

Do you find working with Local Government difficult?

✓ Tips for getting it right

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As an active member of the traffic management industry, I hear the stories from some TTM companies of their difficulties in working with Local Governments. I understand the pressures that many TTM companies face as they are squeezed between clients who just want to get the work done and a council who seems to take an inordinately long time to issue a permit or repeatedly refuses permits. These problems cost us all money, delay the works, and can lead to increased pressures to cut corners with the process. None of this is good for the industry.

I am in a unique position as a specialist advisory business, as I also work with a number of local governments, across Queensland in particular. My current work with these councils includes a review and recommendation of improvements to their internal systems around Temporary Traffic Management. While undertaking these reviews a range of issues that are relevant to the TTM industry in working with councils have also arisen.

UNDERSTANDING ROLES AND RESPONSIBILITIES

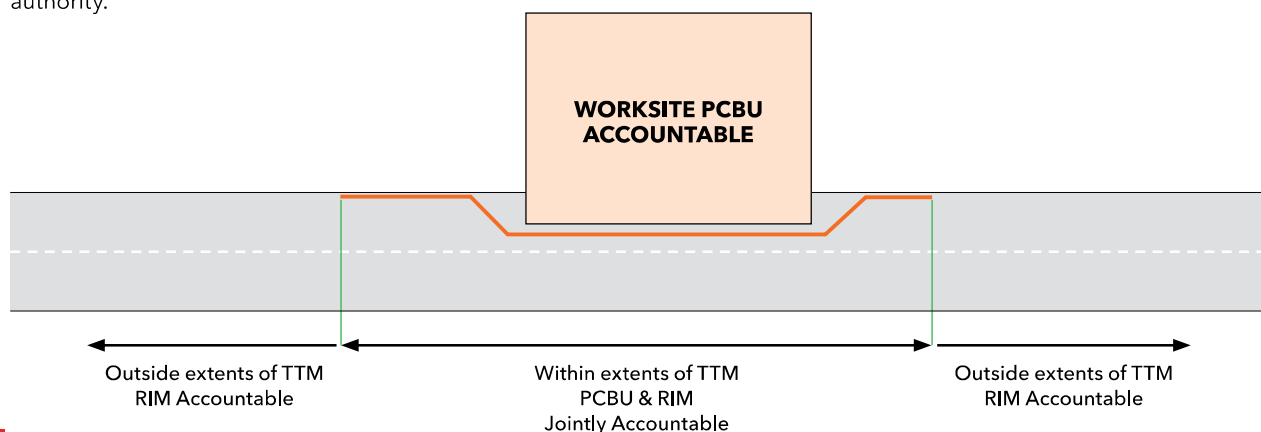
What is also clear is that councils, are becoming more aware of their responsibilities as the Road Infrastructure Manager. In this regard it is important to note how this operationalises for both councils and the TTM companies working on council roads. In considering how these responsibilities impact on a TTM company works we must review the Austroads guidance and other legal precedents. AGTTM Part 8 states that "A PCBU shall ensure, so far as reasonably practicable, that other road users are not exposed to health and safety risks arising from any TTM business or undertaking." It is further stated in the same document that "the RIM has a statutory duty to ensure so far as reasonably practicable the safe and efficient operation of the road network under their authority."

I do not have a legal background and therefore cannot advise as to how a court would view these potentially competing accountabilities and how potential liability would be distributed in the event of an incident resulting in a legal claim.

A case example which may be relevant is the coroner's findings in the Northern Territory "Inquest into the death of Peter John Bonnell" and the subsequent prosecutions by WHS NT. The applicable WHS legislation is considered similar across Australia and so this case is a likely precedent in most jurisdictions. The coroner noted with regards to the RIM that "In my view, the government, through the Department, has an obvious duty to the public to ensure safety on the roads ... the Department cannot and should not be allowed to completely absolve itself of this duty of care to the public, by delegating or contracting out completely that duty." In that case the subsequent WHS investigation assigned two-thirds of the financial penalty on the government agency and one third on the contractor (PCBU).

In consideration of these issues, I believe (not a legal opinion) that any TTM accountability:

- i) Within the contained area of a worksite with no public access and under the control of the PCBU remains the clear accountability of the PCBU.
- ii) Simultaneously, the operation of the road and path network outside the extents of all TTM treatments remains the clear accountability of the RIM.
- iii) The area of potential crossover of accountabilities is the publicly accessible areas of the road and path network within the extents (first advance sign to termination signs) of the TTM treatments. This is demonstrated diagrammatically in the following figure.



Considering this precedent, and the Austroads and WHS requirements of a RIM and a PCBU, it is therefore necessary for councils to retain a review role for all Temporary Traffic Management on its roads and play an active role in ensuring compliance. This is required to demonstrate that it meets its statutory duties.

Unfortunately, I have observed in correspondence a lack of recognition of the role of the council with suggestions that "Council has no right to challenge or suggest improvements because I am the designer". These comments do not serve to assist as council has a right to come back emphasising that it is their road and they remain accountable for the safe operation of the road, even when a TTM company is working there.

I therefore recommend that TTM companies consider Council as a partner that they need to work with, not an obstruction to be overcome.

UNDERSTAND THE LOCAL ISSUES

A key observation from a number of submitted TMPs and TGSs was that there is too frequently a lack of understanding of the local issues at a site. These issues can result in an immediate rejection of the submitted TTM and only serve to suggest that the design does not understand their role. Examples include:

- Not catering for pedestrians, particularly around intersections.
- Not understanding the cycle network. These are not just on-road cycle lanes but routes that are most frequently used by cyclists.
- Closing local roads without understanding impacts on residents and businesses.
- Heavy vehicles being diverted onto a detour with a height restriction.

While it is time consuming, my recommendation is that the designer should visit the site, or at least understand the site well, and talk to the council in advance to understand what is important and what is likely to be accepted or rejected prior to lodging a permit application. This prework can save a lot of effort in developing complex TGS diagrams when the original concept was never going to be accepted.

UP TO DATE TGS

On a site I visited recently, when we asked the leading TMI for a copy of the TGS applied at the site, his response unfortunately was "I will have to go and dust the cobwebs of it". This was not a promising start. When the TMI returned with his tattered bunch of generic diagrams the first noticeable item was that they were drafted in 2017, some two years prior to the publication of Austroads, and four years prior to the mandatory adoption in QLD of Austroads in December 2021. The TGS were therefore out of date and did not comply in a number of areas. This is an easy item for anyone to check and for councils to note as a non-conformance.

ACTUALLY USING A TGS

At further sites visited, it was clear that the TTM setup was not compliant and when reviewed in detail did not follow the TGS that was listed as being used. I am aware that many TTM staff do this job day-in and day-out, but it is clear in examples like this that incorrect habits may become embedded and that in cases the field crew seems to just assume they know what needs to be done without checking the TGS. While staff may believe they are competent and know what to do it is essential they check their practice against the drawn TGS at every site. This then protects them, the TTM company and all other relevant parties from potential litigation.



HAVING CORRECT EQUIPMENT

Having the correct equipment seems obvious, but it has been a regular occurrence that not all the appropriate equipment is available.

Firstly with regards to the TTM vehicles, refitting them to comply with the current standards and guidelines can be expensive. When I was on site with one council, it was noted that the vehicle supplied by the TTM company did not have both front and rear facing arrow boards and signs as detailed for mobile convoys in AGTTM Part 4 for use on undivided two-way roads.

With the same council, at a site on a nearby road, the Worker Symbolic signs were present but had a black symbol on a yellow background. This colour combination for this sign has not been permitted for approximately 20 years. It is unclear why this sign remained in anyone's inventory. Other councils have reported that the TTM is not set up correctly in accordance with the TGS as the crew does not carry the necessary signs and devices. Speed limit signs were commonly observed to be wrong in 70 and 90km/h zones.

The overall impact of these issues has led some Councils to reconsider their use of 3rd party TTM support if they cannot supply the necessary compliant equipment. To protect your future business it is essential that the industry provides the right advice and right TTM equipment correctly on site in accordance with a TGS.

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