

	COUNCIL POLICY	
	Construction and Maintenance of Roads Within the Road Reserve	
	POLICY NO	012
	DEPARTMENT	ENGINEERING & COMMERCIAL INFRASTRUCTURE
PROGRAM PLANNING	TRANSPORT & DRAINAGE INFRASTRUCTURE	
APPROVED BY COUNCIL 12 August 2020 Resolution: ord-2020-205		

1.0 Scope

The policy sets out guidelines related to works within the road reserve to provide access to properties, and confirms conditions that would need to be complied with prior to the road section being added to the MRC road register for ongoing maintenance.

2.0 Purpose

Mackay Regional Council (MRC) has at various times, received requests for the inclusion of sections of unformed, formed and un-maintained road within road reserves under the control of MRC that provide access to private properties, to be added to the road register for ongoing maintenance.

The purpose of this policy is to set out guidelines and conditions which would be required to be complied with prior to the road section being added to the MRC road register as indicated on Council's GIS platform mapping for ongoing maintenance.

3.0 Reference

- Department of Transport & Main Roads – ‘Guidelines for Assessment of Road Impacts of Development’.
- Mackay Regional Council – Road Hierarchy Plans and Cross-sections.
- Chapter 3, Part 3, Division 1, Section 75 *Local Government Act 2009*.

4.0 Definitions

Council shall mean the Mayor and Councillors of Mackay Regional Council.

Human Rights Complaint shall mean a complaint about an alleged contravention of section 58-1 by a public entity in relation to an act or decision of the public entity.

MRC shall mean Mackay Regional Council.

5.0 Background

MRC has delegated control of extensive lengths of dedicated road reserves on which there is no formal road constructed or a low standard access track constructed by other parties exists.

Requests are often received for sections of road reserve not included in MRC's current road register to be constructed to MRC standards and/or maintained by MRC.

This policy clarifies MRC's position in relation to actions which would be required to be taken prior to considering the addition of the subject section of road to MRC's road register for ongoing maintenance.

6.0 Policy Statement

6.1 Need

MRC receives numerous enquiries in relation to:

- Clearing of road reserves and creation of low standard access tracks to properties;
- Construction of roads within the road reserve;
- Maintain and or upgrade an existing access road/access track which is not contained in MRC's road register and has not been maintained by MRC;

Standards and requirements in relation to these matters are addressed in the following sections.

6.2 Clearing and Construction of Access Tracks

Clearing of trees for access roadworks on road reserves and any approvals required are issued by the Department of Natural Resources, Mines & Energy (DNRME) for protected species, after consultation with MRC, for vegetation clearing and by MRC as part of the local law permit in relation to access tracks and property accesses. MRC reserves the right to refuse/object clearing applications dependent on issues which may arise.

MRC does not object to DNRM issuing approvals for clearing or minor earthworks for purposes of vehicular access to a property along a road reserve, provided that DNRM is satisfied the works are necessary and restricted to the minimum amount practical. No maintenance responsibilities or legal liabilities are accepted by MRC. Where clearing occurs without approval MRC may seek restitution of damages generated if deemed necessary.

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

Council does not condition the standard or requirements for such access tracks and all maintenance and public liability responsibility for the access track remains with the benefitting landowner.

Public access to this access track cannot be restricted.

6.3 Roadworks Carried out on the Road Reserve without MRC Approval

MRC does not condone or accept any responsibility for any work carried out on a road reserve without its written approval. The section of roadway will not be maintained or improved in any manner by MRC and MRC may remove or render impassable, the road section if a safety risk to the public has been created. Similarly, MRC 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.

6.4 Approved Roadworks

MRC will 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 registered surveyor is 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 will not generate any encroachments or off alignment issues. This plan must be presented to MRC prior to any physical works being undertaken.
- The road/access track is constructed to a standard equivalent to that shown on MRC's road hierarchy standard cross sections to the road in question. All costs for such works shall be required to be borne by the applicant.
- As an initial approval step, the applicant will be required to prepare suitable design plans prepared and certified by a suitably qualified RPEQ and supporting specifications for the proposed works and submit these plans for operational works approval before works commencement.

https://www.mackay.qld.gov.au/business/planning_and_development/planning_schemes_and_strategic_planning/superseded_planning_schemes/mackay_city_planning_scheme/engineering_development_checklists

- Should the applicant request that MRC undertake the works, following provision of survey data MRC will prepare a cost estimate to construct the roadway to MRC's required standards. This information shall be transferred to the applicant/s who will be required to formally agree to accept responsibility for these costs.
- Following acceptance of the project costs, negotiations can be undertaken with MRC as to the method of delivery of the works, contract or MRC, and required materials, pavement and construction specifications required.

- Alternatively, the applicant can arrange for a suitably qualified contractor to undertake the works to MRC's standards, on the basis that MRC undertake supervision of the works with the cost of such supervision being at the cost of the applicant.
- 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 road location with respect to road reserve boundaries constructed cross sections and levels for lodgment with MRC.
- The standard of the 'As constructed' plans shall be in accordance with the requirements as specified in MRC's D20 – Drawings and Documentation guideline including pavement details.

https://www.mackay.qld.gov.au/_data/assets/pdf_file/0005/13964/D20.pdf
- Upon acceptance of the roadwork including receipt of the 'as constructed' plan, MRC's Road Register will be amended to reflect the maintenance status of the new road.
- Subject to the above conditions being achieved, MRC will accept full liability for the standard of all roads maintained as documented in the Road Register. Such acceptance will be following a formal acknowledgement of MRC to confirm acceptance of the road section onto its road register.

6.5 Development Works on Road Reserve

An applicant may be required to upgrade a road as part of a development approval issued in accordance with the Planning Act 2016. In these circumstances, work within the road reserve must comply with the conditions of any relevant material change of use, reconfiguration of a lot or Operational Works development approval.

6.6 Complaints

Any complaints in relation to this Policy will be assessed and managed in accordance with MRC's Administrative Action Complaints Policy, a copy of which can be found on MRC's website.

Complaints may be made as following:

In writing to

Chief Executive Officer
Mackay Regional Council
PO Box 41
MACKAY QLD 4740

Via Email - complaints@mackay.qld.gov.au

In person - 73 Gordon Street, Mackay

6.7 Human Right Complaints

When an individual feels that they are the subject of MRC's failure to act compatibly with human rights, they can make a complaint directly to MRC. These complaints will be assessed against the Human Rights Act 2019

7.0 **Review of Policy**

This policy will be reviewed when any of the following occur:

1. The related documents are amended or replaced.
2. Other circumstances as determined from time to time by a resolution of Council

Notwithstanding the above, this policy is to be reviewed at intervals of no more than three (3) years.

Version Control:

Version	Reason / Trigger	Change	Endorsed / Reviewed	Date
2	Template change and references	Modified legislation reference		
3	Minor modifications and update	Minor updating only	Council	23.08.17
4	Policy Review	Minor updating of Program names and linked reference only	Council	12.08.20