

**POLICY NAME:** UNUSED PUBLIC ROADS  
 – SHORT TERM LEASES POLICY

**POLICY REF:** U01

**MEETING ADOPTED:** 28 September 2023  
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**OBJECTIVE**

To make the best possible use of unused Council public roads.

**POLICY****1. Short Term Leases of Unused Public Road**

- 1.1 Council, as the Roads Authority, may lease land comprising a public road (other than a Crown road) to the owner or lessee of land adjoining the public road if in the opinion of Council the road is not being used by the public.
- 1.2 Council cannot lease public road land that has been acquired by Transport for NSW (TfNSW). Only TfNSW can grant a lease of land that has been acquired by TfNSW.
- 1.3 Any lease of unused public road granted by Council can be terminated by Council at any time for any reason.

**2. Public Notice to be Given of Proposed Lease**

Before granting a lease of an unused public road, Council must give public notice of the proposed lease. A notice must be placed on Council's website and a written notification provided to the owner of each parcel of land adjoining the length of public road proposed to be leased.

The notice:

- 2.1 Must advise that Council has received an application to lease the subject unused public road.
- 2.2 Must identify the public road concerned.
- 2.3 Must identify the purpose of the lease.
- 2.4 Must specify the proposed term and particulars of any proposed options for renewal of the lease.
- 2.5 Must state that any person is entitled to make submissions to the roads authority with respect to the proposed lease, and
- 2.6 Must indicate that any submissions in respect of granting the lease must be made in writing to Council within twenty-eight (28) days from the date of publication of the notice.

Any person may make submissions to Council with respect to the proposed lease.

**3. Decision on Proposed Lease**

After considering any submissions that have been made with respect to the proposed lease, Council may grant the lease, with or without alteration or may refuse to grant the lease.

If Council grants a lease, a notice is to be placed on Council's website.

#### **4. Duration of Short Term Leases**

The term of a lease, together with any option to renew must not exceed five years, or, in the case of a lease of land that has been acquired by Council as the roads authority, must not exceed 10 years.

Leases to have a minimum duration of two years.

#### **5. Erection of Structures**

A person must not erect any structure on land that is the subject of a lease without the consent of Council. Council will only consent to proposed structures if they comprise a fence or temporary structures of a kind that can be easily demolished or removed.

#### **6. Applications for Short Term Lease of an Unused Public Road**

- 6.1 Any applications to Council for the short term lease of unused public roads must be provided to Council in writing.
- 6.2 Where the proposed lease rental is estimated to be in excess of one thousand dollars per annum, a rental valuation of the land to be leased is to be obtained from a registered valuer operating within the Council area, at the lessees cost.
- 6.3 Where the proposed lease rental is estimated to be less than one thousand dollars, a rental valuation of the land is not required.
- 6.4 All applications for the short term lease of unused public roads are to be assessed on their merits, to determine if they make the best use of the unused public roads, and reported to Council for consideration.
- 6.5 Lessees are to pay all costs in granting and preparation of the lease. Given the requirement to pay these costs, before approaching Council with an application for a lease, it is the responsibility of the lessee to determine if the lease of the unused road reserve is financially viable. Some areas of unused road reserve will have an area too small to make the process worthwhile.
- 6.6 If the leased land is to be used for the agistment of animals, it must be fenced to a satisfactory standard. A four strand barbed wire fence is the minimum standard for grazing animals. Fencing to be installed to the satisfaction of Council at the lessee's cost.

#### **BACKGROUND**

Ballina Shire Council is the Roads Authority for the purpose of managing Council public roads within the Shire, (Roads Act 1993). Provisions exist within the Roads Act (1993) for the short term lease of unused public roads (Sections 153, 154, 155, 156 and 157). All applications to Council for the lease of unused public roads are to be dealt with by Council in accordance with the Act.

**DEFINITIONS**

<b>Council</b>	Ballina Shire Council
<b>TfNSW</b>	Transport for NSW
<b>Policy</b>	Unused Public Roads - Short Term Leases

**SCOPE OF POLICY**

This policy applies to:

- Short term lessees of public roads
- Owners of land adjoining a public road that is subject to a short term lease.

**RELATED DOCUMENTATION**

- Roads Act 1993

**REVIEW**

This policy is to be reviewed every four years.