

POLICY NAME: ROAD CLOSING APPLICATIONS
FOR PUBLIC ROADS

POLICY REF: R03

MEETING ADOPTED: 22 February 2024
Resolution No. 220224/14

POLICY HISTORY: 270220/36; 250216/29; 241111/31;
260608/42



OBJECTIVE

The objectives of this policy are to:

- Provide guidelines on assessing road closing and purchase applications for public roads within Ballina Shire.
- Ensure road reserves are managed to ensure 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 and purchase of a public road may only be received by Council from the owners of land which adjoins the road or by the Roads Authority.

Application Notes

1. Applications for the closure of public roads in urban areas will normally not be accepted.
2. Where a road separates or provides access to different properties, written agreement supporting the application from all landowners affected by the road closing must accompany the application.
3. Upon closure and purchase of the road, the newly created land parcel must be consolidated with adjacent land parcels to enhance the useability of the land and to negate any implied additional dwelling entitlements attached to the new land parcel.
4. All applications are advertised and the public may make a submission to Council.
5. 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.
6. Compensation will be determined by an accredited Valuer.
7. The sale of land (formerly Council public road) requires approval of the Council.

Application Assessment

Road closing and purchase applications of public roads will not normally be considered in the following circumstances:

1. Roads in an urban area.

2. Roads reserves providing, or capable of providing public access to public reserves, rivers, creeks, lakes, beaches and foreshore areas.
3. Roads providing, or capable of providing public access to other roads or properties. There may be acceptable circumstances where an alternative access via a new road or easement can replace the road to be closed.
4. Roads providing, or capable of providing public access tracks or paths for vehicles, pedestrians, cyclists, stock routes or equestrian uses.
5. Roads containing wildlife corridors, significant trees or marketable timber, protected or endangered flora and fauna.
6. Roads providing, or capable of providing Council water, sewer, stormwater or access infrastructure.
7. Roads containing public authority infrastructure unless the authority agrees to services relocation or the creation of easements over the existing services.
8. Roads which may have future Council uses and therefore are assessed to have a higher value if retained in public ownership (e.g. electric vehicle charging areas, flood refuge areas, fire tails etc).
9. Roads which contain property fencing encroachments.

The strategic evaluation and future use of road reserves may not yet be determined. This means a conservative assessment approach is necessary.

Application Exceptions

Exemptions for road closing and purchase applications may be considered if:

1. The road alignment, safety, fencing or maintenance is improved.
2. Private property accesses are improved.
3. Alternate roads or accesses have been created making the existing road reserve redundant.

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 owners. Councils can only close roads and sell land that is formally under Council's control.

The roads authority for closing non-council public roads is the Department of Planning and Environment – Crown Lands.

Applications to close and purchase a section of public road may be received from owners of land adjoining 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.

Many of these road reserves were created as legal access for land parcels with no consideration of the natural landscape. This means 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 purpose 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.