

Permanent Road Closure and Road Lease Policy

LEADERSHIP

1.1 Our Council has the trust of the community and well informed decisions are made to ensure long term sustainability of our Shire

Document Type	Council Policy
Document Reference No.	2022/
Version No.	2.0
Council File Reference	104/7
Adoption Date	21 September 2022
Resolution Number	MN 2022/215
Document Owner	Manager, Business & Property
Responsible Branch	Corporate, Strategy and Resourcing
Responsible Business Unit	Property Services
Review Schedule	Four (4) years
Review Date	September 2026



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1. Objectives

The objectives of this Policy are:

- Ensure a consistent approach is taken in considering permanent closure of part or all of a Council owned public road that is not required for access or strategic purposes and the subsequent sale to adjoining owners.
- Define the requirements of Council with respect to applications to permanently close public roads in accordance with the *Roads Act 1993*.
- Outline the requirements of Council to consider a short term lease of road reserves.
- Raise community awareness of the process and requirements for application to permanently close a Council public road.

The term public road used in this policy is as defined by the *NSW Roads Act 1993*.

2. Policy Statement

Council is committed to providing certainty to road closure applicants by establishing a clear set of objectives and guidelines in relation to applications for permanent road closures and short term road leases.

PERMANENT ROAD CLOSURES

A permanent road closure will only be granted if Council believes, to the best of its knowledge, that the public road and/or public road reserve will not be required in the future; or it has become redundant for the purposes of a public road.

Council will base its decision on whether to consider the permanent closure of a public road taking into account the following criteria:

Future Use

Whether the road will be required by Council for future use (including for drainage etc).

Access

- The subject road is minor in nature and does not provide a through link.
- Alternative legal and practical access is available to all adjoining properties and any other property that gains access via the public road.

Consultation

- All relevant authorities (including utility providers) have been consulted and support the closure.
- Neighbouring properties have been notified and given opportunity to comment on the proposal.


Other considerations

- Consolidation of the area of closed road and the applicant's adjoining property is required to take place at the applicant's cost within 12 months (unless otherwise directed by Council).

- Application will be assessed on a case by case basis where consolidation of the road reserve and adjoining property will result in a building entitlement and/or subdivision potential not previously available.

ROAD CLOSURE PROCEDURE

1. Requests for consideration of a road closure must be made in writing to Council.
2. Permanent road closures may only be requested by land owners directly adjoining the area of road proposed to be closed.
3. Wingecarribee Shire Council may apply to close any road (at Council's discretion).
4. All costs associated with a road closure application will be payable by the applicant. These fees include (but are not limited to) application fees payable to Council, surveying fees, NSW Land Registry Services registration fees payable on lodgement of the plan of road closure and first title creation.
5. Fees and charges are published annually as part of Council's Operational Plan, Budget and Revenue Policy.
6. Following receipt of the initial request to consider the road closure application and payment of the stage 1 application fee, investigation into the suitability of the road requested for closure will be undertaken.
7. If the road closure application is deemed feasible, a report will be presented to Council for formal resolution to endorse an application for the road closure and to provide a minimum twenty eight (28) days public notice of the proposed closure.
8. Following the above resolution, a formal application for closure will be invited from the applicant, including payment of the road closure application fees (stage 2).
9. At this stage, acceptance of valuation of the area of road to be closed is required by the applicant (see valuation method).
10. The proposed road closure will then be placed on public exhibition and notification sent to all relevant authorities and neighbour notification undertaken.
11. If objections are received during the period of public notice, the matter of the road closure will be referred back to Council for final decision. If Council elects to support the closure, a resolution for formal closure will be made by Council. If Council does not support the closure, the matter will be at an end and the road will remain open.
12. If no objections are received during the period of public exhibition, three quotes will be obtained and provided to the applicant for the surveying costs to undertake the road closure and first title creation. The applicant must indicate acceptance of surveying quotation in writing. Payment of all surveying costs will be the responsibility of the applicant.
13. Following preparation of the plan of road closure and first title creation, the plan will be signed by Council and lodged for registration at NSW Land Registry Services.
14. Following registration, a title for the area of closed road will be created and a gazettal notice published confirming the road closure.

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15. The newly created lot (being the area of closed road) can then be transferred to the applicant upon payment of the agreed price (determined by valuation method outlined below).

VALUATION METHOD

Valuation and sale price for the area of closed road will be based on independent market valuation obtained by Council at the applicant's expense.

ROAD LEASES

- In most circumstances, a road lease will be considered if agreement in writing is obtained by the applicant from all adjoining/affected neighbours prior to the matter being considered by Council.
- If Council agrees to the lease of a road the maximum term of any agreement will be five (5) years and the applicant will be required to enter into a formal road lease agreement with Council.
- Typically, Council will only consider a request to lease a road when the applicant is in the process of applying for the permanent closure of the area of road (unless other circumstances warrant lease without application for closure).
- Rental for the area of road will be determined by independent market valuation (the cost of which is to be paid by the applicant). In addition, the applicant must pay any applicable application fees to Council.
- All costs associated with a road lease are payable by the applicant (including the application fee payable to Council).
- Council reserves the right to terminate the lease, at its absolute discretion, at any stage during the lease period.

VALUATION METHOD

Formal valuation (at the cost of the applicant) will be obtained to determine market rental.

3. Scope

This Policy applies to any request (excluding Council initiated road closures) for the permanent closure of any Council public road within the Wingecarribee Shire Council local government area.

Crown Road closures are a matter for the Crown, and the Crown will seek comment from Council where Council land is or could be affected by a closure.

This policy also applies to any request for a short term lease of unused public roads in accordance with Part 10 Division 2 of the *Roads Act 1993*.

4. Responsibilities

Responsibilities for the implementation of this Policy are shared as follows.

Councillors:

- To lead the community in their understanding of, and compliance with, this Policy.

Executive:

- To implement this Policy; and
- To lead Council staff in their understanding of, and compliance with, this Policy.

Manager, Business & Property:

- To implement this Policy;
- To provide guidance to Councillors, Executive and other Council staff as to the content and implementation of this Policy; and
- To ensure the timely review of this Policy.

All Council staff:

- To comply with this Policy and any associated procedures and legislation.

5. Performance Measures

The success of this Policy will be measured by:

- No reports of breach of this policy.

6. Related Legislation

The following legislative material is related to this Policy:

- *Conveyancing Act, 1919*
- *Local Government Act, 1993*
- *Roads Act, 1993*
- *Crown Land Management Act, 2016*

7. Non-compliance with this Policy

Non-compliance with this Policy should be reported to Manager, Business and Property who will investigate and determine the appropriate course of action.

8. Document Control

8.1 Version Control

Version	Adoption Date	Notes
1.0	10 March 2021	Updated valuation method



8.2 Superseded Documents

The following documents are superseded by this Policy:

Document Title	Adoption Date	Notes
Permanent Road Closure and Road Lease Policy version 1.0	10 March 2021	This version 2.0 replaces previous version 1.

Approved by:

WINGECARRIBEE SHIRE COUNCIL

Date: 21 September 2022