authorise primary producers to erect stock crossing signs and related traffic control devices on local roads, subject to the issuing of a permit as required under a council's law. Not all councils charge a permit fee. The RIS refers to the potential for councils to introduce permit fees under the Local Government Act 1989.

The cost to councils processing MoAs to use traffic control devices for works or activities conducted on local roads is outside the scope of the draft RIS. There is no power in the Road Safety Act to prescribe fees for local government. However, it is not an easy process for councils to make local laws for fees under the Local Government Act 1989.

Prescribed traffic control devices

The RIS proposes a streamlined traffic control device authorisation and exemption for the new Regulations. Current traffic management regulations prescribe 63 major traffic control devices in Schedule 1. Only VicRoads can authorise the installation of these devices. Following a risk assessment by VicRoads using a variety of criteria, including the complexity and impact of installation of the different traffic control devices, it is proposed to remove 13 devices off the prescribed list. Under the proposed changes councils will be able to authorise the use of the 13 traffic control devices for traffic management on local roads.

VicRoads already has an instrument of delegation with councils that gives them the power to authorise use of the proposed 13 major traffic control devices on local roads. VicRoads justify this change to the current regulations by stating the traffic devices are low risk, and that councils have sufficient technical knowledge and operational experience to authorise use of these devices.

Proposed changes in option 2 compared to the current Regulations (option 1) are that while a traffic management plan would still be required, road authorities, utilities, providers of public transport and non-road activity organisers would be exempt from requiring authorisation from VicRoads for a traffic control device. The exceptions to this would be a traffic signal that uses lights or illuminated words or symbols to direct or warn road users.

It is also proposed that councils would be permitted to authorise other persons, for example developers and builders, to install a traffic control device other than devices currently requiring VicRoads authorisation on local roads (schedule 1 of current regulations). It is proposed that VicRoads would no longer be responsible for the authorisation of minor traffic control devices used on local roads, which would shift to councils.

The RIS proposes these changes will mean third parties will only have to deal with one road authority for road work or non-road activity consent. Some councils have highlighted the potential benefits to councils of not having to refer contractors and council-run events to VicRoads. This could help councils to achieve improved efficiency in event planning and result in quicker decision making.

While option 2 considers the impact to VicRoads and third parties, assessment of the implications for councils is absent. Any increase in responsibilities for councils will mean an increased risk and administrative burden. Given the proposal relates to minor traffic control devices and is limited to local roads, this may be a reasonable change to current regulations.

3. Conclusion

It is the view of the MAV that the RIS contains a number of options that would increase the administrative burden for councils across activities such as processing bicycle, foot race and highway collection permits and authorising the use of prescribed traffic control devices.

The MAV advocates that it is preferable Victoria Police remain the responsible agency for assessment of a permit for bicycle and foot races on public roads. The MAV does not support further consideration of options 4 or 5, which propose councils determine additional aspects of permit applications, currently delivered by Victoria Police. The MAV supports continuation of the role of Victoria Police to consider the management and safety implications of a race and associated compliance exemptions for Road Rules.

The MAV supports option 2 for the allocation of highway collection permits and does not support further consideration of option 3 due to the increased risks to councils of approving exemptions from the Road Rules.

While VicRoads has made provision for a four-fold increase in permit fees for processing Memorandum of Authorisation (MoA) applications to use major and minor traffic control devices, it would be far more complex for councils to develop a permit fee schedule under the Local Government Act 1989.

The amendment by VicRoads of 13 devices from major to minor traffic control devices under the proposed new regulations, will move responsibility for them to councils. However, councils may feel they can achieve efficiency savings for the delivery of council works by contractors and be confident they have the appropriate technical and operational skills to utilise these traffic devices on local roads, without seeking authorisation from VicRoads.

The MAV would welcome the opportunity to have further discussions with the State Government and review the issues outlined on behalf of councils in this submission.