

ADOPTED	VERSION NO	2.0
COUNCIL MEETING MIN NO 361/19	REVIEW DATE	NOVEMBER 2023
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Objective

1. To establish guidelines for the management and administration of unformed/unmaintained roads, and
2. This policy will assist Council in achieving Theme 4, Goal 1 of the Community Plan.

Legislative requirements

This Policy is consistent with the ROADS ACT 1993

Related policies and plans

- The Roads Asset Management Plan
- Land Acquisition & Disposal Policy

Policy

Council currently looks after approximately 1,200 km of unsealed roads. The roads that Council currently maintains are listed in Council Roads Asset Management Plan. There are hundreds of kilometres of roads in our local government area (LGA) that are presently identified as unmaintained, i.e. those that do not receive regular grading or any other works thereon. The cost to perform a maintenance grade on these roads would be approximately \$2,000 per grade/km (assuming appropriate formation exists)

The length of unformed roads (i.e. paper roads) in the area has been estimated to be over 3,000 km. At an assumed average rate for construction in excess of \$20,000 per km for good open surface road (single lane in virgin country) it may cost over \$60 million to construct all of the presently unformed roads. This does not take into account that many of the unformed roads have never been constructed because they are over sand-hills, rocky ridges or swamps.

The issue of roads that should be maintained by Council is an emotive one, where in certain cases an expectation exists for Council to maintain every rural road to each ratepayer's property. A road is defined as unmaintained, if not listed as maintained in Council's Roads Asset Management Plan.

Unfortunately with existing financial constraints it is unlikely that sufficient funding is available to adequately maintain Council's existing unsealed road network. To add any additional roads at this time would place an undue burden on the available funding.

The lack of a maintained road to every rural property could have some social impact placing an increased cost on the landowners to maintain their own access.

All Councils are being urged to consider very carefully the creation of new assets as figures indicate that it may already be beyond the resources of governments, including local government to maintain existing assets. While council will receive requests for the creation of new roads it will give such requests consideration against the above background.

The unformed but surveyed roads are on occasions a hindrance and a liability to property owners. There are occasions when Council will give consideration to selling road reserves to the adjoining landowner(s) – refer Permanent Road Closures Policy.

Council Road Reserves

Roads will only be added to the maintained list after consideration by Council and taking into account the cost to bring the road up to a minimum standard (as defined in the Road Asset Management Plan), ongoing maintenance costs and the impact on the total roads program.

Sections of Council road reserve that service less than 5 permanent residences will not be considered for addition to the maintained road list, noting that historically, there are maintained roads within the local government area that do not meet this requirement.

Road extensions beyond a property boundary will not be considered. Council considers that its first priority is to provide access to individual properties, access for the improved management of a property is the responsibility of the landowner.

Council may perform maintenance on unmaintained roads under a private works arrangement with the affected property owner(s) when plant is in the region and subject to current workloads.

Private individuals or Contractors may perform maintenance on public roads that are unmaintained, if and only if:

- They have submitted Council's 'Application for Works within the Road Reserve' - such application shall detail the extents of proposed maintenance activities, experience of the person performing the works, and plant and equipment to be used for the maintenance;
- Appropriate traffic control plans are in place prior to undertaking the proposed works;
- The applicant has a current Public Liability Insurance Policy to cover any mishap which may occur with a recommended minimum level of indemnity of \$20 million and such policy shall be suitable endorsed to cover Council

Approval of a dwelling on a property on an unformed road or track does not commit the Council to the construction or repairs of that road. Council works are dependent on finances available and works programmed.

Crown Road Reserves

Crown Road Reserves are administered by NSW Department of Industry - Crown Lands & Water. Council does not maintain or administer Crown Road Reserves.

Where a Crown road reserve has a road constructed on it that is maintained by Council, Council will transfer these Crown road reserves to Council road reserves.

Where a Crown road reserve that is not maintained by Council is required because it provides the only legal and physical means of access, Council will not consent to the road reserve being closed. Council will transfer these Crown road reserves to un-maintained Council road reserves, the maintenance being the responsibility of the owners of the lots gaining access from the road.

All NSW Department of Industry – Crown Lands & Water fees and/or Council fees associated with any road closures and/or transfers will be borne by the landowner requesting the closure or transfer.

Council must be satisfied prior consenting to any Crown Road transfers that there are no fencing encroachments, enclosure permits (issued by Crown Lands), or misaligned roads. Under the Crown Lands Act 1989, NSW Trade & Investment – Lands, has a legal responsibility to ensure the use of

the public land, including roads, is authorised. Any anomalies should be resolved prior to transfer as once Council becomes the roads authority, it also assumes the liability for the roads. Council is not responsible for any costs associated with the physical construction of any former Crown road reserve once it has been transferred to Council control. This includes (but not limited to) surveys and fencing.

The Landowner is responsible for lodgement of the required Council 'Application for Works within the Road Reserve' with council prior to commencing any physical construction of unformed road reserves, and only after the Crown road reserve has been formally transferred and gazetted to Council as the controlling authority.

Where the Crown Road provides access to 10 or more lots and the road is upgraded by the developer, Council may consider maintenance of the Crown Road. This will only be considered where the developer has constructed the road to conform to conditions of consent, and only after the Crown road reserve has been formally transferred and gazetted to Council as the controlling authority.

Private Roads

The following procedure shall be followed when a request is made to have the Council accept a privately owned road as a Council public road:

- An application to Council signed by all people having an interest in the road, such as owner in fee simple and abutting property owners having rights-of-way over the road, shall be presented. This application shall state that all parties having interest in the road will be willing to dedicate the subject road as a public road reserve. The application shall also be accompanied by a scaled drawing of the road, prepared by a licensed surveyor, locating the road with reference to existing roads, waterfronts, etc., and showing all abutting property lines.
- The Council shall accept no privately owned road unless it meets all of the minimum standards as set forth in Auspec and the Council's Road Asset Management Plan.
- A copy of the application will be submitted to Council who may suggest other requirements upon the applicants before the Council may accept the road.
- If Council accepts the transfer of the Road as a maintained public road, then the applicant(s) shall lodge a Subdivision Application for determination and registration of the road reserve.
- The road shall not be considered a Council maintained road until all conditions and requirements have been met and approved by the Council.