

Use of Council Controlled Roads Policy

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

1. PURPOSE

To provide a framework for the principled, equitable and consistent assessment by Council of requests received from the public for temporary use of a Council controlled road for a defined purpose.

2. SCOPE

This policy applies to all requests received by Council for temporary non-commercial and non-exclusive use of Council controlled roads. It does **not** apply to:

1. applications for commercial use of local government controlled areas and roads under Council's relevant Local Laws; or
2. applications involving permanent or temporary road closures made to the State under the *Land Act 1994* (Qld);
3. Applications for use of reserve land made under Council's *Use of Council Land of Agistment Purposes Policy*.

This policy should be read in conjunction with Council's *Road Closure Policy*.

3. POLICY STATEMENT

Council has control of all roads within its jurisdictional area except State-controlled roads.¹ Council may receive requests from the public for use of all or part of a road ("**the subject road**") for a defined purpose ("**the intended use**") – the grazing of cattle for example.

The use of a road for a defined activity may assist Council with caring for the land surface and provide for collective safety related benefits to the community such as bushfire mitigation.

Where Council receives a request for use of a Council controlled road, the following principles will apply to assessment of each request:

- Requests for the use of a Council controlled road must be made in writing and include a description of the intended use along with a proposal for ongoing management of the subject road;

¹ 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 intended use must be temporary. Examples of a temporary use include use of the land for grazing of cattle or use of the land for agriculture with a crop yield of less than 2 years;
- Assessment of requests shall have regard to the impact of the intended use upon the land surface;
- Priority consideration will be afforded to landowners adjoining the subject road. However, Council assessment of requests will have regard to the level of demand expressed by the community for the use of the subject land and any resulting escalated requirement for calling of expressions of interest by the wider community;²
- Where multiple adjoining landowners seek use of a Council controlled road, Council at its sole discretion, may consider apportioning use the subject road to each landowner;
- Where a request is made for partial use of a road and the subject road is identified as an **active road corridor**, assessment will have regard to the location of the subject road, the volume of traffic movement along the road and the minimum remaining width required for the safe and proper functioning of the road;
- The intended use must not impede practical public access to or traversal through the subject road corridor;
- The intended use must not impede practical public access to a watercourse;
- The intended use must not obstruct the only legal access to a property whether or not the legal access is currently functionally in use;
- The intended use for the subject road must conform with Council's current Planning Scheme and land use overlays and any relevant policies contained therein;
- The intended use does not threaten a known area of Aboriginal Cultural Heritage significance or an area of Environmental Value;
- The intended use must not result in the contamination of the land comprising the subject road to include contamination which may pose a Biosecurity Risk;
- The intended use must not 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;
- Applications will be considered for the use of a road under this policy only where the subject road is not burdened by an existing land tenure instrument;³
- Where assessment of a request results in the issuing by Council of an **Approval**, the Approval will be subject to the conditions decided by Council and such conditions will be enforceable;⁴

² In accordance with requirements under the *Local Government regulation 2012* (Qld) s 236.

³ As may be issued under the *Land Act 1994* (Qld) for example.

⁴ See *LG Act* s 75.

- Any administrative costs associated with issuing of an Approval will be borne by the requesting party;
- annual Licence rental minimum amounts will be calculated using the 'percentage of land valuation method' to determine fair rental amounts. The minimum percentage will be five percent (5%) of unimproved usable land value as applied following the determination of current Estimated Land Valuation/Appraisal⁵ or such amount as determined by Council at its sole discretion having regard to the the use of the land and the community benefit.⁶

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).⁷

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

Approval – means an Approval issued under section 75 of the *Local Government Act 2009* (Qld).

Biosecurity Risk – holds the meaning as defined in the *Biosecurity Act 2014* (Qld).⁸

Environmental Value – holds the meaning as defined in the *Environmental Protection Act 1994* (Qld).⁹

Road – holds the meaning as defined in the *Local Government Act 2009* (Qld).¹⁰

Watercourse – holds the meaning as defined in the *Water Act 2000* (Qld).¹¹

6. RELATED DOCUMENTS AND REFERENCES

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

⁵ As consistent with Council's *Use of Council Land for Agistment Purposes Policy* s 3.

⁶ An example of community benefit may be agistment of livestock upon the land to reduce vegetation fuel loads as a fire mitigation measure.

⁷ See *Aboriginal Cultural Heritage Act 2003* (Qld) s 8.

⁸ See *Biosecurity Act 2014* (Qld) s 16.

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

¹⁰ See *LG Act* ss 59(2)-(3).

¹¹ See *Water Act 2000* (Qld) ss 5(1)-(2).

7. REVIEW

It is the responsibility of the Manager Development and Governance 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.