

POLICY NAME: (REVIEW)
ROAD CLOSING APPLICATIONS
FOR PUBLIC ROADS

POLICY REF: R03

MEETING ADOPTED: 25 February 2016
Resolution No. 250216/29

POLICY HISTORY: 241111/31; 260608/42



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OBJECTIVE

The objectives of this policy are to:

- Provide guidelines on assessing road closing applications for public roads within ~~the shire~~ Ballina Shire.
- Ensure that road reserves are managed such that community access and use of these road reserves is preserved.

POLICY

Local Councils are responsible for closing Council public roads following amendments to the Roads Act 1993 on 1 July 2018.

Applications for the closure of a public road may only be received from the owners of land which adjoins the road or by the Roads Authority.

All road closing applications within the shire are to be assessed using the following criteria as a guide:

- Is the road reserve used or likely to be used by the public for access? (this may include future vehicle, walking, cycling or horse tracks)
- Are any infrastructure assets or services, Council or other authorities, located within the road reserve?
- Does the road provide access to public land or a waterway?
- Is there an environmental value in retaining the road reserve as public land to provide a vegetation or wildlife corridor?
- Does the road reserve form part of a continuous road link between existing constructed public roads or public lands?
- Is the road reserve within a designated future development area?
- Will the community be burdened with the liability and long term maintenance of the road reserve if there are minimal opportunities for the land to be utilised by the public?

Given the lack of strategic assessment, it is necessary to take ~~an extremely~~ a conservative view when assessing an application. When the answer is yes to one of the questions above (except the last one), the assessment determination may conclude that application refusal is the preferred outcome.

~~If there is minimal public benefit in retaining the road reserve, the Department of Primary Industries – Lands will be advised that Council supports the road closing application.~~

~~If there is public benefit in retaining the road reserve, the Department of Primary Industries – Lands will be advised that Council does not support the road closing application. In the case of a Crown road, Council may also request the Department of Primary Industries – Lands to transfer the road to Council's care and control.~~

The determination of road closing applications is delegated to the General Manager. The General Manager will refer any assessment to the Council for determination following a request signed by a minimum of two Councillors.

The sale of land (formerly Council public road) requires approval from the Council.

BACKGROUND

Ballina Shire Council (the Council) is the roads authority for the purpose of managing Council Public Roads within the shire as per the Roads Act 1993 (the Act). Following amendments to the Roads Act 1993 on 1 July 2018, Council is now responsible for the closing of Council public roads. Provisions exist with the Act (Part 4) for public roads to be closed and disposed of to adjoining land holders/owners. Councils can only close roads and sell land that is formally under Council's control.

The roads authority for closing non-council Crown public roads is the Department of Primary Industries – Lands Planning Industry and Environment (DPIE) – Crown Lands.

~~In 2005, the Director General advised all Councils that "the decision was taken by Government and the Department (of Lands) to rationalise the Crown road system and encourage landholders to make application to close and purchase unnecessary roads within or adjoining their property". Part of the road closing process requires that Council provide comment on the application to the Department of Lands with regard to any existing or future use or need that Council may have for the road reserve.~~

Applications to close and purchase a section of public road may be received from owners of land who adjoining that the road or a roads authority. The reasons for applying for the road closing are many, but generally the road is not constructed and the land is currently utilised by the adjoining landowner via a licence or agreement with the relevant roads authority. By closing and purchasing the road, that land may then be consolidated with adjacent land parcels to enhance the useability of the land.

Council, when assessing a road closing application, needs to consider the existing use, and future uses that may be provided, if the land remains as a road. The uses of the road reserve may include access to public or private land, provide access for infrastructure provision, vegetation or wildlife corridors.

The obligations of retaining unconstructed roads involve administration and management of the land. As these roads are generally fenced into existing landholdings, the maintenance and weed control of these roads is undertaken by the land occupier with no impost on Council.

It should be realised that many of these road reserves were created as a means of legal access only for land parcels with no consideration to the natural landscape. This means that the future use of these road reserves may be limited. Any new development areas are required to provide suitable access networks for the public.

The Roads Act 1993 also provides for roads to be leased for short terms (up to 5 years) and this situation is outlined in Council's policy for "Unused Public Roads – Short Term Leases". The Act states that improvements are not permitted on the leased road and the lease is able to be terminated immediately at the roads authority's discretion. That policy is generally not applicable to the circumstances that surround a road closing application.

The benefit of having the policy is that the current assessment process is formalised and applied in a consistent manner to preserve the road reserve network for existing or future public uses.

DEFINITIONS

Under the Roads Act 1993, 'public road' means:

- (a) any road that is opened or dedicated as a public road, whether under this or any other Act or Law; and
- (b) any road that is declared to be a public road for the purposes of this Act.

SCOPE OF POLICY

This policy applies to road closing applications for public roads are made under the provisions of the Roads Act 1993.

RELATED DOCUMENTATION

Related legislation:

- Roads Act 1993

Related Council documents:

- Unused Public Roads – Short Term Leases Policy

REVIEW

This policy is to be reviewed every four years.