

The Recreational Fishing Alliance of NSW

Promoting Sustainable Fishing



9th July 2021

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Impounding Act Review - Developing a regulatory framework for abandoned and unattended vehicles and trailers in NSW

The Recreational Fishing Alliance of NSW is the peak body representing recreational fishing associations, clubs and individuals in NSW. Many fishers in NSW live in the coastal fringe of 0-100kms, it is estimated that more than 20 per cent of all Australians engage in some form of boating or on-water based activity annually. The vast majority of these activities take place in vessels or watercraft owned by people from within those family units, enjoying the outdoors, with many choosing to go fishing from such vessels, which reside on a legally registered boat trailer.

Boating and fishing is an important way of life for many Australian families and perhaps more than ever before we need consider how to phase in low-risk activities such as boating where individuals, household units and families in small groups can get out in the fresh open air, and on the water for the chance to exercise their mental health and physical wellbeing. The award-winning marine biologist Dr Wallace J Nichols is internationally renowned for his study into the 'Blue Mind'¹ which, though a scientific evidence-based approach, has shown getting out on the water reduces stress and promotes human wellbeing, with significant physiological and psychological benefits. He found that with our lives are becoming increasingly busy and stressed, boating is the perfect way to unwind and relax. Now is the time we need the 'Blue Mind' more than ever, as we work through the ever changing impacts of Covid 19.

This submission from the Recreational Fishing Alliance responds to the Office of Local Government OLG release of their Phase 2 Review and continuing Discussions in relation to the NSW Governments Impounding Act 1993 and the OLG's Submission Summary Report, and the publicly release of three OLG Zoom Meeting and Workshop OLG Preferred Options Papers, with the 3rd paper - Developing a regulatory framework for abandoned and unattended vehicles and trailers in NSW, being the main interest area for the RFA, which was made available on the 28th June to those participants who had been invited or had registered an interest to participate in the Planned OLG Online Zoom Meeting Workshop scheduled for 29th June 2021, 2pm-4pm.

Its commonly known that many Boaters and Fishers who own a boat which is securely placed on a boat trailer, which is legally registered generally in the owners name. These trailers are maintained and at various times throughout any year these boats on boat trailers are attached to a registered motor vehicle, once again generally in the owners

¹ https://www.booktopia.com.au/blue-mind-wallace-j-nichols/book/9780349139579.html?gclid=EAlalQobChMIjvCKpNvU8QIVStiWCh0_wAdIEAAYASAAEgICkPD_BwE

registered name, and towed to various places across the country roads and trails to be launched into a local waterway any time, for the enjoyment and pleasure of those involved. At times boats and boat trailers are parked separately on private property, or legally parked in an appropriate space on any public thoroughfare, in accordance with the current NSW Traffic and Local Government Regulations and Signage.

The RFA needs to note that since the 2015 Amendment many have been faced with the discriminatory burden of the NSW Governments Impounding Amendment (Unattended Boat Trailers) Act 2015², which resulted in boat owners needing - to move their boat trailer every 28 days across an intersection, and repark their boat and boat trailer generally in a new location, the boat owner has also been required to provide proof that such has occurred, should they be questioned by any Impounding Officer, currently or in the future.

The Alliance conducted an in depth review of the Office of Local Government OLG's Discussion Paper circulated via email to Respondents and those who Registered their intended participation, we noted a number of key points as the basis of this consultation were; a) the 'need should be established' and b) the 'impact should be understood, considering costs/benefits of options (including any non-regulatory options)'

A quick review of several Fishing Clubs within a number of the Local Government Areas LGAs where Councils had OPTED IN into the Impounding Amendment (Unattended Boat Trailers) Act 2015 and Declared such Trailer Parking Areas. This was prior to the Office of Local Government OLG invited respondents Zoom Meeting on the 29th June 2-4pm.

The Zoom Meeting had some 70 odd participants, the majority being from Councils across NSW, there with only a few Boating/Fishing participants (a couple of late invitee's that the RFA had co-opted into the event) and Pedestrian Organisations present.

It was noted throughout the meeting that a significant number of Organisations were not in attendance, and will potentially be significantly affected should the OLG's Preferred Option 4 condition to define and add '**ALL TRAILERS**' be accepted i.e. Caravan Industry Association, Equestrian and Horse Clubs, or Advertising Companies. It was not clear either if the OLG had attempted to contact such groups/individuals in any way, or sought their input as part of the OLG Policy Unit arrangements into the Impounding Act Review.

The Alliance raised a point that there was no mention of this OLG Impounding Act Review on the NSW State Government Have Your Say website <https://www.nsw.gov.au/have-your-say> which was intended to be the One Stop Portal for such change consultation. The information was buried in two places on the OLG web site <https://www.olg.nsw.gov.au/public/about-councils/laws-and-regulations/boat-trailers-roll-out-and-enforcement/> and here <https://www.olg.nsw.gov.au/councils/policy-and-legislation/acts-and-regulations/current-act-and-regulatory-reviews/> .

It was noted several times and supported by a number of Meeting Participants that such a significant Act changes should not be ignored, and that an additional 4 weeks extension to the 30th July 2021, be added to the Submission Process, considering the previous Submission process of 85 Submissions mostly from Local Government, and these groups/individuals be notified via a community based media engagement action be arranged, allowing such considerations of the impacts to those trailer owners to be engaged and submitted.

The RFA has also joined with the Boating Industry Association BIA, and the Boat Owners Association of NSW BOA, adopting a collective approach to represent our collective interest

² www5.austlii.edu.au/au/legis/nsw/num_act/iabta2015n27466.pdf

groups and formally request a Submission Extension beyond the advised 1 week, 9th July 2021, granted at the end of the OLG's Zoom Meeting.

The RFA did share its ongoing findings that a number of recreational boater/fishers had been significantly discriminated against and targeted by Council Rangers acting under the Impounding Acts 2015 new regulations, so much that after several years of ongoing dealings these boat owners simply disposed of their boats and no longer participate in boating or fishing activities, with no sound appeal process except to take such matters to Court.

It was also noted that Sutherland Shire Council SSC³, who had consulted their residents, resulted in a significant change to how other Councils had implemented such change. The SSC modified the Boat Trailer regulation, so when a registered boat trailer was parked within the projected owners property boundaries onto a public street, those boat trailers were not placed under Council Ranger scrutiny.

The RFA supports this alternative concept, which the OLG should explore further and consult on with the broader NSW Public who own a Boat Trailer or ANY TYPE of a TRAILER, should ALL TRAILERS be included under the Impounding Act Review new regulations.

The Alliance notes, that the OLG's Discussion Paper⁴ has not provided **any** relevant data, a summary, or full report, as part of the review consultation material in relation to any individual case, or all Impounding Actions taken to date, in relation to Boat Trailers, by each Impounding Authority.

Having such data covering the relevant issues raised in OLG Options Discussion Paper, i.e. Number of Incidents and Actions, Timeframes, Penalties issued -recovered - outstanding, Impounding Costs of each case, Court Actions Results completed or in progress etc. would have provided the meeting participants with the background information as to the extent or level of Council concerns that was driving the focus of this review and is also noted the OLG's Preferred Option No.4.

As part of the OLG's ZOOM Meeting participants raised a number of points within the Chat Function which the OLG participants generally did not respond to such, which directly related to the Option 4 discussions. There was also little time allowed for any open discussion and sharing of possible options/solutions around such matters within the breakout groups, or when the breakout groups re-joined the full meeting, or as part of the end of session wrap up and review of the meetings outcomes and participant support or ongoing concerns.

The Alliance does not support the general Theme Proposal, to move various aspects of the Impounding Act into Regulation, to simplify the new Act, until such time as the newly drafted renamed Impounding Act for Vehicles and Trailers and the Regulation is able to be reviewed in full and further consulted on with all stakeholders by the OLG. These powers to alter/change/add to the new Regulation would sit presumably with the Minister for Local Government, or a Delegated Authority for such Regulation, standard Government stakeholder consultation must be a part of that regulatory change process if and when it happens.

The Alliance does note the general Theme Proposal in Option 4 to add ALL TRAILERS will mean that boat and boat trailer owners will now not be discriminated against in the future.

³ [Boat Trailers - Sutherland Shire Council \(nsw.gov.au\)](https://www.nsw.gov.au/boat-trailers)

⁴ Developing a regulatory framework for abandoned and unattended vehicles and trailers in NSW – Options Paper – PDF

However as noted previously there will be significant community impacts on other parts of the trailer ownership community, currently within any Council Declared Trailer Parking area.

The Alliance does support the move to improve such Government Legislation and Regulation with the addition of agreed definitions around a number of common terms used in various legislation and regulations, to ensure that such meanings are clearly identified and used appropriately, and consistently.

Those key words Abandoned, Unattended, Unregistered, Unlawful use, appear several times with out knowing how they will be applied hinders the process to constructively move forward.

What is your view on the Government's preferred option?

The Alliance provides in principle support to the Preferred Option 4, we have provided our comments as follows to the Questions to be Considered.

- Do you support the proposed objectives? What is missing?

The Discussion Paper and Zoom Meeting consultation lacked a number of key issues, as noted previously there is no data to support the OLG Preferred Option 4.

This lack of data short or long term, to support the preferred Option 4 amendments and proposed Act additions, does not allow an accurate stakeholder assessment of changes made to date, towards improving the effectiveness of the Impounding Act.

having access to such data would assist in determining the scale of the concerns relating to 'abandoned' boats on trailers. Are these 'life expired vessels' and trailers' which could easily be determined in the owner had not re registered the boat trailer or boat on the trailer.

Is there a relevant reason behind such lack of owner responsibility, such as the owner is currently overseas during the Covid pandemic and unable to return to Australia!

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- How could Option 4 address the opportunities, risks and concerns raised earlier in relation to vehicles?

The suggestion to define and provide a range of consistent definitions and meaning in the terms of Legislation and Regulation must be a priority. Once these have been defined and drafted by Parliamentary Counsel, further stakeholder discussions and acceptance of such must occur.

What other options for managing vehicles and trailers should be considered?

- Do you think other options the Government considered are preferable? Why?

The Alliance certainly supports raising the awareness of parking issues with any local community to seek balance and fairness with all vehicle owners.

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- What other regulatory options (such as parking permits and time limited parking signs) and non-regulatory options

The Alliance does not support the installation of signage limiting the use of parking spaces to some specified vehicles on a public street and excluding others in a general public setting, unless there is some specified reason to support such signage i.e. Police Vehicles near a Police Station, Disabled Parking etc.

Should you require any further information about the matters raised in this letter, or any other matter relevant to this request, please do not hesitate to call me on 0407 131 714.
Once again thank you for the opportunity to respond to this important matter.

Yours Sincerely,

Stan Konstantaras
President
Recreational Fishing Alliance of New South Wales

Reference Links and Commentary

Impounding Act Review

The NSW Government is currently undertaking a comprehensive review of the **Impounding Act 1993** (the Act). The Act aims to help protect people's safety in, and enjoyment of, public spaces. It enables councils and other public land managers to deal with the negative impacts of abandoned items and stray animals.

The review process is outlined below.



Phase 1 – Consultation on issues

A **Discussion Paper** about the review of the Act was released for public comment during 2020 to seek feedback on whether the Impounding Act remains effective for managing animals and other items left in public spaces. This captured feedback on, and potential solutions to address, the impact of items such as shopping trolleys, boat trailers, share bikes, abandoned cars, e-scooters and stray stock. Feedback on the Discussion Paper closed at the end of March 2020.

The Discussion Paper Submissions Summary Report (July 2020) has been released [here](#).



Phase 2 – Consultation on options

Public feedback on the [Discussion Paper](#) was considered when developing preferred options to change the Act. The Government asked for an open discussion amongst key stakeholders to test these preferred options around three key issues: shopping trolleys, stock animals and vehicles, including boat trailers.

Details about the three workshops, and the options papers released on the day of the workshops, and the feedback deadline on each are below:

Issue	Workshop Date	Options Paper	Feedback deadline
Shopping Trolleys	15 June 2021	Developing a regulatory framework for shopping trolleys in NSW – Options Paper – PDF	25 June 2021
Stock Animals	22 June 2021	Developing a regulatory framework for animals in NSW – Options Paper – PDF	2 July 2021
Vehicles, including trailers	29 June 2021	Developing a regulatory framework for abandoned and unattended vehicles and trailers in NSW – Options Paper – PDF	9 July 2021

How to have your say on options for change

Feedback to these Options Papers will inform the next stages of the review process and may be made by mail or email by the closing date listed in the above table to:

Email: olg@olg.nsw.gov.au

Mail to: Locked Bag 3015 Nowra NSW 2541

For further information, contact the Policy Team at the Office of Local Government on Tel: 02 4428 4172 or email to olg@olg.nsw.gov.au.

<https://www.olg.nsw.gov.au/councils/policy-and-legislation/acts-and-regulations/current-act-and-regulatory-reviews/>

Road Transport Act 2013

<https://legislation.nsw.gov.au/view/pdf/asmade/sl-2014-758>

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Introduction

Thank you for agreeing to take part in a stakeholder workshop to help shape an up-to-date regulatory framework to better manage abandoned and unattended animals and items, including vehicles and trailers, in New South Wales.

The workshop is part of a consultation process being delivered by the Office of Local Government, the Department of Planning, Industry and Environment (DPIE) in June 2021 as part of a review of the Impounding Act 1993 (the Act). As part of this consultation, public land managers (including councils), government agencies, industry (including businesses) and peak user groups representing the wider public will be asked to provide views on what should be included in a more effective regulatory framework and how best to implement it.

Public feedback on an earlier discussion paper has been considered when developing preferred options to change the Act. The Government has asked for an open discussion amongst key stakeholders to help to test these preferred options. This briefing paper has been prepared to provide background information and to pose questions for discussion at the stakeholder workshops.

Three workshops are being held in June 2021: one focusing on shopping trolleys, one on animals and one on vehicles, including boat trailers.

Given the importance to many of these issues to the community, the Member for Otway, Mr Mark Coure MP, is chairing the shopping trolleys and vehicles workshops on behalf of the NSW Government.

What	When	Where	Stakeholders Invited
Shopping Trolleys	15 June, 9.30am-11.30am (9.00am registration) 11.30am-12.30pm (impounding and enforcement process discussion for impounding authorities)	Wesley Conference Centre 220 Pitt Street, Sydney (nearest train station, Town Hall)	Public land managers Government agencies Industry Peak User Groups Community Groups
Animals	22 June, 9.30am-11.30am 9.30am-12.30pm (impounding and enforcement process discussion for impounding authorities)	Zoom Meeting Online workshop	Public land managers Government agencies Industry Peak User Groups
Vehicles, including Trailers	29 June, 2.00pm-4.00pm 4.00pm-5.00pm (impounding and enforcement process discussion for impounding authorities)	Zoom Meeting Online workshop	Public land managers Government agencies Industry Peak User Groups Community Groups

Background

About the Impounding Act

The Impounding Act 1993 (the Act) provides powers for local councils and certain Government agencies managing public land (impounding authorities) to deal with safety, access and amenity issues caused by abandoned and unattended items (or 'articles') and animals left in public places.

Impounding authorities may take to a pound an item or animal they determine on reasonable grounds to be abandoned or unattended. There may be penalties for the offence of abandoning or leaving these belongings unattended in public. Impounding authorities may also sell or dispose of items and animals not collected by the owner in certain circumstances. The Act also gives private land holders or tenants powers to impound trespassing animals.

The Minister for Local Government, the Hon. Shelley Hancock MP, is responsible for administering the Act.

The changing use and value of public space

The ways that people use public space has significantly changed over time. A greater number of different items are being used or kept in public areas as the population grows and people own more items such as cars, trailers, boats, bikes and scooters. As a society we are becoming more likely to purchase and dispose of vehicles more frequently.

The community's values and expectations in relation to vehicles on public land has changed significantly over time. Vehicle affordability has decreased and people own and store a greater number and type of vehicles on public land.

The growing significance of public places, including parking spaces, to the community is underpinned by the current Premier's Priority - Greener Public Places - to create more quality green, open and public spaces across urban areas that the whole community can safely use and enjoy. This is underpinned by the NSW Government's Future Transport 2056 Strategy, which highlights the vital role played by vehicles, including trailers, in helping us shape liveable, enjoyable and 'successful places' by keeping us mobile and enabling economic and social activity.

Key points about the Impounding Act and vehicles

- Motor vehicles that are abandoned or left unattended may be impounded under the Impounding Act. For this purpose, the definition of motor vehicle has the same meaning as the Road Transport Act 2013, and includes a caravan, boat trailer or other trailer. It also includes the remains of a vehicle and any article secured to or inside a vehicle when it is impounded.
- Impounding officers must make all reasonable enquiries to find a vehicle owner's name and address prior to taking action.
- If the owner of a vehicle can be identified, councils must give the owner at least 3-days' notice to remove a vehicle, unless the impounding officer is satisfied on reasonable grounds that its immediate removal is justified as it is causing an obstruction to traffic (vehicular or pedestrian) or it is likely to be a danger to the public.
- If an owner advises a council that their car is not abandoned or unattended - even if unregistered - council officers can take no further action.
- There is no definition for 'unattended' with respect to vehicles or trailers, although provision has been made to deem boat trailers unattended after 28 days in certain circumstances, and only in local government areas for which the boat trailer provisions apply.
- The onus is on the impounding authorities to identify the owner of a vehicle to prove an offence under the Act has occurred before they can issue a fine or take other regulatory action.
- Councils must 'opt in' to apply boat trailer laws. The notice provisions in place under the Act mean that boat trailer owners may, in effect, wait 43 days to move their trailer. This requires them to move the trailer through an intersection prior to repaving the boat trailer.
- The current maximum penalty for abandoning a vehicle or leaving it unattended is 5 penalty units (\$550) and the penalty notice (on-the-spot fine) amount is \$500.
- The Act provides that only vehicles valued at under \$500 may be immediately destroyed rather than stored for 28 days.

NSW Government action

The Impounding Act 1993 (the Act) has not been comprehensively reviewed in 28 years. It is evident from feedback to date that the Act has not generally kept pace with changing use of public space, technology and community expectations, including with respect to the parking and storage of motor vehicles, including trailers, in public spaces.

In late 2019, following ongoing concerns raised by stakeholders the Minister for Local Government initiated a review of the Act. This recognised that a holistic solution is needed to ensure that the Act is effective in meeting community expectations and delivering on the Government's priorities, now and into the future. The review process is being led by the Office of Local Government.

Consultation feedback to date

In response to a comprehensive discussion paper focusing on both strategic and operational issues, the Government received 85 submissions from diverse stakeholders, including 38 councils, 29 community members, 8 industry organisations, 7 peak organisations and 3 NSW Government entities. A summary of relevant feedback is provided at Appendix 1. Correspondence and other information was also reviewed.

Feedback indicates that many in the community want to clarify, expand and strengthen councils' and other public land managers' powers to deal with motor vehicles, including trailers. These concerns are particularly evident where vehicles create safety risks or left standing unattended for long periods of time on roadsides, in road related areas and, potentially, in private places accessed by the public (such as, for example, petrol stations). Reasons for these concerns include:

- vehicles take up increasingly valuable and contested residential parking spaces in urban areas
- vehicles creating safety concerns due to obstruction and increased risk of vandalism, fire, and theft when left unattended for long periods of time, and
- vehicles left for long periods causing amenity and environmental issues.

The community has also expressed concern about the ever-increasing number of trailers - such as boat trailers, caravans, camper trailers and box trailers - being 'stored' indefinitely on public land.

Most feedback indicates that the Act is no longer fit-for-purpose in relation to managing cars and trailers parked or left parked on public land. The Act is seen by many as overly prescriptive, out-dated, and ineffective in enabling impounding authorities to hold people to account for abandoning vehicles.

There is strong support to amend the Act to better encourage owners to take greater responsibility for their vehicles left indefinitely in public places, to improve the process for how regulators impound these vehicles, as well as recover impounding and disposal costs from those responsible.

Four broad options for legislative change have been considered

- No change** -
 - The Act is working well. Leave it as it is.
- Minor change to ensure currency, clarity, and consistency with other laws** -
 - Update definitions and processes (including monetary and timeframes for action to be taken), review existing offences and penalties and align the Act with other laws, including transport laws.
- Introduce additional obligations for high risk problem items such as vehicles and trailers** -
 - Amend the Act to provide for risk-based definitions and obligations that may be tailored to the specific circumstances of impounding different vehicles (eg. cars, boat trailers, box trailers, caravans etc) in separate sections or divisions.
 - Plus** make minor changes to ensure currency, clarity and consistency with other laws (Option 2).

4. Change Act to focus on outcomes and create regulations and guidance about vehicles and trailers, as required (PREFERRED OPTION) -

- Reframe the Act to focus on the outcomes the community expects, such as:
 - better balance amenity and safety of public land for the benefit of the whole of the community with shared use and enjoyment of public land by a range of individuals within the community, and
 - place more responsibility on owners for their items, including cars and trailers, parked in public places.
- Give impounding authorities stronger regulatory powers to deal more swiftly and effectively with these items in the public interest.

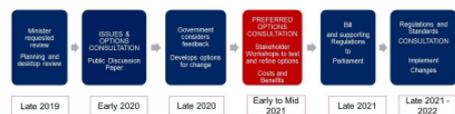
Option 4 (above) is the preferred option - it would facilitate developing standards of behaviour in regulations and guidance that could be flexibly changed over time. This would allow for vehicle-specific provisions, if necessary, on matters such as responding to complaints, offences and penalties and when regulatory action may be taken.

Next steps in the review process

The NSW Government is consulting with impounding authorities, businesses, advocates and other key stakeholders on issues of most concern to the public as part of the development of a Bill to take to the NSW Parliament. This workshop is part of that process.

A Better Regulation Statement examining the full range of costs and benefits of each option is concurrently being developed to test all four options set out above, to support the Government's decision-making process.

To facilitate any change the Government determines is required, legislation is expected to be introduced to Parliament later this year, as shown in the diagram below.



How to have your say on this options paper

If you would like to provide further feedback after the workshop, or were unable to attend the workshop and would like to provide feedback on this options paper, please mail or email feedback by **Friday, 2 July 2021** to:

Impounding Act Review
Locked Bag 3015, Nowra NSW 2541
Email: ola@ola.nsw.gov.au

Where to go for further information

Policy Team, NSW Office of Local Government
Email: ola@ola.nsw.gov.au, Phone: (02) 4428 4100
Agency Website: www.ola.nsw.gov.au

Proposed way forward – Option 4

Below are some key themes in relation to the Government's preferred option, **Option 4**, to facilitate the discussion about vehicles and trailers.

We encourage you to consult within your organisation about this preferred option and the key themes prior to attending the workshop so that you can best represent your organisation or members needs and views.

Theme 1 – Reshape the Act to focus on outcomes the community expects

Under Option 4, it is proposed that the Act focuses on achieving the outcomes the community expects in relation to managing vehicles and trailers (as well as other items and animals) found in public places and on other private properties.

Under this Option, it is proposed that the Act be renamed and restructured to focus on outcomes, to meet the following primary objective for both items and animals to:

- i. **safeguard shared use and enjoyment of public spaces by providing laws to prevent, eliminate and minimise risks to safety, amenity and access arising from items and animals left abandoned or unattended in public places.**

To support this objective, it is proposed that the Act should:

- i. place increased onus on those responsible for items and animals found in public places
- ii. provide for arrangements that better support shared use and enjoyment of public places
- iii. provide impounding authorities with the ability to issue penalty notices and take other regulatory action
- iv. protect animals dealt with under the Act from harm consistent with community expectations and animal welfare laws
- v. provide more flexible and efficient temporary and longer-term options to store abandoned or unattended items and to contain animals, and
- vi. allow impounding authorities to more effectively recover costs from those people responsible for items and animals.

Theme 2 – Move some key provisions from the Act to subordinate laws

The Act contains obligations that owners must meet to prevent their item or animal being treated as abandoned or unattended. The person may then face a fine or other regulatory action if they have committed an offence.

Under Option 4, it is proposed that, while certain minimum standards must remain in the Act, more detail about a range of specific matters for each type of item and for animals may be set out in regulations, with further supporting details in codes of practice or guidance material. These regulations may capture, for example, after what time a particular type of vehicle, such as a boat trailer, may be considered abandoned or left unattended under this Act.

Providing this detail in regulations would allow for changes to be made promptly in future if needed. This would enable the Government to respond to new issues or technologies as they arise and to respond to changing circumstances. It is also proposed to set out key details of the impounding process in subordinate laws – this would provide flexibility to adjust matters such as notice periods and the length of time items must be held.

Importantly, provisions in subordinate instruments, such as standards or codes of practice, would be developed in consultation with key stakeholders, such as those attending this workshop, and would not become law until sufficient time had passed to prepare for any key changes.

Theme 3 – Offences and penalties

Under Option 4, it is proposed to review and recalibrate offences, penalties and penalty notice amounts to:

- better capture people who are responsible for items and animals
- align these penalties with penalties for offences of a commensurate nature under other laws
- differentiate, in setting penalties, between offences committed by a corporation and an individual
- consider imposing stronger penalties on repeat offenders, and
- categorise offences by the size or level of risk or obstruction an item causes (for example, a vehicle blocking a driveway or access to a school or hospital poses a higher risk and cost to the community than if left parked on a roadside but not blocking access).

Theme 4 – Modernise and clarify key regulatory processes and definitions

Under Option 4, it is proposed to update the existing impounding processes including grounds for action, timings for each step of the impounding process and how costs may be recovered. Some of this detail may be moved to subordinate laws, such as the regulations.

It is also proposed to update and clarify definitions, including 'unattended', 'abandoned', 'owner/user' (instead potentially 'responsible person') and 'pound' (instead potentially 'storage place' for items or 'shelter' for animals) and enable certain definitions to be updated via future regulations.

These changes would better meet community expectations expressed through feedback, clarify when action may be taken by impounding authorities and provide increased flexibility to respond to future changes.

Theme 5 – Align Act with other laws

Under Option 4, it is proposed to change the Act and regulations to repair gaps or overlaps with other laws with which the Act intersects in practice. In general, this would mean aligning key definitions and powers with those of more contemporary laws.

The Impounding Act intersects with many other item-related and animal-related Acts. Option 4 may also require consequential changes to some of these other laws, including the *Road Transport Act 2013*.

Option 4 would also be supported by guidance and education to encourage responsible behaviour of all key stakeholders, including owners and users of items as well as impounding authorities.

What could the preferred Option (Option 4) mean for vehicles and trailers?

Option 4 could enable key concerns, risks and opportunities relating to vehicles and trailers to be addressed by:

- ✓ **Placing increased responsibility for unattended, abandoned and unregistered vehicles in public places on the registered operator (usually the owner), by:**
 - placing obligations on the 'responsible person' in relation to vehicles, including by deeming the registered operator to be responsible for a vehicle being abandoned or unattended, unless established otherwise
 - requiring those responsible to act more swiftly to remove vehicles from public places when they are deemed abandoned or unattended by reducing relevant timeframes for action (see further below)
 - defining 'unattended' specifically for vehicles, potentially by including criteria such as the vehicle's status (e.g. parked on a roadside for a period of more than 15 days after the registration lapses) and placement (e.g. causing a risk to safety or access) and additional criteria that could be established through regulations
 - creating greater incentives to remove vehicles left abandoned or unattended in public places by improving offences and increasing maximum penalties in line with community expectations and offences of a commensurate nature, and
 - enabling a greater number of offences to be dealt with more swiftly through penalty notices (on-the-spot-fines).
- ✓ **Improving existing powers and processes for impounding authorities to deal with abandoned and unattended vehicle issues, including by:**
 - clarifying minimum, risk-based timeframes after which vehicles are deemed abandoned and/or unattended (e.g. immediately for vehicles creating a safety risk or obstruction)
 - placing obliging impounding authorities to notify owners before 'starting the clock' on taking action to make the process fairer, and
 - considering consequential amendments to road transport laws to enable council officers to issue penalty notices for offences in relation to unregistered vehicles parked on roadsides more than 15 days after the registration has lapsed.
- ✓ **Enabling appropriate standards for different classes of vehicles and trailers (including, for example standards for boat trailers) to be created under regulations, including by:**
 - creating separate sets of provisions (or 'schemes') for different classes of vehicles, if and as required, to set clear, risk-based timeframes for items to be deemed unattended or abandoned, and notice for owners to move their vehicle, before action may be taken, and
 - providing for other standards such as for appropriate identification of a vehicle, communication between authorised officers and vehicle owners, standards for dealing with items attached to trailers (such as End of Life Vessels (ELVs), data sharing and penalty notice amounts).
- ✓ **Improving the effectiveness of the current boat trailer parking scheme, including by:**
 - moving key details to regulations to allow for future flexibility and responsiveness
 - reducing the minimum notice period to be given to boat trailer to better meet community expectations, and
 - setting specific penalties for offences that relate to specific types of motor vehicles, including boat trailers.
- ✓ **Improving the effectiveness of arrangements for impounding facilities, including by:**
 - clarifying and improving flexibility for establishing and sharing storage facilities for impounded items, including in regional and rural areas where pounds may be few and far between, and
 - clarifying how impounded vehicles may be treated, such as enabling councils to immediately destroy vehicles under a minimum threshold established in the regulations.

Issues to think about

The following issues and questions have been designed to encourage feedback on vehicles and what should be covered by the Act, regulations and future guidance (respectively). We encourage you to consult within your organisations (where relevant) about these issues prior to and after the stakeholder workshops.

Questions to consider

What is your view on the Government's preferred option?

- Do you support the proposed objectives? What is missing?
- How could Option 4 address the opportunities, risks and concerns raised earlier in relation to vehicles?

What other options for managing vehicles and trailers should be considered?

- Do you think other options the Government considered are preferable? Why?
- What other regulatory options (such as parking permits and time limited parking signs) and non-regulatory options (such as education) could continue to play a role in managing unattended and abandoned vehicles?

How could the provisions that relate to vehicles and trailers be made clearer, simpler and more effective?

- Why do you think that the community remains dissatisfied with the current impounding laws for vehicles and for boat trailers?
- Who should be held responsible for abandoned and unattended vehicles and trailers? How could they be better identified and held accountable?
- Should a new definition of 'unattended' be created in relation to vehicles? If so, what should the definition take into account (eg. if the vehicle is parked unregistered on a roadside for 15 days past the registration date, the vehicles proximity to home address)?
- How might the law change to help different impounding authorities (eg. councils, NSW Police, transport authorities) work better together in both urban and regional/rural areas?
- What (if any) would be appropriate offences, penalties and penalty notice amounts in relation to different vehicles, including boat trailers? What should be considered in setting these?

What specific matters could be in regulations and in guidance?

- What do you think about enabling the regulations to provide different sets of standards for different types of vehicles or trailers based on the level of risk or impact they pose on the community? What types of vehicles and/or trailers should be covered now?
- What is a reasonable timeframe to leave a vehicle before it is regarded as unattended or abandoned?
- What is a reasonable timeframe to leave a boat trailer before it is regarded as unattended or abandoned?
- What factors may be relevant to consider in determining if a vehicle or trailer is abandoned or unattended? How might these be different in relation to different types of vehicles and trailers?
- What, if any, different options for compliance action would help impounding authorities meet community needs?

Part, Division & Section of Act	Offence Summary (plain English version)	Current Max Penalty	Current Fine / Penalty Notice Amount
Part 4.2, Division 5	Admission of access in relation to shared devices		
NOTE: Section 18F (4) Regulations relating to sharing services	NOTE: Regulations, or code of practice, may impose enforceable obligations or restrictions on operators and former operators of sharing services (includes existing offences with a penalty not exceeding \$50 or \$200).	N/A	N/A – no code created yet
Part 5	Offences		
Section 32 (1) (b) Abandoning article	Offence for abandoning an article (other than a shared device) in a public place. This includes trolleys and vehicles (including boat trailers).	5 pu (\$500)	\$200 – article \$500 – For vehicles
Section 32 (1) (a) Abandoning article – shared device	Offence for abandoning a shared device (currently a share bike only).	25 pu (\$2,750) – NEW 2018	\$500 – NEW 2018
Section 34 – Unlawfully recovering item	Offence of unlawfully recovering impounded item	50 pu (\$5,500)	N/A – must go to court
Section 35 – Obstructing officer	Offence of obstructing impounding officer	20 pu (\$2,200)	N/A – must go to court

Part, Division & Section of Act	Offence Summary (plain English version)	Current Max Penalty	Current Fine / Penalty Notice Amount
Part 4.2, Division 1	Section 68 (1) – Prohibition on using unregistered registrable vehicles	\$2200	Level 2 penalty of \$501
Section 68(1)	(a) In the case of a class A motor vehicle (a1) for a class A motor vehicle that is a motor vehicle and trailer combination, where the motor vehicle is registered, and the towed trailer is unregistered (a2) in the case of a class B or class C motor vehicle (c) Standing an unregistered trailer (including boat trailer) – councils can fine		Level 6 – \$607 Level 3 – \$194 Level 12 – \$1,472 Level 3 – \$194
Part 6.4, Division 1	Section 143		\$207 (max low-away charge)
Other regulatory tools used by councils under road laws			

Appendix 1 – Summary of relevant feedback

At the end of March 2021, consultation feedback closed on a Discussion Paper providing public feedback about whether the Act is meeting its objectives at a strategic level and in relation to how it operates in practice. The paper canvassed how a new Act could help communities use and enjoy public places more safely and easily, without impediment from abandoned items, and how to ensure owners better manage items and animals to reduce risk. A total of 85 submissions were received from diverse stakeholders including 38 councils, 29 community members, eight businesses/industry organisations, seven peak organisations and three NSW Government entities. A greater number of larger, urban councils responded (23 or 61% of councils), a quarter from regional areas (9 or 24%) and a few from rural areas (6 or 16% of councils).

Key themes – Strategic directions

The table below sets out feedback on key strategic themes.

Question	Key themes
Balancing community needs and shaping public places into the future	<ul style="list-style-type: none"> There is wide support to shift the focus of the Act to protecting quality public spaces rather than providing specific, narrower powers to deal with individual problems. This would allow ready updates to the law to reflect changing technology and needs. There is general support for a shift that allows the public interest to be promoted over private interests and to better protect public amenity, noting that this is difficult to define. Many believe solutions must be applied flexibly to meet diverse needs of communities.
Strategic framework 'fit for purpose' to regulate impounding	<ul style="list-style-type: none"> Many councils and community members believe the Act is no longer 'fit for purpose' as it is prescriptive, outdated and supports a reactive approach to regulation. Instead, they tended to support a performance, or outcomes-based Act. There is wide support to create a simpler Act supported by regulations or codes of practice that set out how to achieve those outcomes for specific types of items – such as for trolleys and motor vehicles. Emerging technology and issues could then be more readily addressed. In contrast, a minority of councils that would like to retain the current process-based objectives and focus of the Act but simplify it and remove red tape. Many supported the Act focusing more on promoting owner and user responsibility. Many respondents supported improving cost recovery mechanisms to help councils and communities better recover regulatory costs.
Integration with NSW policy and other legislation	<ul style="list-style-type: none"> Many believe the Act is outdated and not aligned to other NSW Acts including Biosecurity, Companion Animals, Local Land Services, Local Government, Road Transport, Prevention of Cruelty to Animals and Protection of the Environment Operations Acts. Proposed the Act be updated to reduce duplication and improve clarity where laws intersect. Where appropriate, consequential changes may also be made to other laws.
Encouraging responsible behaviour	<ul style="list-style-type: none"> Most believe offences and penalties in the Act do not promote responsible behaviour. Some suggested the Act provide shared responsibility for a range of people and encourage 'whole-of-life' responsibility for items like trolleys where the owner is not the user. Most feedback indicates that it is almost impossible to identify people abandoning items and, when identified, to enforce penalties that may apply. Many items and animals are of low value so there is no economic incentive for owners to recover their item or animal. Some councils report that their fees do not cover impounding costs but increasing fees would reduce collection of items and animals and increase disposal costs for the community.

Innovation and emerging technology	<ul style="list-style-type: none"> There is wide support for public education as key in promoting responsibility. Growing vehicle ownership is increasing demand for parking in urban areas. Submissions support a more flexible impounding framework to deal with emerging technologies. Key items noted include driverless cars, e-bikes, Segway's, and scooters. New technologies are both a problem and a potential solution – solutions include GPS tracking, electronic tagging, geofencing, CCTV, reporting apps, livestock ear tags or microchips. At the same time, regulators can benefit from technology to reduce costs, such as by using surveillance to collect evidence, accessing databases to track items and animals and using SMS or email to provide notice to owners about their property.
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Key themes – Operational directions relevant to vehicles and trailers

Question	Key themes
Effectiveness of who can impound and what can be impounded	<ul style="list-style-type: none"> A small majority (58%) of submissions, including most community and half of council submitters responding to this issue, think the provisions are not working well in practice. Key issues for councils are confusion about which agency is responsible for impounding in different circumstances and lack of information sharing or delays with obtaining information. Councils would like clearer statements of responsibility and liaison arrangements with agencies including Local Land Services for animals and NSW Police and Transport for NSW for motor vehicles. Key issues for the community and business are about how long it takes to get cars and trailers impounded. Shopping trolleys, cats and stray stock are also a source of frustration. There is a general view that councils have inadequate powers and penalties are too low.
Effectiveness of impounding motor vehicles and other items	<ul style="list-style-type: none"> Vehicles Impounding vehicles attracted a significant number of comments, more than any issue other than shopping trolleys, especially from councils. Most (59%) believe these provisions are not working well, particularly metropolitan councils, members of the community and business, and Hunter Water. Feedback indicates that abandoned vehicles are creating amenity, safety, environmental and cost issues. The longer vehicles are left, the higher the risk of vandalism and fire. However, it is often cheaper and easier to dump vehicles than take them to waste facilities. Many believe that all trailers cause issues and should be better regulated. Most councils, particularly in metropolitan areas, find the impounding and disposal process lengthy and an unnecessarily burdensome process, particularly as the vast majority of cars are unregistered, old and of low value. Key issues for authorities include identifying and contacting vehicle owners, getting vehicles moved by their legal owner, establishing grounds for impounding a vehicle and moving cars blocking driveways, powers of entry to vehicles and removing licence plates. Specific proposals made to streamline and improve this process included: <ul style="list-style-type: none"> giving councils powers to act on vehicles blocking driveways or causing safety or access issues (including outside scrap metal and panel beater yards) giving councils powers to fine for parked unregistered motor vehicles (as Police and Transport for NSW can and councils can for unregistered trailers) extending council powers to private places open to the public like service stations <ul style="list-style-type: none"> reducing the 3 days' notice period to 24 hours defining 'unattended' in relation to unregistered or unroadworthy vehicles increasing the value of a vehicle that can be destroyed from \$500 to at least \$1000, and

	<ul style="list-style-type: none"> reversing the onus so that owners are obliged to act (as for share bikes) and providing other incentives for owners to take cars to waste facilities. <p>Other items – homeless belongings, watercraft and share bikes</p> <ul style="list-style-type: none"> Some councils noted issues dealing with belongings of homeless people and seek guidance. Others want better provisions to deal with private bikes and watercraft cluttering accessways. Most commenting on share bikes are happy with the new scheme, only making minor suggestions such as broadening its scope to deal with other shared devices – e.g. trolleys.
Effectiveness of impounding boat trailers	<ul style="list-style-type: none"> Those most affected by these provisions in Greater Sydney believe the provisions are not effective. Views on whether boat trailer provisions are effective appear evenly divided amongst all submitters answering this question, with two-thirds of these councils. However, discounting regional and rural councils, the majority (79%) of submitters believe the provisions are not effective. Groups most dissatisfied are metropolitan councils, community and business members. Councils in 'declared areas', where boat trailer provisions apply, also mostly (82%) expressed dissatisfaction (Canada Bay, LGSNSW, Northern Beaches, North Sydney, Randwick, SSROC, Waverley, Willoughby and Woollahra) while Ku-Ring-Gai and Hornsby indicated the Act is somewhat effective but requested key process improvements. Community members believe there are still many boat trailers in streets causing safety issues, particularly on corners in narrow streets and on intersections blocking visibility. There is also confusion around 'declared areas' where further provisions apply. Councils and communities believe the provisions have not changed behaviour and are a burden to apply (owners can wait 43 days then simply move their trailer around the block). Most respondents that sought change would like to see reduced timeframes to move boat trailers e.g. within 14 days then an additional 3 days to move the boat prior to impounding in line with cars and an offence for non-compliance by boat trailer owners. Many councils, LGSNSW and some community members want the framework to apply to all trailers, from box trailers to caravans, horse floats, camper trailers and advertising trailers, given they all can pose a similar nuisance and similar safety risks in communities. Some submissions suggested introducing permit parking, better signage, exemptions for owners parking outside their residence and grant funding for off-street parking. Northern Beaches Council noted that the use of 'No Parking – Motor Vehicles excepted' signage in certain residential problem areas has been effective. The Recreational Fishing Alliance NSW indicated further data is needed to comment on effectiveness and believes the laws unfairly target trailers. However, the Alliance also observes that "a compulsory 28-day movement of all boat trailers from one place to another—akin to a 'musical chairs' solution—cause more aggravation and friction within the community than is already the case."
Effectiveness of how impounded items are dealt with (including fees and charges)	<ul style="list-style-type: none"> Two-thirds (67%) of submissions responding believe the provisions are generally working well. Community groups and/or individuals were more likely to believe the provisions are not working well, noting some people confuse impounding fees set to recover costs, with penalties set by law to encourage compliance. Many councils believe the procedures are complicated, onerous and overly lengthy – for example, councils are required to store items for 28 days and advertise them for sale. Impounding fees are viewed as a 'Catch-22' as there is little incentive for owners to claim items, given that impounding fees often exceed the item's value, but councils believe they should charge impounding fees as otherwise impounding costs place an unfair burden on ratepayers.

	<ul style="list-style-type: none"> Other issues are storage capacity, particularly for bulky items like vehicles and large animals. Councils and the community want easier and quicker disposal processes for items of low value, shorter times to claim vehicles, more consistent impounding processes, better incentives for owners to claim property, an offence with a penalty for failing to claim goods and animals (to help recover costs), a simpler cost recovery process, the owner's contact details on shared devices and more flexibility to deal with hardship. Animal welfare groups want to ensure euthanasia by a vet, where possible, tagging of animals for tracing and reuniting or rehoming, where possible.
Effectiveness of offences and penalties	<ul style="list-style-type: none"> Approximately two-thirds (65%) of all responding submitters believe that these provisions are not working well, including a vast majority (88%) of the public and businesses. Most submissions indicated that penalties for offences are low and poorly enforced. This is an insufficient deterrent and does not promote responsible ownership. There is also a lack of relevant offences in the Act, such as for failure to move a boat trailer or unregistered car or failure to collect items from a pound. A further key issue is that on the spot fines can only be issued for the act of abandoning an article or animal in public. All other offences must be dealt with via courts, which councils say is cumbersome and resource-intensive, and many fines are unpaid. The most common suggestions were to increase penalties, including creating higher penalties for corporations, and to create new offences and penalties to encourage responsible behaviour including for failure to: <ul style="list-style-type: none"> remove article as directed from public place collect impounded item or animal after notice move a boat trailer after 28 days move an unregistered car from the roadside move a vehicle blocking a driveway state name/address when requested by an authorised officer, and giving correct information to an authorised officer. LGSNSW also supports converting many lower-order offences to penalty notice offences to streamline and simplify regulatory action, with higher penalties for corporations.
Effectiveness of applications to the Civil and Administrative Tribunal	<ul style="list-style-type: none"> Most (80%) submitters believe these provisions are working well (although most also noted they had no direct experience in this). The only suggestion was to reduce appeal time in which an owner of an impounded item can appeal a decision by an impounding authority to impound their item to 3 months if the authority has made all reasonable attempts to find them. A business law firm noted inconsistency in that impounding under the LLS Act cannot be appealed.
Effectiveness of miscellaneous provisions	<ul style="list-style-type: none"> Of those responding, two-thirds (65%) believe the provisions are working well, particularly councils. Other groups are more likely to believe the provisions are not working well. Key issues raised and suggestions to address them are: <ul style="list-style-type: none"> ensure all enforcement officers, such as rangers, are able to carry one written authorisation in the form of an identification card for all regulatory functions shorten the current 3-day timeframe for Police to respond to a council on vehicle owner identity, including by shifting to electronic processes review who impounding officer should inform of impounded vehicles give all councils direct access to RMS DRIVES vehicle database – to get hull identification number details to facilitate owner identification and cost recovery allow councils to impound and issue fines for unsightly car parts on private land, and expand liability protections for authorities for accidental damage during impounding.

Effectiveness of definitions	<ul style="list-style-type: none"> Over half (53%) of respondents believe the provisions are not working well. Key issues and specific suggestions are to clarify certain key terms and concepts, by regulations where possible for flexibility, including the terms: animal, abandoned, amenity, danger to the public, motor vehicle, move, obstruction, public place, public land, responsible person and unattended (for specific items). Councils and others would also like key concepts clarified such as: <ul style="list-style-type: none"> whether items that are with or fixed to a vehicle or trailer may also be impounded whether a single impounding process applies to a group of items concepts that can be subjective, such as those matters that may be considered in determining a believe on 'reasonable grounds' Alternatively, LGSNSW suggests to: <ul style="list-style-type: none"> matters which should be considered in determining whether a danger exists minimum standards for amenity, and No issues were raised about the list of impounding authorities currently in the Act or regulations. No impounding authorities, other than councils, the Hunter Water Corporation, Local Land Services and Crown Lands, made submissions.
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Blue mind: how water makes you happier, more connected and better at what you do

WJ Nichols - 2014 - books.google.com

... cardiovascular systems; lower cortisol and heart rate, decrease inflammation, slow disease progression, and increase longevity.⁶ **Research** shows that ... take better care of themselves, and are better friends, colleagues, neighbors, spouses, parents, and citizens.⁸ **Blue Mind** isn't ...

<https://books.google.com.au/books?hl=en&lr=&id=QOzJAgAAQBAJ&oi=fnd&pg=PT7&dq=the+blue+mind+research&ots=UmfGKbJu2&sig=03xc1WWnXT90rLPfis7ELwL3whc>

Impounding Amendment (Unattended Boat Trailers) Act 2015 No 27 Act No 27, 2015 An Act to amend the Impounding Act 1993 to make further provision for the impounding of boat trailers left unattended for extended periods. [Assented to 28 September 2015] The Legislature of New South Wales enacts:

Impounding Amendment (Unattended Boat Trailers) Act 2015

www5.austlii.edu.au/au/legis/nsw/num_act/iabta2015n27466.pdf