

Program: Infrastructure Planning
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Scope

The policy sets out the processes 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 Mackay Regional Council (MRC) Road Register for ongoing maintenance.

Objective

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 objective of this policy is to set out conditions which would be required to be complied with prior to the road section being added to the MRC Road Register as indicated on MRC's GIS platform mapping for ongoing maintenance.

Policy Statement

To clarify actions required prior to considering the addition of a section of road to MRC's Road Register for ongoing maintenance.

Council considers that to the extent this policy engages and limits, or potentially limits, any human rights, that limitation is reasonable in that it is proportionate and justified.

This process to remain in force until otherwise determined
by Mackay Regional Council

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1.0 Principles

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.

1.1 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.

In addition, Council reviews its road register on a regular basis. Any constructed roads currently maintained which are not operating as a road under the definitions of the *Land Act 1994* are to be considered for removal from the road register and future maintenance obligations by MRC.

1.2 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 and Mines, Manufacturing and Regional and Rural Development (DNR) 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 DNR issuing approvals for clearing or minor earthworks for purposes of vehicular access to a property along a road reserve, provided that DNR 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.

MRC 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.

1.3 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.

1.4 Removal of Roads from the Road Register

MRC obligations for maintenance of roads that fall within the definition indicated in the Department of Resources Guideline – Roads under the *Land Act 1994* are as follows:

"3.1.3 A road is still needed when....

Section 101(3)¹ states that the Minister must refuse a road closure application if the Minister is satisfied the road is still needed.

A road is considered still needed when:

- *it gives the only practical access to a parcel of land whether or not there is some other dedicated access to such land; or*
- *it is the only dedicated access to a parcel of land (whether or not the owner of the parcel agrees to the closure); or*
- *it is used by the public for road, including in connection with the Bicentennial national Trail (please see separate section below) or stock route purposes (please see separate section below) and is expected to continue to be required for such purposes; or*
- *it is required to provide continuity to an existing road network (however temporary closure may be acceptable in this situation); or*
- *the interests of existing public service facilities or authorised private service facilities cannot be otherwise protected or accommodated e.g. by easements or movement of services; or*
- *the land contains or is critical for existing or foreseeable road structures and road maintenance (for example land beneath a road bridge that contains or provides structural support), however temporary closure may be acceptable where the need is foreseeable rather than now; or*
- *the road contains some historically or socially significant feature or flora and fauna that should be protected in the State's interest or where the land protects other land, or waterways (for example beachfront dunes), and no convenient alternative provision can be made for the protection of the features, the flora and fauna or other land (for example through setting aside of part of the land as a*

¹ of the *Land Act 1994*

community purpose reserve, or covenant if the road was closed and included in the adjoining freehold), or

- *the road provides access to the coast, a watercourse or a lake.”*

Where roads fall outside of the definition or are outside of the road reserve and do not serve any public function MRC reserves it right to remove the sites from the road register and terminate ongoing maintenance on such roads.

Such action will be taken after providing advice to the property services and give 28 days notice to such landowner for objections to be considered.

1.5 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 lodgement 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.

1.6 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.

2.0 Complaints

Any complaints in relation to a decision or a service relating from 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.

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.

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 at the following MRC Client Services Centres:

- MRC Mackay Office – 73 Gordon Street, Mackay
- MRC Sarina Office – 65 Broad Street, Sarina
- MRC Mirani Office – 20 Victoria Street, Mirani

3.0 Definitions

To assist in interpretation the following definitions shall apply:

Council shall mean the collective body of all elected representatives of Mackay Regional Council, as constituted under the *Local Government Act 2009*, responsible for governing the local government area and making decisions in the public interest.

MRC shall mean Mackay Regional Council.

Road Register shall mean the register of all roads within Council’s local government area as required by section 74 of the *Local Government Act 2009 (Qld)*.

4.0 Review of Policy

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

- The related documents are amended or replaced.
- 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.

5.0 Reference

- *Human Rights Act 2019*
- 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*.

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	
5	Inclusion of option for removal of roads from the road register.	Update	Council	26/11/25