

ADOPTED		VERSION NO	1.1
COUNCIL MEETING MIN	193/23	REVIEW DATE	SEPTEMBER 2025
DATE:	16 AUGUST 2023	FILE NUMBER	ROA100072

Introduction

1. The Council is the roads authority and owner of all public roads other than freeways and Crown roads in its local government area.
2. Section 138 of the Roads Act makes it an offence for a person to do any of the following without the consent of the appropriate roads authority
 - a) erect a structure or carry out a work in, on or over a public road, or
 - b) dig up or disturb the surface of a public road, or
 - c) remove or interfere with a structure, work or tree on a public road, or
 - d) pump water into a public road from any land adjoining the road, or
 - e) connect a road (whether public or private) to a classified road,
3. Section 138 provides that consent may not be given with respect to a classified road except with the concurrence of Transport for NSW. A classified road means any of the following:
 - a) a main road,
 - b) a highway,
 - c) a freeway,
 - d) a controlled access road,
 - e) a secondary road,
 - f) a tourist road,
 - g) a tollway,
 - h) a transitway,
 - i) a State work.
4. Section 139 of the Roads Act provides that a consent under section 138 may be granted on the roads authority's initiative or on the application of any person, and may be granted on such conditions as the roads authority thinks fit.
5. Major developments on private land within the Council's local government area, including but not limited to *State significant development* within the meaning of the *Environmental Planning and Assessment Act 1979 (EPA Act)*, typically create a need for road works to upgrade roads within the Council's local road network to cater for traffic generated by the developments.
6. Development consents granted for major developments frequently require developers to upgrade roads within the Council's local road network.

Purpose of this Policy

7. This Policy sets out the Council's requirements for the granting of consent under section 138 of the Roads Act to applications made by or on behalf of private developers to carry out road work to upgrade roads within the Council's local road network for which the Council is the roads authority under the Roads Act.

Policy objectives

8. To ensure compliance with the Roads Act 1993.
9. To provide for the fair and consistent exercise of the Council's functions under section 138 and 139 of the Roads Act in respect of applications made by or on behalf of private developers of major developments within the Council's local government area to upgrade roads within the Council's local road network in connection with such development.
10. To ensure that safe and high quality road infrastructure is provided in connection with major development undertaken by private developers in the Council's area.
11. To ensure developers are aware of councils intent to undertake road upgrades on local roads within the council area.

Legislative requirements

Roads Act 1993, sections 138 and 139.

Related policies and plans

Nil

Policy statement

- The Council prefers to carry out road work to upgrade roads within the Council's local road network, including where developers may be required by a condition of development consent for major development, including State Significant development under the EPA Act, to upgrade roads within the Council's network.
- Developers of proposed major development, including State significant development, should wherever practicable, undertake consultation with Council in its capacity as roads authority relating to road work that will or may be required to upgrade roads in connection with the proposed development (such as design, specifications, cost etc.) prior to making an application for development consent to the consent authority in respect of the development under the EPA Act,
- Arrangements for road work to upgrade roads in connection with proposed major development resulting from pre-development application consultations with Council in its capacity as roads authority should, wherever practicable, be reflected in the development application and recognise the Council's preference, as stated in this Policy, to carry out the road works itself.

- Irrespective of whether developers undertake consultation with the Council in its capacity as roads authority before making development applications for major development, Council will, when consulted by the consent authority in relation to the proposed development, indicate Council's policy position that it prefers to carry out road works in connection with the development itself and seek to have this reflected in the conditions of development consent.
- Developers of major development, including State significant development, should make applications for consent under section 138 of the Roads Act to carry out road work in connection with such development reflecting the Council's preference (as stated in the Policy) to carry out the road works.
- Where a condition of development consent for major development, including State significant development, requires the developer itself to undertake road work in connection with the development, the section 138 application should provide for the Council to carry out the road work on the developer's behalf in accordance with the Council's standard terms and conditions for road works on behalf of private developers, a copy of which is available from Council on request.
- The Council's standard terms and conditions for road works on behalf of private developers will generally be incorporated into the conditions of any consent granted by the Council to a section 138 application.