

# Policy

## Road closures and private purchase

Version 1.5

Adopted by Council at its meeting on 16 June 2022

Division:  
Section:  
File Reference:  
Historical Reference:

Engineering  
Legal Services  
Council Policies/Protocols/Procedures  
See Version Control

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## 1. Policy objective

The objectives of this policy are to:

- Provide guidelines on assessing road closure applications for public roads within the Tweed Shire
- Ensure that road reserves are managed such that community access and use of these road reserves is preserved.

### 1.1. Definitions

**Road closure** - In this policy context refers to the 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 *Road Transport Act 2013* (NSW)). Closure may be full or partial width. Public roads are closed under the provisions of the *Roads Act 1993* (NSW).

**Public Road** - roads that 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 Department of Housing, Public Works Department, Forestry Commission and National Parks and Wildlife Services. Freeways which are vested in Transport for NSW are excepted.

**Classified Roads** - The proclaimed regional networks, which are vested in Council, requires Council and Transport for NSW approval for closure.

**Crown Public Roads** - Roads vested in the Crown with the Department of Planning and Environment being the statutory body granting approval for closures. Applications for the closure of Crown Public Roads are to be lodged directly with the Department of Planning and Environment Crown Land. The Department will notify Council of any application and may uphold any valid objection by Council to its closure. Should a valid objection by Council be upheld by Crown Lands, Council will apply to transfer the road to Council's care and control.

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

### 1.2. Policy background

This policy applies to road closure applications for public roads made under the provisions of the *Roads Act 1993* (NSW).

This policy does not apply to road closure actions under the provisions of the *Land Acquisition (Just Terms Compensation) Act 1991* (NSW) for the purposes of the *Roads Act 1993* (NSW) wherein roads are closed and granted as compensation for acquisition

## 2. Policy

### Procedural Notes for Closure of Public Roads

- Applications for the closure of a public road may only be received from the owners of land which adjoins the road. Applications should be lodged with Council on the form available from Council Offices or Council's website.
- Applications for the closure of a Crown public road must be made directly through Crown Lands, Grafton.
- This policy does not apply to road closure actions under the provisions of the *Land Acquisition (Just Terms Compensation) Act 1991* (NSW) for the purposes of the *Roads Act 1993* (NSW) wherein roads are closed and granted as compensation for acquisition.
- Application fees are 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.
- Written agreement to the closure of a road by a sole land owner, which separates two (2) or more parcels of land, must be obtained from the relevant land owners by the applicant and accompany the application.
- Upon closure and purchase of the road reserve the newly created parcel must be consolidated with adjacent land parcels to enhance the useability of the land.
- Where newly created parcels of closed road result in existing title becoming land locked or infer an extra building entitlement by virtue of Tweed LEP 2000 or Tweed LEP 2014, Council will request consolidation or the registration of restrictions on title to rectify these anomalies.
- In all cases the public may object in writing to any road closures. Council is the determining body. The NSW Department of Planning and Environment is a notifiable body, and may object.
- Council, when assessing a road closure application, will consider the existing and future requirements of the road reserve. The uses of the road reserve may include access to public or private land, access for infrastructure provision, vegetation or wildlife corridors.
- The obligation of retaining unconstructed roads involves administration and management of the land. As these roads can be generally fenced into existing landholdings, the maintenance and weed control of these roads is to be undertaken by the land occupier with no impost on Council.
- It should be realised that many of these road reserves were created as a means of legal access only for land parcels with no consideration to the natural landscape. This means that the future use of these road reserves may be limited. Any new development areas are required to provide suitable access networks for the public.

### **Compensation**

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

Compensation for the closure of a constructed public road or classified road will be at the market value as assessed by a registered Valuer as determined at the commencement of a road closure application.

Compensation from the closure of an unconstructed public road or Crown Public road is payable to NSW Department of Planning and Environment.

### **Roads not eligible for closure**

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

- Roads providing, or capable of providing physical access to rivers, creeks, lakes, beaches and their foreshores.
- Roads capable of providing physical access to other roads, public and private properties, public and Crown reserves, public utility installations, railways and the like. In the case of access to private properties closure will be considered if a suitable alternate road is dedicated as public road or if a right of carriageway is created over an existing road/track or new road/track to be created.
- 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.
- Road reserves containing public authority reticulation services unless the relevant authorities agree to their relocation or creation of easements.
- Road reserves that have the potential to provide corridors for future Council water, sewer or stormwater infrastructure.
- Roads which the future highest and best use for Council purposes is judged to be of more economic worth than the current land value.
- Roads that could potentially be developed for vehicle, cycle, pedestrian or equestrian use as the Shire grows.
- Roads used for the movement of stock.

- Topographically difficult road reserve which might potentially be exchanged for a more negotiable corridor serving any of the above mentioned purposes.
- 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).
- Roads that could potentially be developed for the purposes of fire buffers or fire trails as the Shire grows.
- Roads used by established apiarists to access hives.
- Roads to rectify fence line encroachments (fences are considered by Council to be moveable structures).

### Exceptions

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

### Considerations

- In assessing the application, the potential environmental value through revegetation of the road reserve will be considered.

## 3. Related legislation

*Roads Act 1993* (NSW)

## 4. Compliance

Not applicable.

## 5. Forms

[Payment Application Form – Road Closures](#)

## 6. Review period

This policy will be reviewed within 12 months of the election of each new Council or more frequently in the event of any legislative changes or change in circumstances.

## 7. Useful links

[Tweed Shire Council website](#)

## 8. Version control

<b>Version #</b>	<b>Summary of changes made</b>	<b>Date changes made</b>
1.0	Adopted.	14/12/2005
1.1	Incorporated into new policy template.	20/06/2013
1.2	Updated and adopted by Council and incorporated into new policy template.	16/06/2022
1.3	Incorporated into new policy template	04/10/2022
1.4	Updated and adopted by Council and incorporated into the new policy template.	16/06/2022
1.5	Incorporated into new policy template.	04/10/2022