

CLARENCE CITY COUNCIL
PROPOSED LOCAL HIGHWAYS STANDARD REQUIREMENTS
BY-LAW No. 1 OF 2024
REGULATORY IMPACT STATEMENT

1. BACKGROUND TO REGULATORY IMPACT STATEMENT

Under section 156A of the Local Government Act 1993 (Tas.) (**the Act**), Council is required to prepare a Regulatory Impact Statement (RIS) when seeking to make a new by-law or significantly amending an existing by-law.

The preparation of a RIS involves Council undertaking an analysis of the following:

- the objectives of the by-law and the means by which the by-law is intended to achieve them;
- the nature of any restriction on competition;
- an assessment of the costs and benefits of any restriction on competition;
- an assessment of the costs and benefits of any impact on the conduct of business;
- any alternative options considered by Council;
- an assessment of the greatest net benefit or least net cost to the community;
- an assessment of the direct and indirect economic, social and environmental impact of the by-law;

The RIS is to also provide details on the proposed public consultation process. After the RIS is endorsed by Council, the RIS and the proposed by-law are submitted to the Director of Local Government, Department of Premier and Cabinet for assessment. If the Director is satisfied that the RIS meets the statutory requirements, the Director will then issue a certificate and Council is then permitted to begin the public consultation process.

Pursuant to section 158 of the Act, copies of the by-law and the RIS are available by contacting Council by any of the following means:

Telephone: 62179500

Website: www.clarence.tas.gov.au

Email: governance@ccc.tas.gov.au

In person: 38 Bligh Street, Rosny Park, 7018 Monday to Friday 8.30am to 5.15pm

Copies of the documents are available upon request or may be viewed at the Council's office.

2. BACKGROUND TO THE BY-LAW

The proposed Local Highways Standard Requirements By-law (No. 1 of 2024) has been drafted for the purpose of replacing the existing Local Highways Standard Requirements which is due to expire in December 2024.

In 2004, Council created a new Local Highways Standard By-law which incorporated content from the Crossings By-law No. 5 of 1995 and the Local Highways Standard Requirements By-law No. 6 of 1995.

The by-law was made to deal primarily with standard requirements for highways in subdivisions, to provide for the design, construction and inspection of works, and to deal with works in highways.

Under section 155 of the Act, the existing by-law will expire in December 2024 and is required to either be renewed or repealed and replaced with a new by-law. Consequently, Council has resolved to make the proposed Local Highways Standard Requirements By-law No. 1 of 2024 to replace the existing by-law.

The proposed by-law incorporates clauses from the existing by-law, amends definitions and inserts new definitions. The proposed by-law has removed nature strip maintenance and development in recognition that council has implemented a nature strip policy over the past decade. References to awnings have also been removed as there are more appropriate mechanisms, for example licencing and easements to manage awnings over a highway.

The by-law has amended minimum reservation widths and minimum footpath widths for highways. This reflects that current footpath widths are insufficient, and accessibility is compromised where footpaths are not provided on both sides of the road. This proposed change aligns with strategies and goals of Council and encourages walkable neighbourhoods. The increase in widths also allows for better accessibility and aligns with Austroads guidelines.

3. COUNCIL'S PRACTICES AND POLICIES

As the road authority for the municipality of Clarence, Council is responsible for the care, control and management of local highways. Council is therefore concerned with the standards required of subdivision highways and any works or development or use undertaken in highways which may affect Council's highways.

The proposed by-law continues the practice of relying upon the Tasmanian Standard Drawings to provide information on the minimum standards required by Council for the design and construction of roads and utilities.

The Tasmanian Standard Drawings offer guidance to engineers, designers and contractors in designing and constructing new roads and associated assets.

4. THE OBJECTIVES OF THE BY-LAW (section 156A(2)(a))

The primary objectives of the proposed by-law are to:

- define standards and requirements for works associated with the construction of new local highways arising from the subdivision of land;
- provide a regulatory framework for the opening and use of local highways;
- provide a regulatory framework for the use and further development of local highways,
- provide a regulatory framework for the construction and maintenance of crossings.

The objectives of the proposed by-law are intended to be achieved by:

- providing for infringement notices to be issued where an offence is committed under the by-law;
- prescribing standards by which local highways, footpaths, crossings are to be constructed;
- regulating the use and development of road reservations;
- ensuring a safe environment for the public's use of highways in the municipal area; and
- providing authorised officers with the power to provide direction or give notices in relation to matters arising under the by-law.

5. NATURE OF ANY RESTRICTION OF COMPETITION (Section 156A(2)(b)) AND COSTS AND BENEFITS OF ANY RESTRICTION ON COMPETITION (Section 156A(2)(c)(i))

The proposed by-law covers issues of regulation and enforcement in relation to the construction, design and use of local highways and associated assets. The proposed by-law does not result in any restriction on competition.

6. COST AND BENEFITS OF ANY IMPACT ON THE CONDUCT OF BUSINESS (Section 156A(2)(c)(ii))

The standards and requirements for works associated with the construction of new highways and associated infrastructure are a primary factor in the cost to develop land for new housing and commercial/industrial uses. The costs are initially borne by the developer but are ultimately passed onto future owners. As the responsible road authority, it is necessary for council to specify minimum standards to ensure that infrastructure meets safety, functionality, and accessibility requirements of future occupants and users and minimises financial burden on the wider community. Furthermore, clear specification of

minimum standards provides developers with a degree of confidence to progress their developments.

The proposed by-law includes three main changes from the existing by-law:

- increased minimum road reservation widths (varies by road hierarchy);
- increased minimum footpath widths (1.5m to 1.8m); and
- requirement to construct footpaths on both sides of all urban/suburban roads.

Two recent residential subdivisions have been analysed to assess the financial impacts of the aforementioned changes; a 10 hectare subdivision in Tranmere and a 22 hectare subdivision in Rokeby.

The impact of increasing minimum road reservation widths is a reduction in the amount of land available for sale to prospective purchasers. The quantum of the impact varies depending on the mix of road hierarchy levels required in the development. The area of land currently required for road reservations is 19.2% and 26.2% of the total area of the two respective developments. Applying the minimum road reservation widths specified in the proposed by-law, the areas would increase to 21.9% and 28.4% respectively. The impact to the developer is therefore a reduction in land for sale of 2.2% to 2.6%. This impact may be offset by reducing the need for retaining structures and simplifying the installation of underground infrastructure.

The impact of increasing the width of footpaths in each subdivision would be an increase in area of 12% to 15% (excluding the length of footpaths within property accesses which extend to the property boundary).

The impact of constructing footpaths on both sides of all roads varies considerably due to the mix of road hierarchy levels. For the two example subdivisions, the impact would be an increase in area between 5% and 73% (also excluding the length of footpaths within property accesses).

7. ALTERNATIVE OPTIONS CONSIDERED BY COUNCIL (section 156A(2)(d))

The aim of the proposed by-law is to continue the relevant clauses of the existing by-law and to introduce new minimum standards to reflect Council's current policies and practices.

The objectives of the by-law are to standardise and control the construction and use of local highways and crossings. The residents of the Clarence municipality who use the local highways and the subdividers that construct local highways are both used to the control, regulations and consequential benefits of the existing by-law that are to be continued under the proposed by-law.

An alternative to creating a new by-law is to rely upon policy alone. It is considered that this is not an acceptable alternative particularly in relation to regulation and enforcement which are critical functions under a by-law. A policy alone would not offer council the ability to implement methods of regulation and enforcement, in particular the use of infringement notices for significant non-compliance.

There are no other alternatives to the proposed by-law that have the same effect and benefit of a by-law. Without the by-law, Council would not be able to set out its standard

requirements and control the use and development of highways and crossings.

8. GREATEST NET BENEFIT/LEAST NET COST ALTERNATIVE (section 156A(2)(e))

The greatest net benefit to the Clarence municipality in the making of the proposed by-law is to ensure that the local highways that will eventually vest in Council are constructed to the standard required by Council. Additionally, there is a benefit in Council being able to specify the use and development of highways, crossings and nature strips so that residents and subdividers are aware of their rights and obligations.

The failure to have such a by-law would place the Clarence municipality at risk of unregulated and unsafe use and development of local highways and crossings and the construction of local highways to no specific standard.

The by-law is intended to protect council's built assets and ensure that an appropriate regulatory framework is in place which protects those assets. Without this regulatory framework, council's highways are at increased risk of damage.

9. DIRECT/INDIRECT ECONOMIC, SOCIAL, ENVIRONMENTAL IMPACT (section 156A(2)(f))

Economic

It is anticipated that the additional requirements proposed in the by-law may have some economic impact which can be summarised as below:

- 0%-20% increase in road reservation width which will require developers to set aside an additional 2.2 to 2.7% of their development to allow for the wider road reservation;
- 300mm increase to minimum footpath width (approximately 12 to 15% increase). Increased construction costs maybe be passed on to prospective buyers. There is also a cost impact to Council through a proportional increase in depreciation expense for the contributed assets;
- construction of footpath on both sides of all urban/suburban roads (approximately 5 to 73% increase). Increased construction costs maybe be passed on to prospective buyers. There is also a cost impact to Council through a proportional increase in depreciation expense for the contributed assets.

Current minimum footpath width - 1.5m		
Total length contributed 2019/20 to 2023/24	25.3	km
Average length per year	5.06	km/year
Replacement cost of new footpaths	\$1,420,241	
Current impact on Council's annual operating expenditure		
Depreciation expense (60 year useful life)	\$23,671	/year
Extra replacement cost due to increase of minimum width to 1.8m		
Replacement cost of increased width	\$284,048	

Additional impact on Council's annual operating expenditure		
Depreciation expense of increased width	\$4,734	/year

The economic benefits of the proposed by-law include:

- regulating the standards for the construction of local highways;
- regulating the works that may be undertaken in or adjacent to local highways;
- specifying that local highways are constructed to specific standards to ensure that local highways vested in council can be managed effectively and efficiently throughout their lifecycle for the benefit of the community;
- wider road reservations will provide more space for the installation of underground services and other third party utilities' infrastructure. This will simplify the installation and future maintenance of this infrastructure reducing the operating costs to those service providers and council;
- wider road reservations will reduce the requirement for retaining structures; and
- wider road reservations also simplify the construction of accesses to properties, particularly in hilly terrain, which will reduce the costs currently borne by purchasers.

Social

The proposed by-law essentially continues provisions already in place under the existing by-law. The proposed changes to the minimum standards in the by-law will have the following social benefits:

- wider road reservations will provide more space for street trees and landscaping having a positive impact on amenity;
- wider footpaths and provision of footpaths on both sides of roads will improve accessibility for people with mobility challenges; and
- wider footpaths and provision of footpaths on both sides of roads will improve safety for pedestrians and cyclists.

Environmental

The proposed by-law will have the following environmental benefits:

- providing space for, and subsequent planting of, street trees will offset the "heat island" effect of urban development;
- wider footpaths and provision of footpaths on both sides of roads will encourage more walking and cycling activity, improving access to public transport and reducing reliance on personal car trips; and
- providing space for Water Sensitive Urban Design assets that enable stormwater quality to be improved close to the source of pollution.

	Direct	Indirect
Social	<i>Benefit</i> Continued regulation of Council's highways and associated assets (consumers, community, Council) Enforcement of non-compliance Improved Council assets Improved public health and safety	<i>Benefit</i> Ratepayer satisfaction that Council is taking over highways and associated assets that are built to a certain standard Increase the appeal of Clarence as an attractive place to live and work Community satisfaction that by-law is applied equally to all sectors

	Provides guidance in how a permit may be granted Minimises potential safety hazards	of the community that use Council's highway infrastructure
Environmental	Controls the undertaking of works by way of specific standard requirements and permits	Nil
Economic	<i>Benefit</i> Penalties imposed for non-compliance <i>Costs</i> Continued administrative and enforcement costs in implementing and administering by-law	<i>Benefit</i> Assists in minimising the financial burden on ratepayers;

10. PUBLIC CONSULTATION PROCESS (section 156A(2)(g))

As part of the by-law making process, submissions will be invited from the public and external stakeholders upon Council receiving certification from the Director of Local Government under section 156A(6) of the Act.

Submissions on the proposed by-law may be made in writing to the Chief Executive Officer within 21 days from the date of publication of the initial notice in the Mercury newspaper.

Council will also undertake the following consultation process:

- Advertisement of the proposed by-law on Council's website at www.ccc.tas.gov.au;
- Direct consultation with the Department of State Growth and Tasmania Police and other stakeholders;
- Broad public consultation through the use of council's Have Your Say portal;
- Advertisement of the proposed by-law in council's foyer.

Council will consider all submissions made to it during the public consultation period and make amendments to the proposed by-law as necessary.

Copies of the proposed by-law and RIS are available from the Council Office at 38 Bligh Street, Rosny Park or on the Council website – www.ccc.tas.gov.au. Enquiries may be directed to Council's Head of Governance, Clare Shea on 6245 8695 or governance@ccc.tas.gov.au.

SIGNED

Ian Nelson

Chief Executive Officer

Dated this day of 2024