

# COUNCIL POLICY



<b>Policy name</b>	Permanent Road Closures
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<b>Abstract</b> This policy sets out the conditions and criteria under which Council will consent to permanently closing a Council public road.
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<b>Dates</b>	Policy or amendment approved Policy or amendment takes effect Policy is due for review (up to 4 years)	20 Oct 2021 24 Nov 2021 20 Oct 2025
<b>Endorsed by</b>	Executive Leadership Team	
<b>Approved by</b>	Gunnedah Shire Council, at its Ordinary Meeting of Council held 20 Oct 2021. Resolution number: 18.10/21	
<b>Policy Custodian</b>	Director Infrastructure Services	
<b>Relevant to</b>	NSW Crown Lands NSW Land Registry Service (LRS) Adjoining landholders seeking to close public roads Councillors and Executive	
<b>Superseded Policies</b>	Nil	
<b>Related documents</b>	LRS Registrar General's Guidelines: Closing Roads, available; <a href="https://rg-guidelines.nswlrs.com.au/deposited_plans/roads/closing_roads/council_public_roads">https://rg-guidelines.nswlrs.com.au/deposited_plans/roads/closing_roads/council_public_roads</a>	
<b>Related legislation</b>	Local Government Act 1993 Roads Act 1993, available; <a href="https://www.legislation.nsw.gov.au/view/html/inforce/curr/ent/act-1993-033">https://www.legislation.nsw.gov.au/view/html/inforce/curr/ent/act-1993-033</a>	

## Contents

1. Purpose
2. Scope
3. Definitions
4. Policy principles
5. Policy statement
6. Accountability, roles and responsibilities
7. Acknowledgements
8. Version control and change history

### 1. Purpose

To define the criteria and minimum requirements of Council for considering applications to permanently close Council public roads in accordance with Part 4 Division 3 of the Roads Act 1993.

### 2. Scope

2.1 This policy applies to any request for the permanent closure of a Council public road within the Gunnedah Shire Local Government Area (LGA), made under the provisions of the Roads Act 1993.

2.2 This policy does not apply to:

- (a) Road closure actions under the provisions of the Land Acquisition (Just Terms Compensation) Act 1991 for the purposes of the Roads Act 1993, wherein roads are closed and granted as compensation for acquisition; or
- (b) Section 42(1) Roads Act 1993 - Crown land forming part of a former public road may not be dealt with otherwise than under the Crown Land Management Act 2016.

### 3. Definitions

3.1 **Road closure** - In this policy context refers to the change in the land title of land currently designated as "public road".

Closure may be full or partial width. Public roads are closed under the provisions of the Roads Act 1993.

3.2 **Public Road** - The term *Public Road* used in this policy is as defined by the Roads Act 1993.

Roads that are vested in fee simple in the Council of the relevant Local Government Area. Council is the roads authority for public roads even if the roads were constructed and dedicated by Authorities such as Department of Housing, Public Works Department, Forestry Commission and National Parks and Wildlife Services.

Freeways which are vested in the NSW Government Transport and Maritime Services are excepted.

- 3.3 **Classified Roads** - The proclaimed regional networks, which are vested in Council, requires Council and NSW Government Transport and Maritime Services approval for closure.
- 3.4 **Crown Public Roads** - Roads vested in the Crown with the Department of Lands being the statutory body granting approval for closures. Applications for the closure of Crown Public Roads are to be lodged directly with the Department of Lands. The Department will notify Council of any application and may uphold any valid objection by Council to its closure. Should a valid objection by Council be upheld by the Department of Lands, Council will apply to transfer the road to Councils care and control.
- 3.5 **Temporary Roads** - May be closed provided that the action will not isolate another road or property.

#### **4. Policy principles**

- 4.1 This policy has been developed with the guiding principles of Council's Community Strategic Plan and its outcome to "Strategically manage infrastructure".

This is furthered by the outcome's strategy to "Provide and maintain safe, serviceable public facilities including roads".

- 4.2 The policy is to be implemented at full cost to the party seeking the road closure, and includes (but is not limited to) the costs associated with registered survey, land valuation, service location, status searches, title searches and the application fee payable to Crown Lands.

This is to ensure Council's resources are utilised equitably and efficiently in delivering the services that the community expects.

#### **5. Policy statement**

##### **5.1 Application to close road**

Applications for the closure of a public road may only be received from the owners of land which adjoin the road to be closed. Applications should be in writing and addressed to the General Manager of the Gunnedah Shire Council.

The following information shall be provided as a minimum at the time of application;

- 5.1.1** A diagram showing the dimensions and area of road to be closed.  
**5.1.2** The adjoining property information (Lot and Deposited Plan No.).  
**5.1.3** The location of any existing public utilities.

- 5.1.4 The location and type of any fences, buildings or structures on or near the road.
- 5.1.5 Evidence that construction has not taken place such as photographs.
- 5.1.6 Supporting arguments of the unnecessary nature of the road.
- 5.1.7 Any intentions regarding disposition of the land.
- 5.1.8 Any alternate public access.

## **5.2 Review process**

Upon application, Council Officers will undertake an assessment to determine the road status and confirm vesting upon closure.

If the closure is determined suitable under S38A, Officers will assess the impact of closing the road and determine whether the road is suitable for closure. Officers when assessing a road closure application will consider the existing and future requirements of the road reserve as well as access to public or private land, for infrastructure provision, vegetation and wildlife corridors.

If the road is determined to be suitable for closure, Officers will commence a 28 day public exhibition process by advertising the proposed closure in the local newspaper and on Council's website. At the completion of the 28 day exhibition process, Officers will consider the submissions received and prepare a report and recommendation to Council to endorse (or not) the closure of the road.

If Council endorsement is granted, Officers will notify relevant parties and authorities of the decision and proceed to close the Council public road.

## **5.3 Road reserve containing road construction**

In the case of an application for closing a road reserve where a road has been constructed, Council will notify Crown Lands that upon closure of the road, the land will be vested to Council as operational land for the purpose of the Local Government Act 1993 for sale to adjoining land owners with the proceeds to be returned to Council in accordance with S38(2)(b) of the Roads Act 1993.

Land vested in Council as operational land may be disposed of at the discretion of the Elected Council.

## **5.4 Road reserve containing no road construction**

In the case of closing a road reserve where no road has been constructed, the closed road reserve can vest in Council to be given in compensation for other land acquired or can vest in the Crown after consent for reserve purposes or disposal.

Council is responsible for determining whether a Council road can remain vested in Council upon closure under the provisions of S44 Roads Act.

## **5.5 Compensation**

Compensation from the closure of a constructed public road or classified road is payable to Council and can only be used for acquiring land for public road or carrying out works on public roads. Compensation for the closure of a constructed public road or classified road will be at the market value as assessed by a registered Valuer.

Compensation from the closure of an unconstructed public road or Crown Public road is payable to the owning party.

## **5.6 Roads ineligible for closure**

Applications for closure and purchase of public roads and Crown public roads will not normally be considered in the following circumstances:

- 5.6.1** Roads providing, or capable of providing physical access to rivers, creeks, lakes and their foreshores.
- 5.6.2** Roads capable of providing physical access (where no other alternative exists) to public and private properties, public and Crown reserves, public utility installations and infrastructure.
- 5.6.3** Road reserves containing wildlife corridors, significant flora, scenic escarpments, or potentially useful for vehicle turning, public utilities, extractive industries or public open space.
- 5.6.4** Road reserves containing public authority reticulation services unless the relevant authorities agree to their relocation or creation of easements.
- 5.6.5** Road reserves that have the potential to provide corridors for future Council water, sewer or stormwater infrastructure.
- 5.6.6** Roads that could be developed for vehicle, cycle, pedestrian or equestrian use within a foreseeable future
- 5.6.7** Roads used for the movement of stock.
- 5.6.8** Topographically difficult road reserve which might potentially be exchanged for a more negotiable corridor serving any of the above mentioned purposes.
- 5.6.9** Roads that could potentially be developed for the purposes of fire buffers or fire trails as the Shire grows.

## **6. Accountability, roles and responsibilities**

### **6.1 Manager Engineering Services**

The Manager Engineering Services (MES) is the officer accountable for managing policy compliance and initiating the policy review process. The MES will also have the responsibility for all aspects of policy implementation, unless appropriately delegated to another officer. These responsibilities include being the primary contact point for advice on the policy or its implementation; establishing and maintaining Council's records in relation to the policy; proposing amendments; and managing the consultation process when the policy is due for review.

## **6.2 Survey, Design and Land Property Officer**

Council's Survey, Design and Land Property Officer is the Officer responsible for actioning the policy as it is described.

## **7. Acknowledgements**

- 7.1 Moree Plains Shire Council
- 7.2 Tweed Shire Council
- 7.3 Mid Western Regional Council
- 7.4 NSW Department of Planning, Industry and Environment

## **8. Version control and change history**

<b>Date</b>	<b>Version</b>	<b>Approved by &amp; resolution no.</b>	<b>Amendment</b>
01 Feb 2021	1.0	Council Meeting 20 Oct 2021, Resolution 18.10/21	First draft document