

Road Closure Policy

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| Policy Type | Governance Policy | Version: | 1.0 |
| Responsible Officer | Manager Technical Services | Date Approved: | 30/04/2022 |
| Review Officer: | Manager Technical Services | Review Due: | 30/03/2026 |
| Author: | Senior Compliance Officer | Commencement: | 30/04/2022 |

1. PURPOSE

To provide a principled, equitable and consistent approach to the assessment of requests received from the State for permanent or temporary closure of a Council controlled road.

2. SCOPE

This policy applies to applications made under the *Land Act 1994* (Qld)¹ to the State for permanent or temporary, full or partial closure of a Council controlled road and for which a request has been made to Council from the State for Council's views and/or requirements.

This policy should be read in conjunction with Council's *Use of Council Controlled Roads Policy*.

3. POLICY STATEMENT

Council has control of all roads within its jurisdictional area except State-controlled roads.² Members of the public may apply directly to the State for a temporary or permanent closure of a Council controlled road. Additionally, Council may apply to the State for closure of a road. Procedurally, in assessing an application for a road closure proposal, the State will seek the views of Council to inform decision making.

Council will only support the temporary or permanent full or partial closure of a road where the public interest is not compromised by the proposal.

Where Council receives a request for Council views/and or requirements on the full or partial closure of a Council controlled road ("**subject road**"), the proposal will **not** be supported where:

- The subject road – whether constructed or not constructed – provides the only legal access to a property;
- The proposal stands to compromise the future availability of access to land, road and intersection upgrades/improvements, cadastral road realignment, car parking and positioning of infrastructure;
- Council seeks to retain the existence of the subject road and the proposal is for the permanent closure of the **entirety** of the road corridor;

¹ See *Land Act 1994* (Qld) ss 97A-109C.

² See *Local Government Act 2009* (Qld) s 59(3) ('LG Act').

Human Rights Compatibility Statement

This policy has been drafted in alignment with obligations arising under s 58 of the *Human Rights Act 2019* (Qld).

- the subject road is identified as an **active road corridor** and proposal stands to compromise the safe and proper functioning of the road;
- Council seeks to retain the existence of the subject road and the proposal and intended use stands to impede the only existing point of practical public access to an identified place of public interest;
- Council seeks to retain the existence of the subject road and the proposal and intended use stands to impede the only existing path of practical public access to a recreational watercourse area;
- The proposal includes an intended use which contains a risk of contamination of the land comprising the subject road to include contamination which may pose a Biosecurity Risk;
- Council seeks to retain the existence of the subject road and the proposal stands to result in a road width that is inconsistent with maintaining public safety and/or the safe use of the road as determined in accordance with a risk assessment undertaken by Council and/or the requirements of the FNQROC Development Manual;
- The intended use for the subject road does not conform to Council's current Planning Scheme requirements and land use overlays and any relevant policies contained therein;
- The proposal stands to harm identified Aboriginal cultural heritage³ or an environmental value which stands to be adversely impacted by the proposal;
- the subject road is burdened by an existing land tenure instrument.⁴

4. REPORTING

No additional reporting is required

5. DEFINITIONS

Aboriginal cultural heritage – holds the meaning as defined in the *Aboriginal Cultural Heritage Act 2003* (Qld).⁵

Active road corridor – means a road which holds a constructed road and which is currently in use for the movement of vehicles.

Biosecurity Risk – holds the meaning as defined in the *Biosecurity Act 2014* (Qld).⁶

Environmental value – holds the meaning as defined in the *Environmental Protection Act 1994* (Qld).⁷

Road – holds the meaning as defined in the *Land Act 1994* (Qld).⁸

³See *Aboriginal Cultural Heritage Act 2003* (Qld) s 23. Note: s 23 imposes a duty of care obligation on persons **carrying out an activity** to ensure that the activity does not harm Aboriginal cultural heritage. Whilst 'Carrying out an activity' does not extend to Council in providing views and/or requirements to the State in response to an application for road closure made to the State by a member of the public, a general duty of care obligation extends to Council in circumstances where Council is the applicant to the State.

⁴ As may be issued under the *Land Act 1994* (Qld) for example.

⁵ See *Aboriginal Cultural Heritage Act 2003* (Qld) s 8.

⁶ See *Biosecurity Act 2014* (Qld) s 16.

⁷ See *Environmental Protection Act 1994* (Qld) ss 8-9.

⁸ See *Land Act 1994* (Qld) s 93.

Watercourse – holds the meaning as defined in the *Water Act 2000* (Qld).⁹

6. RELATED DOCUMENTS AND REFERENCES

Aboriginal Cultural Heritage Act 2003 (Qld)
Biosecurity Act 2014 (Qld)
Environmental Protection Act 1994 (Qld)
Land Act 1994 (Qld)
Local Government Act 2009 (Qld)
Local Government Regulation 2012 (Qld)
Planning Scheme 2016 (MSC)
Use of Council Controlled Roads Policy (MSC)
Water Act 2000 (Qld)

7. REVIEW

It is the responsibility of the Manager Technical Services to monitor the adequacy of this policy and implement and approve appropriate changes. This policy will be formally reviewed every four (4) years or as required by Council.

⁹ See *Water Act 2000* (Qld) ss 5(1)-(2).