Road Safety

(Traffic Management)

Regulations 2019

Regulatory Impact Statement

How you can have your say

This Regulatory Impact Statement (RIS) has been prepared to fulfil the requirements of the *Subordinate Legislation Act 1994* and the *Victorian Guide to Regulation,* andto facilitate public consultation on the proposed Road Safety (Traffic Management) Regulations 2019 (the proposed Regulations). A copy of the proposed regulations is provided as an attachment to this RIS.

In accordance with the *Victorian Guide to Regulation*, the Victorian government seeks to ensure that regulations are well targeted, effective and appropriate, and that they impose the lowest possible burden on Victorian businesses and the community.

Public comments and submissions are invited on the proposed Regulations in response to the information provided in this RIS. In the interests of ensuring transparency and accountability, all submissions will be treated and managed as public documents and may be published on the relevant Government website(s), except for those submissions clearly marked as ‘private and confidential’. You can also choose to make an anonymous submission by not providing your name.

Please submit comments or submissions by no later than 5pm on 16 July 2019:

* by post to:

Proposed Road Safety (Traffic Management) Regulations 2019 consultation

Department of Transport

GPO BOX 2392

Level 10, 1 Spring Street

Melbourne Victoria 3001

* or responses can be submitted online through the Department of Transport’s Get Involved website: https://getinvolved.transport.vic.gov.au/

Please clearly identify that your comments or submission relates to this RIS by placing ‘Submission on proposed Road Safety (Traffic Management) Regulations 2019’ in the document heading if submitted by post. All comments and submissions will be considered prior to the Regulations being made.

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Executive Summary

**Introduction**

The Road Safety (Traffic Management) Regulations 2009 (current regulations) came into effect on 9 November 2009 and sunset on 27 October 2019.

The proposed regulations (Road Safety (Traffic Management) Regulations 2019) prescribe requirements for:

the installation and management of traffic control devices;

activities on roads such as bicycle/foot races and highway collections;

traffic management plans;

memoranda of authorisation and non-road activity permit fees; and

miscellaneous matters

Traffic control devices (e.g. traffic signs, road markings, traffic signals or other devices used to direct or warn traffic on, entering or leaving a road) are integral to the safe and efficient use and operation of Victoria’s roads and support the Road Safety Road Rules 2017 (Road Rules) which are to be observed by all road users. The Road Rules are designed to control the use of roads, convey vital information to road users, make intersections safe, and provide protection for vulnerable road users.

The proposed regulations affect road authorities, utilities, providers of public transport, other persons (developers, builders etc), Victoria Police, event organisers of non-road activities such as festivals, bicycle and foot races, fundraisers involved in highway collections, primary producers (livestock) and school-crossing supervisors when conducting works or activities on roads.

**Objectives**

The primary objective is to provide safe and efficient use of the public road network for road users during periods of interference from works and activities conducted on the road, and the safety of persons engaged in the conduct of works and activities.

The secondary objective is to provide for the efficient and equitable administration of traffic management regulation.

**Nature and Extent of the Problem**

The rationale for government intervention into traffic management associated with the conduct of works or activities within road reserves is first and foremost to prevent road safety hazards and avoid traffic congestion. Secondly, to manage the responsible use of road reserves by infrastructure managers (eg. utilities, providers of public transport) or other persons in a manner that ensures that the primary purpose of the road network to provide for the movement of people and goods, and to protect the integrity of road infrastructure, is not compromised.

The primary function of a road is to meet the transport needs of the community, including motor vehicle owners, freight operators, providers of public transport, motorcyclists and bicyclists. The pathways (footpaths) serve the needs of pedestrians and bicyclists. However, from time to time, the use of the public road network is shared with a range of infrastructure managers and other persons conducting works or performing activities (eg. non-road activities) within the road reserve. These various works and activities all have the potential to affect the normal use of a road and adversely impact on road user safety and operational efficiency.

VicRoads, other State road authorities (eg. Parks Victoria, Department of Environment, Land, Water and Planning) and the 79 local council road authorities (road authorities) own and manage the public road network and are responsible for ensuring roads are safe and efficient for all road users. Road authorities are liable (under Part 6 Civil Liability of the *Road Management Act 2004*) for property damage, personal injury or other damages resulting from an incident incurred by a road user due to the condition of the road unless the road authority is compliant with its published inspection, maintenance and repair regime as set out in its road management plan. Compliance with the road management plan provides a defence for the road authority against claims for compensation arising from such an incident.

Given that the road authority is responsible for the installation, maintenance and repair of traffic control devices, and potentially liable for the misuse of traffic control devices that may cause an incident, it is reasonable to expect that any third-party that seeks to interfere with the normal use of an existing permanent traffic control device on a road by either removing or altering that device, or by temporarily erecting, displaying or placing a new device on a road, should have the appropriate prior authorisation from the relevant road authority.

In the absence of regulation (base case), it would not be possible under section 99 of the *Road Safety Act* *1986* (the Act) for the aforementioned third-parties to interfere with the normal use of existing traffic control devices or install new temporary devices. This would have far-reaching implications for the various third-parties and road users, such as preventing Victoria Police from disabling traffic signals so that they can direct and control traffic (particularly at large sporting and community events or at a road accident scene) or preventing road works contractors from covering permanent speed limit signs and installing 40 km/h temporary works speed-limit signs and other warning devices at a roadworks site.

In addition, without the relevant information regarding the timing of works or non-road activities, VicRoads would be unable to determine whether intersection and pedestrian traffic signals need to be adjusted to assist in reducing traffic congestion.

Also, in the absence of regulation, it would not be possible for a person (school crossing supervisor) to display and remove a children’s crossing flag or hand-held stop sign. As a result, these crossings would become inoperable

Victoria Police has primary responsibility for bicycle and foot races and highway collections conducted on a road, including the provision of exemptions from specific Road Rules related to these activities. In the absence of regulation, the Road Rules prevent the effective operation of bicycle and foot races and highway collections on roads. For example, Rule 151 prohibits a bicycle rider from riding alongside more than one other rider in a marked lane. This would make a peloton illegal during a road race. Rule 230 requires a pedestrian to not stay on the road longer than necessary to cross the road safely. Accordingly, the Road Rules do not make allowances for highway collectors to remain on the road.

In respect of traffic management plans, section 99 of the Act requires all third-parties to prepare a traffic management plan each time they conduct works or non-road activities on a road.

In the absence of the regulations, road authorities, utilities, providers of public transport and other persons would most likely use the Code of Practice for Worksite Safety – Traffic Management (as made under the *Road Management Act 2004* and *Road Safety Act 1986*) to prepare a traffic management plan. While there are no penalties for non-compliance with the Code, these third-parties are required to submit a traffic management plan with their application for consent to conduct works on a road. Accordingly, coordinating road authorities are able to enforce the Code’s traffic management plan requirements under section 99B(4)(b) as part of their determination of an application for consent to conduct works on a road.

Similarly, non-road activity organisers would likely use the Code to prepare a traffic management plan and are required to submit the plan with their non-road activity permit application to a coordinating road authority who could apply the Code’s general guidance as part of their determination of an application for a non-road activity permit.

**Risk Assessment of Traffic Control Devices**

There are three broad categories of traffic control devices and the level of risk of an incident if road users ignore the directions of these devices is shown in Table A below.

Table A: Risk Assessment of Traffic Control Devices

|  |  |
| --- | --- |
| Category of Device  | Risk of Incident if Road Users Ignore Device |
| Significant road safety & traffic operational traffic control device (Major traffic control device) | High |
| General warning and information traffic control device (Minor traffic control device) | Medium |
| Road works warning traffic control device (Works advisory device)  | Medium to Low |

Significant road safety and traffic operational traffic control devices (ie. major traffic control devices) determine what road users may do, and non-observance can have a significant impact on the use of a road; both from a road safety and operational efficiency perspective. For example, the non-observance of a traffic signal by a driver could result in a collision with another vehicle if the driver disobeyed a red traffic signal and potentially result in serious injury or death. The resultant incident could also potentially disrupt the normal flow of traffic through the intersection and cause traffic congestion for other motorists.

Significant road safety and traffic operational traffic control devices (generally regulatory in nature) include traffic signals, speed limit signs, no left turn or no right turn signs where a tram operates, bus lane signs, clearway signs, shared zone signs and pedestrian crossing signs.

A general warning and information traffic control device (ie. minor traffic control device) provides warnings and information to drivers or pedestrians on the use of roads. While the risks associated with the use of these devices are lower, their inappropriate use, failure to observe or lack of clarity in the messages conveyed to road users may still result in safety risks and local congestion.

A road works warning traffic control device (ie. works advisory device) provides warning or advice to drivers or pedestrians in relation to works or non-road activities conducted on roads. These devices include traffic signs that indicate:

that there are roadworks or road workers ahead;

a loose, uneven, unmade or slippery surface;

the absence of line markings;

a detour or a lane closure;

that a road or part of a road is closed to traffic;

the direction in which traffic should travel such as arrows indicating a change of direction; and

other devices such as a road hump, traffic cone and bollard.

The inappropriate or non-use of road works warning traffic control devices can increase the risk to both road users and road workers at a roadworks site, resulting in a failure to conduct works safely in accordance with section 99A of the Act.

Table B below shows the likely risk of traffic congestion that would arise through the use of the different categories of traffic control devices by road authorities and third-parties when conducting works and non-road activities.

Table B: Risk of Traffic Congestion – Works and Non-Road Activities

|  |  |  |  |
| --- | --- | --- | --- |
|  | Significant Road Safety & Traffic Operational Traffic Control Devices (Major traffic control device) | Road Works Warning Traffic Control Devices (Works advisory device) | General Warning and Information Traffic Control Devices (Minor traffic control device) |
| VicRoads | Low to Medium | Low | Low |
| Other Road authorities  | Medium to High | Low | Low |
| Utilities | High | Low | Medium |
| Providers of public transport | High | Low | Medium |
| Non-road activities  | High | Low | Medium |
| Developers and other persons | High | Medium | Medium |
| Police | Low | Low | Low |
| Primary Producers | High | Medium | Medium |

The Department of Transport (the Department) has assessed the road safety risk to road users and the risk of traffic congestion for works and non-road activities conducted by different third-parties to determine the type of traffic control device each third-party is permitted to use and the type of device that requires authorisation from the relevant road authority. Table C shows the types of traffic control devices that the current regulations authorise the use of by road authorities, utilities, providers of public transport, persons conducting non-road activities, and other persons. A ‘Yes’ signifies authorisation (ie a memorandum of authorisation (MoA) is not required).

Table C: Permitted traffic control devices, by type of party, under current regulations

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
|  | Major Traffic Control Device | Minor Traffic Control Device 1 | Works Advisory Devices | Illuminated Traffic Signs to Warn/Direct Road Users | Temporary Works Speed-Limit Signs | Hand-held Stop Signs | Works Zone Sign |
| VicRoads | Yes | Yes | Yes | Yes | Yes | Yes | Yes |
| Road Authorities | With VicRoads Authority | Yes | Yes | **With VicRoads Authority** | Yes | Yes | Yes |
| Utilities & Providers of Public Transport  | With VicRoads Authority | **With VicRoads Authority** | Yes | Yes | Yes | Yes | Yes |
| Non-Road Activity organisers | With VicRoads Authority | **With VicRoads Authority** | Yes | Yes | Yes | Yes | N/A |
| Other Persons | With VicRoads Authority | With authority from coordinating road authority | With authority from coordinating road authority | **With VicRoads Authority** | **With VicRoads Authority** | With authority from coordinating road authority | With authority from coordinating road authority |

**Note**: **1** Excludes ‘works advisory devices’.

**Issues in implementing the current regulations**

As part of the review of the current regulations, several implementation issues were identified that may present opportunities for improvement in consistency of application, road safety outcomes and the appropriate use of traffic control devices, together with the appropriate assignment of authorisation powers.

**Traffic control devices**

Table C highlights (in **bold** text above) a number of traffic control devices used by some third-parties that were identified, as part of the stakeholder consultation process to review the current regulations, as having implementation issues. In respect of minor traffic control devices, the current regulations require utilities, providers of public transport and non-road activity organisers to obtain authorisation only from VicRoads. This prevents local council road authorities from providing these third-parties with authorisation for the use of minor traffic control devices associated with the conduct of works and non-road activities on municipal roads. The Department considers this is inappropriate and inefficient given that these council road authorities provide consent for the conduct of works and non-road activities by these third-parties on their municipal roads. In contrast, council road authorities are empowered to provide authorisation for the use of minor traffic control devices by other persons for works conducted on municipal roads.

Another inefficiency relates to the use of illuminated traffic signs to warn and direct road users and temporary works speed-limit signs (being major traffic control devices). The current regulations require ‘other persons’ to obtain authorisation only from VicRoads, regardless of the type of road on which they are to be used. This prevents local council road authorities from providing other persons with authorisation for the use of these devices for works conducted on municipal roads despite it being the council road authority that issues consent for the conduct of these works.

**Race Permits**

Victoria Police issue 1,000 race permits per annum of which 868 permits are for bicycle races, 64 permits for foot races and 68 permits for triathlons. Most bicycle and foot races are conducted in regional and rural Victoria (800 races) with 200 races conducted in the Melbourne metropolitan area. Race organisers usually plan races six months in advance of the date of the event.

A person seeking to conduct a bicycle or foot race on a road is required to obtain two permits. A non-road activity permit is required from the coordinating road authority under section 99B of the Act together with a race permit from the Chief Commissioner of Police under the current regulations. A review of this dual process revealed duplication between government agencies.

The non-road activity permit application process is far more comprehensive than the race permit process undertaken by Victoria Police. However, the current regulations provide exemptions from certain Road Rules where a race permit has been issued by the Chief Commissioner of Police, with these exemptions enabling a race to be conducted under ‘race conditions’. Under the Act, a coordinating road authority, in issuing a non-road activity permit for a race, is not authorised to provide any such exemptions from the Road Rules.

Cycling Victoria and several local councils commented that an on-line portal system (one stop shop), similar to the National Heavy Vehicle Regulator on-line portal for the approval of heavy vehicles, would be beneficial particularly for races that involved VicRoads, a local council and Victoria Police for the same race. The on-line portal system would enable the race organiser to access the progress of their application and for the various government agencies to share their information and decisions with each other.

In addition, under the current regulations, a race permit is only required for races with more than 30 competitors. This competitor threshold, which exempts racing clubs proposing to conduct races with less than 30 competitors from the need to obtain a Police permit, effectively means that the races cannot be conducted under ‘race conditions’ as they would need to comply with the Road Rules. However, experience indicates that for many races with less than 30 participants, organisers still apply for a permit from Victoria Police so that the races can be conducted under ‘race conditions’.

**Highway Collection Permits**

A fundraiser seeking to conduct a highway collection on a road is required to obtain two permits. A highway collection permit is required from the local council under its local laws together with a highway collection permit from the Chief Commissioner of Police under the current regulations. A review of this dual process revealed duplication between Victoria Police and local councils.

In many respects, the application requirements for these two permits are identical. However, under the current regulations, only the written permission of the Chief Commissioner of Police provides a person who takes part in a highway collection with an exemption from certain Road Rules. Local councils, on the other hand, cannot include a condition in a local law permit that exempts highway collectors from compliance with certain Road Rules (ie. Rules 230(1), 234 and 236(4)(a) and (c)).

Similar to race permits, there is scope for a one-stop shop approach for highway collection permits.

**Assessment of the Options**

The following criteria are used to measure the incremental costs and benefits of the options relative to the base case:

road safety - to ensure that works or activities on roads are conducted in a manner that is safe for road users, road workers and persons conducting or participating in other activities on roads;

operational efficiency - to ensure that works and activities on roads are conducted in a manner that minimises congestion and delays for all road users; and

cost to third-parties undertaking works or non-road activities.

**Third-party rights to use traffic control devices**

Given that, without these regulations (the base case), third-parties would not have the authority to use any form of traffic control device to control vehicular, animal or pedestrian traffic, the following options were assessed:

Option 1: Traffic control device authorisation and exemption (current regulations)

Option 2: Stream-lined traffic control device authorisation and exemption

Option 2 addresses the implementation issues with the current regulations as identified earlier.

The Department assessed Option 2 to be the preferred option as it provides additional benefits by creating opportunities for third-parties, particularly other persons, to obtain authorisation from a single coordinating road authority for the use of certain commonly used traffic control devices (eg. temporary works speed-limit signs and illuminated signs displaying information to road users) for works that are conducted on a municipal road. Notwithstanding that it is difficult to ascertain the exact cost savings, the reforms under Option 2 carry no real or perceived risk and provide red tape reduction benefits to other persons (who account for most of the MoA applications) in removing the need for duplicate MoA applications in certain circumstances, while also achieving some administrative cost savings for VicRoads.

**Permission for Races**

Given the duplication of the race approval requirements under both the Act (for a non-road activity permit) and the current regulation (for a Chief Commissioner of Police permit), several options were assessed to determine whether other approaches provided a more efficient outcome:

Option 1: Victoria Police permission for bicycle and foot races with more than 30 competitors (current regulations)

Option 2: Victoria Police permission for all bicycle and foot races

Option 3: Victoria Police two–tiered permission for all bicycle and foot races

Option 4: Non-road activity permits to replace Victoria Police race permits

Option 5: One-Stop Shop

All of the five options enable exemptions from certain Road Rules to facilitate unrestricted ‘race conditions’ for bicycle and foot races. Other than Option 1, all of the other options provide for traffic management and event management plans to ensure that the safety of road users and the operational efficiency of the road are not compromised. The Department has estimated that Options 1, 2 and 3 impose costs of $46,590 relative to the base case. However, Options 2 and 3 provide greater certainty and transparency to race organisers in respect of the race permit application process relative to Option 1. Option 4 imposes a net financial cost of $157,166 per annum relative to the base case.

Option 5 provides a benefit of $46,590 per annum and a one-stop shop service for race organisers to obtain a non-road activity permit for the bicycle or foot race from a coordinating road authority and to have the exemptions from certain Road Rules included in the conditions of a non-road activity permit. However, the benefits do not take into account the costs associated with establishing a one-stop shop. While this is the superior option, it would require an amendment to the *Road Safety Act 1986* to provide coordinating road authorities with the power to exempt certain Road Rules and to include those exemptions in the conditions of a non-road activity permit. Further, the costs and feasibility of a one-stop shop would need to be investigated as identified in section 11. In view of this, Option 2 provides the next best option and, therefore, is the preferred option.

Option 2 has the effect of requiring all race organisers to get a race permit from Victoria Police. Under the current regulations, only races with more than 30 competitors were required to get this permit.

In terms of managing traffic during bicycle races in particular, Cycling Victoria raised concerns about the onerous requirements to become a traffic controller for volunteers such as race marshals and officials, and suggested the introduction of a short on-line test similar to that adopted by the Queensland Department of Transport and Main Roads for event volunteers to be able to use a hand-held stop/slow bat for low speed and low traffic environments. This issue, while outside the scope of these regulations, will be investigated further by VicRoads as part of its evaluation strategy (Section 11 refers).

**Permission for Highway Collections**

Given the current practice whereby a highway collection requires both a council local law permit and a Chief Commissioner of Police permit under the current regulations, several options were assessed to determine whether other approaches provided a more efficient outcome:

Option 1: Victoria Police permission (current regulations)

Option 2: Stream-lined Victoria Police permission

Option 3: One-Stop Shop permission

All of the options enable exemption from certain Road Rules to enable fundraiser collectors to remain on the road to collect donations from stationary motorists while the traffic signals remain red (stop) at an intersection. In terms of costs, the Department has estimated that Option 1 imposes $302,404, Option 2 imposes $107,157 and Option 3 imposes some minor costs that have been estimated to be lower than the other options.

The Department considers that Option 3 is the superior option as it provides for potential annual cost savings of $302,404 relative to the current regulation. However, the benefits do not take into account the costs associated with establishing a one stop shop. Further, the *Road Safety Act 1986* would need to be amended to allow local councils to include as a condition of their highway collection permits exemption from certain Road Rules, while the costs and feasibility of a one-stop shop would need to be investigated as identified in section 11. In view of this, Option 2 imposes the least costs and is the preferred option.

**Traffic Management Plans**

Given that all works and non-road activities would need to prepare a traffic management plan under the Act, the Department considers there are no other feasible alternatives to the Base Case other than Option 1: Prescribed Requirements (current regulation) because requirements should be (and are) identical to the information provided by third-parties as part of the MoA application process and the risk assessment and mitigation measures required in a traffic management plan in accordance with the Code of Practice for Worksite Safety- Traffic Management. This option prescribes basic information in relation to the location and duration of works and non-road activities as well as the provision for risk assessment and mitigation measures (where applicable). The information contained in a traffic management plan needs to be provided in a way that can be implemented at the worksite or event by those traffic management contractors, workers or volunteers responsible for the management of traffic through the worksite or event location respectively. In particular, this information should include where traffic control devices (eg. warning or speed limit signs, bollards) are to be located, and at what times, to ensure road safety and operational efficiency of the road network.

Option 1 proposes three types of traffic management plan that would permit third-parties to use the same traffic management plan for similar works or non-road activities. The Department has estimated that this would provide benefits with cost savings up to $4,557,000 relative to the base case. However, the assessment of this option revealed, there is a need for guidance on when risk assessment should be included in a traffic management plan. In this regard, the Department will liaise with the Traffic Management Association of Australia (TMAA) to determine the content of the guidance material.

**Fee Options**

The level of cost recovery and fee options were assessed in respect of:

* Memoranda of Authorisation for traffic control devices;
* Non-road activity permit;
* Stock control crossing permit; and
* Victoria Police highway collection and race permits

The following criteria are used for measuring the options against the base case:

* efficiency;
* level of cost recovery;
* simplicity;
* cost to administer the system; and
* incentives for compliance.

As can be seen in Table D below, coordinating road authorities and Victoria Police incur estimated costs of $3.4 million per annum to administer the various authorisations and permits but receive no revenue due to the absence of regulated fees other than for non-road activity permit applications. However, VicRoads has not charged the prescribed application fee for non-road activity permits, primarily because most applicants are not-for–profit organisations. As a result, VicRoads has received no revenue for issuing non-road activity permits. VicRoads is committed to charging the application fee for commercial events with the re-making of the regulations.

Table D: Summary of Cost Recovery for Authorisations and Permits

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| Organisation | Type of Permit | Cost | Revenue | Surplus/Deficit |
| VicRoads | Memoranda of Authorisation | $2,666,800 | 0 | ($2,666,800) |
| VicRoads | Stock Crossing Permits | $643.44 | 0 | ($643.44) |
| All coordinating road authorities | Non-road activity Permits | $599,850 | 0 | ($599,850) |
| Victoria Police | Race Permits | $39,520 | 0 | ($39,520) |
| Victoria Police | Highway Collection Permits | $90,896 | 0 | ($90,896) |
| Total: | $3,397,709.44 | 0 | ($3,397,709.44) |

**Memoranda of Authorisation (MoA) Fee**

An activity based cost assessment of the process involved for VicRoads to consider MoA applications revealed different times for processing applications in respect to works that involved either no lane closure, lane closure or road closure. Accordingly, a stratified fee structure was developed that could provide for the full recovery of the costs associated with processing an application for each of the three aforementioned categories of road interference. The proposed imposition of fees for MoA applications to VicRoads would fully recover the $2,666,800 cost to VicRoads that is currently funded by the tax payer.

**Non-road activity Permit Fee**

An activity based cost assessment of the process involved to consider a non-road activity permit application revealed that the current prescribed fee of 5 fee units achieved only partial cost recovery and that a fee of 21.22 fee units would need to be prescribed to fully recover the costs incurred by coordinating road authorities to process an application. However, application fees will be waived for registered charitable bodies and provision is made to reduce or waive, at the discretion of the relevant coordinating road authority, the fees for other applications. Those applications could be for example non-commercial events such as ANZAC Day celebrations, cycling and foot races and other community events the Department estimates that about 30 percent of non-road activities would be commercial in nature, and as a result, about $179,955 would be recovered.

**Stock Crossing Permit Fee**

VicRoads has only received 8 applications since the stock-crossing permit for arterial roads was introduced into the current regulations in July 2015 (about 3 applications per annum). The low demand for stock crossing permits on arterial roads is primarily due to two factors; firstly, most livestock farmers have already established stock crossings, or secondly, they have established stock underpasses for the movement of their stock.

The Department considers that the likely low demand in the future for stock crossing permits would generate insufficient revenue to offset the cost to VicRoads in establishing an application fee invoice and payment system for stock crossing permit applications. In view of this, the Department does not consider it is prudent to introduce an application fee and that the small costs incurred are outweighed by the benefits of ensuring the site for the stock crossing is safe for all road users.

**Victoria Police Highway Collection and Race Permit Fees**

An assessment of the average time taken to process highway collection and race permit applications revealed a processing cost of $39.52 and a total cost of $130,416. However, Victoria Police has a policy to enable fees to be waived for events that are not commercial in nature. Accordingly, all highway collections and an estimated 900 of the races (90%) could be waived. If this situation arose, Victoria Police would only recover $3,952 from 100 applications leaving $126,464 unrecovered from the other 3,200 applications. In addition, Victoria Police would also incur $63,232 in determining 3,200 applications for a fee waiver ($19.76 per fee waiver). In total, Victoria Police would only recover $3,952 or 2 percent of the $193,648 spent on processing 3,300 permit applications and 3,200 fee waiver applications. In addition, fundraisers applying for a fee waiver would need to prepare and submit a written application at a cost of $42.44 per application or $135,808 for the 3,200 applications.

The current regulations do not prescribe an application fee and Victoria Police would need to establish an electronic payment system for highway collection and race permit applications. Given the issues of duplication discussed above, the race and highway collection system is not considered efficient.

However, a one-stop shop option for highway collection and race permits may be superior to the current Victoria Police permit system. While this option would require an amendment to the *Road Safety Act 1986* to enable implementation, the Department considers it prudent for Government to have time to consider comments from key stakeholders arising from this regulatory impact statement to determine the possible costs, benefits and risks of implementing this approach. In view of this, the Department is not proposing to introduce highway collection and race permit application fees at this time, and will re-consider the issue pending the outcome of investigations into the feasibility and costs associated with the introduction of the one-stop shop option.

**Proposed Changes**

The proposed regulations introduce a new fee for MoA applications to VicRoads for the use of traffic control devices on freeways and arterial roads to enable the recovery of VicRoads costs to administer its MoA application process. The following fees are proposed for three categories: no lane closures, lane closures and road closures for the use of traffic control devices where the works are conducted on freeways and arterial roads as shown in the Table below.

**Memoranda of Authorisation (MoA) Application Fees**

|  |  |  |  |
| --- | --- | --- | --- |
|  | No lane closure | Lane Closure | Road Closure |
| Road Type | Fee | Fee Unit | Fee | Fee Unit | Fee | Fee Unit |
| Freeway/arterial road | $68.73 | 4.76 | $223.38 | 15.46 | $584.23 | 40.23 |

The non-road activity permit application fee is proposed to be increased from $71.10 (5 fee units) to $306.57 (21.22 fee units) and would apply to applications submitted to VicRoads. Applicants will still be able to apply for a partial or full waiver of the application fee.

The cost to local council coordinating road authorities in providing MoAs for the use of traffic control devices for works or activities conducted on a municipal road is outside the scope of this review. There is no head of power under the Act to prescribe fees for applications submitted to local council coordinating road authorities. Local council coordinating road authorities have the ability to prescribe application fees through the making of local laws under the *Local Government Act 1989*.

It is proposed to reduce the number of major traffic control devices from 63 to 50. Of those devices to be deleted from Schedule 1 of the current regulations, VicRoads already has in place an instrument of delegation with local councils that delegates to them the power to authorise the use of these major traffic control devices (ie. Items 40, 42, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54 and 55 in Schedule 1 of the current regulations) on municipal roads (Appendix 1). Further changes include amending Items 36, 37, 38, 39, 41, 56 and 57 to only apply to use on arterial roads and deleting Items 43 and 44.

It is proposed to amend the meaning of ‘works advisory device’ by removing the current reference to regulation 5(2)(g): *“an illuminated traffic sign displaying information to drivers and pedestrians”*. This reference is separately included in regulations 11(1)(c)(ii), 12(1)(f), 13(1)(c), 15(d) and 18(1)(b)(iii), which will continue to enable road authorities, utilities, providers of public transport, non-road activity organisers and persons with power to use this major traffic control device.

In respect of minor traffic control devices, it is proposed to permit coordinating road authorities for municipal roads and non-arterial State roads to authorise the use of these devices by utilities, providers of public transport, non-road activity organisers and other persons for works or non-road activities that are conducted on those roads.

In respect of a temporary works speed-limit sign, it is also proposed to permit coordinating road authorities for municipal roads and non-arterial State roads to authorise other persons (eg. building/construction companies) to use this traffic control device where the works are conducted on those roads.

In respect of race permits, it is proposed to amend the definition of ‘race’ to include **all** bicycle and foot races regardless of the number of competitors (under the current regulations, a ‘race’ is defined as only including events involving more than 30 competitors) and for race permit applications to be submitted 3 months prior to the race (previously 2 months). In addition, the proposed regulations would formalise the current practice by Victoria Police to require race organisers to submit with their application, the event management plan and traffic management plan. Race organisers will then be required to submit a copy of a certificate of currency for public liability insurance and a copy of the relevant coordinating road authority’s non-road activity permit prior to Victoria Police issuing its race permit.

It is also proposed to amend the offence provisions in regard to races being conducted without Police permission. While it will remain an offence of an organiser to conduct a race without permission, a competitor will now only commit an offence if they knowingly compete in a race that does not have Police permission, or they knowingly contravene any Police conditions imposed on the conduct of the race. This amendment compares with the current regulations whereby a competitor would commit an offence whether or not they knew that the race was being conducted without permission or in accordance with the race conditions. It is also proposed to increase the penalties from one to two penalty units for a person conducting a race without obtaining Police permission, or for a person who either participates in a race knowing that the race is being conducted without Police permission or who knowingly contravenes the race conditions. This penalty increase is commensurate with the value of the other race offence under the current regulations.

In relation to highway collection permits, an application would need to be submitted 2 months before the highway collection is to be conducted (previously 1 month). In addition, the proposed regulations would formalise the current practice by Victoria Police to require fundraisers to submit with their application, a copy of local council local law written approval for the highway collection and a certificate of currency for public liability insurance. The offence provisions and penalty values in regard to highway collections have also been amended in the same manner as those for races as outlined above.

It is proposed to revoke several of the current regulations that duplicate existing regulations: Parking Signs must conform with Australian Standards (Regulation 18); Information on Traffic Signs (Regulation 19) and Putting Destructive Material on Roads (Regulation 35).

Other minor amendments are proposed to improve the drafting of the regulations.

**Evaluation**

Monitoring and evaluation is valuable. They help to identify whether the Regulations are meeting their objectives in practice and whether any unintended consequences have arisen. Evaluation is, moreover, useful where a lack of available information has not allowed a potentially viable option to be evaluated fully.

As a result, the evaluation strategy will:

* monitor the rate of non-compliance with MoAs, non-road activity permits and race and highway collection permits.
* give further consideration of the race and highway collection permits, particularly the one-stop shop option;
* assess the effectiveness and red-tape reduction to third-parties with the proposed transfer of MoA responsibility to local council coordinating road authorities for some traffic control devices;
* investigate the provision of guidance material on its website to advise third-parties when it is appropriate to conduct works on roads and the appropriate use of traffic control devices, particularly during peak-hour periods; and
* investigate options for the introduction of a cost effective special event traffic marshal scheme to enable volunteers to become traffic controllers involved in community and sporting events.

These matters are discussed in section 11.

# Background

## Overview

The Road Safety (Traffic Management) Regulations 2009 (current regulations) came into effect on 9 November 2009 and sunset on 27 October 2019.

The proposed regulations (Road Safety (Traffic Management) Regulations 2018) prescribe requirements for:

* the installation and management of traffic control devices;
* activities on roads such as processions and races;
* traffic management plans; and,
* miscellaneous matters

There are several sections of the *Road Safety Act 1986* (the Act) that are directly relevant to the remaking of the regulations.

Section 99(1) of the *Road Safety Act 1986* recognises that third-parties will from time to time interfere with the normal use of a road (eg. to conduct works or other activities) and, as a consequence, may need to install and maintain on a road “*any standard warning or operative sign or safety device or mark, parking area, traffic island or other device or thing that is prescribed or authorised by the regulations for the regulation and control of vehicular, animal or pedestrian traffic*”.

These signs and devices are collectively referred to as ‘traffic control devices’ (eg. traffic signs, road markings, traffic signals or other devices used to direct or warn traffic on, entering or leaving a road). These traffic control devices, which are integral to the safe and efficient use and operation of Victoria’s roads, establish and support the Road Safety Road Rules 2017 (Road Rules) which are to be observed by all road users. The Road Rules are designed to control the use of roads, convey vital information to road users, make intersections safe, and provide protection for vulnerable road users.

Section 99A and items 74 to 77 of Schedule 2 of the Act apply to the conduct of works or non-road activities on a highway, and amongst other things, require a traffic management plan to be in operation. However, the content of a traffic management plan must comply with the requirements prescribed in the regulations.

Section 99B allows a coordinating road authority (within the meaning of the *Road Management Act 2004*) – being VicRoads for freeways and arterial roads, other State road authorities for non-arterial State roads and municipal councils for municipal roads - to issue a permit to a person to conduct a non-road activity on a highway. A ‘non-road activity’ is defined in section 99B(8) as “*an activity to be conducted on a road which will significantly interfere with the normal use of a road by road users in accordance with this Act and the regulations but does not include any activity to be conducted on a road by a member of the police force or of any emergency services agency arising out of the performance of a function or exercise of a power of that police officer or member.*” For example, a non-road activity would include the use of a road for the shooting of a film, a bicycle event, a street festival or a street market.

Section 99B(3) of the Act states that a non-road activity permit may be issued by a coordinating road authority, subject to any terms, conditions or limitations which the coordinating road authority considers appropriate and the payment of a fee fixed in accordance with the Act.

The *Subordinate Legislation Act* *1994* requires that a Regulatory Impact Statement (RIS) be prepared for the remaking of statutory rules (regulations) that impose a significant economic or social burden on a sector of the public.

In view of the provisions in the Act, the RIS does not consider the section 99A obligation to have a traffic management plan, nor does it consider the section 99B obligation to obtain a non-road activity permit. However, the RIS does evaluate the prescribed content of a traffic management plan and the prescribed fee for a non-road activity permit. The RIS also evaluates which bodies and persons can install traffic control devices, the type of traffic control devices that those bodies or persons may install, prescribed fees for an application to VicRoads or other relevant road authority for an authorisation to install traffic control devices in relation to an activity to which section 99A and 99B of the Act applies, and other activities that are not captured by the non-road activity permit.

## Relevant Subordinate Legislation

The Road Rules are based upon model Australian Road Rules approved by the National Transport Commission and form the basis of road rules of each Australian State and Territory. ‘Part 20 – Traffic control devices and traffic-related items’ of the Road Rules are directly relevant to the installation of traffic control devices.

The Road Rules are designed to control the use of roads, convey vital information to road users, make intersections safe, and provide protection for vulnerable road users mostly in the form of traffic signs, road markings, traffic signals or other devices (traffic control devices) used to direct or warn traffic on, entering or leaving a road. *The Road Safety (Traffic Management) Regulations 2009* primarily determine which persons can erect, display, place, remove or alter the traffic control devices prescribed in the Road Rules to ensure their consistent and appropriate use and to enable enforcement where road users fail to comply with the Road Rules.

## Road Management Act 2004

The *Road Management Act 2004* includes provisions for the making of Codes of Practice to provide practical guidance for road authorities, and works and infrastructure managers in the performance of their functions and duties under section 99A of the *Road Safety Act 1986*.

Several Codes of Practice are relevant to these Regulations. *The Code of Practice for Operational Responsibility for Public Roads* (Victoria Government Gazette No. S 174 Tuesday 30 May 2017) provides guidance for determining operational responsibility between road authorities for the different parts or elements (including road-related infrastructure such as traffic signals and other traffic control devices) within the road reserve of public roads, including traffic control devices.

The *Code of Practice for Worksite Safety - Traffic Management* (Victoria Government Gazette No. S 351 Tuesday 31 August 2010) provides guidance to any person conducting or proposing to conduct any works on a highway (any road or road-related area) and including the preparation of traffic management plans. The Code does not apply to non-road activities. However, the application to conduct a non-road activity, which is made under section 99 of the Act, requires a traffic management plan and the treatments shown on the plan to be in accordance with the Code. Hence, VicRoads has used its statutory discretionary powers under section 95 of the Act to apply the Code to non-road activities. In addition, this Code incorporates Australian Standard 1742.3 2009 Manual of Uniform Traffic Control Devices Part 3: Traffic Control for Works on Roads. The Manual specifies how traffic control devices are to be erected, displayed, placed or altered on roads where works are being conducted as well as the design requirements for traffic control devices. The Code, together with the Manual, provides guidance on implementation matters to those persons who have a right or are authorised under the *Road Safety (Traffic Management) Regulations 2009* to erect, display, place, remove or alter a traffic control device.

# Nature and Extent of Problem

## Overview

This section is divided into several parts. The first part (section 2.2) covers the rationale for government intervention into traffic management of the public road network, the second part (sections 2.3, 2.4 and 2.5) identifies the nature and extent of the problem and the size of the market and the third part (section 2.6) identifies inconsistencies with the current regulations.

VicRoads, other State road authorities and the 79 local council road authorities (road authorities) are responsible for managing the safe and efficient operation of their road networks as vested in them by the *Road Management Act 2004*. This includes, amongst other things, the installation and maintenance of traffic control devices, and the coordination of all works and activities on their roads by any person or body.

## Rationale for government intervention in traffic management

The rationale for government intervention in traffic management associated with the conduct of works or other activities within road reserves is first and foremost to prevent road safety hazards and avoid traffic congestion. Secondly, to manage the responsible use of road reserves by other infrastructure managers (eg. utilities, providers of public transport) or persons in a manner that ensures that the primary purpose of the road network to provide for the movement of people and goods, and to protect the integrity of road infrastructure, is not compromised.

A road reserve includes the roadway (or road pavement), shoulders of a road, pathways and roadside. The primary function of a road reserve is to meet the transport needs of the community, including motor vehicle owners, freight operators, providers of public transport, motorcyclists and bicyclists. The pathways (footpaths) serve the needs of pedestrians and bicyclists.

The use of the public road network is shared with a range of infrastructure managers and other persons conducting works or performing other activities (eg. non-road activities) within the road reserve. These various works and activities all have the potential to affect the normal use of a road and adversely impact on road user safety and operational efficiency.

Utility infrastructure (electricity, gas, water, sewerage and telecommunications) in the form of pipes, conduits, cables and poles are located within the road reserve. Most utility infrastructure is normally located underground; sometimes under pathways, the nature strip or the roadway. Utilities need to access the road reserve to undertake minimal works (connections) through to more substantial works involving the installation of new infrastructure and/or the renewal of ageing infrastructure.

Similarly, providers of public transport (tram, train and bus) share the road reserve in the form of tracks, rail level crossings and bus / tram stops and need access to both operate their on-road services and undertake repairs, maintenance and upgrades to their infrastructure.

Developers undertaking construction (particularly large retail and business complexes and residential subdivisions) on the land abutting the road reserve may require significant variation to the design of the road (eg. access lanes across the roadside to connect to an arterial road, deceleration turning lanes into the complex or construction of a new intersection to an arterial road).

The public road network is also used for the conduct of non-road activities such as shooting a film, street festivals and markets, bicycle races, marathons and so forth. These activities may range from the temporary closure of a single street for a street market to the closure and management of traffic on multiple routes for a major event such as the Melbourne Marathon or Cadel Evans Great Ocean Road Race.

Fundraisers and their volunteers also share the road undertaking highway collections seeking donations from passing motor vehicles. Primary producers, mostly dairy farmers, may need to access a road that divides their property to enable their stock to cross the road to gain access to another paddock. Stock crossings can occur intermittingly or be used on a daily basis and may present significant (and unexpected) hazards to road users.

All of these works and activities have, to varying degrees, the potential to impact the safe and efficient use of roads for road users, and the safety of those persons conducting the works and activities.

## Nature of the problem

### Role of Road Authorities

Road authorities own and manage the public road network and are responsible for ensuring roads are safe and efficient for road users (ie. motor vehicle owners, freight operators, providers of public transport, motorcyclists, bicyclists and pedestrians) and meet the overall transport needs of the community.

All Victorian road authorities have a statutory duty to inspect, maintain and repair public roads and ensure they are reasonably safe for use having regard to the considerations set out in the *Road Management Act 2004*.

Road authorities are liable under Part 6 Civil Liability of the *Road Management Act 2004* for property damage, personal injury or other damages resulting from an incident incurred by a road user due to the condition of the road unless the road authority is compliant with its published inspection, maintenance and repair regime as set out in its road management plan. Compliance with the road management plan provides a defence for the road authority against claims for compensation arising from such an incident.

Section 52 of the *Road Management Act 2004,* and clause 7 of the Code of Practice for Road Management Plans (Victoria Government Gazette No. S 201 Thursday 16 September 2004) set out the contents of a road management plan. Clause 7 of the Code requires a road management plan to include standards in relation to:

1. the inspection, maintenance and repair; and
2. the prioritisation of inspection, maintenance and repair of roadways, pathways, road infrastructure and road-related infrastructure in respect of the public roads or classes of public roads to which the road management plan applies.

Permanent traffic control devices installed to manage traffic on roads form part of the road-related infrastructure and hence are part of the road authority’s inspection, maintenance and repair responsibilities.

Given that the road authority is responsible for the installation, maintenance and repair of traffic control devices, and potentially liable for the misuse of traffic control devices that may cause an incident, it is reasonable to expect that any third-party that seeks to interfere with the normal use of an existing permanent traffic control device on a road by either removing or altering that device, or by temporarily erecting, displaying or placing a new device on a road, should have the appropriate prior authorisation from the relevant road authority.

Third parties that need to access a road or road-related area and either interfere with the normal use of an existing permanent traffic control device or install a new temporary device include:

works managers authorised by a service provider (eg. utility or provider of public transport) to conduct works within the road reserve (eg. installation, inspection, maintenance or repair of the non-road infrastructure)

road construction companies or their contractors

developers, building and construction companies or their contractors

event organisers of non-road activities such as filming, races, street festivals and street markets

primary producers (for the movement of livestock across or along a road)

school-crossing supervisors

police officers

Utilities, providers of public transport, road authorities, developers, builders or their contractors are required under the *Road Management Act 2004* to obtain prior written consent from the coordinating road authority to conduct works within the road reserve (subject to certain exemptions under either the *Road Management Act 2004* or associated regulations). The consent for works requirement is to ensure road safety, efficient traffic operation and the structural integrity of road and non-road infrastructure.

In issuing a consent for works, the coordinating road authority may include conditions on how the works are to be conducted, such as in regard to the safe management of traffic through the worksite. In order to meet any consent conditions, third-parties need to, depending on the scale of the works, seek authorisation from the coordinating road authority to erect, display, place, remove or alter traffic control devices at the proposed worksite. In conducting the works, third-parties have an obligation under section 99A of the *Road Safety Act 1986* to, amongst other things, conduct the works safely and have in operation a traffic management plan, with that plan showing all traffic control devices to be used at the worksite.

On the other hand, event organisers of non-road activities are required under section 99B of the *Road Safety Act 1986* toobtain a non-road activity permit from the coordinating road authority to conduct an event where the activity such as filming, races, street festivals and street markets would significantly interfere with a road.

As part of the permit application process, event organisers are required to submit event management plans, traffic management plans, risk assessments, communication plans for any affected residents, businesses and road users, and provide a copy of their public liability insurance. The content of a non-road activity permit application is not prescribed in regulation.

In issuing a non-road-road activity permit, the coordinating road authority may include any terms, conditions or limitations which it considers appropriate and may authorise the closure of the road to all traffic or particular types of traffic for the period specified in the permit. In addition, the Minister can declare that specified provisions of the Act and regulations do not apply to the event (e.g exemption from specified rules of the *Road Rules 2017)*.

In the absence of regulation (base case), it would not be possible for the aforementioned third-parties to interfere with the normal use of existing traffic control devices or install new temporary devices. Section 99 of the *Road Safety Act* *1986* provides *“Any person or body corporate having authority pursuant to the regulations to do so may, without unduly obstructing the thoroughfare, install and maintain in or on any highway any standard warning or operative sign or safety device or mark, parking area, traffic island or other device or thing that is prescribed or authorised by the regulations for the regulation and control of vehicular, animal or pedestrian traffic”*.

This would have far-reaching implications for the various third-parties and road users such as preventing Victoria Police from disabling traffic signals so that they can direct and control traffic (particularly at large sporting and community events or at a road accident scene) or preventing road works contractors from covering permanent speed limit signs and installing 40 km/h temporary works speed-limit signs and other warning devices at a road works site. Road works contractors would still be able to conduct the works provided they had the prior written consent of the coordinating road authority as required under the *Road Management Act 2004.* However, in the absence of regulation they would not have the means to use any signs to safely conduct the works. This would impact road users and increase the risk of road incidents for road users as well as impact the safety of those engaged in conducting the works or non-road activities.

There are several measures in the *Road Safety Act 1986* that address the road safety and road network operational issues in the absence of regulation. Sections 99A(2) and (3) require works and non-road activities to be conducted in a manner that is safe for road users and persons engaged in carrying out the works or non-road activities by having a traffic management plan, giving appropriate warnings to road users, and engaging appropriately trained and qualified persons to carry out the works or manage the non-road activities. Section 99A(4) requires that a traffic management plan must (a) comply with the prescribed requirements; and (b) be prepared in accordance with any requirements of the coordinating road authority under the *Road Management Act 2004.* Section 99B(5) also provides that the Minister administering the *Road Management Act 2004* may issue a Code of Practice in accordance with that Act for the purposes of this section. A Code of Practice for Worksite Safety - Traffic Management has been made that applies specifically to works on a road. Given these requirements under the Act, traffic management plans can be developed for works and non-road activities in the absence of regulation.

However, these measures would not fully address the road safety and road network operational issues. For example, where road works are conducted on a road with a speed limit of 100 km/h, the traffic management contractor would not be able to cover the 100 km/h speed-limit sign prior to, or within, the road works site, install advance warning signs to advise motorists of the road works ahead, install temporary works speed-limit signs appropriate for the road works (eg. reduce the speed to 40 km/h) or install portable traffic signals where lane closures are required. Instead, the traffic management contractor would be limited to using hand directions to manage traffic at the road works site. This would significantly reduce the response time for motorists to stop or reduce their speed and increase the safety risk to road workers and other motorists. The absence of advance warning signs, including detour signs, would likely lead to unnecessary traffic congestion.

Safety and congestion issues differ depending on the location including whether other authorised works or events are being conducted in the surrounding area. The use and/or display time of traffic control devices may need to change to prevent unnecessary traffic congestion or inconvenience to other road users, or adversely impact on other authorised works. For example, works conducted next to a school may require the display time of the proposed traffic control devices to be limited to within school hours so that teachers, parents and students can access and leave the school safely.

VicRoads is responsible for about 3,900 traffic signals across the State (including those located on freeways, arterial roads and some municipal roads). VicRoads uses a central management and monitoring system known as SCATS (Sydney Coordinated Adaptive Traffic System) that collects, stores and analyses data relating to faults, alarms, traffic counts, travel times and congestion. The VicRoads Traffic Management Centre is able to manually override traffic signals in SCATS to manage and clear congestion on individual roads or across a broader road network. Hence, most of the information required in an application for authorisation to use traffic control devices (ie. referred to as a memorandum of authorisation or MoA) relates to the period of the works or activity, lane closures and expected time delays associated with the conduct of works or activities on the road. This information is critical for traffic engineers to determine whether intersection and pedestrian traffic signals need to be adjusted to reduce traffic congestion.

The Department has primary responsibility for determining the policy regarding the Road Rules (consistent with the model Australian Road Rules). This is to ensure traffic control devices reflect and communicate road rules to road users are standardised throughout Victoria in terms of design, information provided and so forth, so that road users clearly comprehend and respond to the directions displayed on a traffic sign or other traffic control device. In addition, advertising is inappropriate on road signs or traffic signals given that road users may be distracted by the advertising material and not observe the road rule direction, thereby putting road users, or road workers, at risk of an incident. Further safety risks relate to possible driver confusion caused by either the visual clutter of other advertising signs along the roadside or the lack of clarity or ambiguity of signs bearing advertisements, and there is the potential inequity or injustice for drivers who are penalised for misreading unclear or ambiguous signs.

Victoria Police has primary responsibility for bicycle and foot races and highway collections conducted on a road, including the provision of exemptions from specific Road Rules related to these activities. In the absence of regulation, the Road Rules prevent the effective operation of bicycle and foot races and highway collections on roads. For example, Rule 151 prohibits a motorbike or bicycle rider from riding alongside more than one other rider in a marked lane. This would make a peloton illegal during a road race. Rule 230 requires a pedestrian to not stay on the road longer than necessary to cross the road safely. Accordingly, the Road Rules do not make allowances for highway collectors to remain on the road. In the absence of regulation, races conducted on a road and fundraising highway collections would not be permitted.

However, there are measures under the *Road Safety Act 1986* that would enable race organisers to conduct a race legally on the road. Race organisers are required to obtain a non-road activity permit from coordinating road authorities under section 99B(8) where the *“activity to be conducted on a road will significantly interfere with the normal use of a road by road users”*. Section 99B(8) provides an example of a non-road activity which includes a bicycle event. Accordingly, all bicycle races, regardless of the number of competitors, are required to obtain a non-road activity permit as any race would significantly interfere with the normal use of a road. Section 99B(4) permits the Minister to declare in a notice published in the Government Gazette that specified provisions of the Act and of the regulations do not apply in respect to an application by a person proposing to conduct a non-road activity. Accordingly, the Minister can declare that the competitors, marshals and officials of a proposed bicycle race are exempt from specific Road Rules. These provisions would apply to all races conducted on a road regardless of the number of competitors involved.

In respect to highway collections, there are provisions under the *Local Government Act 1989* that enable councils to make local laws. Local councils, in general, have made it a requirement under their local laws that a fundraiser must apply for a highway collection (often referred to as a ‘tin shake’) permit. However, local councils do not have the power under the *Local Government Act 1989* to provide exemptions from the Road Rules in their local laws. As a result, while fundraisers would be able to obtain local council approval for a highway collection, fundraisers and their collectors would be prohibited under the Road Rules from remaining on the road to collect donations from motorists stopped at an intersection.

### Risk Assessment of Traffic Control Devices

The level of risk of an incident if road users ignore the various categories of traffic control devices is shown in Table 1 below.

Table 1: Risk Assessment of Traffic Control Devices

|  |  |
| --- | --- |
| Category of Device  | Risk of Incident if Road Users Ignore Device |
| Significant road safety & traffic operational traffic control device | High |
| General warning and information traffic control device | Medium |
| Road works warning traffic control device | Medium to Low |

The level of risk associated with each category of traffic control device is explained below.

Significant road safety and traffic operational traffic control devices, or regulatory devices, determine what road users may do and non-observance can have a significant impact on the use of a road; both from a road safety and operational efficiency perspective. For example, the non-observance of a traffic signal by a driver could result in a collision with another vehicle if the driver disobeyed a red traffic signal and potentially result in serious injury or death. The resultant incident could also potentially disrupt the normal flow of traffic through the intersection and cause traffic congestion for other motorists.

Significant road safety and traffic operational traffic control devices include traffic signals, speed limit signs, no left turn or no right turn signs where a tram operates, bus lane signs, clearway signs, shared zone signs and pedestrian crossing signs.

A general warning and information traffic control device provides warnings and information to drivers or pedestrians on the use of roads. While the risks associated with the use of these devices are lower, their inappropriate use, failure to observe or lack of clarity in the messages conveyed to road users may still result in safety risks and local congestion.

A road works warning traffic control device provides warning or advice to drivers or pedestrians in relation to works or non-road activities conducted on roads. These devices include traffic signs that indicate:

* that there are roadworks or road workers ahead;
* a loose, uneven, unmade or slippery surface;
* the absence of line markings;
* a detour or a lane closure;
* that a road or part of a road is closed to traffic;
* the direction in which traffic should travel such as arrows indicating a change of direction; and
* other devices such as a road hump, traffic cone and bollard.

The inappropriate or non-use of road works warning traffic control devices can increase the risk to both road users and road workers at a roadworks site, resulting in a failure to conduct works safely in accordance with section 99A of the *Road Safety Act 1986*.

Other more general road safety aspects related to traffic control devices include:

* safety risks from driver distraction as a result of advertising signs being placed on traffic control devices such as traffic signals or regulatory signs;
* use of non-standard or superseded signs that could cause driver confusion and hinder the use of a uniform and nationally consistent signing standards; and
* display of dazzling lights on or near a road that may prevent a driver from reading a traffic control device or from clearly distinguishing the road ahead.

In summary, the likely consequences if there were no relevant regulations or effective alternatives in place include the following sources of risk:

* inappropriate installation, alteration and removal of traffic control devices;
* unclear or inconsistent messages conveyed by traffic control devices, including advertising on them;
* non-compliance with Victoria’s obligation to implement and maintain nationally agreed Australian Road Rules;
* unsafe works, non-road activities and other activities, together with increased traffic congestion, which adversely affects other road users and the community in general; and
* lack of specified requirements for the content of traffic management plans (with the resultant risk that any works would not be conducted safely in contravention of section 99A of the Act).

## Extent of the problem

This section analyses the extent of road safety incidents and traffic congestion at work sites and non-road activities.

### Risk Assessment of Third-Party Use of Traffic Control Devices – Works and Non-Road Activities

The extent of the risk associated with the use of traffic control devices varies according to the parties conducting the works or non-road activities, the scale of the works and activities, and the category (and type) of traffic control device used.

Table 2 shows the likely risk of traffic congestion that would arise through the use of the different categories of traffic control devices by road authorities and third-parties when conducting works and non-road activities.

Traffic control devices are used temporarily for works and non-road activities whereas VicRoads and other road authorities permanently erect or remove traffic control devices other than for roadworks (ie. for the purpose of traffic management and the safe and efficient operation of the road network). The congestion risk assessment for VicRoads and the other road authorities applies to both the permanent and temporary use of traffic control devices.

Table 2: Risk of Traffic Congestion – Works and Non-Road Activities

|  |  |  |  |
| --- | --- | --- | --- |
|  | Significant Road Safety & Traffic Operational Traffic Control Devices | Road Works Warning Traffic Control Devices  | General Warning and Information Traffic Control Devices  |
| VicRoads | Low to Medium | Low | Low |
| Other Road authorities  | Medium to High | Low | Low |
| Utilities | High | Low | Medium |
| Providers of public transport | High | Low | Medium |
| Non-road activities  | High | Low | Medium |
| Developers and other persons | High | Medium | Medium |
| Police | Low | Low | Low |
| Primary Producers | High | Medium | Medium |

All third parties, with the exception of the police (who are trained and have operational experience in the use of relevant traffic control devices), are considered high risk by the Department in respect to the use of significant road safety and traffic operational traffic control devices associated with the conduct of works or non-road activities within the road reserve. To manage traffic associated with third party works or activities on freeways and arterial roads, traffic management contractors must be pre-qualified with VicRoads. While traffic management contractors are trained and experienced in managing traffic through the worksite, they do not generally have the experience and skills to assess the traffic impacts of their actions at individual worksites or the collective traffic impacts of installing or interfering with significant road safety and traffic operational traffic control devices across a broader network of roads. Only VicRoads Traffic Management Centre is in a position to monitor the traffic impacts on a network basis and, as an example, make adjustments to the timing of traffic signals. In the absence of regulation, VicRoads Traffic Management Centre would not be able to analyse potential traffic impacts in advance and would instead provide reactive adjustments to traffic signals, at which stage, the traffic congestion would have already occurred.

In respect to general warning and information traffic control devices (excluding road works warning devices) as used in association with the conduct of works and other activities within the road reserve, road authorities are considered low risk as they have the relevant knowledge and expertise without causing adverse traffic congestion or road safety conditions.

Utilities, providers of public transport, persons responsible for non-road activities and ‘other persons’ are considered to pose a medium risk if they were able to erect, display, place or alter general warning and information traffic control devices (excluding road works warning devices where applicable). These third parties do not have access to information regarding the appropriate use and impact of these general warning and information traffic control devices at locations where they are conducting works or non-road activities on the public road network. VicRoads is best placed to understand the impact of the use of these devices through the intelligence collected by systems such as SCATS and its traffic camera monitoring network.

In respect of road works warning devices, all of the third parties (with the exception of developers / other parties and primary producers) have a low risk in relation to the conduct of works and non-road activities. More specifically, utilities and providers of public transport conduct works within the road reserve on a regular basis and have established quality systems, trained and skilled staff and available resources to conduct their works safely. At the same time, they have accreditation systems for the engagement of experienced external contractors to undertake the management of traffic through a worksite. In addition, coordinating road authorities are usually aware of utility and public transport works that will have a significant impact on traffic (eg. through the consent for works, consultation or notification processes under the *Road Management Act 2004*). As a consequence, the coordinating road authority can assist in the planning of any necessary traffic diversions or other measures to reduce traffic congestion. Non-road activities such as races and processions tend to be publicised in advance to the local community so that residents can make alternative arrangements to avoid traffic congestion at the event. Also, Victoria Police tend to be involved in providing traffic control at most events involving a road closure.

While some larger companies in the building and construction industry would have comparable quality systems to utilities and providers of public transport, these systems (and their expertise) are primarily focused on building and construction activities and not on traffic management. As for the ‘other persons’ group, comprising mostly small business builders and their contractors, they have very limited, if any, experience or expertise in traffic management, especially on heavily trafficked arterial roads. While these groups are required to obtain consent to conduct works within the road reserve, they also represent the most works across multiple sites. This makes it harder to exempt this group from any traffic control device authorisation requirements as their works are likely to have a greater impact on traffic congestion on a collective basis, particularly when there are multiple worksites in proximity to each other.

### Crashes / Injuries and Traffic Congestion at Worksites

It is difficult to estimate the impact on road safety from the unauthorised use, or the misuse, of traffic control devices or inadequate traffic management plans due to the absence of detailed and reliable crash/injury data.

Austroads recently conducted research into road worksite safety. It found the reporting of the number of crashes/injuries at roadworks sites revealed inconsistent and highly variable data. For example, in Victoria, 26 crashes were identified from January 2012 to September 2015 while in Queensland the number of crashes was considerably higher (483 crashes). In Tasmania, 108 crashes were recorded and in New Zealand 1,161 crashes for the same time period. [[1]](#footnote-1)

Of the 26 crashes in Victoria, 3 involved fatalities and 10 serious injuries. The unavailability of accurate crash data is further exacerbated by the absence of the causes of these crashes. There are many factors that contribute to crashes, with traffic control devices being only one of the various measures used at a roadworks site to protect road workers and motorists passing through the worksite.

Similarly, no data is kept on the level of traffic congestion that is attributable to unauthorised and/or misused traffic control devices or inadequate traffic management plans. The misuse of temporary works speed-limit signs (generally 40 km/h) would slow traffic near a worksite to below the posted 60 km/h for most roads in urban areas and result in minor increases in travel time, while their misuse on higher speed (mostly freeway and rural) roads would have the potential to impose much longer travel times (and in many cases create driver impatience and likely non-observance of the roadworks speed limit).

## Size of the market

This section covers data on:

* the number of traffic control devices used by third parties;
* the number of traffic control devices authorised by coordinating road authorities for use by third-parties;
* the number of traffic management plans prepared by third-parties;
* the number of highway collections conducted by fundraisers; and
* the number of races conducted on roads.

### Traffic Control Devices Used by Third Parties

As can be seen from Table 3, there are about 31,000 works conducted within a road reserve and about 2,000 non-road activities (bicycle and foot races comprise about half) that would utilise traffic control devices to warn road users of the interference to the normal use of the road.

Table 3: Estimated Number of Third Party Activities Requiring Traffic Control Devices

|  |  |
| --- | --- |
| Type of Activity | No. of Traffic Control Devices |
| Works conducted within a road reserve | 31,000 |
| Non-road activities | 2,000 |
| Total: | 33,000 |

**Source**: VicRoads, Victoria Police and the 2015 Regulatory Impact Statement for the Road Management (Works & Infrastructure) Regulations 2015. Note: The estimated number of works conducted within a road reserve exclude works conducted by utilities, providers of public transport and responsible road authorities that are exempt from consent under the *Road Management Act 2004* (eg. minor works that are not traffic impact works).

Of these, as can be seen from Table 4, VicRoads provided 17,000 authorisations for works or non-road activities conducted on freeways and arterial roads. Of these, other persons (developers and builders) represented 73.3%, utilities 9.4%, local council road authorities 7.0% and providers of public transport 4.4%.

Local council coordinating road authorities provided an estimated 15,000 authorisations for works conducted on municipal roads mostly to the ‘Other Persons’ category.

Table 4: Coordinating Road Authority Average Authorisations 2015-17

|  |  |  |
| --- | --- | --- |
| Authorisation Applicants | VicRoads | Local Council Coordinating Road Authorities |
|  | No. | %  | No. | % |
| Road authorities | 1,184 | 7.0 |  |  |
| Utilities | 1,600 | 9.4 | 1,710 | 10.7 |
| Providers of public transport | 752 | 4.4 | n/a |  |
| Other Persons (Developers, builders and others) | 12,464 | 73.3 | 13,290 | 83.1 |
| *Sub-total* | *16,000* | *94.1* | *15,000* | *93.8* |
| Non-road activities | 1,000 | 5.9 | 1,000 | 6.2 |
| Primary producers |  |  |  |  |
| Total: | 17,000 | 100% | 16,000 | 100% |

**Note**: The low number of utility and provider of public transport authorisations as shown in Table 3 for the use of traffic control devices is due the exemptions provided under Regulation 11 of the existing Road Safety (Traffic Management) Regulations 2009.

### Traffic Management Plans

Section 99A of the Act requires any person conducting works or non-road activities on a road to prepare a traffic management plan. A traffic management plan is required for each worksite and non-road activity. In regards to worksites, a traffic management plan may cover several stages of the works along a particular length of a road but must not be used for multiple worksites at different locations. Works conducted in a place that is similar to a place where other works have been conducted may use a generic diagram or dimensioned drawing or a set of standard operating procedures as a traffic management plan. This reduces the need for specific traffic management plans to be prepared each time works are conducted on a road. Based on data analysis from the VicRoads Permits and Events Unit, the Department estimates that about 40 percent of the 31,000 works in Table 3 would require a lane or road closure and that these works would more than likely require a specific traffic management plan. Most of the other works could rely on a generic diagram or dimensioned drawing or set of standard operating procedures.

In regard to non-road activities that occur at the same site or route each year (eg. festival or bicycle race respectively), the same traffic management plan could be used each year unless substantial changes are made by event organisers to the event site or route. While there is no data on how often this occurs, most events and bicycle races are conducted annually at the same site/route and event organisers would only need to prepare a traffic management plan for the initial event or race or slightly modify plans for future races.

### Highway Collections and Race Permissions

Table 5 shows Victoria Police received an average of 2,300 permit applications per annum to conduct highway collections by fundraisers and 1,000 applications per annum from race organisers to conduct a race. A highway collection permit is required for each intersection where a fundraiser has proposed to conduct a highway collection.

Table 5: Highway Collection Permits & Race Permissions

|  |  |
| --- | --- |
| Type of Permit | Annual Average Number of Permit Applications |
| Highway collections (regulation 28) | 2,300 |
| Race Permissions | 1,000 |

**Source**: Victoria Police highway permit data from 2015-2017

The *Fundraising Act 1998* permits only registered and exempt fundraisers to solicit donations. Highway collections are undertaken by fundraisers who are either registered under the *Fundraising Act 1998* or are exempt from registration as specified in section 16 of that Act. Exemptions include schools, tertiary education institutions, early childhood services, religious organisations, registered political parties and trade unions.Fundraisers can also be exempt from registration by Ministerial Order under section 16A of the *Fundraising Act 1998*.

The Royal Children’s Hospital Good Friday Appeal and the Salvation Army Appeal apply for about 750 or 33 percent of the 2,300 highway collection permits issued per annum.

In respect of the 1,000 race permits, 868 permits are issued for bicycle races, 64 permits for foot races and 68 permits for triathlons. Most bicycle and foot races are conducted in regional and rural Victoria (800 races) with 200 races conducted in the Melbourne metropolitan area.

## Issues in implementing the current regulations

The operation of the current regulations since their introduction in 2009 has, through experience and stakeholder consultation, identified a number of issues that may present opportunities for improvement in consistency of application, road safety outcomes and the appropriate use of traffic control devices, together with the appropriate assignment of authorisation powers. These improvement opportunities will be assessed later in the RIS.

### Assessment of Major Traffic Control Devices

The current Road Safety (Traffic Management) Regulations 2009 classify traffic control devices into two categories, being ‘major traffic control devices’ and ‘minor traffic control devices’. Major traffic control devices are significant road safety and traffic operational devices and minor traffic control devices are general warning and information devices. These current regulations then create a sub-category of traffic control devices (incorporating both major and minor traffic control devices) called ‘works advisory devices’ (road works warning devices). The ‘works advisory devices’ are typically used by third parties conducting works or non-road activities on roads to warn or advise drivers or pedestrians of these works or activities. The classification system is based on the level of public safety risks and traffic operational risks that would arise as a result of road users failing to respond to the directions conveyed by the different categories of traffic control device or by the inappropriate use of these devices by works managers.

The Department undertook an internal review of the current prescribed list of major traffic control devices to ascertain whether each of the 63 major traffic control devices should remain prescribed major traffic control devices in Schedule 1 of the remade regulations.

The Department used the following criteria to identify the devices that should be included in Schedule 1:

1. the design and installation of the traffic control device requires expert input from VicRoads due to the complexity of the device itself (e.g traffic signals, ITS devices, pedestrian crossings with flashing lights);
2. the traffic control device is exclusively used in conjunction with a major traffic control device (e.g signs at traffic signals, Stop here on red sign/arrow, hook turn signs) or used where a heightened level of road user awareness is required (e.g at a level crossing);
3. significant road network impacts are likely to result from the installation or removal of the traffic control device, particularly in relation to on-road public transport or freight (e.g bus lanes, tram lanes, transit lanes, heavy vehicle prohibitions);
4. it is likely that the traffic control device may be used inappropriately or inconsistently, causing either:
* road user expectation issues or confusion; or
* safety issues to road users, particularly vulnerable road users (e.g speed limits, electronic signs, zebra crossings, no truck signs).

Each of the current 63 major traffic control devices in Schedule 1 of the regulations were assessed against the above criteria (refer to Appendix 1). Each traffic control device had to meet at least one criterion to remain a major traffic control device.

Major traffic control devices prescribed in items 43 to 55 of Schedule 1 in the current Regulations were found to not have any of the characteristics required to meet any of the criteria and, the Department is, therefore, proposing that they be removed from Schedule 1 in the new Regulations.

These traffic control devices include traffic signs that have a reasonable likeness of a bicycle lane sign, end bicycle lane sign, bicycle path sign, end bicycle path sign, bicycle path road marking, end bicycle path road marking, no bicycles sign, separated footpath sign, end separated footpath sign, separated footpath road marking, end separated footpath road marking, shared path sign and end shared path sign.

### Assessment of the Permitted Use of Traffic Control Devices

Table 6 shows the types of traffic control devices that the current regulations authorise the use of by road authorities, utilities, providers of public transport, persons conducting non-road activities, and other persons. A ‘Yes’ signifies authorisation (i.e an MoA is not required).

Table 6: Permitted traffic control devices, by type of party, under current regulations

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
|  | Major Traffic Control Device | Minor Traffic Control Device 1 | Works Advisory Devices | Illuminated Traffic Signs to Warn/Direct Road Users | Temporary Works Speed-Limit Signs | Hand-held Stop Signs | Works Zone Sign |
| **VicRoads** | Yes | Yes | Yes | Yes | Yes | Yes | Yes |
| **Road Authorities** | With VicRoads Authority | Yes | Yes | With VicRoads Authority | Yes | Yes | Yes |
| **Utilities & Providers of Public Transport**  | With VicRoads Authority | With VicRoads Authority | Yes | Yes | Yes | Yes | Yes |
| **Non-Road Activity organisers** | With VicRoads Authority | With VicRoads Authority | Yes | Yes | Yes | Yes | N/A |
| **Other Persons** | With VicRoads Authority | With authority from coordinating road authority | With authority from coordinating road authority | With VicRoads Authority | With VicRoads Authority | With authority from coordinating road authority | With authority from coordinating road authority |

**Note**: **1** Excludes ‘works advisory devices’.

While there is a wide provision to enable certain third-parties to erect, display, place, alter and remove traffic control devices, exemptions from authorisation are usually limited to a particular function. In the case of temporary works speed-limit signs, several third-parties are permitted to place and display these signs where they are conducting their works or activities on the road (but these authorisations are subject to the third party having first received the relevant works consent or non-road activity permit). However, the exemptions from authorisation in general only apply to the temporary use of traffic control devices and not to the permanent erection of these devices. In the case of major traffic control devices, this would normally be a matter for VicRoads.

Similarly, the temporary use of an illuminated traffic sign to warn or direct road users (a major traffic control device) is authorised for certain works and activities on roads, while the permanent erection or removal of such a sign on a road (e.g. a freeway or arterial road) would require VicRoads authorisation.

There are several inconsistencies in the current regulatory arrangements for the use of traffic control devices discussed below.

### Authorisations of Minor Traffic Control Devices

Local council and State (other than VicRoads) road authorities are permitted to install minor traffic control devices on the roads for which they are responsible. From a risk perspective, this may be appropriate given that these road authorities have the appropriate expertise. However, under the current regulations, local council road authorities are not permitted to authorise the installation, on their municipal roads, of these same minor traffic control devices (other than ‘works advisory devices’ for which an exemption applies) for works conducted by utilities and providers of public transport or persons conducting non-road activities. The regulations only permit VicRoads to give authorisation to these third parties. Further, this also does not appear consistent with the framework of the *Road Management Act 2004* which permits local council coordinating road authorities to provide consent for these works and non-road activities on municipal roads that will then require VicRoads authorisation to install any minor traffic control devices associated with these works or activities on their municipal roads.

Conversely, a local council coordinating road authority is permitted to authorise other persons (developers, builders etc) to install minor traffic control devices on municipal roads even though this group potentially poses a higher risk compared with utilities and providers of public transport.

The current regulations also appear to require road authorities (other than VicRoads) to obtain VicRoads authorisation for works advisory devices, hand-held stop signs and work zone signs as these traffic control devices are not explicitly prescribed as exempt in the regulations whereas they are for the other affected groups. However, this is not a restriction as these devices are minor traffic control devices and, as a consequence, do not require specific authorisation. Local council coordinating road authorities are aware that these devices are minor traffic control devices and the exclusion of these devices in the regulations has not caused any confusion in practice.

### Authorisation of Temporary Works Speed-Limit Signs

As can be seen from Table 6, all affected groups are required to obtain authorisation from VicRoads to install a major traffic control device. The Department considers that this is appropriate given that there is a high risk of an incident involving road users / road workers or traffic congestion if these are installed or altered inappropriately and operated without consideration of the impacts on the public road network. For example, covering a clearway sign along a length of road.

However, an exception is made in respect to a temporary works speed-limit sign (which is a major traffic control device). This type of sign is normally used together with hand-held stop signs and work zone signs for road authority and utility works, and in the case of non-road activities, with hand-held stop signs. Accordingly, road authorities, utilities, providers of public transport and holders of a non-road activity permit are not required to obtain authorisation for a temporary works speed-limit sign (provided the temporary works speed limit is not less than 40 km/h).

It is not clear the reason for not allowing a local council coordinating road authority to authorise a temporary works speed-limit sign for ‘other persons’ conducting works on a municipal road. This would result in ‘other persons’ being required to seek authorisation from a local council coordinating road authority for a hand-held stop sign and a works zone sign, and a separate authorisation for a temporary works speed-limit sign from VicRoads.

### Authorisation Linked to Traffic Management Plans

Another difference is the treatment of utilities and providers of public transport in regard to the condition put on their works managers to ensure that all traffic control devices used in connection with their works are referred to in the traffic management plan. This includes major and minor traffic control devices. The purpose of this condition is to enable authorised officers to verify that the traffic control devices nominated in the traffic management plan are actually being used at the worksite to protect workers and road users.

Utilities and providers of public transport regularly undertake infrastructure works on a road or road-related area and have established quality systems compared with most organisers of non-road activities and many small building operators within the ‘other persons’ group. These systems, in general, include requirements around the need for all traffic control devices (eg. works advisory devices, hand-held stop signs, works zone signs, temporary works speed-limit signs) used at a worksite to be included in a traffic management plan in accordance with, and as authorised by, the regulations.

The condition as it applies to utilities and providers of public transport to ensure all traffic control devices used in connection with works are referred to in the traffic management plan does not apply to road authorities, persons conducting non-road activities or other persons despite the fact that section 99A of the *Road Safety Act 1986* requires a traffic management plan for all works and activities conducted on a road. From an enforcement perspective, the Department considers that this condition should also be applied to these other groups so that authorised officers can verify that the traffic control devices nominated in the traffic management plan are actually being used at the worksite or non-road activity location to protect workers, volunteers and road users.

### Stock Crossings

Livestock primary producers who have public roads intersecting their properties are likely to need, from time to time, to move their livestock from one paddock across a road to another paddock. In some cases, dairy farmers may need to undertake stock crossings twice a day if the milking shed and the grazing paddocks are separated by a public road.

The risk to motorists, animal welfare and farmers or their employees is greater for dairy farmers who are undertaking stock crossings on a daily basis compared with other livestock producers who may occasionally move stock across a road for paddock rotation reasons.

The extent of the risk has declined since the Victorian State Government introduced the stock underpass scheme (SUPS) that has been primarily utilised by dairy farmers. Notwithstanding this, funding priority is given on the basis of the number of stock per crossing, the frequency of crossings, location of the crossings, traffic volume and other factors. In view of the cost to install a stock underpass, primary producers whose property is separated by a municipal road with low traffic volumes and undertakes infrequent stock crossings, are unlikely to be eligible for SUPS funding and would find it difficult to justify the installation cost.

Changes to the Regulations in 2015 made it explicitly clear that VicRoads was solely responsible for issuing a permit for a stock crossing on arterial roads. Until then, although VicRoads was responsible for arterial roads, some local councils continued to administer stock crossing permits in accordance with their local laws.

However, inconsistencies in approach continue on municipal roads. The current regulations authorise primary producers to erect stock crossing signs and related traffic control devices on municipal roads subject to the issue of a permit as required under a council local law. In some cases, local councils charge a permit fee while other local councils charge no fee. In many instances, council local laws exempt primary producers from obtaining a permit but still require them to erect stock crossing signs in accordance with the current regulations and the VicRoads Manual for Traffic Control at Stock Crossings. While local councils have the power under the *Local Government Act 1989* to require stock crossing permits and to charge a permit fee on municipal roads,the inconsistent approach amongst councils to the requirement for a permit as well as permit fees will continue.

### Race Permissions

Bicycle and foot races conducted on a public road require permission from the Chief Commissioner of Police.

There are three issues that have arisen under the current regulations:

* the current ‘competitor’ threshold for determining whether permission is required;
* the minimum time required for lodgement of a permission application prior to the date of the race; and
* the potential duplication of race permission with a non-road activity permit.

**Race Permission Threshold**

In respect to the threshold, the current regulations define a ‘race” to mean “a bicycle race, a foot race or other race involving more than 30 competitors, but does not include a race or speed trial to which section 68 of the Act applies or a major sporting event race”. This effectively means that a race organiser is only required to obtain police permission for a race involving more than 30 competitors.

Victoria Police advised they were unaware of the basis for the 30 competitor threshold other than it has existed for over thirty years.

Under the current threshold, a race organiser is exempt from the need to obtain Victoria Police permission for a race with less than 30 competitors. This exemption effectively means that such a race would need to be conducted in accordance with the Road Rules, with any competitors or organisers liable for penalties for non-compliance. This would likely impact on the effectiveness of the race.

For races that have been issued with a Victoria Police permit, the current regulations exempt competitors, marshals and officials from complying with certain Road Rules when competing in, or officiating at, road races (including both open road races and races that require a police controlled rolling road closure). In respect to open road bicycle races, competitors are exempt from Road Rule 151 so that they can ride more than two abreast provided they do not cross the centre line of the road. Hence, competitors are confined to one side of the road. Whereas, with a police controlled rolling road closure race, Victoria Police can exempt competitors from all Road Rules so they can cross the centreline of the road and use the full width of the road exclusively. Major bicycle races that involve peletons (ie. large groups of riders) invariably require a rolling road closure.

Recognising the current threshold and Road Rules implications, race organisers proposing to conduct a race with less than 30 competitors under the current regulations are required to apply for a non-road activity permit from the relevant coordinating road authority (eg. VicRoads for freeways and arterial roads and a local council for municipal roads) in accordance with section 99B of the Act. Section 99B(8) of the Act defines a non-road activity to mean “an activity to be conducted on a road which will significantly interfere with the normal use of a road by road users in accordance with this Act and the regulation”. Where a race has the potential for competitors to not comply with certain Road Rules, such a race would be deemed to significantly interference with the normal use of a road (e.g. competitors riding more than two abreast and preventing the normal use of the road by other road users).

Section 99B(4) permits the Minister to declare exemptions from specific provisions in the Act and Regulations for a non-road activity. The Minister has delegated this responsibility solely to VicRoads. Given that most bicycle races are conducted on municipal roads in rural areas, a local council coordinating road authority would need to request VicRoads to authorise the exemptions by a declaration in the Government Gazette. Alternatively, race organisers can still conduct the race provided the competitors, marshals and officials comply with the Road Rules. Local council coordinating road authorities invariably issue an event or road occupation permit under their local laws where these types of bicycle events are to be conducted on a municipal road. Accordingly, competitors under this permit cannot ride more than two abreast as in the case of road races authorised under a Victoria Police race permit.

According to Cycling Victoria, most bicycle road races are conducted on low volume municipal roads in rural areas. This is primarily due to coordinating road authorities encouraging race organisers to select race routes that avoid, or minimise, interference to the normal operation of the more higher volume arterial roads or municipal roads used by heavy vehicles for freight movement, quarries and logging. In this way, competitors, marshals and officials can conduct the race in a reasonably safe road environment with less conflict with other road users.

Police in other States administer bicycle and foot races conducted on a road. Unlike Victoria, these other States do not apply a threshold and a race permit is effectively required for two or more competitors.

Cycling Victoria also advised that some of its affiliated clubs have obtained race permits from Victoria Police knowing in advance that they will not field 30 competitors but wish to obtain the race permit to enable their competitors to be exempt from specific Road Rules. It would appear that Victoria Police issue permits for these races.

Notwithstanding this, it would seem reasonable to provide race organisers who want to conduct a race with less than 30 competitors (under ‘race conditions’) with the ability to apply for a Victoria Police race permit and obtain exemptions from specific Road Rules. Any such exemptions would be subject to the organiser complying with any conditions included with Victoria Police permission to ensure that the race is conducted safely and with minimum impact on the operation of the road (eg. event management plan, traffic management plan, etc). The removal of the current ‘30 competitor’ threshold will be considered further in section 5 of this RIS.

**Minimum Time for Lodgement of Race Permission Applications**

The current regulations require an application to be submitted two months prior to the date of the race. Victoria Police consider that, given the growth in the number of races conducted throughout Victoria and the need to liaise with coordinating road authorities, the current two month period is too short a timeframe to enable them to adequately inspect the race route, plan for the event and commit police resources while at the same time dealing with other competing priorities.

In New South Wales, the police require applications for new races to be submitted up to six months prior to the date of the race[[2]](#footnote-2), while Queensland requires applications to be submitted 12 months in advance of the race.

Race organisers are more than likely to submit approvals well in advance of the minimum time prescribed in regulation to ensure that they have all the necessary approvals and resources to conduct the race on the proposed date. Most races are held annually at the same location and Cycling Victoria can prepare a calendar of events up to 18 months in advance.

Cycling Victoria is a sanctioning body for its affiliated clubs and race organisers are required to obtain a sanction in order for competitors, marshals and officials to hold public liability insurance. Due to the sanctioning process, Cycling Victoria requires race organisers to submit the proposed race event at least six months prior to the proposed date of the race and submit event management plans and traffic management plans to Cycling Victoria at least 3 months prior to the date of the race.[[3]](#footnote-3)

**Potential Duplication of Race Permission with Non-Road Activity Permit**

A person seeking to conduct a race on a road is required to obtain two permits. A non-road activity permit is required from the coordinating road authority under section 99B of the *Road Safety Act 1986* together with a race permit from the Chief Commissioner of Police under the current regulations (ie. regulation 26).

The requirement for two permits for the one event would appear, prima facie, to be regulatory duplication. However, the purpose of the non-road activity permit is to enable the road authority to assess the impact of the race on road safety and traffic operation, to authorise any temporary closure of roads and/or traffic lanes and to authorise the use of traffic control devices to enable a race to be conducted. The purpose of the Chief Commissioner of Police race permit is to enable Victoria Police to manage the conduct of the race and to allocate police resources such as providing police controlled rolling road closures during a bicycle race.

Where provided for in the current regulations, the race permit from Victoria Police also allows for exemptions from certain Road Rules (eg. exempting race competitors from complying with posted speed limits or riding more than two abreast).

An application for a non-road activity permit requires more detailed requirements than the Victoria Police application form. The non-road activity application form covers a range of non-road activities such as filming, festivals, processions as well as foot and bicycle races. The application form, which is not prescribed in the current regulations, requires the following information:

* details of the event organiser;
* details of the traffic management company;
* details of the event;
* time of road closure; and,
* use of Major and Minor traffic control devices.

In addition, depending on the type of event, the non-road activity permit applicants are required to provide an event plan, certificate of public liability insurance, traffic management plan, communication plan, risk assessment, Council local law permit, Victoria Police approval and details of any modified or unregistered vehicles to be used.

By contrast, the application for a Victoria Police race permit, which is limited to the information as shown below, is designed to enable Victoria Police to determine the resources required to provide support and assistance at the race.

The Victoria Police application to conduct a race requires the following information:

* name and contact details of the applicant (organisation);
* title, date, location and type of race;
* start and finish time;
* number of competitors;
* course type;
* road authorities affected;
* police assistance requested (time, location and reasons).

Applications must be submitted with an event management plan together with a traffic management plan and a clear map of the route of the race. Approvals from the affected road authorities and evidence of valid certificates of insurance must also be submitted to Victoria Police before Victoria Police will issue a permit for the race.

Hence, the Victoria Police race permit and the non-road activity permit serve two distinct and necessary purposes. However, the sequence for race organisers in obtaining these permits is not clear. Both the Victoria Police race application and the road authority non-road activity application require evidence of approval from the other approving authority.

The New South Wales Guidelines[[4]](#footnote-4) recommend that race organisers meet with their local council coordinating road authority in the first instance with subsequent meetings with the police. The Guidelines also note that the approval of a race is a multi-agency responsibility and that in practice race organisers submit applications to the respective authorities concurrently. In Victoria, a similar approach is taken in practice where a race organiser will submit an application for police race permission and an application for a coordinating road authority non-road activity permit concurrently without the necessary approval from the other authority. The coordinating road authority and Victoria Police will liaise with each other to determine whether the race can be conducted. Cycling Victoria also recommends that the *“Organiser should get in contact with local VicRoads/Victoria Police officers to discuss their event at the same time of lodging their application”.*[[5]](#footnote-5)

Requiring that a copy of the approval of another authority is to accompany an application is not always practical, with the Victoria Police application form allowing for evidence of other authority approvals to be provided after submission of the initial application but before any permit is issued. On the other hand, the VicRoads non-road activity application form requires evidence of Victoria Police approval (or as a minimum, evidence of Police consultation). This application process needs to be made clearer in the non-road activity permit and Victoria Police race permission application forms. As the application forms are not prescribed in regulation, this matter can be resolved administratively between VicRoads and Victoria Police, and local councils where applicable.

Notwithstanding the rationale for dual non-road activity and Victoria Police permits, several local councils commented that an on-line portal system, similar to the National Heavy Vehicle Regulator on-line portal for the approval of heavy vehicles, would be beneficial particularly for races that involved VicRoads, a local council and Victoria Police for the same race. The on-line portal system would enable the race organiser to access the progress of their application and for the various government agencies to share their information and decisions with each other.

Cycling Victoria considers the current system is unworkable and is strongly supportive of single point of approval such as an on-line portal system. Cycling Victoria pointed out the hallmark bicycle race, the Jayco Herald Sun Tour, was disrupted by road works for a particular stretch of the race. Notwithstanding that Cycling Victoria had obtained the necessary permits from VicRoads, local council coordinating road authorities and Victoria Police, the absence of an integrated on-line portal system between these agencies resulted in road contractors obtaining a consent for works for the aforementioned stretch of road. The risk of something like this happening could be reduced if various government agencies have electronic access to an on-line portal system so that they can check whether a race permit or any other event permit has been granted for a particular part of the road.

Cycling Victoria also mentioned that they received a race permit for the Tour of Gippsland on the day the race was held. An on-line portal system would enable the race organiser to monitor the progress of its race permit application and make urgent requests for the permit if the coordinating road authority or Victoria Police had not resolved the matter in a timely fashion.

The Department notes that, although there will always be a need for different government agencies to be involved in the race approval process, a single point of approval (e.g. the relevant coordinating road authority) using an on-line portal provides the opportunity to remove the requirement for a race organiser to make duplicate permit applications to both Victoria Police (race permit) and the relevant road authority (non-road activity permit). Such a one-stop shop process would still ensure Victoria Police involvement in the approval process (this option is further discussed in section 4.2).

Cycling Victoria also suggested that it could submit a calendar of race events up to 18 months ahead and that the relevant agencies should be required to respond within 2 months. Again, this would be suitable for inclusion in an on-line portal system that would also retain information regarding permits issued for the same race in a previous year. This would enable permits to be issued expeditiously by the respective agencies where the race and the road conditions remained unchanged.

In view of these concerns, a one-stop shop including a single approval system will be considered in the options assessment in section 5.

**Traffic management controllers**

Cycling Victoria raised concerns about the onerous requirements to become a traffic controller for volunteers such as race marshals and officials. VicRoads requires a traffic controller to have undertaken a course in traffic control to *“Use stop/slow bat to control traffic”* that normally takes one day of training. Cycling Victoria suggested that VicRoads adopt the Queensland Department of Transport and Main Roads’ Special Event Traffic Marshal Scheme that provides a short on-line test for event volunteers to be able to use a hand-held stop/slow bat for low speed and low traffic environments.

The training course for traffic controllers is set out in the Code of Practice for Worksite Safety – Traffic Management, and while Cycling Victoria’s suggestion to adopt the Queensland model is outside the scope of these regulations, opportunities to adopt a scheme similar to that in Queensland can be further investigated by relevant road authorities. This investigation would be undertaken within the context of the current work by Austroads (representing all State road authorities) to develop a nationally harmonised approach to traffic control training programs.

### Highway Collections

The Road Rules prohibit a pedestrian from remaining on a road due to the obvious risks of being hit by a passing motor vehicle, and also prohibit pedestrians from standing on/moving onto a road to solicit contributions from an occupant of a vehicle. Under the current regulations, fundraisers undertaking highway collections are exempted from this Road Rule subject to obtaining a permit from the Chief Commissioner of Police and complying with the permit conditions. These include conducting highway collections only at intersections with a maximum speed limit of 70 km/h or less due to the higher safety risk of remaining on higher speed roads, and also conducting collections only during daylight hours due to the difficulty for motorists to detect a pedestrian at night-time.

The permit system appears to have minimised safety incidents given that in the order of 2,300 highway collections are being conducted each year across the State. There have been some incidents, such as in 2016 when State Emergency Services were conducting a highway collection in Geelong. In this incident, one of the collectors was hospitalised after being hit by a car.[[6]](#footnote-6) Victoria Police is unaware of any other significant incidents that have occurred in recent years during the conduct of a highway collection.

**Duplication of Permission to conduct Highway Collections**

A fundraiser seeking to conduct a highway collection on a road is required to obtain two permits. A highway collection permit is required from the local council under its local laws together with a highway collection permit from the Chief Commissioner of Police under the current regulations (ie. regulation 28).

The requirement for two permits for the one collection would appear, prima facie, to be regulatory duplication. In many respects, the permit application requirements are identical. However, local councils are not authorised to provide exemptions from the *Road Safety Act 1986* or Road Rules. Under the current regulations, the Road Rules do not apply to a person who takes part in a highway collection conducted in accordance with a written permission of the Chief Commissioner of Police. Local councils, therefore, cannot include a condition on a local law permit to exempt highway collectors from compliance with certain Road Rules (ie. Rules 230(1),234 and 236(4)(a) and (c)).

Local councils, under local laws, currently require fundraisers to obtain a permit to collect donations from motorists on roads (which may include arterial roads or municipal road intersections with arterial roads) and from persons generally on land within the municipality.

In general, local councils require the following information to be completed in an application form:

* the name, address and registration number of the fundraiser;
* the date and time when the collection is intended to be conducted;
* the locations where the collection is intended to be conducted; and
* the approximate number of people involved in the collection.

The application form needs to be accompanied by a copy of a certificate of currency for public liability insurance, for a value of at least $10 million.

Local councils may impose conditions ranging from the number of permits that will be issued to a fundraiser annually, the permitted locations and times that a highway collection can be conducted, and the number of collectors at any one intersection, while also requiring the fundraiser to be a registered charity.

For example, the City of Melbourne has a policy that each charity may apply to fundraise within the central city at six of the 26 specified locations per day, for a maximum of 40 days per year.

The City of Stonnington imposes restrictions that limit an organisation to a maximum of 50 intersections per year, while collections can only be conducted at intersections where neither intersecting road is above 60 km/h. Permits will be restricted to a 4 hour ‘Activity Period’ with a total of 10 Activity Periods per year. A single Activity Period is either 9.00 am -1.00pm or 1.00pm – 5.00pm

The conducting of tin shakes (highway collections) within Stonnington during the month of December is not permitted due to the high volume of vehicle and pedestrian traffic in the retail precincts.

These restrictions are designed to take into account intersections where highway collections would potentially pose a risk to road safety and traffic congestion on roads that have high volumes of motor vehicle traffic and pedestrian traffic. These restrictions are more likely to be found in municipalities close to central Melbourne.

Victoria Police require the following information in a written application for a permit to conduct a highway collection:

* the organisation or purpose that is intended to be benefited by contributions collected by the highway collection;
* the date and time when the collection is intended to be conducted;
* the locations where the collection is intended to be conducted; and
* the approximate number of people involved in the collection.

As can be seen, this is identical to the information required in an application to a local council for a highway collection local law permit. Victoria Police also request additional information that is not prescribed in the regulations; namely evidence of a council local law permit and public liability insurance before it will issue a highway collection permit.

In addition, the permit application made to Victoria Police must be accompanied with a statutory declaration. This requirement is also not prescribed in the current regulations. Victoria Police advised that it introduced the statutory declaration to ensure persons making an application for a highway collection are acting legitimately on behalf of a registered fundraiser and not seeking to obtain public donations by misrepresentation. Victoria Police has not prosecuted anyone for such an offence. However, it is difficult to know whether this provision has been an effective deterrent. The Department has estimated that the applicant would take about one hour mostly in travel time in securing a statutory declaration on the application form at a cost of $84.89 per application and $195,247 for the 2,300 highway collection permit applications. This may be an unnecessary cost imposed on fundraisers and its removal will be considered in section 4.3.

Victoria Police advised that other than the processing of the application and the granting of a permit, Victoria Police do not have the resources to enforce the highway collection permit conditions and/or prevent unauthorised persons from conducting highway collections.

It is not clear how the current regulations are adding any value to the local council highway collection local law permit process by also requiring a Victoria Police permit other than for the fact that the Victoria Police permit provides exemption from certain Road Rules that enable highway collectors to legally remain on the road. In view of this, section 4.3 will assess the cost and benefits of the current regulation and alternative approaches.

**Minimum Time for Lodgement of Highway Collection Applications**

Fundraisers tend to conduct highway collections at the same time each year and need to make logistical preparations well in advance of the proposed date of the highway collections.

The current regulations require an application to be submitted one month prior to the date of the highway collection. Victoria Police consider that, given the significant number of intersections (sometimes hundreds) involved in a single application and the time required to liaise with local councils, the current one month period is too short a timeframe to enable them to adequately process the application and verify the suitability of the proposed intersections from a road safety perspective while at the same time dealing with other competing priorities.

### Traffic Management Plans

The management of traffic is an essential requirement of any work or activity conducted on roads, including to:

* provide a safe environment for all persons working on, and traffic travelling along, roads;
* minimise the impact of the works/activity on traffic and adjacent landowners/occupiers;
* minimise delays to train, tram or bus services (and where possible, give priority to public transport); and
* minimise interference with people’s ability to access a train, tram or bus.

A person responsible for works and non-road activities is required under section 99A (3) of the *Road Safety Act 1986* to:

* have in operation a traffic management plan;
* give appropriate warnings to road users;
* engage appropriately trained and qualified persons to carry out the works or manage the non-road activities or traffic; and,
* give appropriate directions to the persons engaged in carrying out the works or the non-road activities.

Sections 99A(4) & (5) of the Act further state:

*(4) A traffic management plan must –*

1. *comply with the prescribed requirements; and*
2. *be prepared in accordance with any requirements of the coordinating road authority under the Road Management Act 2004.*

*(5) The Minister administering the Road Management Act 2004 may issue a Code of Practice in accordance with that Act for the purposes of this section.*

The Minister issued a *Code of Practice for Worksite Safety - Traffic Management* in 2004and the Code was updated in 2010 (Victoria Government Gazette No. S 351 Tuesday 31 August 2010).

The 2010 Code incorporated most of the provisions pertaining to traffic management plans as prescribed in the current regulations.

For example, the revised definition of ‘traffic management plan’ in the 2010 Code effectively adopts several key provisions of the current regulations relating to standard operating procedures and the arrangement of traffic control devices, referring specifically to the fact that:

 *“a traffic management plan provides the details of proposals for the management of traffic during the conduct of works on roads and normally includes a traffic guidance scheme, worksite hazard assessment (such as a Safe Work Method Statement), and details of the location, nature and duration of the works’.*

Clause 13(4) of the Code provides that “*A traffic management plan should include details of the requirements to manage traffic through the worksite outside normal working hours or when workers are not present at the site (after-care). This would include the removal or covering of any signs that are not applicable, particularly temporary worksite speed limits.”*

While the 2010 Code effectively repeats most of the requirements in the current regulations, it is important to note that any Code of Practice made under the *Road Management Act 2004* is not enforceable, but instead represents good practice guidance. Section 24(4) of the *Road Management Act 2004* states “*that a code of practice cannot impose a duty on any person, direct how any matter or thing is to be done, or create an enforceable legal right or impose any liability or penalty”.* However, section 27(1) of the *Road Management Act 2004* states, *“A code of practice is admissible in evidence in any proceedings to which this Act or section 99A of the Road Safety Act 1986 applies”.*

In view of the provisions in section 99 (see above), the combination of the Code and the authority conferred on coordinating road authorities would ensure that the current prescribed content would in fact be reflected and enforced if the Regulation lapsed.

The Code does not, however, apply to non-road activities such as races, processions, filming and street markets. Despite this, these non-road activities are still required to have traffic management plans prepared in accordance with section 99A of the Act. VicRoads requires any person organising non-road activities on an arterial road to use pre-qualified traffic management companies to prepare the traffic management plan (as a condition included on a VicRoads non-road activity permit – this condition also applies to any person conducting works on its roads). For municipal roads, Councils, under section 99B of the Act, also have the ability to impose conditions on a non-road activity permit, which could include requirements around the use of certain traffic management companies (but not necessarily VicRoads pre-qualified traffic management companies).

# Objectives

## Overview

The Victorian Guide to Regulation states *“The objectives should identify the ends to be achieved, or the broad policy outcomes desired, rather than the means by which they will be achieved”.*

## Primary Objective

The primary objective is to provide safe and efficient use of the public road network for road users during interference from works and activities conducted on the road, and the safety of persons engaged in the conduct of works and activities.

## Secondary Objective

The secondary objective is to fund the efficient and equitable administration of traffic management regulation.

# Assessment of the Options

This section provides an assessment of the options in respect to:

* third-party rights to traffic control devices;
* permission for races;
* permission for highway collections; and
* traffic management plans.

**Base Case**

The Base Case is the Act in the absence of the regulations. Third-parties, therefore, would not have the authority to use any form of traffic control device to control vehicular, animal or pedestrian traffic on roads.

This would not prevent utilities, providers of public transport, non-road activity organisers and other persons (developers) from undertaking works or holding events (subject to the appropriate approvals under either the *Road Management Act 2004* or *Road Safety Act 1986*) but these third-parties would not be able to use traffic control devices to try to address the safety of road users, roadworkers, event volunteers and competitors.

The Base Case would also prevent a person (school crossing supervisor) from displaying and removing a children’s crossing flag or hand-held stop sign, and as a result, these crossings would become inoperable. Also, Victoria Police would not be permitted to interfere with any traffic control device. This would prevent Victoria Police officers requesting traffic signals to be turned off so that they can manually direct traffic during major sporting and community events and traffic accidents.

In relation to races, a race organiser would be able to apply for a non-road activity permit from a coordinating road authority and also seek exemption from specific Road Rules.

As part of the non-road activity permit application, race organisers would also be permitted to seek Ministerial exemptions from specific road rules for their competitors, marshals and officials under section 99B(4) of the Act. This would be relatively straightforward where the race was to be conducted on a freeway or arterial road. In these cases, VicRoads (as delegated by the Minister) would organise a declaration in the Government Gazette. However, for races conducted on municipal roads, the local council coordinating road authority would need to liaise with, and request that, VicRoads declare an exemption from specific road rulesin the Government Gazette. This would apply to an estimated 900 race applications per annum.

In regards to highway collections, there is no provision in the Act to specifically permit or prohibit highway collections but the Road Rules (ie. Rules 230(1), 234 and 236(4)(a) and (c)) prohibit, amongst other things, a pedestrian from standing on, or moving onto, a road to solicit contributions.

However, fundraisers would be permitted to conduct highway collections on a road where they have obtained a permit in accordance with the relevant council local law.

While fundraisers would be able to obtain a permit to conduct a highway collection on a road, their collectors would not be permitted to walk and remain on the road at an intersection where motor vehicles have come to a stop. Rule 230(1) of the Road Rules prohibits that form of pedestrian behaviour. Instead, collectors would need to remain on the footpath. Collectors would still be able to collect donations from stopped motor vehicles that are aligned to the kerbside. However, collectors would not be able to access and collect donations from motorists in the inside lane(s) of a multi-lane road.

In respect to traffic management plans, section 99 of the Act requires all third-parties to prepare a traffic management plan each time they undertake works or non-road activities.

Under the Base Case, road authorities, utilities, providers of public transport and other persons would most likely use the Code of Practice for Worksite Safety – Traffic Management to prepare a traffic management plan. While there are no penalties for non-compliance with the Code, these third-parties are required to submit a traffic management plan with their application for consent to conduct works on a road. Accordingly, coordinating road authorities are able to enforce the Code’s traffic management plan requirements under section 99B(4)(b) as part of their determination of an application for consent to conduct works on a road.

Similarly, non-road activity organisers would use the Code to prepare a traffic management plan and are required to submit the plan with their non-road activity permit application to a coordinating road authority who can enforce the Code as part of their determination of an application for a non-road activity permit.

**Criteria to Compare Options**

The following criteria are used to measure the incremental costs and benefits of the options relative to the Base Case:

* road safety - to ensure that works or activities on roads are conducted in a manner that is safe for road users, road workers and persons conducting or participating in other activities on roads;
* operational efficiency - to ensure that works and activities on roads are conducted in a manner that minimises congestion and delays for all road users; and
* cost to third-parties undertaking works or non-road activities.

**Calculation of Costs**

The detailed methodology of the cost calculations for various affected parties is provided in Appendix 2.

## Third party rights to use traffic control devices

### Alternatives

There are several alternatives to the Base Case. Two examined in detail below are:

Option 1: Traffic control device authorisation & exemption (Current Regulation)

Option 2: Stream-lined traffic control device authorisation & exemption

Options 1 & 2 are similar in terms of the permitted traffic control devices that each type of third-party is required to obtain authorisation for (or for which an exemption from authorisation applies). Option 2 proposes to address the issues in implementing the current regulations as outlined in section 2.6.

### Option 1: Traffic Control Device Authorisation and Exemption (Current Regulation)

Option 1 identifies the types of traffic control devices that are permitted to be used by regular third-party users (e.g. road authorities, utilities, providers of public transport, organisers of non-road activities) as opposed to the types of traffic control devices for which they are required to obtain authorisation. The type of traffic control devices by type of third-party is shown in Table 7. A ‘Yes” signifies authorisation (i.e an MoA is not required).

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Table 7: Permitted traffic control devices, by type of party, current regulations

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
|  | Major Traffic Control Device | Minor Traffic Control Device 1 | Works Advisory Devices | Illuminated Traffic Signals to Warn/Direct Road Users | Temporary Works Speed-Limit Signs | Hand-held Stop Signs | Works Zone Sign |
| **Road Authorities** | With VicRoads Authority | Yes | Yes | With VicRoads Authority | Yes | Yes | Yes |
| **Utilities & Providers of Public Transport**  | With VicRoads Authority | With VicRoads Authority | Yes | Yes | Yes | Yes | Yes |
| **Non-Road Activity organisers** | With VicRoads Authority | With VicRoads Authority | Yes | Yes | Yes | Yes | N/A |
| **Other Persons** | With VicRoads Authority | With authority from coordinating road authority | With authority from coordinating road authority | With VicRoads Authority | With VicRoads Authority | With authority from coordinating road authority | With authority from coordinating road authority |

**Note**: **1** Excludes ‘works advisory devices’.

**Costs**

Third-Party Administrative Costs

All third-parties are required to submit a memorandum of authorisation (MoA) application to either VicRoads or the relevant coordinating road authority for the use of a traffic control device other than those traffic control devices that they are permitted to use.

The MoA application form is not prescribed in the regulations and requires the applicant to provide a description of the works or activity. Specifically, the applicant for an MoA from VicRoads needs to detail the:

* type and scope of the work/event
* lane closures
* number of lanes to be closed
* existing speed limits
* expected time delays
* proposed temporary roadworks speed-limit
* traffic management plan reference number
* clearance to traffic (ie. workers/operating plant)
* length of worksite (ie. distance from first sign to the last sign)
* major and minor traffic control devices
* major and minor traffic control devices for aftercare
* alterations to existing traffic control devices
* location details
* expected traffic control device display dates/times

Third-parties are required under section 99A of the *Road Safety Act 1986* to prepare a traffic management plan and the plan includes, amongst other things, most of the information required in the MoA application other than the expected traffic control display dates and times. As a result, third-parties are able to fill-out the MoA application using the information that has been already compiled in their traffic management plan.

In view of the above, the Department has estimated that it would take about fifteen minutes to fill-out the basic information required in a MoA application. This would cost third-parties $21.22 per application and $657,820 for the 31,000 applications received per annum by VicRoads and local council coordinating road authorities.

As can be seen in Table 8 below, other persons (developers, construction contractors, etc) submit the most MoA applications: 25,754 applications and collectively incur preparation costs of $546,500 per annum. Utilities represent 10.68% of MoA applications with 3,310 applications and incur costs of $70,238 per annum, road authorities (mostly local councils) with 1,184 applications and costs of $25,124 and providers of public transport with 752 applications and costs of $15,957.

Table 8: Number and Costs Associated with MoA Applications

|  |  |  |  |
| --- | --- | --- | --- |
| Type of Third-Party | No. MoA Applications | Percentage of MoA Applications | Cost |
| Road authorities | 1,184 | 3.82% | $25,124 |
| Utilities | 3,310 | 10.68% | $70,238 |
| Providers of Public Transport | 752 | 2.43% | $15,957 |
| Other Persons | 25,754 | 83.07% | $546,500 |
| Total: | 31,000 | 100% | $657,819 |

The cost to VicRoads to administer and process MoA applications is estimated by the Department at $2,666,800 (refer to section 5.1.1).

This option imposes a total cost of $3,324,619 ($657,819 incurred by third-parties and $2,666,800, cost to VicRoads).

As this option permits school crossing supervisors to use a school crossing flag and hand-held stop sign without the need for authorisation, there is no cost to school crossing supervisors or local councils that provide administrative and funding support.

Duplication

Utilities, providers of public transport and non-road activity organisers would need to deal with VicRoads and the local council coordinating road authority in regard to the use of major traffic control devices and minor traffic control devices respectively where the works or non-road activity is to be conducted on a municipal road. It is noted, however, that nearly all traffic control devices necessary to ensure the safe conduct of works or non-road activities are authorised for use under this option. As a consequence, there would be very few MoA applications required by utilities, providers of public transport and non-road activity organisers.

The authorisations to be prescribed under this option are subject to a utility, provider of public transport or non-road activity organiser having first obtained from the relevant coordinating road authority a consent for works or a non-road activity permit. The consent for works and non-road activity applications typically require a traffic management plan. In the limited number of cases where a utility, provider of public transport or non-road activity organiser proposes to use a major and minor traffic control device for which they are not authorised to use under the current regulations, then it will be necessary to submit an MoA application to VicRoads.

Other persons proposing to use traffic control devices associated with the conduct of works on a road will need to seek authorisation from VicRoads for major traffic control devices (whether on an arterial road, non-arterial State road or municipal road) and the relevant coordinating road authority for the use of any minor traffic control devices (e.g. works advisory devices, hand-held stop signs, work zone signs),.

For works on a municipal road, this will require the person to submit MoA applications to both VicRoads and the local council coordinating road authority. These other persons will also be required to firstly apply for a consent for works from the relevant coordinating authority and provide a traffic management plan with their application. While the local council coordinating road authority can authorise minor traffic control devices, other persons would need to seek authorisation from VicRoads in respect to the use of illuminated traffic control devices to direct or warn road users and temporary works speed-limit signs (being major traffic control devices). Most works undertaken by other persons usually involve the use of works advisory devices, hand-held stop signs, work zone signs, temporary works speed-limit signs and increasingly, illuminated traffic signals.

**Benefits**

This option enables third-parties to meet their legal obligations under the *Occupational Health and Safety Act* and specifically section 99A(2) of the *Road Safety Act 1986* to *“ensure that the works or non-road activities are conducted in a manner that is safe for road users and persons engaged in carrying out the works or non-road activities”* and with section 99(3)(b), *“to give appropriate warnings to road users”*.

In particular, this option enables school children’s crossings to be supervised by adult supervisors to provide protection, particularly to young primary school children who would otherwise generally lack road smart awareness crossing an unsupervised busy road.

From a traffic management perspective, the authorisation of traffic control devices would enable the VicRoads Traffic Management Centre (TMC) to plan and make timing adjustments to traffic signals where works or non-road activities are conducted on arterial roads. With this information, the TMC adjusts the timing of traffic signals, particularly for works or non-road activities that involve road closure and lane closures. This helps to reduce traffic congestion in the area where works and non-road activities are being conducted.

In the absence of authorisation, many third-parties would use traffic control devices (especially the more significant or major traffic control devices) in a potentially unsafe manner or during inappropriate times. The Department has estimated that about 50 percent of MoA applications require amendment due to, in the majority of cases, applicants proposing to undertake works during peak-hour periods. As a general rule, authorisation will not be granted for works conducted during these periods due to the impact on the efficient flow of traffic. This could be reduced by VicRoads providing guidance material on its website where third-parties submit on-line MoA applications. However, in exceptional cases, the scale and scope of the works may require the closure of the road for an extended period of time (eg. road works conducted on Hoddle Street in early 2018).

In terms of traffic control devices that do not require authorisation, utilities, providers of public transport, and road authorities would not need to obtain authorisation for works advisory devices, and temporary works speed-limit signs, hand-held stop signs and works zone signs. The Department has estimated that these third-party exemptions would apply to at least 109,196 exempt minor works[[7]](#footnote-7) conducted on roads. As a result of this authorisation exemption, utilities, providers of public transport and road authorities would save about $21.22 per application for a memorandum of authorisation and $2,317,139 per annum because they are exempted from the authorisation requirements for the aforementioned traffic control devices (works advisory devices etc.).

The authorisation of the temporary works speed-limit sign will protect the integrity of Victoria Police traffic enforcement of the Road Rules 2017 and prevent speeding motorists who have incurred a traffic infringement from successfully challenging the legal status of a temporary works speed-limit sign displayed on a road near a building and construction worksite.

### Option 2: Stream-Lined Traffic Control Device Authorisation and Exemption

Under this option, the provisions would be the same as Option 1 with the following changes:

Road authorities, utilities and providers of public transport, and non-road activity organisers would be exempt from requiring authorisation for a traffic control device, other than a traffic signal, that uses lights or illuminated words or symbols to direct or warn road users.

VicRoads would no longer be responsible for the authorisation of minor traffic control devices used on municipal roads by utilities, providers of public transport and non-road activity organisers or temporary works speed-limit signs used on municipal roads by other persons. Instead, local council coordinating road authorities would provide authorisation for these traffic control devices.

Table 9 below shows the proposed changes relative to current requirements (Option 1) **(in bold**)

Table 9: Proposed use of traffic control devices, by type of party

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
|  | Major Traffic Control Device | Minor Traffic Control Device 1 | Works Advisory Devices | Illuminated Traffic Signal to Warn/Direct Road Users | Temporary Works Speed-Limit Signs | Hand-held Stop Signs | Works Zone Sign |
| Road Authorities | With VicRoads Authority | Yes | Yes | Yes | Yes | Yes | Yes |
| Utilities & Providers of Public Transport  | With VicRoads Authority | **With authority from coordinating road authority** | Yes | Yes | Yes | Yes | Yes |
| Non-Road Activity organisers | With VicRoads Authority | **With authority from coordinating road authority** | Yes | Yes | Yes | Yes | N/A |
| Other Persons | With VicRoads Authority | With authority from coordinating road authority | With authority from coordinating road authority | **With authority from coordinating road authority** | **With authority from coordinating road authority** | With authority from coordinating road authority | With authority from coordinating road authority |

**Note**: **1** Excludes ‘works advisory devices’.

**Costs**

The Department estimates that this option would impose similar administrative costs on third-parties as Option 1 apart from a potential reduction in MoA applications from road authorities, utilities, providers of public transport and non-road activity organisers for the use of a traffic control device, other than a traffic signal, that uses lights or illuminated words or symbols to direct or warn road users. It is difficult to estimate any reduction in the number of MoA applications as third-parties apply for all of the different types of traffic control devices in the one application form. For example, while a utility, provider of public transport or non-road activity organiser may not need to obtain authorisation for a traffic control device, other than a traffic signal, that uses lights or illuminated words or symbols to direct or warn road users, they may still be required to obtain authorisation for other major traffic control devices.

**Benefits**

This option would have similar benefits as Option 1 in terms of road safety, reductions in traffic congestion and integrity of Victoria Police traffic enforcement but with the following additional benefits.

Local council coordinating road authorities would be permitted to authorise utilities, providers of public transport and non-road activity permit organisers to use minor traffic control devices where the works or activity is to be conducted on a municipal road. This would enable these third-parties to potentially deal with only one coordinating road authority for the consent for works application and MoA application other than for works that may require VicRoads authorisation of major traffic control devices.

Local council coordinating road authorities would also be permitted to authorise other persons to display a traffic control device, other than a traffic signal, that uses lights or illuminated words or symbols to direct or warn road users and temporary works speed-limit signs on municipal roads. These signs are commonly used together with works zone signs and hand-held stop signs on building and construction sites. Enabling local council coordinating road authorities to authorise other persons to display temporary works speed-limit signs will save other persons from making a separate MoA application to VicRoads for this type of sign and enable other persons to submit a single application to one coordinating road authority for authorisation of minor traffic control devices and works advisory devices.

There is no detailed data on the number of third-parties, particularly other persons, that have to seek authorisation for traffic control devices from both VicRoads and the local council coordinating road authority for works conducted on a municipal road. However, the Department expects a reduction in the number of MoA applications for temporary works speed-limit signs and traffic control device (other than traffic signals) that use lights or illuminated words or symbols to direct or warn road users. This would save other persons $21.22 per application. By way of example, a reduction of 1,000 MoA applications to VicRoads would provide cost savings of $21,220 to other persons and at least $68,730 to VicRoads in processing the MoA applications (based on a processing cost of $68.73 per application as outlined in section 5.2.1). This represents a total saving of $89,950. The example is only provided to give guidance on the potential magnitude of the cost savings and should not be construed as the likely cost savings.

### Comparative Assessment of the Options

Options 1 and 2 share similar benefits in respect to road safety and operational efficiency relative to the Base Case. Option 1 imposes a total cost of $3,324,619 whereas Option 2 has been estimated to impose slightly lower costs. In view of this, the Department has assessed Option 2 to be the superior option as it provides additional benefits by creating opportunities for third-parties, particularly other persons, to obtain authorisation of certain traffic control devices from a single coordinating road authority for works that are conducted on a municipal road Notwithstanding that it is difficult to ascertain the exact cost savings, the reforms under Option 2 carry no real or perceived risk with the removal of the current duplication and provide red tape reduction benefits to other persons that account for most of the MoA applications and administrative cost savings to VicRoads.

## Permission for races

### Alternatives

There are mechanisms under the Act to enable the approval of bicycle and foot races. The following assessment will evaluate whether the legislation on its own (the ‘Base Case’) provides a more efficient outcome than the current regulation and alternative approaches such as a one-stop shop that would remove the current duplication between coordinating road authorities and Victoria Police.

All of the options would require traffic management and event management plans. These documents are focussed on ensuring road safety and operational efficiency. Accordingly, the assessment of the options is primarily focussed on the most cost efficient approach.

There are several alternatives to the Base Case that are examined in detail in this RIS:

Option 1: Victoria Police permission for bicycle and foot races with more than 30 competitors (Current Regulation)

Option 2: Victoria Police permission for all bicycle and foot races

Option 3: Victoria Police two –tiered permission for all bicycle and foot races

Option 4: Non-road activity permits to replace Victoria Police race permits

Option 5: One Stop Shop

All options would allow exemption from compliance with certain Road Rules (ie. Rules 151, 234, and 238) and exemption from all Road Rules for races conducted within a police controlled rolling road closure.

### Option 1: Victoria Police Permission for Bicycle and Foot Races with more than 30 Competitors (Current Regulation)

This option is the current regulation and would prescribe the following requirements in an application:

* the day or days of the race;
* the approximate number of competitors to be involved;
* the starting and finishing times of the race in respect of each day; and
* the route to be followed.

A written application would need to be submitted at least two months before the proposed date of the race (comprising more than 30 competitors).

The Chief Commissioner of Police would also be empowered to require compliance with any conditions considered appropriate.

A competitor taking part in a race would be exempt from complying with rules 151, 234, 238 and 256 of the Road Rules provided the competitor complied with the race permit conditions. These rules have been selected because they are the only ones relevant to races, and stakeholders have not suggested any additional rules. Exemption from the Road Rules would be provided for a competitor, marshal or official if the race is to be conducted within an approved police controlled rolling road closure.

**Costs**

The Department has estimated that it would take an applicant about five minutes to complete the basic information in the application form. This would cost the race organiser $7.07[[8]](#footnote-8) per application and $7,070 for the 1,000 race applications submitted per annum. Race organisers are already required to prepare an event management plan and traffic management plan for a non-road activity permit application so any requirement for race organisers to also submit such plans with their race application to Victoria Police would only impose a nominal additional cost on race organisers.

As can be seen in Table 10, the Department has estimated that this option imposes total costs of $46.59 per application and $46,590 for the 1,000 applications received per annum.

Table 10: Cost of Race Permission Process

|  |  |  |
| --- | --- | --- |
|  | Cost per Application | Annual Cost |
| Race Organisers | $7.07 | $7,070 |
| Victoria Police\* | $39.52 | $39,520 |
| Total Cost | $46.59 | $46,590 |

Note: \* (refer to section 5.2.4 in respect to Victoria Police costs

This option does not require race organisers to apply for a Victoria Police race permit where the race is likely to attract less than 30 competitors. In this case, race organisers only need to obtain a non-road activity permit from the relevant coordinating road authority(ies) on whose roads the race is to be conducted. For these races, the non-road activity permit cannot exempt the race competitors, marshals and officials from complying with the Road Rules. This prevents competitors from riding more than two abreast on an open road and participating in relatively unrestricted ‘race conditions’. VicRoads and Victoria Police are unaware of the number of races that are affected by the current regulation. However, as pointed out in section 2.6, Cycling Victoria has advised that some of their affiliated clubs still apply for, and are granted, permits for races that have less than 30 competitors. These clubs prefer to obtain a race permit so that they are able to obtain the Road Rule exemptions to conduct the race under ‘race conditions’.

**Benefits**

Subject to Victoria Police approval, competitors, marshals and officials would be exempt from Road Rules 151, 234, 238 and 256 for open road races and all Road Rules for races involving police controlled rolling road closures. This would enable competitors to ride in a peloton and for marshals and officials to remain on the road at designated locations (mostly at the start and finish of the race).

This option, with the ’30 competitor’ threshold, seeks to balance the need to allow races to be conducted with Road Rule exemptions without imposing unnecessary burdens on those smaller races where the Road Rule exemptions are not required.

### Option 2: Victoria Police Permission for All Bicycle and Foot Races

This option would not impose the current ’30 competitor’ threshold and would apply to all bicycle and foot races (regardless of the number of competitors) that require a non-road activity permit.

This option would prescribe the same information requirements as for Option 1.

This option would also prescribe that the application would need to be accompanied by an event management plan and traffic management plan. The applicant would also be required to provide a copy of their non-road activity permit and a certificate of currency for public liability insurance before Victoria Police would provide its permission for the race.

A written application would need to be submitted at least three months before the proposed date of the race to address the need by Victoria Police to have adequate time to liaise with coordinating road authorities and race organisers, and inspect the race route if necessary, as outlined in section 2.6.

The Chief Commissioner of Police would also be empowered to require compliance with any conditions considered appropriate.

The same Road Rules exemptions (other than Rule 256 which requires the wearing of bicycle helmets) as for Option 1 would apply to competitors, marshals or officials.

**Costs**

The increased transparency of the application requirements would formalise in regulation the current administrative practice of Victoria Police under Option 1. The removal of the 30 competitor threshold under the current regulations would not automatically require all bicycle events to obtain a race permit from Victoria Police. As noted in section 2.6, bicycle events with fewer than 30 competitors currently are required to obtain a non-road activity permit from a coordinating road authority but the issuing of a non-road activity permit does not provide exemption from the required Road Rules. As a result, these bicycle events are technically not a race under the regulations even though participants might breach Road Rules and conduct the event like it was a race. And, as noted in the discussion of Option 1, some clubs apply for permits for races that have less than 30 competitors by nominating a number of at least 30. Hence, the removal of the threshold is unlikely to change the number of applications for race permits submitted to Victoria Police. In view of this, the Department considers there would be no incremental costs to race organisers and Victoria Police relative to Option 1. Accordingly, the costs of this option are the same as Option 1; $46.59 per application and $46,590 for the 1,000 applications received annually.

**Benefits**

Option 2 would provide transparency and certainty to race organisers relative to Option 1 by ensuring the documentation that is currently required is prescribed in regulation (i.e the event management plan, traffic management plan, a certificate of currency for public liability insurance and a copy of the non-road activity permit).

The extended time for the lodgement of an application from two to three months prior to the proposed date of the race would provide Victoria Police with sufficient time to liaise with coordinating road authorities and race organisers, and where appropriate, propose adjustments to the conduct of the race. As noted in section 2.6, most races are planned at least 12 months in advance, and in many cases, are annual events on the bicycle race calendar, the additional one month would not impose significant costs to race organisers.

The same benefits as for Option 1 apply in regard to exemptions from certain Road Rules for competitors, marshals and officials.

### Option 3: Victoria Police Two-Tiered Permission for All Bicycle and Foot Races

This option would adopt the New South Wales Police approach with a two-tiered permit system for all bicycle and foot races.

There would be two classes of race permits. A class 1 permit would be for a bicycle or foot races that impacts on major traffic and transport systems. A class 2 permit would be for bicycle or foot races that do not impact on major traffic and transport systems. A class 1 permit would apply to a freeway or arterial road and a class 2 permit would apply to municipal roads.

Both class permits essentially require similar documentation to be presented to the Police: event management plan, traffic management plan and approvals from coordinating road authorities. In many respects, the application process is similar to that required by Victoria Police under Option 2. The most notable difference is the additional consultation between Victoria Police and coordinating road authorities and providers of public transport (where relevant) for Class 1 permit applications.

The terms and conditions of the application process as stated in Option 2 would also apply to this option.

**Costs**

The Department is unable to ascertain the number of race applications that would likely fall into any Class 1 and 2 race categories.

Given that most bicycle and foot races are conducted on municipal roads in rural areas, the Department estimates that about 10 percent of race applications would be assessed as a Class 1 race permit. VicRoads currently issues about 100 non-road activity permits on arterial roads that also obtain a race permit. In view of this, there would be about 100 applications for Class 1 race permits and 900 applications for Class 2 race permits per annum.

The Department envisages the costs of the application process to race organisers and Victoria Police for Class 1 and 2 race permits would be the same as Options 1 and 2. except for a Class 1 race, that would involve more consultation between Victoria Police and coordinating road authorities.

**Benefits**

Similar to Options 1 and 2, competitors, marshals and officials would be exempt from Road Rules 151, 234, and 238 for open road races and all Road Rules for races conducted within a police controlled rolling road closure.

Other than this, there is minimal incremental benefit relative to Option 2 given that the two classes of permit do not reduce the burden of the application process for race organisers (particularly for Class 1 races) or the administrative cost for Victoria Police.

### Option 4: Non-Road Activity Permit to Replace Victoria Police Race Permits

This option would enable race organisers who have been granted a non-road activity permit to allow their competitors, marshals and officials to be exempt from complying with Road Rules 151, 234, and 238 for open road races and all Road Rules for races conducted within a police controlled rolling road closure. VicRoads would declare exemptions from the relevant Road Rules in the Government Gazette in accordance with section 99B(4) of the Act.

As a result, this option would abolish the requirement for race organisers to apply for Victoria Police permission for bicycle and foot races conducted on freeways, arterial, non-arterial State and municipal roads.

However, this option would require the coordinating road authority upon receiving an application to formally consult with Victoria Police and to consider any issues of concern raised by Victoria Police relating to public safety of the proposed race or the conduct of a police controlled rolling road closure.

This is similar to the requirement for Ministerial approval of applications for motor car races and speed trials under section 68 of the Act. When VicRoads receives an application for a motor car race or speed trial, it consults with local councils that are within the proposed route of the race as well as with Victoria Police before granting approval. However, the consultation with Victoria Police and local councils has not been formalised in the Act. This would seem appropriate given that VicRoads (as delegated by the Minister) is the sole administrator of section 68 applications.

However, this is not the case with bicycle and foot races, where any one or more of the 79 local council coordinating road authorities and VicRoads may be required to consult with Victoria Police in respect to bicycle and foot races. Given the larger number of authorities involved in the approval of bicycle and foot races there is a greater risk of a coordinating road authority inadvertently failing to consult with Victoria Police. To address this risk, the coordinating road authority would need to acknowledge in the non-road activity permit that it had consulted with Victoria Police and that the applicant should contact Victoria Police if it needs assistance with traffic control on the day of the race.

**Costs**

This option does not impose any incremental costs on race organisers relative to the requirements for a non-road activity permit under section 99B of the Act. The costs of the non-road activity permit application process are incurred under the Act.

Local council coordinating road authorities issue about 900 non-road activity permits per annum and would need to liaise with, and formally request, VicRoads to organise a declaration of the exemption from any applicable Road Rules in the Government Gazette. The liaison and preparation of this documentation would take an estimated two hours (one hour each for VicRoads and the local council coordinating road authority) or about $214.48[[9]](#footnote-9) for each declaration and $193,032 for 900 declarations per annum. VicRoads would incur costs of about $107.24 for each declaration of the 100 non-road activity permits granted per annum; at an annual cost of $10,724. As a result, the declarations for 1,000 non-road activity permits would impose costs of $203,756 per annum.

**Benefits**

The abolition of Victoria Police permission for bicycle and foot races would produce cost savings of $7,070 to race organisers (or $7.07 per application) and $39,520 to Victoria Police (or $39.52 per application): $46,590 in total relative to Options 1, 2 and 3. These cost savings would not offset the $203,756 in costs and would result in a net cost of $157,166.

Victoria Police would still be consulted as part of the non-road activity permit application process and be able to make recommendations to the coordinating road authority where they considered the proposed route of the race posed public safety risks. Applicants would also still need to prepare event management plans and traffic management plans for the race.

Subject to a coordinating road authority issuing a non-road activity permit for a race, competitors, marshals and officials would be exempt from complying with Road Rules 151, 234, and 238 for open road races and all Road Rules for races conducted within a police controlled rolling road closure.

### Option 5: One-Stop Shop

This option would essentially be the same as Option 4 except all coordinating road authorities would be empowered to declare exemptions from Road Rules as part of their conditions in a non-road activity permit.

This is currently not possible under the Act as exemptions must be declared by the Minister in the Government Gazette. In addition, it would also require the Minister to delegate his/her responsibilities under section 99B of the Act to all coordinating road authorities. Notwithstanding this, it is useful to explore the costs and benefits of this approach to ascertain whether an amendment to the Act would provide a superior outcome to the other options.

Because race organisers would only have to apply to the coordinating road authority, this option would effectively provide a one-stop shop for race organisers other than for large-scale races conducted on roads in more than one local council area, or for races conducted on arterial and municipal roads in one or more local council areas, a non-road activity permit would be required from the local council coordinating road authority and VicRoads (as the coordinating road authority for arterial roads).

Victoria Police would still be consulted as part of the non-road activity permit application process and be able to make recommendations to the coordinating road authority where they considered the proposed route of the race posed public safety risks or for races requiring a police controlled rolling road closure.

**Costs**

As for Option 4, this option does not impose any incremental costs on race organisers relative to the requirements for a non-road activity permit under section 99B of the Act.

Coordinating road authorities also would not incur any incremental costs relative to the current administrative costs associated with processing a non-road activity permit. The exemptions from specific Road Rules would be inserted as part of the conditions of the non-road activity permit.

**Benefits**

The inclusion of Road Rule exemptions in the conditions of the non-road activity permit would provide costs savings of $7,070 to race organisers and $39,520 to Victoria Police; $46,590 in total relative to Options 1, 2 and 3.

This option would provide cost savings to coordinating road authorities $203,756 for 1,000 declarations per annum relative to Option 4.

Subject to the approval of a non-road activity permit, competitors, marshals and officials would be exempt from Road Rules 151, 234, and 238 for open road races and all Road Rules for police controlled rolling road closures.

### Comparative Assessment of the Options

All of the five options enable exemptions from certain Road Rules to facilitate unrestricted ‘race conditions’ for bicycle and foot races. All of the options would require traffic management and event management plans. These documents are focussed on ensuring road safety and operational efficiency. Accordingly, the assessment of the options is primarily focussed on the most cost efficient approach. Options of 1, 2 and 3 impose costs of $46,590 relative to the Base Case. However, Options 2 and 3 provide greater certainty and transparency to race organisers in respect to the race permit application process relative to Option 1. Options 2 and 3 would require the following documents to accompany an application: an event management plan, traffic management plan, copy of current certificate of public liability insurance and a copy of the non-road activity permit. Other than the latter document, these documents are required for a non-road activity permit. Hence, the associated costs have been already incurred by race organisers. Option 4 imposes a net financial cost of $157,166 per annum (costs of $203,756 minus benefits of $46,590) relative to the Base Case.

Option 5 provides a benefit of $46,590 per annum and a one stop shop service for race organisers to obtain a non-road activity permit for the bicycle or foot race from a coordinating road authority and to have the exemptions from certain Road Rules included in the conditions of a non-road activity permit. However, the benefits do not take into account the costs associated with establishing a one-stop shop. While this appears to be the superior option, it would require an amendment to the *Road Safety Act 1986* to provide coordinating road authorities with the power to exempt certain Road Rules and to include those exemptions in the conditions of a non-road activity permit. Further, the costs and feasibility of a one-stop shop would need to be investigated as identified in section 11. In view of this, Option 2 provides the next best option and, therefore, is the preferred option.

## Permission for highway collections

### Alternatives

There are several alternatives to the Base Case. Three are examined below.

Option 1: Victoria Police permission (current approach)

Option 2: Stream-lined Victoria Police permission

Option 3: One- Stop Shop permission

Option 1 is the current approach and is measured against Option 2 that provides greater transparency of the current practice and Option 3 that provides a one-stop shop. All of the options would allow exemption from compliance with certain rules under the Road Rules(ie. rules 230(1), 234 and 236(4)(a) and (c)). All of the options would also have the same conditions attached to the permit. These conditions are focussed on ensuring road safety and operational efficiency to highway collectors and other road users.

### Option 1: Victoria Police Permission (Current Regulation)

This option would require fundraisers to obtain a highway collection permit issued by Victoria Police. The current approach comprises the current regulation and Victoria Police administrative practices

The following information as prescribed in the current regulations would be required in a written application for permission from Victoria Police to conduct a highway collection:

* the organisation or purpose that is intended to be benefited by contributions collected by the highway collection;
* the date and time when the collection is intended to be conducted;
* the locations where the collection is intended to be conducted; and
* the approximate number of people involved in the collection.

A written application would need to be submitted at least one month before the proposed date of the highway collection.

The Chief Commissioner of Police would also be empowered to require compliance with any conditions considered appropriate.

The following Victoria Police administrative practices would require the application form to be accompanied by a copy of the council local law permit or written approval and a copy of public liability insurance cover for at least $10 million for a highway collection. In addition, the application would need to be declared before an approved person (in effect, a statutory declaration).

**Costs**

The Department has estimated that it would take an applicant about five minutes to fill-out the basic information required in the application form. This would cost the fundraiser $7.07 per application and $16,261 for the 2,300 highway collection applications submitted per annum. In addition, the fundraiser would be required to submit a statutory declaration with the application. The Department has estimated that the applicant would take about one hour mostly in travel time in securing a statutory declaration on the application form at a cost of $84.89 per application and $195,247 for the 2,300 highway collection permit applications. This imposes a collective cost to fundraisers of $91.96 per application and an annual cost of $211,508.

Fundraisers are already required to have a local council highway collection local law permit and public liability insurance. Fundraisers would only need to attach a copy of these documents when submitting the application in their email to Victoria Police. Accordingly, the Department considers this would impose a nominal cost on fundraisers.

As can be seen in Table 11, the Victoria Police permission option imposes total administrative costs of $131.48 per application and $302,404 for the 2,300 applications received annually.

Table 11: Cost of Highway Collection Process

|  |  |  |
| --- | --- | --- |
|  | Cost per Application | Annual Cost |
| Fundraiser | $91.96 | $211,508 |
| Victoria Police | $39.52\* | $90,896 |
| Total Cost | $131.48 | $302,404 |

**Note**: \* refer to section 5.2.4 for Victoria Police cost

In terms of the one month timeframe that a written application must be submitted before the date on which the collection is intended to be conducted, most local councils have similar provisions in their local laws for highway collection permit applications. However, there are some local councils such as Stonnington that allows applications to be submitted 14 days prior to the proposed date of the collection. In these cases, the Victoria Police one month submission requirement is not practicable and may result in a permit not being issued for the fundraiser’s proposed date of collection.

The administrative discretion provided to the Chief Commissioner of Police to impose conditions on the highway collection permit that the Commissioner thinks are appropriate may potentially restrict a fundraiser. For example, common conditions imposed on a highway collection include a minimum of 4 collectors and a maximum of 12 collectors at any intersection, while highway collections can only be conducted at intersections located in a speed zone no greater than 70 km/h. Victoria Police considers these conditions are necessary to ensure that there are sufficient numbers of collectors to conduct the highway collection safely and to prevent unnecessary traffic congestion. Some collectors need to monitor traffic conditions while other collectors are actively seeking donations from drivers. In the event that an incident occurred, there needs to be a sufficient number of collectors to assist an injured collector and to call emergency services. The restriction on highway collections at intersections in a speed zone no greater than 70 km/h is to reduce the safety risk to collectors. The Department considers it would be inappropriate to prescribe conditions in the regulations as this would affectively remove Victoria Police’s ability to make slight variations to the conditions where a particular intersection was deemed to be a road safety hazard.

**Benefits**

Subject to Victoria Police approval, a fundraiser’s collectors would be exempt from Road Rules 230(1), 234 and 236(4)(a) and (c). This would enable collectors to access and remain on the road at intersections where traffic has come to a stop. Otherwise, collectors would need to remain on the footpath and only have access to motorists stopped in the lane closest to the kerb. The exemption from the Road Rules enables collectors to seek donations from motorists stopped across multiple lanes. There are some potential safety risks with collectors remaining on the road and walking between vehicles. Collectors need to be cognisant of on-coming or moving traffic and leave the road prior to the traffic signals turning green. The low level of incidents at highway collections as noted in section 2.4 would suggest that there is a low risk to the personal safety of highway collectors.

**Net Outcome**

Option 1 imposes $302,404 in costs and provides benefits in the form of enabling fundraiser collectors to remain on the road to collect donations from stationary motorists while the traffic signals remain red (stop) at an intersection.

### Option 2: Streamlined Victoria Police Permission (regulatory transparency and removal of the statutory declaration requirement)

This option would have the same requirements as Option 1 in respect to the information to be included in a written application for Victoria Police permission but the administrative practice of requiring a copy of the council local law permit or written approval and a copy of public liability insurance cover for at least $10 million for a highway collection would be prescribed in regulation and a written application would need to be submitted at least two months before the proposed date of the highway collection.

However, the administrative practice that requires the application to include a statutory declaration would be removed.

Similar to Option 1, the Chief Commissioner of Police would also be empowered to require compliance with any conditions considered appropriate.

**Costs**

This option does not impose any additional requirements for the highway collection permit application process but formalises the current Victoria Police administrative practice in requiring evidence of local council approval and public liability insurance. As stated in Option 1, the Department has estimated that it would take an applicant about five minutes to fill-out the basic information required in the application form. This would cost the fundraiser $7.07[[10]](#footnote-10) per application and $16,261 for the 2,300 highway collection applications submitted per annum.

The cost to Victoria Police to administer and process applications would be the same as Option 1: estimated at $39.52 per application and $90,896 for the 2,300 applications as the removal of the statutory declaration would have negligible impact on the processing of the application.

Fundraisers would need to allow two months to submit an application compared with the current requirement of one month in Option 1. The Department considers that this would not impose a significant cost given that fundraisers tend to conduct highway collections at the same time each year and need to make logistical preparations well in advance of the proposed date of the highway collections.

Accordingly, this option would cost fundraisers and Victoria Police $46.59 per application and $107,157 for the 2,300 applications received annually.

**Benefits**

Subject to Victoria Police approval, a fundraiser’s collectors would be exempt from Road Rules 230(1), 234 and 236(4)(a) and (c). This would enable collectors to access and remain on the road at intersections where traffic has come to a stop. Otherwise, collectors would need to remain on the footpath and only have access to motorists stopped in the lane closest to the kerb.

This option would remove the requirement for the applicant to obtain a statutory declaration with the application and this would provide fundraisers with cost savings of $84.89 per application and $195,247 for the 2,300 highway collection permit applications.

This option would also provide transparency and certainty to fundraisers relative to Option 1 by ensuring the documentation that is currently required is prescribed in regulation (i.e a copy of the fundraiser’s local council highway collection permit and public liability insurance). The Department considers that the submission of the application two months prior to the date of the highway collection will provide Victoria Police with adequate time to ensure the proposed intersections are safe for highway collectors and other road users.

**Net Outcome**

Option 2 imposes costs of $107,157 and benefits of $195,247: a net benefit of $88,090. Similar to Option 1, this option also provides benefits in the form of enabling fundraiser collectors to remain on the road to collect donations from stationary motorists while the traffic signals remain red (stop) at an intersection.

### Option 3: One-Stop Shop Permission

This option would enable local councils, in issuing a highway collection local law permit, to also exempt the permit holder from compliance with certain rules under the Road Rules (ie. Rules 230(1), 234 and 236(4)(a) and (c)).

While there is no legal authority under the *Road Safety Act 1986* to empower local councils to provide exemptions from any provision of the Act and Regulations (including the Road Rules), it is still useful to assess the costs and benefits of a single approval system for highway collections that may remove the current duplication and associated costs to fundraisers and to Victoria Police.

Under this option, a single approval system for highway collections would be based solely on the current council local law permit system with the local council issuing an exemption from certain Road Rules as a condition of the permit. As a result, Victoria Police permission for highway collections would be abolished. However, there would still be a need for local councils to consult with Victoria Police prior to issuing a permit to ensure that the local council is made aware of any safety concerns that Victoria Police may have in regard to the proposed collection at a particular intersection. Further, for a collection on an arterial road, the council would be required to consult with VicRoads regarding any potential traffic operational or safety issues that could arise as a result of the collection.

**Costs**

There would be no incremental costs to highway collection organisers related to this option. Fundraisers already incur the costs of preparing a local council highway collection permit application under council local laws. Hence, this cost can be treated as a business as usual cost and not a cost related to this option.

Local councils would need to add to the highway collection permit conditions a provision that would enable highway collectors to be exempt from rules 230(1), 234 and 236(4)(a) and (c) of the Road Rules. This would impose a nominal one-off cost given that it would form a standard condition for all highway collection permits.

Local councils would also need to liaise with Victoria Police primarily on the proposed intersection to ensure that they had no safety concerns. Alternatively, a more efficient approach would be for Victoria Police to provide a list to all local councils of the intersections it considers are too dangerous for highway collections. This would reduce the need for local councils to liaise with Victoria Police for each permit application. The approach adopted in practice would need to be determined by Councils and Victoria Police, and will affect the costs in practice.

**Benefits**

Similar to Options 1 and 2**,** under this option a fundraiser’s collectors would be exempt from Road Rules 230(1), 234 and 236(4)(a) and (c). This would enable collectors to access and remain on the road at intersections where traffic has come to a stop. Otherwise, collectors would need to remain on the footpath and only have access to motorists stopped in the lane closest to the kerb.

This option would remove the current duplication of the highway collection permit application process that exists between Victoria Police and local councils. This would provide cost savings with the abolition of the requirement to obtain Victoria Police permission for highway collections: $302,404 in respect to Option 1 and $88,090 for Option 2.

The minimum time of one month for submitting a written application before the proposed date of the highway collection could potentially be removed. This requirement is driven mostly by resource constraints within the Victoria Police permission process given that it has to manually process about 2,300 applications per annum. It is, however, highly unlikely to result in resource constraints on council, because each one only deals with a handful of applications per year.

**Net Outcome**

Option 3 imposes no incremental costs and $302,404 in benefits in respect to Option 1 and $88,090 for Option 2. Similar to Options 1 and 2, this option also provides benefits in the form of enabling fundraiser collectors to remain on the road to collect donations from stationary motorists while the traffic signals remain red (stop) at an intersection.

### Comparative Assessment of the Options

All of the options enable exemption from certain Road Rules to enable fundraiser collectors to remain on the road to collect donations from stationary motorists while the traffic signals remain red (stop) at an intersection. All of the options would also have the same conditions attached to the permit. These conditions are focussed on ensuring road safety and operational efficiency to highway collectors and other road users. In terms of costs, Option 1 imposes costs of $302,404: Option 2 costs of $107,157 and Option 3 imposes some minor costs that have been estimated to be lower than the other options.

The Department considers that Option 3 is the superior option as it provides for potential annual cost savings of $302,404 relative to the current regulation. However, the net benefits estimates do not take into account the costs associated with establishing a one-stop shop. As previously mentioned, the *Road Safety Act 1986* would need to be amended to allow local councils to include as a condition of their highway collection permits exemption from certain Road Rules, while the costs and feasibility of a one-stop shop would need to be investigated as identified in section 11.

In view of this, Option 2 imposes the least costs and is the preferred option.

## Traffic management plans

### Alternatives

The Department considers there are no other feasible alternatives to the Base Case other than Option 1: Prescribed Requirements (current regulation). This option prescribes basic information in relation to the location and duration of works and non-road activities as well as the provision for risk assessment and mitigation measures (where applicable). This information is identical to the information provided by third-parties as part of the MoA application process and the risk assessment and mitigation measures required under the Code of Practice for Worksite Safety - Traffic Management.

The information contained in a traffic management plan needs to be provided in a way that can be implemented at the worksite or event by those traffic management contractors, workers or volunteers responsible for the management of traffic through the worksite or event location respectively. In particular, where traffic control devices (eg. warning or speed limit signs, bollards) should be located, and at what times, to ensure road safety and operational efficiency of the road network. Option 1 provides a degree of flexibility in how third-parties can prepare and document a traffic management plan (including a risk assessment). Invariably, the traffic management plan includes a schematic diagram (or traffic guidance scheme) that is maintained at the worksite or event location to ensure all workers and volunteers are aware of, and adhere to, the requirements that are replicated in the traffic guidance scheme. An option to require less information was considered, however, this would result in key traffic management plan information being omitted, with possible adverse traffic and worker safety implications. While the removal of a risk assessment for low risk worksites was considered, a risk assessment needs to be undertaken in accordance with the guidance provided in the Code of Practice for Worksite Safety – Traffic Management to determine what risk mitigation measures need to be implemented. For these reasons, there is no other feasible alternative to Option 1.

### Option 1: Prescribed Requirements (Current Regulation)

This option would require a person conducting, or proposing to conduct a relevant activity on a road or road related area to have in operation one of the following three types of traffic management plans:

1. that depicts a diagram or dimensioned drawing of the specific place where the relevant activity is being, or is to be, conducted; or
2. that depicts a generic diagram or dimensioned drawing of a place that is similar to the place where the relevant activity is being, or is to be, conducted; or
3. that sets out standard operating procedures relating to the relevant activity.

The second and third type of traffic management plan can be used for subsequent works and non-road activities at different, but similar, locations.

Either of the three types of traffic management plan would, to comply with the guidance provided in the Code of Practice for Worksite Safety – Traffic Management, need to include details of:

* the nature and expected duration of the relevant activity;
* the worksite or location of the relevant activity;
* the risk assessment undertaken of the relevant activity;
* the arrangement of traffic control devices for the duration of the activity, including for each stage of the activity and during both daytime and night-time, where relevant;
* any proposed reduction in the speed-limit for the road or road related area on which the relevant activity is being, or is to be, conducted;
* any provision for public transport, other vehicular traffic, pedestrians, cyclists, or persons with disabilities; and
* any other measures to control identified risks to ensure the safety of all road users and persons engaged in conducting the relevant activity.

The aforementioned details would need to take into account:

* the nature of the relevant activity;
* the type of road or road related area;
* the speed-limit for the road or road related area;
* any identified delays to traffic on the road or road related area; and
* the clearance between traffic on the road or road related area and persons conducting, or that will conduct, the relevant activity or other road users.

**Costs**

VicRoads has sampled its MoA applications and estimated that about 60 percent of works conducted on a road do not involve lane or road closures, 30 percent involve lane closures and only 10 percent involve a road closure. Most of the details that need to be included in a traffic management plan involve basic information such as the nature, location and duration of the works, an initial assessment of possible risk factors at the site, the arrangement of traffic control devices and any proposed reduction in speed-limit for the road.

These particular details would comprise most of the traffic management plan for the 60 percent of works that do not involve a lane closure, with third-parties being able to rely on the second and third types of traffic management plan (i.e. a generic diagram or dimensioned drawing of a place similar to the place where the activity is to be conducted or a standard set of operating procedures). These types of traffic management plan enable a third-party to use the same traffic management plan for a similar type of works on roads with similar conditions or characteristics. For example, a builder may only need to use hand-held stops signs, work zone signs and temporary works speed-limit signs at most worksites that have similar characteristics (e.g. a residential development abutting a municipal road) to allow vehicles such as trucks and mobile cranes to access the property worksite.

Whereas for the other works that involve lane closures or road closures, there would be a need to also undertake a more detailed risk assessment and identify mitigating measures to control any potential risks to road user or roadworker safety together with provisions to enable access to public transport and other road users. These works are more likely to require a site specific traffic management plan in each instance.

The second and third type of traffic management plan would also enable non-road activity organisers to use the same traffic management plan for events that occur at the same location on a recurring basis. For example, most festivals and bicycle or foot races are held on the same roads or in the same locations on an annual basis and would not require the preparation of a new traffic management plan each time the event is held.

The Traffic Management Association of Australia (TMAA) has advised that the cost of preparing traffic management plans ranges from about $120 (simple plan), $250 (plan for a lane closures) to about $1,500 (complex plan involving a road closure).

Of the 31,000 works conducted on a road per annum, VicRoads has, after sampling MoA applications, estimated that 18,600 works or 60 percent involve no lane closures, 9,300 works or 30 percent involve lane closures and 3,100 works involve a road closure.

As this option enables traffic management plans to be applied to other locations, it is reasonable to assume that at least the 3,100 works that involve a road closure would mostly require a traffic management plan for the specific location. The Department has estimated that this could impose a cost up to $4,650,000 per annum. However, this cost is attributable primarily to the obligations under section 99A of the Act which requires a traffic management plan to be prepared.

While most of the details to be included in the traffic management plan are self-explanatory, the risk assessment component is open to interpretation by traffic management plan consultants. The Code provides some guidance on the type of risks that need to be assessed for worksites with a high hazard rating but does not provide guidance in terms of the actual assessment and the identification of mitigation or traffic control measures to deal with those risks. VicRoads considers that it would be inappropriate and cumbersome to include this guidance in regulation because it would require case studies similar to those provided in VicRoads “Guide to Working in Road Reserves”. VicRoads will liaise with the TMAA to determine whether VicRoads should produce a similar guide to deal with the risk assessment aspects of a traffic management plan.

In considering the costs associated with the preparation of traffic management plans, it must be noted that the *Occupational Health and Safety Act 2004* and associated *Occupational Health and Safety Regulations* place a duty of care on employers to provide a safe workplace for employees, with construction work on roads deemed to be ‘high risk’. For such ‘high risk’ work, a ‘safe work method statement’ (SWMS) is required. As a result, the work required to prepare a SWMS would largely form the basis for the preparation of a traffic management plan, hence the Department considers that the incremental costs associated with preparing a traffic management plan should not be significant for third-parties proposing to conduct works on roads.

**Benefits**

The three types of traffic management plan and the flexibility to apply the prescribed details having regard to the type of activity to be conducted ensures that those conducting works and non-road activities that do not involve a lane or road closure, with resultant low impacts on road users and public transport, are able to avoid the higher costs associated with more detailed traffic management plan requirements.

Most third-parties conducting works and non-road activities that do not involve a lane closure, would be able to rely on either a generic diagram or dimensioned drawing of a place that is similar to the place where the relevant activity is being, or is to be, conducted or a set of standard operating procedures relating to the relevant activity.

It is difficult to estimate the cost savings of this option relative to the Base Case as there is no detailed data on the number of third-parties that use the various types of traffic management plan.

However, the flexibility this option affords could enable cost savings as estimated by the Department of up to $2,232,000[[11]](#footnote-11) for the 18,600 works that involve no lane closure and up to $2,325,000[[12]](#footnote-12) for the 9,300 works that involve lane closures. This would produce total cost savings of up to $4,557,000 per annum relative to the Base Case.

The matters considered in a traffic management plan, particularly the measures to mitigate identified risks, are focussed on road safety for roadworkers and other road users as well as to provide orderly traffic management of the worksite or non-road activity. And, because the different types of plan are tailored to the different risks of different types of work, the Department does not consider there are any potential safety risks that would offset the cost savings.

**Assessment of the option**

This option provides cost savings of up to $4,557,000 relative to the Base Case as well as road safety and operational efficiency benefits. However, there is a need for guidance on when, and the level of, risk assessment that should be included in a traffic management plan. In this regard, VicRoads will liaise with the TMAA to determine the content of the guidance material.

# Fees

This section analyses the level of cost recovery, and fee options in respect to:

* Memorandum of Authorisation;
* Non-road activity permit;
* Stock control crossing permit;
* Victoria Police race permission; and
* Victoria Police highway collection permission.

The following criteria are used for measuring the options against the Base Case:

* efficiency;
* level of cost recovery;
* simplicity;
* cost to administer the system; and
* incentives for compliance.

The objective is to fund the efficient and equitable administration of traffic management regulation.

## Funding the administration of traffic management regulations

**Setting the Appropriate Fees**

There is a strong principle of providing a service at the minimum cost necessary to achieve the policy objective. This is clearly articulated in the Department of Treasury and Finance (DTF) Cost Recovery Guidelines: *“cost recovery charges should be set according to an efficient cost base: best practice cost recovery arrangements require charges are set at a level that recover the ‘efficient’ (ie. minimum) costs of providing the good/service at the required quality, or of undertaking the necessary regulatory activity*”. In addition, the Guidelines provide that cost recovery may not be appropriate in certain circumstances:

* practical implementation issues make cost recovery infeasible;
* there are benefits to unrelated third parties (sometimes referred to as ‘positive

 externalities’);

* social policy or vertical equity considerations are considered to outweigh the efficiency objectives associated with full cost recovery; and/or
* full cost-recovery might adversely affect the achievement of other government policy objectives.

Practical implementation issues are likely to apply to the administration of applications for a stock crossing permit as the cost of administering cost recovery arrangements is more than the value of the costs recovered. (refer to section 5.1.2)

### Funding the Administration of Traffic Control Device Authorisations

The cost to VicRoads in providing authorisation for the use of traffic control devices (ie. a memorandum of authorisation or MoA) for works or activities conducted on a freeway or arterial road (excluding non-road activity permits, stock crossing permits, race and highway collection permits which are dealt with in the sections following) needs to be funded either by those that directly benefit from the authorisation or from taxpayer funds.

As can be seen from Table 12 below, the annual cost to administer MoAs is $2,666,800 for VicRoads. (refer to section 5.2.1). Due to the absence of application fees, no cost recovery is achieved and the MoA process is fully funded by taxpayer revenue. This is inconsistent with the Department of Treasury’s Cost Recovery Guidelines. The Department considers that partial or no cost recovery may not be appropriate in these circumstances. Applicants granted a MoA are the sole beneficiaries and should pay the associated costs.

Table 12: Cost Recovery of Memorandum of Authorisations

|  |  |  |  |
| --- | --- | --- | --- |
|  | Cost | Revenue | Surplus/Deficit |
| VicRoads | $2,666,800 | 0 | ($2,666,800) |

The cost to local council coordinating road authorities in providing authorisation for the use of traffic control devices (ie. a memorandum of authorisation or MoA) for works or activities conducted on a municipal road is outside the scope of this review. There is no head of power under the Act to prescribe fees for applications submitted to local council coordinating road authorities. Local council coordinating road authorities have the ability to prescribe application fees through the making of local laws under the *Local Government Act 1989*.

### Funding the Administration of Stock Crossing Permits

Since the amendment to the Road Safety (Traffic Management) Regulations 2009 in July 2015 to allow VicRoads to issue a stock crossing permit on an arterial road, VicRoads has issued only 8 permits. This represents about 3 stock crossing permits per annum. The Department has estimated that the cost to process an application and inspect the site for the stock crossing is $214.48 per application (refer to section 5.2.3). The current regulations, which enable VicRoads to issue a stock crossing permit, do not prescribe an application fee. Accordingly, VicRoads does not achieve any cost recovery for administering stock crossing permits. However, given the low number of permits issued, and the cost to establish an invoicing and payment system for such a small volume of permits, the Department considers it may be inappropriate to prescribe a fee. This is consistent with the Cost Recovery Guidelines which states that cost recovery may not be appropriate where practical implementation issues make cost recovery infeasible.

### Funding the Administration of Non-Road Activity Permits

VicRoads issued about 1,000 non-road activity permits and local council coordinating road authorities issued an estimated 1,000 non-road activity permits. The current regulations prescribe a fee of 5 fee units ($72.25 - 2018/19 values) for an application for a non-road activity permit. However, after undertaking a cost analysis of this process, the Department has estimated the cost to be $306.57 per application (refer to section 5.2.2) As can be seen from Table 13 below, VicRoads and local council coordinating road authorities are under-recovering collectively $599,850 per annum that needs to be funded by taxpayer and ratepayer revenue respectively.

The cost under-recovery is attributable to the provision in the current regulations (regulation 30) that enables the coordinating road authority to waive application fees for non-road activity permit applications. The fee waiver provision is provided given that the majority of events conducted on a road are non-commercial community events such as ANZAC Day celebrations and sporting events (cycling & foot events) are conducted by not-for-profit organisations. Due to the wide use of the fee waiver, VicRoads and local council coordinating road authorities have not charged a fee for commercial events. There would appear no reasonable grounds for this position other than the cost of establishing an invoice system may be greater than the revenue generated from the current fee that under-recovers the costs associated with processing an application. This matter is taken into consideration in section 5.2.2.

Table 13: Cost Recovery of Non-Road Activity Permits

|  |  |  |  |
| --- | --- | --- | --- |
|  | Cost | Revenue | Surplus/Deficit |
| VicRoads | $306,570 | 0 | ($306,570) |
| Local Council Coordinating Road Authorities | $293,280 | 0 | ($293,280) |
| Total: | $599,850 | 0 | ($599,850) |

### Funding the Administration of Race and Highway Collection Permission

As can be seen in Table 14, Victoria Police incurs costs of $130,416 per annum (refer to section 5.2.4) to administer race and highway collection permits and this is fully funded by the taxpayer as the current regulations do not prescribe application fees for these permits.

Table 14: Victoria Police Cost Recovery of Race and Highway Collection Permits

|  |  |  |  |
| --- | --- | --- | --- |
|  | Cost | Revenue | Surplus/Deficit |
| Races | $39,520 | 0 | ($39,520) |
| Highway Collections | $90,896 | 0 | (90,896) |
| Total: | $130,416 | 0 | ($130,416) |

VicRoads considers that, in principle, there is no reason that a fee should not be allowed for these permits. However, most races are non-commercial in nature and highway collections are conducted by not-for-profit fundraisers. Victoria Police has a ‘Managing the delivery of Police Services to Sporting, Entertainment and Other Events’ policy that provides police regulated fees to be waived in a range of circumstances; but mostly for events that are non-commercial in nature.

### Summary of Cost Recovery Levels

Table 15 shows the total level of cost under-recovery for authorisations and permits is $3,397,709.44 per annum. To recap, there is a strong case for the introduction of MoA fees to fully recover the $2.6 million in administrative costs. Non-road activity permits, race and highway collection permits are mostly non-commercial in nature and conducted by not-for-profit organisations and the merits of a fee regime for these activities needs to consider the cost of providing fee waivers, and whether the revenue obtained from commercial activities would offset the cost of establishing invoicing and payment systems. These matters are further assessed in section 5.2.

Table 15: Summary of Cost Recovery for Authorisations and Permits

|  |  |  |  |
| --- | --- | --- | --- |
|  | Cost | Revenue | Surplus/Deficit |
| Memoranda of Authorisation | $2,666,800 | 0 | ($2,666,800) |
| Stock Crossing Permits | $643.44 | 0 | ($643.44) |
| Non-road activity Permits | $599,850 | 0 | ($599,850) |
| Race Permits | $39,520 | 0 | ($39,520) |
| Highway Collection Permits | $90,896 | 0 | ($90,896) |
| Total: | $3,397,709.44 | 0 | ($3,397,709.44) |

## Fees

This section analyses the costs in respect to:

* Memorandum of Authorisation fees;
* Non-road activity permit fees;
* Stock control crossing permit fees;
* Victoria Police Race permission fees; and
* Victoria Police highway collection permission fees.

**Cost Methodology**

The Department of Treasury and Finance’s (DTF) Cost Recovery Guidelines outline two methodologies for determining the appropriate cost base: the ‘fully distributed cost’ and the ‘incremental cost’ method.

The ‘fully distributed cost’ method is described as “*the most comprehensive costing approach, and allocates all costs (including direct, indirect and capital cost components) to the output, and is typically used where cost-recovered activities account for a large proportion of an agency’s activities*”. The ‘incremental cost’ method recognises that it may be inappropriate to attempt to recover overhead and capital costs if these would be incurred anyway, even if a particular activity were not undertaken. The ‘fully distributed cost’ method is used to calculate the costs for the fees discussed below given that the processing time, tasks involved and the direct and indirect costs have been identified.

**Determining the Base Case**

The Base Case is the Act in the absence of the proposed regulations. In this case, no fees would be charged and none of the costs associated with VicRoads administering the memorandum of authorisation (MoA) would be recovered. Based on the costs estimated in Table 12, this would leave an annual shortfall of $2,666,800 and would need to be funded by VicRoads from general taxpayers revenue.

Similarly, no fees would be charged and none of the costs associated with the non-road activity permit application would be recovered. Based on the costs estimated in Table 13, this would leave an annual shortfall of $599,850 that would need to be funded by VicRoads from general taxpayers revenue and by local council coordinating road authorities from ratepayers revenue.

In respect to highway collection and race permit applications, no fees would be charged and none of the associated costs with administering the permit applications would be recovered. Based on the costs estimated in Table 14, this would leave an annual shortfall of $130,416 and would need to be funded by Victoria Police from general taxpayers revenue.

**Estimating the Efficient Cost Base**

The fully distributed cost method has been applied to the application process for MoAs, non-road activity permits, stock crossing permits and Victoria Police highway collection and race permits. Hence, the cost base has been calculated based on the time and associated costs required to complete each specific task for the authorisation and permit process. However, as will be seen in section 5.2.4, the costs associated with the administration of highway collection and race permits are not necessarily efficient due to the apparent duplication with other legislative mechanisms and the potential for alternative approaches that could reduce the costs to fundraisers, race organisers and Government.

**Salary and Oncost Calculations**

Table 16 shows the hourly rates for the different VicRoads officers involved in each of the three proposed functions. The total hourly rate is used to determine the costs associated with these functions.

Table 16: VicRoads Hourly Rates by Classification

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| Officer Classification | Salary | Salary on-costs | Indirect Costs | Total |
| VRO5 | $74.22 | $17.21 | $34.98 | $126.41 |
| VRO4 | $58.66 | $13.60 | $34.98 | $107.24 |
| VRO3 | $46.36 | $10.75 | $34.98 | $92.09 |

The following information shows how the various rates were calculated in Table 16.

The formula for determining the total annual hours used to calculate hourly rates was used:

Number of weeks worked per annum

= 52 - 4 (annual leave) - 2 (sick leave) - 2 (public holidays)

= 44 weeks

Average weekly hours = 38

Total annual hours – 44 weeks x 38 hours = 1,672 hours

Source: Department of Treasury & Finance’s Victorian Guide to Regulation 2014

With the total annual number of hours, the hourly rate was calculated as shown in Table 17 below for VRO5, VRO4 and VRO3 officer salaries. For example, the VRO5 salary of $124,101 divided by 1672 hours equals $74.22 per hour.

Table 17: Hourly Rates

|  |  |  |
| --- | --- | --- |
| Officer Classification | Salaries | Hourly rate |
| VRO5 | $124,101 | $74.22 |
| VRO4 | $98,079 | $58.66 |
| VRO3 | $77,513 | $46.36 |

The salary on-costs and indirect costs per employee are provided below.

Salary on-costs

Long Service Leave 3.5 %

Payroll Tax 4.85%

WorkCover Premiums 1.34 %

Training 4.0%

Superannuation 9.5 %

Total salary on-costs: 23.19%

Indirect costs - Corporate overheads per person

IT charges $12,570

Accommodation $10,900

Business Services $5,313

Finance & Risk $3,213

Communications $13,747

Network Optimisation $4,700

Plant hire & vehicles $5,742

Divisional overheads $802

Miscellaneous $1,500

Total: $58,487

Source: VicRoads Corporate Resource Cost Calculator

Indirect costs per hour per employee = $34.98 ($58,487 divided by 1,672 hours).

### Memorandum of Authorisation Fee

VicRoads and local council coordinating road authorities administer the MoA application process. VicRoads incurs higher costs due to its need to consider the timing adjustments to traffic signals and assess (and manage) the impacts on major arterial roads with higher traffic volumes. Accordingly, VicRoads costs to administer MoA applications are discussed below. The Department considers the tasks involved are essential to determine the operational efficiency and road safety impacts on the road network. The Department also considers that the skill levels and experience of the personnel involved in undertaking these tasks are appropriate, with VRO3 officers undertaking administrative tasks, VRO4 officers undertaking evaluations and VRO5 officers determining complex issues related to road closures.

**Note**: As noted in section 5.1.1, there is no head of power under the Act to prescribe fees for MoA applications submitted to local council coordinating road authorities. Local council coordinating road authorities have the ability to prescribe application fees through the making of local laws under the *Local Government Act 1989*.

**VicRoads Costs of Administering MoA Applications**

An analysis follows of costs to VicRoads for MoA applications for traffic control devices to be used for works and non-road activities on freeways and arterial roads.

There are three categories of tasks involved in an MoA application depending on how traffic control devices are used within the road reserve. The three categories are:

* No lane closure
* Lane closure
* Road closure

***No Lane Closure***

An application for a lane closure requires the following tasks:

1. Read application (5 min)
2. Determine whether the proposed location is an arterial road or freeway (5 min)
3. Check for conflicting works or events in the vicinity of the proposed works location (10 min)
4. Check layout of site, in particular existing and proposed speed limit signs, presence of clearway signs and school zones (10 min)
5. Create approval form with standard conditions, register in the VicRoads Road Works and Events (RWE) database and email approval to the applicant (10 min)

Total: 40 minutes

***Lane Closure***

An application for a lane closure requires the same process as No Lane Closure (40 min) as well as the following tasks:

1. Analyse traffic volumes using SCATS to determine appropriate working hours (10 min)
2. Traffic impact analysis of proposed working hours (20 min)
3. Liaison with applicant regarding times and impacts (30 min)
4. Adjust the timing of traffic signals (30 min)

Total: 2 hours and 10 minutes.

***Road Closure***

An application for a road closure requires the same process as No Lane Closure (40 min) as well as the following tasks:

1. Impact analysis of proposed contra flow or shuttle flow [[13]](#footnote-13)(30 min)
2. Liaison with applicant to discuss proposed working hours and configuration of contra or shuttle flow (1 hour)
3. Assess communication plan (e.g. whether a variable message sign (VMS) is required, appropriate location of VMS, letter box drop to affected businesses and residents, advice to emergency services and providers of public transport and VicRoads Traffic Management Centre) (30 min)
4. Assess the suitability of the applicant’s detour plans and arrangements, liaise with local council and have meetings with applicant to determine appropriate working hours and detours (2 hours)
5. Adjust the timing of traffic signals - usually affects 5 to 6 intersections (extra 1 hour)

Total: 5 hours and 40 minutes

The times for each of the three categories are based on average times. There is little variability in the noted times other than in exceptional cases where a section of a road is closed to all traffic over a specified time-frame (eg. Hoddle Street).

As can be seen from Table 18 below, the cost per application without a lane closure is $68.73 and $659,808 for the 9,600 applications per annum; for a lane closure, $223.38 and $1,072,224 for the 4,800 applications per annum; and for a road closure, $584.23 and $934,768 for the 1,600 applications. This brings a total cost of $2,666,800.

Table 18: VicRoads Cost to Process MoA Application

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
|  | No. Applications | Average Time (units) | Average Hourly rate | Cost per Application | Total Cost |
| No Lane Closures | 9,600 | 0.67 | 103.10 | $68.73 | $659,808 |
| Lane Closures | 4,800 | 2.17 | 103.10 | $223.38 | $1,072,224 |
| Road Closure | 1,600 | 5.67 | 103.10 | $584.23 | $934,768 |
| Total | 16,000 |  |  |  | **$2,666,800** |

**Option 1: Stratified MoA Fee Levels**

This option would achieve full cost recovery and prescribe three levels of fees:

No lane closure

Lane closure(s)

Road closure

Table 19 shows the proposed MoA application fees. The following application fees for an MoA would apply for works conducted on a freeway or arterial road (and also non-arterial State roads where applicable):

$68.73 for no lane closure;

$223.38 for lane closure(s); and,

$584.23 for a road closure.

Based on the estimated applications for each of the fee categories, these fees would generate revenue of $2,666,800 for VicRoads.

Table 19 Memoranda of Authorisation (MoA) Application Fees

|  |  |  |  |
| --- | --- | --- | --- |
|  | No lane closure | Lane Closure | Road Closure |
| Road Type | Fee | Fee Unit | Fee | Fee Unit | Fee | Fee Unit |
| Freeway/arterial road/non-arterial State road | $68.73 | 4.76 | $223.38 | 15.46 | $584.23 | 40.43 |

**Costs**

Other persons (developers and building/construction companies) are most likely to incur the no lane closure application fee, and in some cases, the lane closure application fee. Utilities, providers of public transport and road authorities would mostly incur lane and road closure fees due to the scale of works normally undertaken by these organisations. These third-parties collectively will incur total costs of $2,666,800 to fund VicRoads to administer the memorandum of authorisation process.

**Benefits**

The proposed stratified fees would fully recover the costs associated with the administration of the memorandum of authorisation process and relieve VicRoads from funding this activity from taxpayer revenue. There is some risk particularly for no lane closures that some other persons may seek to avoid authorisation due to the introduction of a fee. However, the Department considers this is a low fee that is unlikely to encourage non-compliance. Lane closures and road closures are undertaken by road authorities, utilities and providers of public transport, and they are unlikely to avoid authorisation due to the proposed fee levels as motorists and other road users would complain about the additional congestion caused by the absence of traffic signal adjustments that occurs following authorisation.

The fee categorisation is simple for third-parties to understand.

**Assessment**

Given that an activity based cost assessment has been undertaken for the MoA application process and only costs attributable to the required traffic control devices and works impacts have been considered, the Department has not described other options in detail in this RIS. The Department considers that a flat fee, for example, would result in other persons cross-subsidising utilities, providers of public transport and road authorities. Different types of fee stratification were also considered. However, other than for exceptional cases where a road closure prevents any access to road users for a specified timeframe, the proposed three types of authorisation represent the common requests from third-parties. The Department considers it unnecessary to add complexity to a relatively straight-forward fee structure to deal with several exceptional cases that are invariably undertaken by road authorities. The works undertaken by third-parties are commercial in nature and the proposed application fees represent a small cost relative to the value of the works, and should not deter third-parties from complying with the authorisation process or undertaking works.

### Non-Road Activity Permit Fee

**Cost components**

The non-road activity permit application involves the following assessment tasks by the relevant coordinating road authority:

process application and ensure all required documentation is attached;

review events management plan, traffic management plan, communication plan, risk assessment, local council permit, certificate of public liability insurance and Victoria Police permits if applicable;

liaise with local council coordinating road authorities and Victoria Police where appropriate.

The Department considers the tasks involved are essential to determine the operational efficiency and road safety impacts on the road network. The Department also considers that the skill levels and experience of the personnel involved in undertaking these tasks are appropriate, with VRO3 officers undertaking administrative tasks and VRO4 officers reviewing the aforementioned documentation.

In respect to permit applications for a non-road activity to be conducted on a freeway, arterial road or non-arterial State road, these administrative tasks take an average of 3 hours; VRO3 officer 1 hour at $92.09 and a VRO 4 officer 2 hours at $107.24. Total cost: $306.57 per application and $306,570 for the estimated 1,000 applications per annum.

In respect to permit applications for a non-road activity to be conducted on a municipal road, these administrative tasks take an average of 3 hours; 5B officer 1 hour at $87.60 and a 7B officer 2 hours at $102.84. Total cost: $293.28 per application and $293,280 for the estimated 1,000 applications per annum.

As shown in Table 13, the combined cost to process a non-road activity permit is $306.57 per application and $599,850 for the 2,000 applications.

**Option 1: Current Fee**

This option would prescribe the current fee of 5 fee units and provide the coordinating road authority with the discretion to waive the fee in part or full. The value of a fee unit is $14.45 from 1 July 2018.

**Costs**

Non-road activity permit organisers would incur a fee of $72.25 for each application or $144,500 for the estimated 2,000 non-road activity permit applications per annum (in the absence of any fee waivers).

While the current regulations prescribe a fee, VicRoads and most local coordinating road authorities do not charge a fee for any non-road activity permit application.

**Benefits**

This option would under-recover the costs to process an application by $227.67 and $455,350 for the estimated 2,000 non-road activity permit applications per annum. However, application fees would be waived for non-commercial events such as ANZAC Day celebrations, most cycling and foot races and other community events. The Department estimates that about 30 percent of non-road activities would be commercial in nature, and as a result, about $43,350 would be recovered.

From a simplicity perspective, a flat fee is easy for applicants to understand.

**Option 2: Full cost recovery (Preferred Option)**

This option would prescribe a fee of $306.57 or 21.22 fee units to fully recover the administrative costs of processing a non-road activity permit application and provide the coordinating road authority with the discretion to waive the application fee in part or full.

**Costs**

Non-road activity permit organisers would incur a fee of $306.57 for each application or $599,850 for the estimated 2,000 non-road activity permit applications per annum (in the absence of any fee waivers).

**Benefits**

This option would fully recover the costs to process an application for the estimated 2,000 non-road activity permit applications per annum. However, application fees will be waived for registered charitable bodies and provision is made to reduce or waive, at the discretion of the relevant coordinating road authority, the fees for other applications. Those applications could be, for example non-commercial events such as ANZAC Day celebrations, cycling and foot races and other community events. The Department estimates that about 30 percent of non-road activities would be commercial in nature, and as a result, about $179,955 would be recovered.

**Comparative assessment of the options**

Options 1 and 2 propose a flat fee that is simple to understand for applicants and provide identical fee waiver arrangements for non-commercial events. Option 2 would achieve greater cost recovery and is considered the superior option to Option 1.

### Stock Crossing Permit Fee

**Cost components**

The stock crossing permit application for an arterial road involves the following VicRoads assessment tasks:

* process application and supporting documentation; and,
* inspection of the site for the installation of stock crossing signs to ensure motorists have sufficient time to stop taking into account the type of road and the surrounding environment.

A VRO 4 officer would process the application and undertake a site inspection. This would take on average two hours (mostly travel time from a VicRoads regional office to the proposed site) at a cost of $214.48.

However, VicRoads has only received 8 applications since the stock-crossing permit was introduced in July 2015 or about 3 applications per annum. The low demand for stock crossing permits on arterial roads is primarily due to two factors: most livestock farmers have already established stock crossings or have established stock underpasses for the movement of their stock.

The likely low demand in the future for stock crossing permits would generate insufficient revenue to offset the cost to VicRoads in establishing an application fee invoice and payment system for stock crossing permit applications. Although the exact establishment costs for an invoice and payment system are unknown, it is likely that the costs would be disproportionate to the revenue raised. In view of this, The Department does not consider it is prudent to introduce an application fee and that the small costs incurred are outweighed by the benefits of ensuring the site for the stock crossing is safe for all road users.

### Victoria Police Highway Collection and Race Permit Fees

**Victoria Police Salary and Oncost Calculations**

One VPS 3 officer within Victoria Police provides the administrative support for the processing of highway collection permits and race permits.

The salary, on-costs and indirect costs for the VPS 3 officer are provided below.

Salary $72,573

Salary on-costs

Leave Loading 1.35 %

Long Service Leave 2.5 %

Payroll Tax 4.85%

WorkCover Premiums 3.24 %

Superannuation 9.5 %

Total salary on-costs: 21.44%

The DTF formula is used to calculate the hourly rate: $72,573/1672hours x1.2144 (oncost multiplier) x1.5 (overhead cost multiplier) = $79.05.

**Cost Components**

**Highway collection permits**

The highway collection permit involves the following tasks:

check the accuracy of the application

verify the fundraiser’s registration number and/or exemption status

check the application is accompanied by a local council highway collection local law permit or written approval

check the certificate of public liability insurance cover is current

About 2,300 highway collection permit applications are processed and issued per annum.

**Race permits**

The race permit involves the following tasks:

check the accuracy of the application

check that the application is accompanied by an event management plan, including a traffic management plan

ensure the relevant coordinating road authority non-road activity permit is received prior to granting a permit

check the certificate of public liability insurance cover is current

About 1,000 race permit applications are processed and issued per annum.

Victoria Police has advised that the above tasks are considered appropriate and that the dedicated VPS 3 officer undertaking these tasks has the relevant skills and experience given the administrative nature of these tasks. The administrative tasks involved for the processing of a highway collection permit and a race permit are similar. Each application takes an average of 30 minutes to process and to issue a permit at a cost of $39.52. In each case, the accompanying documentation is not reviewed. This function has been previously undertaken by the local council in respect to highway collections and by the coordinating road authority in respect to race permits. Victoria Police require evidence of these approvals prior to issuing its permit. As observed in sections 4.2 and 4.3, this is not an efficient process.

Victoria Police Headquarters forward the race permit application with accompanying event management plan and traffic management plan to the police stations located nearest to where the proposed race is proposed to be conducted. Victoria Police advised that about 10 percent of race permit applications may be followed up by the local police station (liaison with the coordinating road authority and/or the race organiser) and a handful of large-scale races would involve a physical inspection of the proposed race route.

Victoria Police were unable to provide the criteria or the competitor/spectator threshold that would require their local police officers to further investigate the proposed race route. In any case, it is likely that these local police officers would undertake a physical inspection of the route during their normal patrol duties. As a result, it is not proposed that these costs be recovered.

**Options**

**Option 1 – Full cost recovery**

Under this option, the highway collection and race permit fees would be aligned to cost recovery. All fundraisers and race organisers would pay a fee of $39.52. This option would also waive permit fees in accordance with Victoria Police’s ‘Managing the Delivery of Police Services to Sporting, Entertainment and Other Events’ policy. This policy enables applicants to make written applications to waive in part or full fees for events when: there are no admission or participation charges, the event is not commercially promoted or sponsored or the event is not commercial in nature. [[14]](#footnote-14)

Highway collections are not commercial in nature as fundraisers rely on volunteers to collect donations and fundraisers are not-for-profit organisations. Accordingly, the Victoria Police policy as referred to above could also be applied to highway collections.

***Costs***

Some fundraisers undertake hundreds of highway collections such as the Royal Children’s Hospital Good Friday Appeal and the Salvation Army would incur a fee for each permit to conduct a highway collection at a specified intersection. For example, 400 intersections across the State would cost $15,808.

However, the adoption of the Victoria Police ‘Managing the Delivery of Police Services to Sporting, Entertainment and Other Events’ policy would result in fee waivers for the 2,300 highway collection permit applications. In respect to race permits, with the exception of hallmark cycling events, Cycling Victoria and racing clubs mostly conduct races that do not involve admission charges, are not commercially promoted or sponsored or commercial in nature. In view of this, it is anticipated that most race permit application fees could be waived. The Department has estimated that about 900 or 90% of races could apply for a fee waiver.

The Department has estimated that fundraisers and race organisers would spend about 30 minutes to prepare and submit a written application at a cost of $42.44 per application or $135,808 in total[[15]](#footnote-15) and Victoria Police would spend about 15 minutes to make a determination on these applications at a cost of $19.76 per application or $63,232 in total[[16]](#footnote-16). This process would impose a total cost of $62.20 per application or $199,040 for the 3,200 fee waiver applications.

The $199,040 in these costs combined with $126,464[[17]](#footnote-17) incurred by Victoria Police in the processing of permit applications results in a total cost of $325,504, with only $3,952 in revenue derived from 100 ineligible applications. As a result, a fee exemption would provide little cost recovery. Victoria Police would only recover $3,952 from 100 applications or 2 percent of the $193,648 spent on processing 3,300 permit applications, and 3,200 fee waiver applications.[[18]](#footnote-18)

Victoria Police would incur a one-off cost to establish an invoicing system for race and highway collection permit applications.

In view of the duplication of the race and highway collection permit system with other existing permit systems as outlined in section 2.6 and the potential feasibility of a one-stop shop, Victoria Police’s processes and the associated costs to administer the permit system cannot be considered efficient. Given the superiority of the one-stop shop option and the need to undertake further evaluation of this option, the Department does not consider the current costs should be recovered.

***Benefits***

A flat fee structure provides simplicity for race organisers and fundraisers.

While fundraisers and cycling/athletic organisations would receive $126,464 in fee waivers for 3,200 permit application fees, the cost of preparing and submitting a written fee waiver application ($135,808) would result in a net cost of $9,344 or $2.92 per application.

***Assessment***

Option 1 potentially provides full cost recovery with a nominal charge on fundraisers and race organisers. However, the fee waiver arrangements would impose a net cost of $9,344, taking into account the costs of needing to apply for a waiver. The current regulations do not prescribe an application fee and Victoria Police would need to establish an electronic payment system for highway collection and race permit applications. Given the issues of duplication discussed in section 2.6, the race and highway collection system is not considered efficient.

Other options such as the automatic waiver of fundraisers and not-for-profit organisations was considered. However, such a waiver would affectively apply to all applicants, in which case, it would seem impractical to prescribe an application fee.

However, as discussed above, a one stop shop option for highway collection and race permits may be superior to the current Victoria Police permit system. While this option would require an amendment to the *Road Safety Act 1986* to enable implementation, the Department considers it prudent for Government to have time to consider comments from key stakeholders arising from this regulatory impact statement to determine the possible costs, benefits and risks of implementing this approach. In view of this, the Department is not proposing to introduce highway collection and race permit application fees at this time, and will re-consider the issue pending the outcome of investigations into the feasibility and costs associated with the introduction of the one-stop-shop option.

# Assessment of Options

## Authorising provisions

The proposed regulations are made under section 95(1) and Schedule 2: Subject matter for regulations of the *Road Safety Act 1986*. The relevant items from Schedule 2 include:

*Item 42. The regulation and control of vehicular, animal or pedestrian traffic on highways.*

*Item 43. Rules to be observed by drivers, people in charge of animals, vehicles or trailers, and pedestrians.*

*Item 44. Maximum speeds for vehicles.*

*Item 45. Signs and safety devices, and their siting, installation and maintenance.*

*Item 46. Marks to be used on the surface of highways.*

*Items 47. The legal effects of signs, devices and marks, and the evidence that is sufficient to prove their existence.*

*Item 48. The control and reduction of causes of danger or of traffic congestion.*

*Item 49. Regulating racing (including foot racing), speed trials and other competitive events on highways (including highways that are temporarily closed-off).*

*Item 58. The matters for which fees are payable, the amount of those fees and the people by whom those fees are payable.*

## Proposed regulations

The current 2009 regulations have been reviewed and it is proposed to make the proposed new regulations in the general form of those existing regulations but with several amendments as discussed below in section 6.3. The Draft Regulations are provided in Appendix 3.

The following current regulations have been removed from the proposed regulations:

***Parking signs must conform with Australian Standard***(Regulation 18)

Regulation 18 under the current regulations has been revoked as all signs, whether parking related or as otherwise provided in the Road Rules or Schedule 1 of the current regulations, must comply with the relevant Australian Standards.

***Information on traffic signs***(Regulation 19)

Regulation 19 under the current regulations has been removed as it duplicates Rule 317(1) of the *Road Safety Road Rules 2017.*

***Putting destructive material etc on roads***(Regulation 35)

Regulation 35 duplicates provisions in the *Road Management Act 2004*, Road *Safety Road Rules 2017* and the *Environment Protection Act 1970* and has been removed.

## Description of proposed regulations

**Part 1 – Preliminary**

Regulations 1 to 5 prescribe the objectives, authorising provision, commencement, revocations, and definitions.

It is proposed to amend the definition of ‘race’ to cover all bicycle and foot races regardless of the number of competitors (under the current regulations, a ‘race’ only includes events involving more than 30 competitors). The definition of ‘race’ previously meant, *“a bicycle race, a foot race or other race involving more than 30 competitors, but does not include a race or speed trial to which section 68 of the Act applies or a major sporting event race”.* Section 68(3) of the Act empowers the Minister to permit a motor vehicle race or speed trial on a highway and to exempt the race or speed trial from specific provisions in any regulations e.g. rules under the Road Rules 2017.

The reason for this change, which was requested by Victoria Police, is in recognition that it is the level of disruption caused by the race that has an impact on the road network and not the number of competitors involved in the race.

It is also proposed to amend the definition of ‘race’ to delete the reference to “*a major sporting event race”*, together with the corresponding definition of *“major sporting event race”* (being an event referred to in section 113 of the *Major Sporting Events Act 2009*).

The current exclusion from the definition of ‘race’ – *“a race or speed trial to which section 68 of the Act applies”* has been retained. Section 68 prohibits a person to organise or manage a race or speed trial on a highway unless exempted by the Minister and a notice has been published in the Government Gazette.

**Regulation 6 Meaning of ‘works advisory device’**

It is proposed to amend the meaning of ‘works advisory device’ by removing the current reference to regulation 5(2)(g): *“an illuminated traffic sign displaying information to drivers and pedestrians”*. This reference is separately included in regulations 11(1)(c)(ii), 12(1)(f), 13(1)(c), 15(d) and 18(1)(b)(iii).

This change has been made to reflect the fact that an illuminated traffic sign is the only ‘major traffic control device’ within the list of ‘works advisory devices’, and as such, it is being listed separately in these regulations – this approach is similar to that adopted in these other regulations whereby the use of major traffic control devices is listed separately – eg. temporary works speed-limit signs. This change does not impose any additional authorisation requirements on any person or body covered by these regulations.

‘Works advisory devices’ are minor traffic control devices that provide a warning or advice to drivers and pedestrians in relation to works or non-road activities conducted on a road, and include signs advising of roadworks or roadworkers ahead, loose, uneven, unmade or slippery surfaces, no line markings, detours or lane closures, or road humps (where placed on a road with a speed limit of 50 km/h or less), traffic cones and bollards.

**Part 2 – Installation of Traffic Control Devices**

**Division 1 –General Prohibition**

**Regulation 7 Erection, Installation of, and Interference with traffic control devices**

Regulation 7 prohibits, unless permitted, a person to erect, display, place, interfere with, alter, deface or remove a traffic control device that is on a road, or in a road related area or in the view of any person on a road or road related area.

**Regulation 8 Prohibition on erection of superseded traffic control devices**

Regulation 8 prohibits a person to erect or place a superseded traffic control device specified in Schedule 2 of the regulations on a road or road related area or in the view of any person on a road or road related area. This regulation also provides that a superseded traffic control device specified in Schedule 2 may continue to be displayed, altered, maintained or removed if it was erected or placed prior to the date of the making of these regulations.

**Division 2 – Road Authority Power to Erect Traffic Control Devices**

**Regulation 9 Power of VicRoads to erect traffic control devices**

Regulation 9 permits VicRoads to erect, display, place, remove or alter any type of traffic control device on a road or road related area forming part of a freeway or arterial road other than a stopping or parking traffic control device or a traffic control device associated with a children’s crossing. The latter two traffic control devices are the responsibility of local council coordinating road authorities.

Regulation 9 also permits VicRoads to erect, display, place, remove, or alter certain speed limit and shared use signs on municipal and non-arterial State roads subject to the consultation requirements in regulation 10. VicRoads is also permitted, on municipal and non-arterial State roads, to erect, display, place, remove, or alter traffic control devices that provide directions to, or advance warning of, a nearby intersection with a freeway or arterial road.

**Regulation 10 VicRoads to consult before erecting certain traffic control devices on** r**oads**

It is proposed to permit VicRoads, in circumstances where a Council opposes the proposed erection by VicRoads of certain traffic control devices (as prescribed in regulation 9(4)) on a road other than a freeway or arterial road, to publish the required notices in sub-regulations (3) and (6) on an internet website maintained by VicRoads or in a newspaper circulating generally in the area to which the traffic control device is situated.

Regulation 10 requires VicRoads to notify local Councils where it proposes to erect, display, remove, or alter certain speed limit and shared zone signs (as referred to in Regulation 9) on a municipal road or road related area. The local Council has 21 days to disagree in writing with the proposal. If the local Council disagrees and VicRoads intends to proceed with the proposal, VicRoads is required to publish as soon as practicable a notice in a daily newspaper or on its website containing the following information:

* the details of the proposal and the reasons for the proposal;
* a statement to the effect that the relevant Council disagrees with the proposal;
* where a copy of the proposal may be obtained; and
* invite public comments, which are to be submitted within 21 days.

Submissions must be considered by VicRoads and a final VicRoads decision must be published on VicRoads’ website or in a newspaper circulating generally in the area.

**Regulation 11 Power of responsible entities and Councils to erect traffic control devices on roads**

It is proposed to clarify that the responsible entity power to use a minor traffic control device, a temporary works speed-limit sign and a traffic control device, other than a traffic signal, that uses lights or illuminated words or symbols to direct or warn road users only applies to the part of the road for which they are the responsible entity.

Regulation 11 permits responsible entities (i.e. the responsible road authority or, if no responsible road authority, the person responsible for the care and management of the road), on a road or road related area for which they are responsible, to erect, display, place, remove or alter:

* a major traffic control device with the authorisation of VicRoads;
* a minor traffic control device (which includes those devices listed within the definition of ‘works advisory devices’ in regulation 6); and
* where there are temporary works being conducted, temporary works speed-limit signs and a traffic control device, other than a traffic signal, that uses lights or illuminated words or symbols to direct or warn road users.

Regulation 11 also permits a local Council, on a road or road related area forming part of an arterial road, to erect, display, place, remove or alter:

* a minor traffic control device that is for the control of stopping or parking of vehicles; or
* a traffic control device associated with a children’s crossing; or
* a traffic control device installed in accordance with regulation 15 (erection of road closure signs); or
* any other minor or major traffic control device with the authorisation of VicRoads.

Regulation 11 also prevents a council from erecting on an arterial road a minor traffic control device that is inconsistent with a major traffic control device on the same length of road.

**Division 3 – Power of other Entities to Erect Traffic Control Devices**

**Regulation 12 Erection of traffic control devices by authorised works managers**

It is proposed to enable a coordinating road authority to authorise, on a road or road related area for which it is responsible, a works manager to use minor traffic control devices (other than works advisory devices, hand-held stop signs and works zones signs for which this regulation already authorises use) for the purposes of ‘authorised works’ as defined in this regulation. Previously, only VicRoads could authorise the use of minor traffic control devices on all roads including municipal roads. VicRoads authorisation is still required for the use of other major traffic control devices on all roads (eg. arterial roads, municipal roads, non-arterial State roads).

Under the current regulation 11(1), only VicRoads can authorise, on any road, the use of major traffic control devices or minor traffic control devices that are not specifically identified in this regulation.

It is proposed to authorise a works manager to use a traffic control device, other than a traffic signal, that uses lights or illuminated words or symbols to direct or warn road users (a major traffic control device) for the purpose of authorised works. Previously, this traffic control device required VicRoads authorisation.

Regulation 12 permits a works manager (or a person acting on behalf of a works manager) undertaking ‘authorised works’ for utilities and providers of public transport (being works that have been given consent by a coordinating road authority, or are exempt from consent, in accordance with the *Road Management Act 2004* and associated regulations) to erect, display, place, remove or alter:

* a works advisory device;
* a hand-held stop sign;
* a works zone sign;
* any other minor traffic control device with the authorisation of the coordinating road authority for that road or road related area;
* a temporary works speed-limit sign (with a speed of not less than 40 km/h);
* any other major traffic control device with the authorisation of VicRoads; and
* a traffic control device, other than a traffic signal, that uses lights or illuminated words or symbols to direct or warn road users.

The use of the above traffic control devices as authorised by this regulation is subject to all of the traffic control devices being included in a traffic management plan.

**Regulation 13 Erection of traffic control devices by persons authorised to conduct non-road activities**

It is proposed to authorise a person who has been issued a permit to conduct a non-road activity to use a traffic control device, other than a traffic signal, that uses lights or illuminated words or symbols to direct or warn road users. This provision has also been included in regulation 14 (erection of road closure signs) where the illuminated traffic sign is to be used as part of the conduct of temporary works or a non-road activity. Previously, this traffic control device required VicRoads authorisation.

Regulation 13 permits a person who has been issued a permit for a non-road activity by a coordinating road authority to erect, display, place, remove or alter:

* a works advisory device;
* a hand-held stop sign;
* any other minor traffic control device with the authorisation of the coordinating road authority for that road or road related area;
* a temporary works speed-limit sign;
* any other major traffic control device with the authorisation of VicRoads. and
* a traffic control device, other than a traffic signal, that uses lights or illuminated words or symbols to direct or warn road users.

The use of the traffic control devices as authorised by this regulation is subject to all traffic control devices being included on a traffic management plan. This is a new provision to enable authorised officers to verify that the traffic control devices nominated in the traffic management plan are actually being used for a non-road activity.

**Regulation 14 Traffic signs at children's crossings**

Regulation 14 permits a school-crossing supervisor employed or authorised by a Council to display and remove a children’s school crossing flag or hand-held stop sign.

**Regulation 15 Erection of road closure signs**

Regulation 15 specifies that a person who is empowered by any Act to close a road or part of a road, may erect, display or place or remove on that road, a connecting road or a road related area:

* a works advisory device; or
* a hand-held stop sign; or
* a no-entry sign; or
* a traffic control device, other than a traffic signal, that uses lights or illuminated words or symbols to direct or warn road users where used in association with the conduct of temporary works or a non-road activity.

**Regulation 16 Police may erect traffic control devices**

Regulation 16 provides that a police officer can erect, display, place, remove or alter a traffic control device on a road or road related area. The police officer must not display a traffic control device for more than 7 days.

**Regulation 17 Traffic control at stock crossings**

Regulation 17 provides for the erection of specific traffic control devices (signs) for two categories of stock crossings, being high use stock crossings (used at least 52 times per annum) and low use stock crossings (used less than 52 times per annum). This regulation also authorises the use of certain signs for the droving and grazing of stock on a road or road related area. The use of these specific traffic control devices, which is subject to the Manual for Traffic Control at Stock Crossings as published by VicRoads, apply to an animal that is either on a municipal road in accordance with a local council permit (or where a permit is not required, under a local law), or on an arterial road in accordance with a permit issued by VicRoads, or on any other road in accordance with a permit issued by the coordinating road authority for that road (ie. an animal under ‘control’.

**Regulation 18 Erection of traffic control devices by other persons**

Regulation 18 is proposed to allow the ‘responsible entity’ (ie. the coordinating road authority or, if no coordinating road authority, the person responsible for the road or road related area) to authorise the use of minor traffic control devices and temporary works speed-limit signs by other persons. It is also proposed to allow other persons to erect a traffic control device, other than a traffic signal, that uses lights or illuminated words or symbols to direct or warn road users (Note: Authorisation of these traffic control devices will be subject to the person first obtaining consent for the works from the relevant coordinating road authority in accordance with the *Road Management Act 2004*). Previously, the use of temporary works speed-limit signs (being a major traffic control device) by other persons on municipal roads could only be authorised by VicRoads.

Regulation 18 specifies that a person can, on a road or road related area, erect, display, place, remove or alter:

* a major traffic control device with the authorisation of VicRoads;
* a minor traffic control device, temporary works speed-limit sign and a traffic control device, other than a traffic signal, that uses lights or illuminated words or symbols to direct or warn road users (where temporary works are being conducted) with the authorisation of the relevant ‘responsible entity”.

The use of the above traffic control devices as authorised by this regulation is subject to all of the traffic control devices being included in a traffic management plan. This is a new provision to enable authorised officers to verify that the traffic control devices nominated in the traffic management plan are actually being used for a non-road activity.

**Division 4 – Other Matters**

**Regulation 19 Maintenance and replacement of traffic control devices**

Regulation 19 provides that a person who erects, displays or places a traffic control device under Part 2 may maintain that device or, if the device is a traffic sign, replace that device with a traffic sign that has the same effect. This regulation includes the maintenance of any traffic control devices erected, displayed or placed under the authority of the Road Safety (Traffic) Regulations 1988, the Road Safety (Road Rules) Regulations 1999, and the Road Safety (Traffic Management) Regulations 2009.

**Regulation 20 Manual operation of traffic signals by police officers**

Regulation 20 permits a police officer or a person authorised in writing by VicRoads, for the purpose of traffic control, to manually operate traffic signals.

**Regulation 21 Exercise of traffic management powers and functions**

Regulation 21 provides that a person or body (other than VicRoads or a police officer) who is conferred a function or power under this Part must not perform or exercise that function or power in manner that is or would be inconsistent with the performance or exercise of a function or power by VicRoads under the Act, the *Transport Integration Act 2010*, the *Road Management Act 2004* or regulations made under those Acts and these regulations.

**Regulation 22 Advertising on certain traffic control devices**

Regulation 22 permits a person, with the authorisation of VicRoads, to erect, display or place an advertisement for a freeway service centre on a traffic control device, or erect, display or place a traffic control device bearing an advertisement for a freeway service centre, on a road or road related area forming part of a freeway.

**Regulation 23 Applications to road authorities for authorisation**

Regulation 23 is machinery in nature in that it sets out that a person may apply to VicRoads, a coordinating road authority or a responsible entity for an authorisation to erect, display or place a traffic control device.

**Regulation 24 Fees for applications to VicRoads for authorisations**

Regulation 24 provides in regard to applications made to VicRoads, application fees for authorisation to use traffic control devices for activities on a road as listed below. The fees are shown in fee units. The value of a fee unit is $14.45 (2018/19). This is a new fee to recover VicRoads costs to administer memorandum of authorisations.

|  |  |
| --- | --- |
| Road | Application fees for authorisation to use traffic control devices for an activity on a road that: |
| Does not require the closure of any traffic lanes on the road | Requires the closure of one or more traffic lanes on the road | Requires the closure of the road to traffic |
| Freeway, Arterial Road | 4.76 | 15.46 | 40.43 |

Regulation 24 also permits VicRoads to reduce, waive or refund a fee for an application if there are special circumstances that justify the reduction, waiver or refund.

**Regulation 25 Authorisations under this Part**

Regulation 25 requires that an authorisation given by VicRoads, a coordinating road authority or a responsible entity must be in writing and the authorisation may:

* apply to a particular case or class of cases;
* apply to a traffic sign; and
* be given subject to any specified conditions.

**Regulation 26 Stock crossing permits**

Regulation 26 enables a person to apply to VicRoads in respect of an arterial road or the coordinating road authority in respect of a road that is neither an arterial road nor a municipal road, for a permit to move an animal across that road.

**Part 3 – Activities on Roads**

**Regulation 27 Processions**

Regulation 27 specifies that a person must not drive a vehicle on a road in an organised procession (other than a funeral procession) or a parade except with the written permission of the coordinating road authority for that road.

**Regulation 28 Offences in relation to races on roads**

Regulation 28 provides that:

* a person cannot hold a race on a road without written permission from the Chief Commissioner of Police and that the person complies with the written permission;
* a person must not take part in a race on a road knowing that the race is being held without the permission of the Chief Commissioner of Police; and
* a person who takes part in a race on a road for which the Chief Commissioner of Police has given permission must not knowingly contravene any conditions of the permission.

**Regulation 29 Permission for races on roads**

Regulation 29 requires a person who intends to hold a race or series of races to apply to the Chief Commissioner of Police for permission to conduct the race or series of races. A written application for permission must include the name of the person or organisation responsible for the race, the day or days of the race, the number of competitors, the start and finish times of the race for each day and the route to be followed. The application must be submitted 3 months prior to the race. This timing requirement is to enable sufficient opportunity for the police to liaise with the relevant coordinating road authorities, to inspect the proposed route of the race and organise appropriate resources to assist with traffic management at the proposed race.

It is proposed that the regulation requires the application to be accompanied by an event management plan and traffic management plan. Race organisers will need to submit a copy of the relevant coordinating road authority’s non-road activity permit for the proposed race and a certificate of currency for public liability insurance prior to Victoria Police issuing its race permit.

**Regulation 30 Exemptions for races**

Regulation 30 exempts competitors in a race from Road Rules 151 ((Riding a bicycle alongside more than one other rider), 234 (Pedestrians not to cross a road within 20 metres of a crossing on the road) and 238 (Pedestrian must not travel along a road if there is a footpath or nature strip) provided written permission has been received from the Chief Commissioner of Police. In addition, competitors, marshals and officials involved in a bicycle race that obtained permission from the Chief Commissioner of Police are exempt from the Road Rules provided they are in the approved police-controlled rolling road closure (i.e. a bicycle race supported by police vehicles at the front and rear of the race).

**Regulation 31 Offences in relation to highway collections**

Regulation 31 provides that:

* a person cannot conduct a highway collection without written permission from the Chief Commissioner of Police and that the person complies with the written permission.
* a person must not take part in a highway collection knowing that the highway collection is being conducted without the permission of the Chief Commissioner of Police; and
* a person who takes part in a highway collection for which the Chief Commissioner of Police has given permission must not knowingly contravene any conditions of the permission.

**Regulation 32 Permission for highway collections**

Regulation 32 requires a person who intends to conduct a highway collection to apply to the Chief Commissioner of Police for permission to conduct the highway collection. An application, which must be submitted 2 months before the highway collection is to be conducted, must include the name of the fundraiser organisation, date/time and location(s) of the collection and the approximate number of people that will be involved in the collection. The Chief Commissioner of Police may include conditions on any permission given.

It is proposed that regulation 32 requires the application to be accompanied by a copy of local council written approval for the highway collection and a certificate of currency for public liability insurance.

**Regulation 33 Exemptions for highway collections**

Regulation 33 exempts any person involved in a highway collection that has received permission from the Chief Commissioner of Police from the following Road Rules:

* Rule 230, which states that a pedestrian crossing a road must cross by the shortest safe route and must not stay on the road for longer than necessary to cross the road safely;
* Rule 234, which states that a pedestrian must cross a road at a crossing if the pedestrian is within 20 metres of that crossing; and
* Rules 236(4)(a) and (c), which state that a pedestrian must not stand on, or move onto, a road to solicit contributions, employment or business from the occupant of the vehicle or display an advertisement.

**Regulation 34 Fee for application for permit to conduct non-road activity**

Regulation 34 prescribes an application fee of 21.22 fee units for a non-road activity permit issued by a coordinating road authority. The fee payable will be waived if the application is for, or on behalf of, a charitable body.

Regulation 34 allows a coordinating road authority to reduce, waive or refund the fee in special circumstances.

**Part 4 – Traffic Management Plans**

**Regulation 35 Traffic management plan**

Regulation 35 prescribes the content that must be included in a traffic management plan for a ‘relevant activity’ (being works within the meaning of section 3(1) of the *Road Management Act 2004* or any non-road activity within the meaning of section 99B of the Act). The traffic management plan must depict either:

* a diagram or dimensioned drawing of the specific place of the relevant activity; or
* a generic diagram or dimensioned drawing of a place similar to that where the relevant activity is to be conducted; or
* a set of standard operating procedures.

The traffic management plan is to include the following details of the relevant activity:

* nature and expected duration;
* worksite or location;
* risk assessment;
* arrangement of traffic control devices;
* any proposed reduction in the speed limit;
* any provision for public transport, other vehicular traffic, pedestrians, cyclists, or persons with disabilities; and
* any other measures to control identified risks to ensure the safety of all road users and persons engaged in conducting the relevant activity.

The preparation of a traffic management plan in accordance with these prescribed requirements is supported by good practice and technical guidance as included in the *Code of Practice for Worksite Safety – Traffic Management* (Victoria Government Gazette No. S 351 Tuesday 31 August 2010) as made under the *Road Management Act 2004* and the *Road Safety Act 1986*.

**Regulation 36 Traffic management plan to be available for inspection**

Regulation 36 requires a person conducting, or proposing to conduct, a relevant activity on a road or road related area to maintain a copy of the traffic management plan at the location or worksite of the relevant activity at all times when workers are present and to make the traffic management plan available for inspection by an authorised person.

**Part 5- Miscellaneous**

**Regulation 37 Display of dazzling or distracting lights**

Regulation 37 prohibits a person from erecting, displaying or placing a light:

* in a way that prevents, or is likely to prevent, a driver from clearly distinguishing the road ahead; or
* that is a danger or distraction, or is likely to be a danger or distraction, to drivers or other road users.

***Schedule 1 Major Traffic Control Devices***

Schedule 1 lists those traffic control devices that are specified as ‘major traffic control devices’.

The number of major traffic control devices has been reduced from 63 (current Regulations) to 50 in Schedule 1. Of those devices to be deleted, VicRoads already has in place an instrument of delegation with local councils that delegates to them the power to authorise the use of those major traffic control devices (ie. Items 40, 42, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54 and 55 in the current Schedule 1) on municipal roads. These traffic control devices include traffic signs that have a reasonable likeness of a roundabout, children’s crossing, bicycle lane sign, end bicycle lane sign, bicycle path sign, end bicycle path sign, bicycle path road marking, end bicycle path road marking, no bicycles sign, separated footpath sign, end separated footpath sign, separated footpath road marking, end separated footpath road marking, shared path sign and end shared path sign. These traffic control devices were assessed as low risk in section 2.6 and local councils have operational experience relating to these traffic control devices.

Several other major traffic control devices that are the subject of the VicRoads delegation are to be amended to only apply to use on arterial roads (ie. Items 36, 37, 38, 39, 41, 56 and 57 in the current Schedule 1).

These devices that are to be deleted or amended will then become minor traffic control devices for which Councils will be authorised to use on municipal roads in accordance with the proposed regulations.

Of the remaining changes to the current Schedule 1, two further devices are to be deleted (Items 43 and 44) together with minor clarifying changes to a small number of other items.

***Schedule 2 Superseded traffic control devices***

Schedule 2 lists those traffic control devices that are superseded and are not be used as set out in regulation 8.

# Impact on Small Business

The proposed regulations primarily impact on road authorities, utilities, providers of public transport, non-road activity organisers, other persons (developers and building/ construction companies) and not-for-profit organisations such as fundraisers and cycling/athletic sporting organisations.

However, with the exception of not-for-profit organisations, utilities, providers of public transport and some of the larger organisations that regularly work within the road environment are pre-qualified to prepare traffic management plans and manage traffic at worksites on roads through the VicRoads pre-qualification scheme. For the majority of other organisations or persons, they would engage pre-qualified traffic management companies to prepare traffic management plans and submit MoA applications to VicRoads and other coordinating road authorities.

Traffic management companies would undertake a majority of the 31,000 MoA applications submitted to coordinating road authorities and pay the proposed fees. As with any other market, it is envisaged that traffic management companies will pass on the proposed MoA fees to their clients.

Other persons (developers and building/construction companies) comprise mostly small business operators and are required to obtain authorisation for the use of all types of traffic control devices, while utilities, providers of public transport, road authorities and non-road activity organisers are authorised under the regulations to use certain prescribed traffic control devices.

It could be argued that these small business operators should also be granted exemption from authorisation for some traffic control devices such as work advisory devices. However, the authorisation and exemption framework established in the regulations has been designed to take into account the likely risks and consequential road safety and traffic operational impacts associated with the use of traffic control devices by the different organisations or persons.

In this respect, the other persons group obtain about 25,000 or 80 percent of the MoAs granted per annum. The sheer number of MoAs sought by the other persons group is likely to have an impact on the efficient management of the road network and road safety, particularly near the 3,900 traffic signals across the State.

Notwithstanding this, the other persons group, particularly small business operators, will mostly seek an MoA for works that do not involve a lane closure which only attract a relatively nominal fee of $68.73 for MoA applications on an arterial road. The Department considers this is a small impact relative to the benefits of this group being able to safely and efficiently manage the entry and exit of vehicles (trucks, cranes, concrete mixers) from land adjoining a road.

# Competition Assessment

## Overview

The National Competition Policy Agreement sets out specific requirements with regard to all new legislation adopted by jurisdictions that are party to the agreement. Clause 5(1) of the Competition Principles Agreement sets out the basic principle that must be applied to both existing legislation, under the legislative review process, and to proposed legislation.

The guiding principle is that legislation (including Acts, enactments, ordinances or regulations) should not restrict competition unless it can be demonstrated that:

1. the benefits of the restriction to the community as a whole outweigh the costs; and
2. the objectives of the regulation can only be achieved by restricting competition.

Clause 5(5) of the Competition Principles Agreement provides a specific obligation on parties to the agreement with regard to newly proposed legislation.

Each party will require proposals for new legislation that restricts competition to be accompanied by evidence that the restriction is consistent with the principle set out in sub-clause (1).

Therefore, all regulatory impact statements must provide evidence that the proposed regulations are consistent with the National Competition Policy obligations.

## Definition of market

Traffic management services and event management are the primary market affected by the proposed regulations.

## Test for restriction on competition

Under the Guidelines for the application of the Competition Test to New Legislative Proposals[[19]](#footnote-19), legislative schemes are deemed to contain restrictions on competition if they:

* allow only one company or person to supply a good or service;
* require producers to sell to a single company or person;
* limit the number of industry or individual producers; and
* limit the number of persons engaged in an occupation.

## Assessment

The proposed regulations do not contain any of the above restrictions. The proposed regulations apply to all traffic management services and event management, and the Department does not consider that the proposed regulations affect the ability of businesses to enter the market for the following reasons. In terms of the MoA application process, the cost to third-parties represents a minor cost relative to the cost of the works involved. In respect to highway collection and race permits, the costs associated with the proposed regulations would be incurred anyway under local council laws and the non-road activity permit respectively. In view of the 2,300 highway collections and 1,000 races conducted each year, these other legislative provisions have not deterred fundraisers and race organisers from entering the market.

In view of the above, the Department has concluded that the proposed regulations do not act to restrict competition.

# Implementation and Enforcement

Prior to the commencement of the regulations, the Department will advise the Infrastructure Reference Panel, local council coordinating road authorities and other key stakeholders such as the Traffic Management Association of Australia and Cycling Victoria of the key amendments to the regulations.

Given that the proposed regulations confer additional responsibilities on local council coordinating road authorities in respect to the authorisation of traffic control devices, the Department will consult with the MAV in communicating these changes to local council coordinating road authorities.

In regard to bicycle races on roads (regulation 28 refers), the Department will work with Cycling Victoria to adopt measures to advise participants that the events they are competing in have the appropriate permissions as required (eg. include race permit number on competitor application forms).

## Enforcement

Section 77 of the Act confers power on a police officer and authorised officers within VicRoads and a local council to prosecute for any offence against the Act or regulations. VicRoads and local council surveillance officers and authorised officers undertake regular inspections of the road network to enforce and detect non-compliance with the regulations.

Section 99A(2) of the Act imposes a penalty for not conducting works or non-road activities on roads safely (60 penalty units). However, there are several offences with associated penalties in the proposed regulations. The penalties range from 2 to 6 penalty units. Offences related to the interference with traffic control devices attract higher penalties due to the road safety implications to road users while other minor offences attract lower penalties. The Department considers these penalty levels are appropriate and proportionate to the type of offence.

Regulation 7(1) imposes 6 penalty units if a person without authorisation erects, displays, places, interferes with, alters, defaces or removes a traffic control device on a road, a road related area or in the view of any person on a road or road related area.

Regulation 7(2) imposes 6 penalty units if a person erects, displays or places on a road, in a road related area, or in the view of a person on a road or road related area anything that –

* purports to be, or is an imitation of, or is similar to, a traffic control device; or
* interferes with the effectiveness of a traffic control device; or
* prevents an approaching driver or other road user from clearly distinguishing the whole or any part of a traffic control device; or
* is intended to distract a driver or other road user’s attention from a traffic control device.

Regulation 8 imposes 6 penalty units if a person erects or places a superseded traffic control device specified in Schedule 2.

Regulation 27 imposes 2 penalty units if a person drives a vehicle on a road in an organised procession (other than a funeral procession) or a parade without the written authorisation of the coordinating road authority.

Regulation 28 imposes 2 penalty units if a person holds or causes to permit a race on a road that has not received written permission from the Chief Commissioner of Police and has not complied with any conditions imposed by the Chief Commissioner of Police during the conduct of the race. Regulation 28 also imposes 2 penalty units if a person takes part in a race on a road knowing that the race is being held without the permission of the Chief Commissioner of Police and if a person who takes part in a race on a road for which the Chief Commissioner of Police has given permission knowingly contravenes any conditions of the permission. The current regulations, which impose a 1 penalty unit for these offences, have been increased to be consistent with current regulation 26(2).

Regulation 31 imposes 2 penalty units if a person conducts, or causes or permits to be conducted, a highway collection that has not received written permission from the Chief Commissioner of Police and has not complied with any conditions imposed by the Chief Commissioner of Police during the conduct of the highway collection. Regulation 31 also imposes 2 penalty units if a person takes part in a highway collection knowing that the highway collection is being conducted without the permission of the Chief Commissioner of Police and if a person who takes part in a highway collection for which the Chief Commissioner of Police has given permission knowingly contravenes any conditions of the permission. The current regulations, which impose a 1 penalty unit for these offences, have been increased to be consistent with current regulation 28(2).

Regulation 37 imposes 3 penalty units if a person erects, displays or places a light in a way that prevents, or is likely to prevent a driver from clearly distinguishing the road ahead or is a danger or distraction, or is likely to endanger or distract drivers or other road users.

# Consultation

VicRoads held consultation workshops on the Road Safety (Traffic Management) Regulations 2009 in November 2016 with a wide range of stakeholders.

As part of the consultative process during the preparation of this regulatory impact statement, and in addition to the VicRoads held workshops, further stakeholders were consulted for the purposes of data collection and gaining an understanding of the processes in respect to memorandum of authorisation, non-road activity permits, race and highway collection permits.

Victoria Police were involved and agreed to the proposed amendments relating to highway collection and race permits.

The stakeholders consulted included:

* Alpine Shire Council
* Banyule City Council
* Bass Shire Council
* Bayside City Council
* Cardinia City Council
* Cycling Victoria
* Department of Economic Development, Jobs, Transport and Resources
* Department of Environment, Land, Water and Planning
* Hume City Council
* Infrastructure Reference Panel (as established under the *Road Management Act 2004*)
* Kingston City Council
* Manningham City Council
* Macedon Ranges Shire Council
* Maroondah City Council
* Melbourne Water
* Moreland City Council
* Municipal Association of Victoria
* Port Phillip City Council
* Public Transport Victoria
* Stonnington City Council
* Strathbogie Shire Council
* Traffic Management Association Australia (Victoria)
* Victoria Police
* Yarra Trams

Local councils, at officer level, supported transferring responsibility for the authorisation of specific traffic control devices that relate to works or non-road activities conducted on municipal roads as outlined in Option 2 in section 5.1 and were also supportive of the concept of a one-stop shop for highway collection and race permits.

# Evaluation Strategy

As part of the Department’s commitment to good regulatory practice, the following evaluation strategy has been developed to ensure continuous improvement and accountability.

## Objectives of the regulatory proposal

The primary objective is to provide safe and efficient use of the public road network for road users during interference from works and activities conducted on the road, and the safety of persons engaged in the conduct of works and activities.

## Regulatory elements to be evaluated

The Victorian Guide to Regulation states that, consistent with good regulatory practice, all Regulatory Impact Statements must include an evaluation strategy, however, ‘the evaluation strategy should be proportional to the reform proposal’ and “the extent of the data to be collected with the level of sophistication of the methods used to be varied based on the significance of the reform proposal’.

Monitoring and evaluation is valuable. They help to identify whether the Regulations are meeting their objectives in practice and whether any unintended consequences have arisen. Evaluation is, moreover, useful where a lack of available information has not allowed a potentially viable option to be evaluated fully.

As a result, the evaluation strategy outlined below involves two broad elements:

how the Regulations generally will be evaluated; and

further consideration of the race and highway collection permits, particularly the one stop shop option.

### The General Approach to Evaluation

The proposed transfer of MoA responsibility to local council coordinating road authorities for some traffic control devices represents the most significant change to the regulations. The reform is expected to reduce red-tape for utilities, providers of public transport, non-road activity organisers and other persons. The VicRoads Permit and Events Unit will monitor and assess the annual number of MoA applications that would not require its approval under the proposed regulations to enable a comparison with the number of MoA applications received by VicRoads under the existing regulations.

The RIS also identified several other matters that could potentially improve the administration of the proposed regulations and reduce compliance costs to third-parties. These include:

**Guidance on the MoA Application Process –Peak Hour Periods**

VicRoads will investigate the provision of guidance material on its website to advise third-parties when it is appropriate to conduct works on roads and the appropriate use of traffic control devices, particularly during peak-hour periods. This guidance would be designed to reduce the current 50 percent of MoA applications (to use traffic control devices) that require amendment by VicRoads as noted in section 2.6. The need for VicRoads amendments adds some delay to the issuing of an MoA. VicRoads would need to develop a number of case studies to demonstrate appropriate times for the conduct of works on roads and, as a result, the appropriate use of traffic control devices (to then be reflected in an MoA application).

**Guidance on Risk Assessment**

In terms of other guidance material, section 4.4 highlighted that while most of the details included in a traffic management plan are self-explanatory, the risk assessment component is open to interpretation by traffic management plan consultants. As a result, some third-parties may be undertaking risk assessment unnecessarily, while in other cases, third-parties should be undertaking a risk assessment to identify possible risk mitigation measures to enhance road safety. VicRoads has produced the Code of Practice for Worksite Safety – Traffic Management (which includes a detailed section on worksite hazard management) together with guidelines on the conduct of works on roads; namely the “Guide to Working in Road Reserves”. VicRoads will liaise with the TMAA to produce similar guidance material to reinforce the risk assessment aspects associated with the preparation of a traffic management plan.

**Traffic management controllers**

In section 2.6, Cycling Victoria raised concerns about the onerous requirements to become a traffic controller for volunteers such as race marshals and officials. While this matter is outside the scope of the regulations, the Department considers there is merit to investigating ways to reduce the cost to volunteers involved in community and sporting events and will assess the Queensland Department of Transport and Main Roads’ Special Event Traffic Marshal Scheme that provides a short on-line test for event volunteers to be able to use a hand-held stop/slow bat for low speed and low traffic environments. This investigation will be undertaken within the context of the current work by Austroads (representing all State and Territory road authorities) to develop a nationally harmonised approach to traffic control training programs.

**Race and highway collection permits**

The analysis in sections 4.2 and 4.3 suggested that a one-stop shop is a potentially superior option to the current approach to race and highway collection permits. As noted above, however, the *Road Safety Act 1986* would need to be amended to enable its implementation. To inform a future decision about whether making such an amendment to the Act is warranted, further analysis would be required.

The types of issues about which further information would be required include the following.

Firstly, whether it is legally feasible to amend the Act to empower a local council to exempt highway collections from specific Road Rules in a permit issued by the local council under its local laws. In respect to race permits, whether it is appropriate from a wider policy perspective, for the responsible Minister to delegate to local council coordinating road authorities the power to incorporate Road Rule exemptions as a condition of a non-road activity permit.

Secondly, in the event that the legal and policy issues can be resolved in favour of a one-stop-shop scheme, it would be necessary to investigate the costs to establish, design and maintain an on-line portal for applicants, coordinating road authorities and Victoria Police.

## Baseline data

VicRoads currently has limited established processes to monitor the operation of the regulations. In respect to its own operations, VicRoads currently maintains high-level data reports on the number of MoA and non-road activity permit applications by the category of third-party. However, VicRoads has no processes to monitor the number of MoA and non-road activity permit applications submitted to local council coordinating road authorities.

In view of the proposed transfer of MoA responsibility to local council coordinating road authorities for some traffic control devices, VicRoads will monitor the expected reduction in the current MoA applications it receives. As noted in section 4.2, VicRoads does not have the information or data to quantify the expected reduction in duplication.

To address this issue, VicRoads will collate and analyse data from its MoA applications over the past 12 months to provide a reasonable data sample. Specifically, VicRoads will assess how many times it authorised utilities, providers of public transport and non-road activity organisers to use minor traffic control devices on a municipal road and how many times it authorised other persons to use temporary works speed-limit signs and illuminated signs for works conducted on a municipal road. This data analysis will form the baseline data to enable VicRoads to monitor the expected reduction in the number of MoA applications it receives for the use of these traffic control devices on municipal roads.

## Key performance indicators (KPIs)

In terms of general evaluation, the Department will monitor the rate of non-compliance with MoAs, non-road activity permits and race and highway collection permits. This KPI seeks to measure, in particular, whether the introduction of application fees for MoAs and the increase in the application fee for non-road activity permits has led to some persons or organisations avoiding the MoA or permit processes.

In addition, the Department has developed a preliminary list of KPIs that could be used if the various matters to be evaluated are implemented. These KPIs will be reviewed following consultation on this RIS and as the evaluation strategy is implemented. This will also involve the Office of the Commissioner of Better Regulation. The preliminary list of KPIs are:

* a specified reduction in the number of MoA applications received and the likely cost savings to the affected third-parties. This KPI seeks to measure whether the proposed change has achieved red-tape reduction and administrative cost savings to VicRoads and applicants.
* the on-line portal system should be primarily for permit applications. An on-line portal system would still need to offer applicants the choice to make paper-based application submissions to the relevant government agency. This KPI seeks to measure whether local council coordinating road authorities have implemented an agreement to primarily use an on-line portal system with input from VicRoads, Victoria Police, fundraisers and race organisers.
* fundraisers and race organisers are satisfied the on-line portal system would provide transparent and timely consideration of their applications. This KPI seeks to measure whether the on-line portal system will address Cycling Victoria’s concerns outlined in section 2.6; specifically the duplication and timeliness of the approval process.
* reduction in the amendments to MoA applications in respect to requests for works to be conducted during peak-hour periods, This KPI seeks to measure whether the guidance material has been effective in reducing the inefficient use of time spent by VicRoads, and other road authorities, in amending MoA applications and authorisation delays to third-parties.
* surveyed third-parties are satisfied with the MoA application process and the traffic management plan process. This KPI seeks to identify whether VicRoads guidance material regarding the appropriate timing of works and use of traffic control devices will address the current high rate of amendments by VicRoads to MoA applications and whether VicRoads Guidelines on the appropriate use of risk assessment in a traffic management plan will help traffic management companies to better understand and apply risk assessment in the appropriate circumstances.

## Plan

The Department will initially seek legal advice to confirm whether the amendments can be made to the Act and to obtain broad estimates of the cost to establish an on-line portal and advise key stakeholders of the outcome.

Subject to a positive legal and cost feasibility outcome, the Department, in consultation with VicRoads, will organise a workshop with the key stakeholders identified below to discuss the design of an on-line portal.

If this work suggests an online portal would be a useful approach, the Department would undertake a detailed cost estimate or seek expressions of interest for the establishment of an on-line portal and use this information to develop a business case (including the identification of possible cost sharing arrangements) to show whether the on-line portal was superior to the Victoria Police and non-road activity permit processes, and make recommendations to the responsible Minister.

In regard to the on-going monitoring of MoA and non-road activity permit applications, VicRoads will seek the Municipal Association of Victoria (MAV) assistance to organise a meeting with a representative sample of local councils to develop a reporting framework that covers not only the high level data (annual number of applications) but also the number of MoA applications being sought for no lane closure, lane closure and road closure; type of third-party making the application; the type of traffic control devices being sought for authorisation; and the average time taken to provide authorisation. In respect to non-road activity permits, the type of third-party applicant, the average time taken to grant a permit and the number of permit applicants granted a fee waiver. Subject to agreement, local councils would collect this data and submit it to VicRoads on an annual basis so that VicRoads can monitor the operation of the MoA and non-road activity permit application process. In addition, VicRoads would seek the MAV’s support to conduct an annual survey of local councils in respect to operational issues, consistency in the application of the regulations and liaison issues with VicRoads. VicRoads would then consult with local councils if the survey results suggested a need to resolve significant issues.

In regard to guidance material on risk assessments and the timing of works on roads, VicRoads will meet with the TMAA. The TMAA represents traffic management companies who both prepare MoAs and traffic management plans, and implement traffic management at worksites, on behalf of third-parties. The TMAA has expertise in applying risk assessment in respect to traffic management plans and its input into the preparation of the Guidelines is critical to ensure appropriate case studies are developed to clearly explain to its members the circumstances in which risk assessment should be undertaken as part of the preparation of a traffic management plan.

## Consultation plan

Stakeholder consultation will be undertaken for an on-line portal system for highway collectors and race permits. The following stakeholders will be consulted (local council coordinating road authorities, Victoria Police, MAV, Cycling Victoria and major highway collection users such as the Royal Children’s Hospital and the Salvation Army, TMAA, private companies and government agencies with expertise in the development of on-line portal systems). These stakeholders have a critical role to play in the consideration and potential design of an effective and efficient on-line portal system.

This stakeholder consultation will gather evidence as part of the feasibility study and a workshop with these stakeholders will be conducted to explore the design features of an on-line portal system.

The TMAA has expertise in respect to MoAs and traffic management plans and VicRoads will consult with its members to develop appropriate MoA application and risk assessment guidelines.

The Department will liaise with the Queensland Department of Transport and Main Roads’, together with other State and Territory road authorities (through Austroads) to ascertain the costs, benefits, risks and the effectiveness of a special event traffic marshal scheme to enable volunteers to become traffic controllers.

## Timing

The evaluation would be planned to commence in 2020 and be completed by early 2021.

## Responsible agency

Department of Transport

Appendix 1: Review of Major Traffic Control Devices

VicRoads undertook an internal review of the current prescribed list of major traffic control devices to ascertain whether each of the 63 major traffic control devices should remain prescribed major traffic control devices in Schedule 1 of the remade regulations.

VicRoads used the following criteria to identify the devices that should be included in Schedule 1:

Criterion 1 the design and installation of the traffic control device requires expert input from VicRoads due to the complexity of the device itself (e.g traffic signals, ITS devices, pedestrian crossings with flashing lights);

Criterion 2. the traffic control device is exclusively used in conjunction with a major traffic control device (e.g signs at traffic signals, Stop here on red sign/arrow, hook turn signs) or used where a heightened level of road user awareness is required (e.g at a level crossing);

Criterion 3. significant road network impacts are likely to result from the installation or removal of the traffic control device, particularly in relation to on-road public transport or freight (e.g bus lanes, tram lanes, transit lanes, heavy vehicle prohibitions);

Criterion 4. it is likely that the traffic control device may be used inappropriately or inconsistently, causing either:

road user expectation issues or confusion; or

safety issues to road users, particularly vulnerable road users (e.g speed limits, electronic signs, zebra crossings, no truck signs).

Each of the current 63 major traffic control devices in Schedule 1 of the regulations were assessed against the above criteria as shown in the Table below. Each traffic control device had to meet at least one criterion to remain a major traffic control device.

| Device No. | Traffic Control Device (TCD) Description | Currently Delegated to Council | Criterion 1 | Criterion 2 | Criterion 3 | Criterion 4 | Future Status |
| --- | --- | --- | --- | --- | --- | --- | --- |
| 1 |  A speed-limit sign | No | Yes | No | No | Yes | Retain as Major TCD |
| 2 | An end speed-limit sign | No | Yes | No | No | Yes | Retain |
| 3 | An area speed-limit sign | No | Yes | No | No | Yes | Retain |
| 4 | An end area speed-limit sign | No | Yes | No | No | Yes | Retain |
| 5 | A traffic sign that is a reasonable likeness of a diagram of a hook turn only sign mentioned in rule 34 of the Road Rules | No | No | Yes | No | No | Retain |
| 6 | Traffic signals | No | Yes | Yes | No | No | Retain |
| 7 | A traffic control device, other than a traffic signal, that uses lights or illuminated words or symbols to direct or warn road users | No | Yes | No | No | Yes | Retain |
| 8 | A traffic sign that is a reasonable likeness of a diagram of a stop here on red signal sign mentioned in rule 56 of the Road Rules | No | No | Yes | No | No | Retain |
| 9 | A traffic sign that is a reasonable likeness of a diagram of a stop here on red arrow sign mentioned in rule 56 of the Road Rules | No | No | Yes | No | No | Retain |
| 10 | Traffic control devices that are a likeness of the devices described in the definition of ***pedestrian crossing*** (within the meaning of the Road Rules) that form part of a pedestrian crossing | No | No | No | No | Yes | Retain |
| 11 | A traffic sign that is a reasonable likeness of a diagram of a no left turn sign mentioned in rule 91 of the Road Rules erected, displayed or placed near or on a length of road along which a tram operates | No | No | No | Yes | No | Retain |
| 12 | A traffic sign that is a reasonable likeness of a diagram of a no right turn sign mentioned in rule 91 of the Road Rules erected, displayed or placed near or on a length of road along which a tram operates | No | No | No | Yes | No | Retain |
| 13 | A traffic sign that is a reasonable likeness of a diagram of a no U-turn sign mentioned in rule 39 of the Road Rules erected, displayed or placed near or on a length of road along which a tram operates | No | No | No | Yes | No | Retain |
| 14 | A traffic sign that is a reasonable likeness of a diagram of a no turns sign mentioned in rule 90 of the Road Rules erected, displayed or placed near or on a length of road along which a tram operates | No | No | No | Yes | No | Retain |
| 15 | A traffic sign that is a reasonable likeness of a diagram of a left turn only sign mentioned in rule 88 of the Road Rules erected, displayed or placed near or on a length of road along which a tram operates | No | No | No | Yes | No | Retain |
| 16 | A traffic sign that is a reasonable likeness of a diagram of a right turn only sign mentioned in rule 89 of the Road Rules erected, displayed or placed near or on a length of road along which a tram operates | No | No | No | Yes | No | Retain |
| 17 | A traffic sign that is a reasonable likeness of a diagram of a left lane must turn left sign mentioned in rule 88 of the Road Rules erected, displayed or placed near or on a length of road along which a tram operates | No | No | No | Yes | No | Retain |
| 18 | A traffic sign that is a reasonable likeness of a diagram of a right lane must turn right sign mentioned in rule 89 of the Road Rules erected, displayed or placed near or on a length of road along which a tram operates | No | No | No | Yes | No | Retain |
| 19 | A traffic control device that is a likeness of an example of a traffic lane arrow mentioned in rule 92 of the Road Rules, indicating an exclusive left turn or right turn lane, in a marked lane on a length of road along which a tram operates | No | No | No | Yes | No | Retain |
| 20 | A traffic sign that is a reasonable likeness of a diagram of a bus lane sign mentioned in rule 154 of the Road Rules | No | No | No | Yes | No | Retain |
| 21 | A traffic sign that is a reasonable likeness of a diagram of an end bus lane sign mentioned in rule 154 of the Road Rules | No | No | No | Yes | No | Retain |
| 22 | A traffic sign that is a reasonable likeness of a diagram of a clearway sign mentioned in rule 176 of the Road Rules | No | No | No | Yes | Yes | Retain |
| 23 | A traffic sign that is a reasonable likeness of a diagram of an end clearway sign mentioned in rule 176 of the Road Rules | No | No | No | Yes | Yes | Retain |
| 24 | A shared zone sign | No | No | No | No | Yes | Retain |
| 25 | An end shared zone sign | No | No | No | No | Yes | Retain |
| 26 | A tram lane line of the kind referred to in rule 155(3)(a) of the Road Rules | No | No | No | Yes | No | Retain |
| 27 | A traffic sign that is a reasonable likeness of a diagram of a tram lane sign mentioned in rule 155 of the Road Rules | No | No | No | Yes | No | Retain |
| 28 | A traffic sign that is a reasonable likeness of a diagram of an end tram lane sign mentioned in rule 155 of the Road Rules | No | No | No | Yes | No | Retain |
| 29 | A traffic sign that is a reasonable likeness of a diagram of a transit lane sign mentioned in rule 156 of the Road Rules | No | No | No | Yes | No | Retain |
| 30 | A traffic sign that is a reasonable likeness of a diagram of an end transit lane sign mentioned in rule 156 of the Road Rules | No | No | No | Yes | No | Retain |
| 31 | A traffic sign that is a reasonable likeness of a diagram of a truck lane sign of mentioned in rule 157 of the Road Rules | No | No | No | Yes | No | Retain |
| 32 | A traffic sign that is a reasonable likeness of a diagram of an end truck lane sign mentioned in rule 157 of the Road Rules | No | No | No | Yes | No | Retain |
| 33 | A traffic sign that is a reasonable likeness of a diagram of a no trucks sign mentioned in rule 104 of the Road Rules | No | No | No | Yes | Yes | Retain |
| 34 | A traffic sign of a type referred to in the Road Rules that limits the device's operation in respect of classes of persons or classes of vehicles | No | No | No | No | Yes | Retain |
| 35 | A traffic control device of a kind mentioned in the Road Rules that is erected, displayed, or placed at or near traffic signals | No | No | Yes | No | No | Retain |
| 36 | A parking bay or a traffic sign that is a reasonable likeness of a parking control sign (within the meaning of the Road Rules) permitting or directing parking to the right side of a one-way road that has a dividing strip immediately to its right | Yes | No | No | No | Yes | Amend to apply to an arterial road only |
| 37 | A traffic control device that permits stopping at a place where parking or stopping would otherwise be prohibited by the Road Rules | Refer 37(a) to 37(g) below |  |  |  |  | Retain in part (and to apply to arterial roads only) |
| 37a | Within an intersection (except at the top of a ‘T’ - Rule 170(1)) | No | No | No | No | No | Remove |
| 37b | Within 20 m from the nearest point of an intersecting road at an intersection with traffic lights (Rule 170(2)) | No | No | Yes | No | No | Retain |
| 37c | Within 10 m of an intersection without traffic lights (except at the top of a ‘T’ - Rule 170(3)) | Yes | No | No | No | No | Remove as Major TCD |
| 37d | Within 20 m on the approach side and 10 m on the departure side of a children’s crossing (Rule 171) | Yes | No | No | No | No | Remove |
| 37e | Within 20 m on the approach side and 10 m on the departure side of a pedestrian crossing (except at an intersection - Rule 172) | No | No | No | No | Yes | Retain |
| 37f | With 10 m of the traffic light pole on the approach side and 3 m on the departure side of pedestrian signals or bicycle crossing lights (except at an intersection – Rule 173 & 174) | No | No | No | No | Yes | Retain |
| 37g | Within 20 m of a level crossing (Rule 175) |  | No | Yes | No | Yes | Retain |
| 38 | A traffic sign that is a reasonable likeness of a diagram of a no stopping sign mentioned in rule 167 of the Road Rules erected, displayed or placed at or near the centre of a road or on a dividing strip (within the meaning of the Road Rules) | Yes | No | No | No | Yes | Amend to apply to an arterial road only |
| 39 | A traffic sign that is a reasonable likeness of a diagram of a give way sign mentioned in rules 69, 70, 71 and 122 of the Road Rules | Yes | No | No | No | Yes | Amend to apply to an arterial road only |
| 40 | A traffic sign that is a reasonable likeness of a diagram of a roundabout sign mentioned in rule 109 of the Road Rules | Yes | No | No | No | No | Remove |
| 41 | A traffic sign that is a reasonable likeness of a diagram of a stop sign mentioned in rules 67, 68 and 121 of the Road Rules | Yes | No | No | No | Yes | Amend to apply to an arterial road only |
| 42 | Traffic control devices that are a likeness of the devices described in the definition of ***children's crossing*** that form part of a children's crossing | Yes | No | No | No | No | Remove |
| 43 | A traffic sign that is a reasonable likeness of a diagram of a bicycle lane sign mentioned in rules 153 and 252 of the Road Rules | No | No | No | No | No | Remove |
| 44 | A traffic sign that is a reasonable likeness of a diagram of an end bicycle lane sign mentioned in rule 153 of the Road Rules | No | No | No | No | No | Remove |
| 45 | A traffic sign that is a reasonable likeness of a diagram of a bicycle path sign mentioned in rules 239, 242 and 252 of the Road Rules | Yes | No | No | No | No | Remove |
| 46 | A traffic sign that is a reasonable likeness of a diagram of an end bicycle path sign mentioned in rule 239 of the Road Rules | Yes | No | No | No | No | Remove |
| 47 | A traffic control device that is a likeness of a bicycle path road marking as defined in rule 239(4) of the Road Rules | Yes | No | No | No | No | Remove |
| 48 | A traffic control device that is a likeness of an end bicycle path road marking as defined in rule 239(4) of the Road Rules | Yes | No | No | No | No | Remove |
| 49 | A traffic sign that is a reasonable likeness of a diagram of a no bicycles sign mentioned in rules 239, 242 and 252 of the Road Rules | Yes | No | No | No | No | Remove |
| 50 | A traffic sign that is a reasonable likeness of a diagram of a separated footpath sign mentioned in rules 239 and 252 of the Road Rules | Yes | No | No | No | No | Remove |
| 51 | A traffic sign that is a reasonable likeness of a diagram of an end separated footpath sign mentioned in rule 239 of the Road Rules | Yes | No | No | No | No | Remove |
| 52 | A traffic control device that is a likeness of a separated footpath road marking as defined in rule 239(4) of the Road Rules | Yes | No | No | No | No | Remove |
| 53 | A traffic control device that is a likeness of an end separated footpath road marking as defined in rule 239(4) of the Road Rules | Yes | No | No | No | No | Remove |
| 54 | A traffic sign that is a reasonable likeness of a diagram of a shared path sign mentioned in rules 242 and 252 of the Road Rules | Yes | No | No | No | No | Remove |
| 55 | A traffic sign that is a reasonable likeness of a diagram of an end shared path sign mentioned in rules 242 and 252 of the Road Rules | Yes | No | No | No | No | Remove |
| 56 | A traffic control device that is a likeness of a device referred to in the Road Rules that permits or directs angle parking | Yes | No | No | No | Yes | Amend to apply to an arterial road only |
| 57 | A traffic control device that is a likeness of a device referred to in the Road Rules that permits or directs parking in a median strip parking area (within the meaning of the Road Rules) | Yes | No | No | No | Yes | Amend to apply to an arterial road only |
| 58 | A road hump | Yes | No | No | No | Yes | Amend to apply only to a road with a speed-limit greater than 50 km/h |
| 59 | A traffic sign that is a reasonable likeness of a diagram of a keep left unless overtaking sign mentioned in rule 130 of the Road Rules | No | No | No | No | Yes | Retain |
| 60 | A traffic sign that is a reasonable likeness of a diagram of an end keep left unless overtaking sign mentioned in rule 130 of the Road Rules | No | No | No | No | Yes | Retain |
| 61 | A traffic control device that is a likeness of a device referred to in the Road Rules that permits or directs "135°" parking or "rear-in" parking | No | No | Yes | No | No | Retain |
| 62 | A traffic sign that is a reasonable likeness of a diagram of a trucks use left lane sign mentioned in rule 159 of the Road Rules | No | No | No | No | Yes | Retain |
| 63 | A traffic sign that is a reasonable likeness of a diagram of an end trucks use left lane sign mentioned in rule 159 of the Road Rules | No | No | No | No | Yes | Retain |

Appendix 2: Cost Calculations

In respect to the costs incurred by third-parties to prepare a MoA application and race organisers/fundraisers to prepare race and highway collection permits, there is no industry data on average costs. In lieu of this information, the costs are based on Private sector full-time adult average weekly ordinary time earnings (Australian Bureau of Statistics, Average Weekly Earnings, Australia, May 2018, 6302.0) - $1544.10 per week.

Using the formula in the Department of Treasury and Finance Victorian Guide to Regulation, $1544.10 per week equates to an annual salary of $80,293 and is divided by 1672 hours = $48.02 multiplied by 1.1785 (oncost multiplier) and multiplied by 1.5 (overheads multiplier) = $84.89 hourly rate.

The following calculations were undertaken for each of the segments in section 4.

***Third-party rights to Traffic Control Devices***

The $84.89 hourly rate is multiplied by the estimated amount of time taken to prepare and submit a MoA application or race/highway collection permit application. For example, for a MoA application that takes an estimated 15 minutes (0.25 hours) to complete and submit, the cost would be $84.89 per/hour \* 0.25 hours = $21.22.

***Permission for Races and Highway Collection***

The $84.89 hourly rate is multiplied by the estimated amount of time taken to prepare and submit a race or highway collection permit application. For example, for an application that takes an estimated 5 minutes (.08 hours) to complete and submit, the cost would be $84.89 per/hour \* 0.08 hours = $7.07.

***Traffic Management Plans***

Traffic management plan preparation costs are as follows:

$120 for no lane closure

$250 for lane closure

$1,500 for road closure.

The total costs were calculated:

18,600 no lane closure works @$120 =$2,232,000

9,300 lane closure works @$250 = $2,325,000

3,100 road closure works @$1,500 = $4,650,000

1. Austroads, Safety at Road Worksites”, Stage 1 Working Papers, Research Report, AP-R544-17, June 2017, p 10 [↑](#footnote-ref-1)
2. New South Wales Guidelines for Bicycle Races, p 21 [↑](#footnote-ref-2)
3. Cycling Victoria, Race Organisers Guide, p 36 [↑](#footnote-ref-3)
4. New South Wales Guidelines for Bicycle Races, p 22 [↑](#footnote-ref-4)
5. Cycling Victoria, Race Organisers Guide, p 4. [↑](#footnote-ref-5)
6. Geelong Advertiser, “Driver hits Geelong SES tin rattler during highway collection fundraiser”, 21 February 2016 [↑](#footnote-ref-6)
7. The estimated minor works conducted by utilities, providers of public transport and road authorities that are exempt from the consent process under the Road Management (Works and Infrastructure) Regulations 2015 were derived from VicRoads Regulatory Impact Statement on Road Management (Works & Infrastructure) Regulations 2015 [↑](#footnote-ref-7)
8. Based on Private sector full-time adult average weekly ordinary time earnings (Australian Bureau of Statistics, Average Weekly Earnings, Australia, May 2018, 6302.0) - $1544.10 per week. Refer Appendix 2 for further details. [↑](#footnote-ref-8)
9. Based on a VicRoads Officer (VRO) 4 level officer hourly rate of $107.24 inclusive of on-costs and overheads. Two hours has been allowed to enable liaison between VicRoads and local council coordinating road authorities to discuss the proposed exemptions and the preparation of paperwork for Governor-in-Council. [↑](#footnote-ref-9)
10. Based on Private sector full-time adult average weekly ordinary time earnings (Australian Bureau of Statistics, Average Weekly Earnings, Australia, May 2018, 6302.0) - $1544.10 per week. [↑](#footnote-ref-10)
11. Calculation based on $120 to prepare a traffic management plan for 18,600 works involving no lane closure. [↑](#footnote-ref-11)
12. Calculation based on $250 to prepare a traffic management plan for 9,300 works involving lane closures. [↑](#footnote-ref-12)
13. Contra flow involves the diversion of traffic onto the other side of the road [↑](#footnote-ref-13)
14. Department of Justice, Police Regulation (Fees and Charges) Regulations 2013, Regulatory Impact Statement, p 39. [↑](#footnote-ref-14)
15. Using Private sector weekly earnings $1544 = $80,293/1672 hours\*1.1785\*1.5 =$84.89/0.50 minutes = $42.44 [↑](#footnote-ref-15)
16. VPS 3 hourly rate $79.05/0.25 minutes = $19.76 [↑](#footnote-ref-16)
17. VicRoads has estimated the total processing cost at $130,416 for 3,300 permissions as per Tables 11 & 12. For the estimated 3,200 applications seeking a fee waiver, the normal processing cost for these applications has been adjusted to $126,464 (3,200 \* $39.52). [↑](#footnote-ref-17)
18. 3,200 applications \*$39.52= $126,464 + 3,200 fee waiver applications \*$19.76 = $63,232 = $189,696 + 100 applications \* 39.52 = $3,952 = $193,648. 100 applications that generate revenue of $3,952/$193,648 = 2% [↑](#footnote-ref-18)
19. + Department of Treasury and Finance Victorian Guide to Regulation 2014 [↑](#footnote-ref-19)