



Victoria Government Gazette

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Subordinate Legislation Act 1994

NOTICE OF DECISION

Proposed Road Management (Works and Infrastructure) Regulations 2005

I, Peter Batchelor, Minister for Transport, give notice under section 12 of the **Subordinate Legislation Act 1994**, as follows:

A regulatory impact statement (RIS) was prepared in respect of the proposed Road Management (Works and Infrastructure) Regulations 2005 and advertised for public comment in accordance with Part 2 of the **Subordinate Legislation Act 1994**.

83 submissions were received in response to the RIS. Following consideration of these submissions, I have decided to recommend that the proposed Regulations be made, with the following amendments:

- The definition of “driveway works” has been amended to refer to “roadway” for consistency with the **Road Management Act 2004 (RMA)**.
- The definition of “minor works” has been amended as follows:
 - (a) paragraph (c) has been amended so that minor works include works consisting of the excavation of an area of roadway, pathway or shoulder not exceeding 8.5 square metres, rather than 5 square metres, as was proposed;
 - (b) paragraph (f) has been amended so that minor works include replacement of a single pole in an urban area (where it is not part of the replacement of 2 or more consecutive poles) and the replacement or relocation of not more than 3 poles in an area other than an urban area (where it is not part of the replacement or relocation of more than 3 consecutive poles);
 - (c) a minor amendment has been made to paragraph (g), to include reference to a tree, as well as other vegetation for consistency with the definition of “works” in the **RMA**;
 - (d) a new paragraph (h) has been inserted to include in the definition of minor works, the removal of a tree or other vegetation by a road authority or its agent, or by a utility or its agent in accordance with an Act other than the **RMA**. The purpose of this amendment is to ensure that where a road authority, a utility or their agent removes vegetation in accordance with other authorising legislation, it is treated as minor works for which consent is not required;
 - (e) the definition now clarifies that minor works do not include any works described in paragraphs (a) to (h) if they consist of, or include, the excavation of an area of roadway, pathway or shoulder that exceeds 8.5 square metres.
- The definition of “supply extension works” has been amended as follows:
 - (a) the distance of 50 metres that was specified in relation to the distance over which underground works may be undertaken in an urban area for connection to a service, has been increased to 100 metres to recognise the size of allotment frontages that exist in some urban areas;
 - (b) the wording of paragraph (a)(ii) has been amended to clarify that the definition includes overhead works for connection to a service in an urban area that involves the installation of an additional pole (ie. a net increase of more than one pole);
 - (c) the wording of paragraph (b)(ii) has been amended to clarify that the definition includes overhead works for connection to a service in an area other than an urban area, that involves the installation of more than 3 additional poles (ie. a net increase of more than 3 poles).

SPECIAL

- Regulation 5(1)(b) provided that utilities and responsible road authorities, and the agents of those bodies, are exempt from the requirement to give notice under clause 13(1) of Schedule 7 to the **RMA** (notice of completion of works) in the case of minor works, other than traffic impact works and works relating to excavation of a part of a roadway, pathway or shoulder. Paragraph (ii) has been amended to clarify that such an excavation does not include an excavation which is associated with the repair, maintenance installation or replacement of a pole.
- Regulation 12(a) provides an exemption from the requirement under section 63(1) of the **RMA** to obtain written consent from the coordinating road authority for the conduct of works consisting of driveway works or mowing any part of a roadside (other than a roadside on a freeway) if the works do not have a significant impact on road safety, traffic or other infrastructure. Paragraph (a) has been amended to clarify that the exemption only applies to driveway works giving access to an arterial road. The proposed footnote to this regulation has also been removed.
- Regulation 14(1) sets out the kinds of conditions which may not be imposed by a coordinating road authority on a consent given under section 63 of the **RMA**. Sub-regulation (1) has been amended as follows:
 - (a) paragraph (b) has been amended to clarify that it was intended to cover the technical design of, or the equipment or techniques used in, the installation of a service provided by a utility;
 - (b) paragraph (e) has been inserted to specify an additional condition relating to environmental impact considerations other than in relation to works and infrastructure principles and the matters referred to in clause 14 of Schedule 7 to the **RMA**;
 - (c) a footnote has been inserted after new paragraph (e) to draw attention to the requirements of clause 14(3)(g) of Schedule 7;
 - (d) paragraph (f) has been inserted to specify an additional condition requiring an indemnity other than an indemnity in respect of the conduct of the works that does not extend beyond a 12 month warranty period.
- Regulation 14(2) provides that a coordinating road authority may not impose on a consent given to a utility under section 63(1), a condition relating to financial security in respect of the conduct of the works. This has been amended for consistency with sub-regulation (1)(f) to specify that this does not include an indemnity in respect of the conduct of the works that does not extend beyond a 12 month warranty period.
- Regulation 18 sets out the fees payable for applications for consent to works under Clause 16 of Schedule 7 to the **RMA**. The proposed fee in respect of an application to conduct minor works on any part of the roadway, pathway or shoulder on a municipal road or non-arterial State road on which the maximum speed limit for vehicles is not more than 50 kilometres per hour, was to be fixed at 5 fee units. However, after consideration of the issues raised in a large number of submissions, it was recognised that the RIS had underestimated the costs and resources associated with the assessment of these applications, including carrying out the necessary inspections. It was clear that similar costs and resources are involved in the assessment of these applications as are applicable to those relating to other categories of road to which this regulation applies. It was therefore considered appropriate to increase the fee to 11.5 fee units for consistency with the fees that were proposed and costed in the RIS in respect of similar works on these other categories of road.

Dated 10 June 2005

PETER BATCHELOR MP
Minister for Transport

Subordinate Legislation Act 1994

NOTICE OF DECISION

Proposed Road Management (General) Regulations 2005

I, Peter Batchelor, Minister for Transport, give notice under section 12 of the **Subordinate Legislation Act 1994**, as follows:

A regulatory impact statement (RIS) was prepared in respect of the proposed Road Management (General) Regulations 2005 and advertised for public comment in accordance with Part 2 of the **Subordinate Legislation Act 1994**.

In total 18 submissions were received in response to the RIS, including some received after the closing date. Following consideration of all of these submissions, I have decided to recommend that the proposed Regulations be made, with the following amendments:

- Regulation 301 prescribes the intervals at which a road management plan must be reviewed as required by section 54 of the **Road Management Act 2004**. A number of amendments have been made to this regulation as detailed below:
 - (a) Regulation 301(2) prescribes the interval at which a road management plan must be reviewed by a road authority that is not a municipal council. This regulation has been amended to provide that this prescribed period may be extended by the relevant road minister. A further minor amendment to sub-regulation (2)(a)(ii) has added the omitted word “a” between “of” and “plan”.
 - (b) Regulation 301(3) prescribes the interval at which a road authority that is a municipal council must review its road management plan. This regulation had fixed this interval as the period referred to in section 125(1)(b) of the **Local Government Act 1989**, to provide consistency with the review period for Council Plans under that Act. However, the unintended effect of this was that a large number of councils would in fact be required to review their plans made after June 2004 by June 2006, because of Council elections which are due to be held in November 2005. Following consideration of this issue, it has been decided to amend regulation 301(3) as follows:
 - (i) Sub-regulation 3(a) now requires an incoming council elected at the general election due on 29 November 2008 to commence a review of its road management plan before 1 January 2009 and complete the review by 30 June 2009, unless extended by the Minister administering the **Local Government Act 1989**. The reason for specifying these dates is that section 31(1) of the **Local Government Act 1989** requires a general election for all municipal councils to be held on 29 November 2008 and on the last Saturday in November every 4 years from then on.
 - (ii) Sub-regulation (3)(b) now requires a Council elected at a general election held in subsequent years to review its road management plan during the same period as it is preparing its Council Plan under the **Local Government Act 1989**. Generally speaking, Council Plans must be reviewed within six months of a Council election, unless extended by the Minister administering that Act.
 - (c) The footnote (now 3 separate notes) to regulation 301(3) has been amended to point out that the Minister administering the **Local Government Act 1989** is the relevant road Minister for the purposes of the **Road Management Act 2004** in relation to municipal councils.
- Regulation 502(2) has been amended to correct a minor drafting error and to clarify the effect of the exemption from the offence in sub-regulation (1), by separating out the two parts of the exemption.

- Regulation 503(1) has been amended for consistency of drafting to qualify sub-regulation (1) as being “subject to sub-regulation (2)”.
- Regulation 504 deals with unauthorised entry to VicRoads property which is appropriately signposted. Sub-regulation (2) has been amended for consistency of drafting to qualify it as being “subject to sub-regulation (3)”. Sub-regulation (4) requires a person who enters such property to produce, on demand by an authorised officer, the consent from VicRoads allowing the person to enter. This regulation has been amended to include reference to a member of the police force as a person to whom a consent must be produced. A further minor amendment to sub-regulation 3(a) has added the omitted word “to” between “permitted” and “enter”. In sub-regulation (3)(c) the reference to “department or a public authority” under the “**Public Sector Management and Employment Act 1998**” (which was repealed on 5 April 2005) has been replaced by a reference to “public sector body” under the “**Public Administration Act 2004**”.
- Regulation 506 prohibits camping on a road reserve or ancillary area of a freeway or arterial road. This regulation has been amended to include an exemption for a person who is authorised by VicRoads to do so, to enable VicRoads to authorise certain organisations or individuals to erect shelters for specific purposes from time to time.
- Regulation 601 prescribes additional offences for which a road management infringement notice may be issued under section 90 of the **Road Management Act 2004**. The footnote following this regulation has been amended to include reference to a member of the police force for consistency with recent amendments to sections 90, 92 and 93 of that Act which now extend these powers to police. It also clarifies that the reference to an authorised officer means an authorised officer of a road authority.
- Regulation 701(b) has been amended to refer to a road or “part of a road” to be consistent with section 42 of the **Road Management Act 2004**. In part (c) of the regulation the reference to clause 4 has been corrected to clause 3 of Schedule 2.
- Schedule 1 lists the offences in the Regulations for which a road management infringement notice may be served under section 90 of the **Road Management Act 2004**. This Schedule has been amended to correct the cross referencing to the relevant regulations, add item numbers to assist in referencing (including any future amendments) and to remove the offence of entering or remaining in a construction zone without consent, as there is no corresponding offence in the Regulations.
- Schedule 2 prescribes the form of an infringement notice for the purpose of section 90 of the **Road Management Act 2004**. This form has been amended to make minor formatting improvements, include provision for signing by a member of the police force and to clarify the information required to be provided on such a notice in relation to the consequences if the penalty specified in the notice is paid, or if it is not paid, by the date specified in the notice and inclusion of a prompt to insert the date by which the penalty must be paid. The changes also include instructions for a person who wishes to have the matter dealt with by a court.

Dated 10 June 2005

PETER BATCHELOR MP
Minister for Transport

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