



E.05 CONSTRUCTION OF ROADS FOR ACCESS TO PROPERTY

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Policy Owner: Council
Policy No: E.05 **Version:** 1
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1 INTRODUCTION

Quilpie Shire Council (Council) owns public roads for the community to use under the Local Government Act 2009 (Act). The Act confers a “right of passage” by a member of the public to pass along a public road, subject to such restrictions as are imposed by the Council or law.

The purpose of this policy is to define the extent of capital improvement and / or maintenance Council provides in relation to access to properties on dedicated roads whether they are unmade, unformed or formed only.

This policy sets out Council's response to requests to construct new, extend or upgrade roads on road reserves or close roads under the care and control of Council, where no pavement currently exists. Typically, these requests relate to historical subdivisions in rural areas which have gazetted road reserves but no constructed or maintained road assets. In some cases, a track may exist, but this does not constitute a road under this Policy.

The objectives of this policy are to clearly articulate that Council:

- a. is under no obligation to construct a road or pavement;
- b. is under no obligation to extend the length of an existing road;
- c. is under no obligation to upgrade the level of service or hierarchy class of an existing road.

And to:

- a. establish the basis and process for staff and nominated planning consultants to deal with requests to construct new, lengthen existing and/or upgrade the level of service of roads;
- b. ensure that there is a process that ensures all requests to construct new, lengthen existing and/or upgrade the level of service of roads are dealt with in a consistent, transparent and equitable manner;
- c. ensure that there is a fair and transparent process in place for the improvement of formed, unformed and unmade roads.

2 SCOPE

This Policy applies to historical gazetted road reserves under the jurisdiction of Council.

This policy does not apply to vehicular access (driveway) from the road to the property boundary, as the property owner is responsible for the construction and maintenance of such accesses.

To be clear this policy does not apply to new road reserves created by the reconfiguration of existing lots in accordance with a Council approved Development Application.

This policy should be read in conjunction with *Subordinate Local Law No 1.01 (Alteration or Improvement to Local Government Areas and Roads) 2012*.

3 STATEMENT

There is no legal obligation on the Council to undertake capital improvements or maintenance to ensure access on unmade, unformed, or formed roads within a public road reserve for the purpose of access by the landowner to their land. Thus, Council will not undertake capital improvements to unmade, unformed, or formed roads except where a

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benefit to the community can be demonstrated. Community benefit, and thus any work, is to be determined by a specific Council resolution.

Should a landowner require access via an unmade, unformed or formed road, Council expects that the landowner will upgrade the road access at their cost. This will be approved as Operational Works under the provisions of the Planning Act. If there is no provision for this in the Council's Planning Scheme, Council should consider whether the landowner is required to submit a development application especially if the property access is being changed. This puts them in the same situation as a Developer who subdivides to upgrade roads at their cost as part of a new development.

Where it can be demonstrated that there may be benefit to the community or that more than one landowner may benefit from the construction of the access; Council may enter into negotiations with the applicant/s to determine the value, if any, of Council contribution to the works. The outcome of any negotiations would be subject to acceptance by Council through a specific resolution.

Where Council receives a written request in relation to:

- Clearing of road reserves and creation of access to properties;
- Construction of roads within the road reserve;
- Capital improvements to unmade, unformed, or formed roads;
- Requested maintenance of an existing road / access track which is not contained in Council's road register and has not been maintained by Council;

The standards and requirements in relation to these matters as detailed in the following sections will apply.

3.1 CLEARING

- 3.1.1 Clearing of trees and access works on road reserves and any approvals required are issued by the relevant Government Department after consultation with Council. Council reserves the right to refuse/object to clearing applications dependent on issues which may arise.
- 3.1.2 Council does not object to the Department issuing approvals for clearing or minor earthworks for purposes of vehicular access to a property along a road reserve, provided that the Department is satisfied the works are necessary and restricted to the minimum amount practical. No maintenance responsibilities or legal liabilities are accepted by Council.
- 3.1.3 Where clearing occurs without approval the Council may seek restitution of damages generated if deemed necessary.
- 3.1.4 Proponents of such works are to be required to extend their property public liability coverage over the section of 'private' access roadway constructed within the road reserve.

3.2 ROADWORK CARRIED OUT ON THE ROAD RESERVE WITHOUT COUNCIL APPROVAL

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- 3.2.1 Council does not condone or accept any responsibility for any work carried out on a road reserve under the care and control of Council, without its written approval and permission.
- 3.2.2 The section of roadway upon which unauthorised work has been undertaken will not be maintained or improved in any manner by Council and Council may remove or render impassable, the road section if a safety risk to the public or the environment has been established by the Chief Executive Officer (or delegate), at the cost of the proponent.
- 3.2.3 Similarly Council may seek restitution of damages generated by works undertaken without approval. Action under Chapter 3, Part 3, Section 75 of the *Local Government Act 2009* may result.
- 3.2.4 No maintenance or legal liabilities are accepted by Council for works approved by other authorities, i.e. clearing.

3.3 APPROVED ROADWORK – ADDITION TO ROAD REGISTER

- 3.3.1 Council may consider accepting sections of road onto its road register for ongoing control and maintenance subject to the following conditions being met by the applicant:
 - a. That a registered surveyor be engaged at the applicant's cost to prepare a survey plan, to ensure the existing or proposed roadway will be contained fully within the existing road reserve and not generate any encroachments or off alignment issues. This plan must be presented to and be approved by Council prior to any physical works being undertaken.
 - b. The road is constructed in accordance with standards set by Council. All costs for such works shall be required to be borne by the applicant.

Any requirements of SARA (State Government assessments) must be carried out.
 - c. Following completion of works to the required standards, it will be the applicant's responsibility to engage a Registered Surveyor to prepare an 'as constructed' plan of the road section reflecting constructed cross sections and levels for lodgement with Council.

Upon acceptance of the work and receipt of the 'as constructed' plan, Council's Road Register will be amended to reflect the addition of the road and the maintenance status of the new work.

Subject to the above conditions being achieved, Council will continue to maintain the road to a standard set by resource and budgetary constraints applicable within each financial year, in accordance with Council Asset Management Planning.

3.3.2 Completion of Road Construction

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- a. Following acceptance of the project costs, negotiations can be undertaken with Council as to the method of delivery of the works, by contract or Council, and required materials and pavement and construction specifications required.
- b. Should the applicant request that Council undertake the works, following provision of survey data, Council will prepare a cost estimate to construct the roadway to Council's required standards. The costings will be carried out in accordance with Council's Private Works Policy.

This information shall be transferred to the applicant/s who will be required to formally agree to accept responsibility for these costs. Alternatively, subject to Council approval, the applicant can arrange for a suitably qualified contractor to undertake the works to Council's standards, on the basis that Council undertake supervision of the works with the cost of such supervision being at the cost of the applicant.

3.4 APPROVED ROADWORK – ROADS MAINTAINED BY OTHERS

- 3.4.1 Council may give consideration to the approval of works to construct a road or track which provides access to a limited number of properties or to one predominant user.
- 3.4.2 Where it is determined that the constructed access / track provides benefit to one predominant user and / or limited benefit to the public through minimal or occasional use, the road will not be maintained by Council.
- 3.4.3 Where roadwork is to be undertaken to construct a road that will not be maintained by Council, the constructed road will not be included in Council's Road Register.
- 3.4.4 Construction of a road deemed to not be maintained by Council will however require approval prior to the construction works commencing.
- 3.4.5 Roads maintained by other must be signed as such. Signage is to be placed at all access points along the road.
- 3.4.6 Signage must include the following:
 - a. A statement that the road is not maintained by Quilpie Shire Council. Details of a nominated contact point to whom queries / complaints can be directed.

3.5 DEVELOPMENT WORKS ON ROAD RESERVE

Council will require road upgrading on any road reserve required for vehicular access to a proposed development generally within but not necessarily limited to the Sustainable Planning Act categories of material change of use or reconfiguration of a lot. Development Application and Operational Works procedures apply.

4 HUMAN RIGHTS COMPATIBILITY STATEMENT

This Policy has been assessed as compatible with the Human Rights protected under the Human Rights Act 2019.

5 DEFINITIONS

The Local Government Act 2009 Section 59 defines:

A **road** is-

- (1)
 - a) an area of land that is dedicated to public use as a road; or
 - b) an area of land that-
 - i. is developed for, or has a 1 of its main uses, the driving or riding of motor vehicles; and
 - ii. is open to, or used by, the public; or
 - c) a footpath or bicycle path; or
 - d) a bridge, culvert, ferry, ford, punt, tunnel or viaduct.
- (2) However, a **road** does not include-
 - a) a State-controlled road; or
 - b) a public thoroughfare easement

Dedicated Road An area of land dedicated to public use as a road, but does not include a State-controlled road under the *Transport Infrastructure Act 1994*.

Formed Road A public road reserve that does not have gravel paving but which is formed using a grader so that stormwater will drain off laterally.

Unformed Road A public road reserve that has been cleared and open to, and customarily used by the public.

Unmade Road A public road reserve that has had no capital improvements including clearing, formation and gravel paving. Notwithstanding, an unmade road may be trafficable or un-trafficable in all weathers.

6 RELATED POLICIES | LEGISLATION | OTHER DOCUMENTS

Subordinate Local Law No 1.01 (Alteration or Improvement to Local Government Areas and Roads) 2012

IX #	Details

7 VERSION CONTROL

Version	Date	Details
V1	16-Jul-24	Developed and adopted

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