

COMBINED TWEED RURAL INDUSTRIES ASSOCIATION

Mr Troy Green
General Manager
Tweed Shire Council

168 Brooks Rd
Kynnumboon
20th Jan. 2014

Submission re: Unauthorised Private Encroachments on Public Roads Draft Policy

Dear Mr Green,

Before addressing the content of the draft policy, The Combined Tweed Rural Industries Assoc. (CTRIA) would like to make comment on the placing of the draft policy on public exhibition.

In the Tweed Link, December 9th 2014, it was advertised that the policy was on exhibition until January 7th 2015 with submissions closing January 28 th 2015, and could be viewed at the Tweed Heads and Murwillumbah offices of Tweed Shire Council (TSC).

Neither of these offices seemed to be aware of this policy being on exhibition and were unable to provide a copy, nor was it available to be viewed online, so the first time the CTRIA was able to obtain a copy was January 6th.

To place a new draft policy, which has the potential to open “ a huge can of worms”, on public exhibition over the Christmas holiday period, is absolutely unacceptable and is a practice that TSC has previously been criticised for following.

People are otherwise occupied at this time of the year, and then to not have the document available further compounds the problem!

The CTRIA supports that option 1 will only apply to encroachments after the date of this policy.

Whilst not disagreeing with the intent of the policy, we believe that there are issues relating to road reserves in rural areas that have not been addressed in

the document.

1) In many parts of the Tweed Shire there were road reserves that are now redundant, because, well over 100 years ago roads accessing many parts of the shire were not built on the designated road reserve but were built on private land. There were various reasons for this, some of which are, topographical difficulties with the siting of the road reserve, meandering streams criss - crossing road reserves and roads simply following bridle tracks.

It was common practice to incorporate unused road reserves into surrounding farmland.

The CTRIA is concerned that this problem, and what to do about it, does not appear to have been recognised or addressed in the document.

The CTRIA believes that these redundant road reserves should legally become part of the property on which they exist, bearing in mind that the present road is most likely built on land which was originally part of this property.

Consequently, any costs involved in the transfer of these fractured road reserves should be borne by TSC.

2) Where there are entire road reserves identified on farmland, is there any intent on the part of TSC, via this policy, to retrospectively enforce option 2 ,3, 4 or 5 on the owner of the farmland? Bear in mind that these road reserves have been maintained by the owner of the land, in some cases for generations, at no cost to TSC.

The cost of purchase or the cost of fencing off these road reserves is very significant and, as well, the impracticalities of fencing off narrow strips of land running through a farm makes this action unfeasible. e.g. who keeps the land free of noxious weeds, what would be the legalities of cattle crossing these strips?

The CTRIA does not have access to the procedures involved or the cost of those procedures,so we cannot support options 2,3,4 or 5 in relation to road reserves that are presently incorporated into neighbouring farmland.

3) The potential problems that have been outlined in this policy document, in particular those relating to TSC's legal liability, are problems for TSC and not the farmer on whose land many of these road reserves are situated, so the CTRIA will not support any attempt by TSC to solve any of their legal liability issues pertaining to any of these unused road reserves, at the farmer's expense.

The CTRIA believes that the draft policy, as presented, is not clear in how it relates to the issues raised above, in particular, 1) retrospectivity and 2) road reserves currently incorporated into surrounding farmland.

It needs to be rewritten, clearly defining TSC's stance in relation to these issues.

Colin Brooks

President
CTRIA

The General Manager
Tweed Shire Council

Dear Sir,

We have carefully read the Draft Proposal.

We are the fourth generation of our family on our property. Council maps indicate that we have a relatively small area of road reserve fenced into our property. Those fences have been in place for over 100 years. For over a century it has been common practice in rural areas to incorporate unmade road reserves into surrounding farmland. Often the road reserves are topographically impossible and economically unfeasible to develop as roads.

This approach has worked very well in the past to the mutual benefit of both the Council and landholders. Fenced off road reserves have been maintained (kept free of flood debris and noxious weeds) at no cost to the Council, often through many generations. We believe this arrangement has had no adverse effect on the general public and that there has been no loss of public amenity or safety.

Many situations cited in the Draft Policy seem to relate to urban environments rather than rural situations. The Draft Policy appears to make no specific reference to rural situations. We believe that the Draft Policy must be clarified with particular attention to the legal issues involved.

Rural landholders require a practical, informed, common sense approach to the issues referred to in the Draft Policy that takes into consideration the historical and management issues addressed by landholders on a daily basis.

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