



Road Closures and Private Purchase

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Road Closures and Private Purchase

Procedural Notes for Closure of Public Roads

- Applications for public road closures should be lodged with Council on the form available from the Engineering Services counter. Applications for Crown Public Road closures must be made through the Department of Lands, Grafton.
- This policy does not apply to 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 acquisitions.
- Application fees are as set out in Council's current schedule of Fees and Charges. All costs are to be borne by the applicant, unless the road closure is associated with some form of previously agreed compensation.
- Fees received for applications which do not proceed to closure are non-refundable.
- Where a road separates different owners, the entitlement to purchase closed road is usually split between opposite owners on a negotiated basis.
- Where newly created parcels of closed road result in an existing title becoming land-locked or confer an extra building entitlement by virtue of Tweed LEP 2000, Council will request consolidation or restrictions on title to rectify these anomalies.
- In all cases, the public may object to closures with final determination by the Department of Lands in consultation with Council.
- Roads that could potentially be developed for the purpose of fire buffers or fire trails as the Shire grows.
- Roads used by established apiarists to access hives.

Road Closure in this policy context refers to a change in the land title of land currently designated as “public road” (as distinct from the exclusion of vehicles from a public road under the Traffic Act). Closure may be full width or partial. Public roads are closed under the provisions of the Roads Act 1993. There are several types of public roads in NSW:-

Public Roads 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 the Department of Housing, Public Works Department, Forestry Commission and National Parks

and Wildlife Service. (Freeways which are vested in the Roads & Traffic Authority are excepted.)

Public Roads on which no construction as a road has taken place vest in the Crown upon closure.

Classified Roads, the proclaimed regional network, which are vested in Council, require Council and RTA approval for closure.

Crown Public Roads are vested in the Crown with the Department of Lands being the statutory body granting closure approval. Applications for the closure of Crown Public Roads are lodged with the Department. The Department will notify Council of any application and will uphold any valid objection by Council to its closure.

Temporary Roads may be closed provided that the action will not isolate another road or property.

Compensation

Compensation from the closure of constructed Public Roads and classified roads is payable to Council and can only be used for acquiring land for public road or carrying out works on public roads.

Compensation from the closure of unconstructed Public Roads or Crown Public Roads is payable to the Crown.

Compensation will be at the current market value as assessed by the Valuer General or State Valuation Offices.

Roads not Eligible for Closure

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

1. Roads providing, or capable of providing, physical access to rivers, creeks, lakes, beaches and their foreshores.
2. Roads capable of providing physical access to other roads, public and private properties, Public and Crown Reserves, public utility installations, railways and the like.
3. Road reserves containing wildlife corridors, significant flora, marketable timber and scenic escarpments, or potentially useful for vehicle turning, public utilities, extractive industries or public open space.
4. Road reserves containing public authority reticulation services unless the relevant authorities agree to their relocation or creation of easements.
5. Roads whose future highest and best use for Council is judged to be of more economic worth than the current land value.

6. Roads that could potentially be developed for vehicle, cycle, pedestrian or equestrian use as the Shire grows.
7. Roads used for the movement of stock.
8. Topographically difficult road reserves which might potentially be exchanged for a more negotiable corridor serving any of the above mentioned purposes.
9. Roads where a proposed closure would interrupt or cause a step in the continuous boundary line of private frontages abutting the road (relates to consistent building setbacks, boundary fencing, utility offsets, and cumulative impact of successive closures).
10. Roads that could potentially be developed for the purpose of fire buffers or fire trails as the Shire grows.
11. Roads used by established apiarists to access hives.

Exceptions

1. Applications will be considered for closure of roads which are demonstrably redundant in terms of access if not otherwise ineligible.
2. Applications will be considered for closing road reserves where the proponent is opening a more negotiable corridor serving the same access role.
3. Where private structures have been permitted to permanently occupy public roads under lease arrangements Council's "Policy for Private Structures on Public Roads" allows a closure and purchase providing the above restrictions are adequately addressed.
4. Terrain where topographical constraints argue strongly for a more logical boundary definition for the purposes of road verge maintenance, safety, fencing, or private property access."