



# BOULIA SHIRE COUNCIL

## SHIRE ROADS CLASSIFICATION

---

Category:	Policy
Policy Number:	136
Document Version:	2
Obsolete Version:	20 <sup>th</sup> November 2021
Keyword Classification:	Shire Roads Maintenance and Management
Summary:	This policy outlines Council's approach to requests to include existing roads on the map of Shire Roads and to provide guidance to staff in dealing with requests to carry out grading on private access roads.
Adoption Date:	21 January 2022
Resolution:	2022/01.5
Due for Revision:	Every three years or as required
Revision date:	21 January 2025
Date revoked:	n/a
Related documents:	Boulia Shire Council Road Register
Responsible Section:	Works and Services
Responsible Officer:	Director of Works and Operations
Legislation:	Local Government Act 2009 Part 3, Div. 1, Sec 74 Civil Liability Act 2003

## PURPOSE

The objective of this policy is to provide Council staff with guidelines on the Shire Roads that are to be maintained by Council and the circumstances in which other roads and structures may be included on that list.

## BACKGROUND

Under the *Local Government Act 2009* (LGA), legal responsibility for all non-state-controlled roads within the Council area is devolved to the Boulia Shire Council. Council also has management responsibility for State Roads under contract, with the Department of Transport and Main Roads (DTMR). Council at its meeting in May 2014 adopted an interim road register map and this map has been revised and updated to reflect the current policy and road classification system.

Council's ability to fund road maintenance activities is constrained by the level of funding raised either directly from rate revenue or from specific purpose grants. The majority of shire roads are unsealed and consequently the condition of roads is largely determined by impacts from heavy transport and prevailing weather conditions. Grading and re-sheeting of Shire Roads is a never-ending task and available water and gravel supplies impact significantly on the cost. Council also relies on external funding from flood damage and special roads programs to augment that allocation.

Currently Council has responsibility for around 1,254 klm of roads in the Shire other than town streets and DTMR roads, of which approximately 1000klm are unsealed.

The Council provides an allocation for general grading of shire roads which includes both dry and wet grading i.e grading with or without water truck and roller.

The cost of dry grading is approximately one quarter the cost of a wet grade and this cost does not include gravel re-sheeting, signposting or related works. Therefore, with over 1000klm of unsealed road the budget is insufficient to possibly grade all shire roads, each financial year. Consequently, the level of service is, in most circumstances, largely determined by the budget available.

## DEFINITIONS

Roads can be defined in many ways;

By type there are:

- Flat Blade graded tracks
- Formed roads constructed with existing materials
- Formed roads with gravel wearing top course
- Sealed roads

By ownership classification there are:

- Roads within road reserves
- Unconstructed road reserves
- Roads that are not within road reserves

By responsibility there are:

- State roads
- Shire roads
- Private roads

By use there are:

- Property access roads
- Emergency fire trails
- Specific purpose roads for stock routes, gas pipeline
- Collector roads
- Town streets
- Main roads
- Tourists' roads
- Distributer roads

Basically, a road is any area of land that has been developed or identified as having a primary purpose for the driving of motor vehicles and includes footpaths, table drains, drainage, bridges, grids, culverts and associated traffic controls.

Commentary:

The *Local Government Act 2009* (Sect 59) defines a 'Road' as being an area of land that is dedicated to the public for use as a road or that is developed for, or has one of its main uses as being, the driving or riding of motor vehicles and is open to or used by the public but excludes a State controlled road or public thoroughfare easement.

The critical test is that a road is something that the public can use and this is later defined in the Act under Section 60 part 4 where a Private Road is a road over land that is owned by a person who may lawfully exclude other persons from using the road.

Therefore, the definition of a public road is an area of land, that is not a State or private road that the public can use, whose primary purpose is to provide for the driving or riding of a motor vehicle.

By default, this definition excludes:

- Unconstructed road reserves
- State roads
- Private roads
- Property access roads
- Specific purpose roads where access is restricted
- Emergency fire trails

Shire roads are defined as being roads that are not State or private roads that have been developed for public use by any member of the motoring public to drive upon without legal or physical obstruction and for which Council has accepted responsibility for maintenance and improvement.

Private Roads are defined as being a road over land that is owned by a person who may lawfully exclude other persons from using the road (sect 60 (4) LGA).

#### Private Access Roads:

Large rural holdings require the establishment of internal access routes for vehicles to manage water bores, fire trails and access to infrastructure such as the homestead, sheds, yards etc. The Local Government Act specifically excludes expenditure by Council on private roads unless there is a legitimate public use.

The question has arisen in relation to roads that originate at a shire road on the property boundary and that provide access to the homestead and whether such access roads can be maintained by Council.

As a general rule, Council can only carry out work on these roads at the owner's expense and direction. Council has however, determined limited circumstances when limited expenditure may be acceptable as a legitimate public use and such circumstances are defined in this policy.

#### Unconstructed Roads:

There are many land parcels within the Shire area that are shown on maps as being dedicated as a road under plans of subdivision. There are also roads that were either abandoned, bypassed or never developed for public road use. These unconstructed roads are not Shire Roads by definition.

In order for such a road to become a "Shire Road" they must be developed for public use and Council can then be in a position to consider accepting responsibility for ongoing maintenance and improvement.

#### Roads off Alignment:

The definition of a Shire Road does not necessarily relate to legal title: a road is a road by development and use. It is for this reason that road reserves are generally much wider than required for construction and may incorporate other public uses such as stock routes or reserves.

In many cases the road reserve may not follow the actual pattern of use and over time roads can either be "dedicated" or "developed and used" with agreement of the land owner. The extent to which roads are constructed within defined reserves will largely depend on original survey of road reserves, topography and public use.

Council's decision to maintain a public road is not confined to only roads that are constructed within road reserves, however, any new roads that are not on road reserves would need to be well defined and an agreement reached with the land owner concerning future use.

#### Council Responsibility for Roads Maintenance:

The *Local Government Act* grants Council control over shire roads and this control includes the power to construct, maintain, improve, widen, realign, survey, close, and name roads and to make Local Laws with respect to roads. Council has a duty of care with respect to Shire roads and Council's obligation is to perform a reasonable level of maintenance to repair problems of which it has knowledge, or to take steps to protect the public.

The question of what is a reasonable level of maintenance is subjective and the legislation provides some guidance. Financial capacity is a consideration and provided that the Council has not acted unreasonably, the legislation specifically provides protection to Council for failing to keep a road in repair (sect 36 and 37 of the *Civil Liability Act 2003*).

It is also within Council's power to temporarily close all or part of roads, impose restrictions on vehicle access, construct detours and traffic warnings in cases where there is an issue that Council is unable to address.

#### Landlocked Properties:

Not all parcels of land have shire road access. Larger properties may comprise several parcels of land and each of these parcels may have had a road reserve for access that was never needed because of the way in which the parcels of land were used contiguously (as one farming property).

There is however, no legal restriction on the breakup of properties and the sale of a parcel of land that has a separate title. There is also no subdivision application or development approval required.

It is also important to note that unconstructed road reserves, if they exist on a plan, are by definition, not Shire roads.

Therefore, the situation may exist where a parcel of land is sold that has no constructed access from the boundary of the parcel of land to a Shire road. In some cases, there may be an existing constructed private road from the boundary of the property to a Shire road that passes through other parcels of land on private property.

Council has formulated a policy position with respect to the development of landlocked properties and the construction of new roads as follows:

1) Policy Position: Unconstructed road reserves

- a) Council does not accept responsibility for the construction or development of unconstructed road reserves.

2) Policy Position: Landlocked properties requesting new shire road access

- a) Council will consider accepting responsibility for the maintenance of a Shire road to landlocked property boundaries where:
  - i) The road exists to provide primary access to a separate rateable property.
  - ii) There is no requirement upon Council to pay compensation to the landowner.
  - iii) The road is developed by the applicant for public use and the owner of the property being accessed and any properties that the road passes through have no legal right to restrict access at any time.
  - iv) The road has been constructed to Council's standard at the applicant's cost generally, within the road reserve without creating an obligation to address native title or cultural heritage issues.
  - v) The owners of land accessed from the section of road acknowledge Council is under no obligation to improve the road and that the scope and extent of maintenance is determined by available budget.
  - vi) The road is named and signposted as a public road for the full length that it is to be maintained by Council.

#### Subdivisions:

Where the owners of large parcels of land apply for consent to subdivide land the Council is required to ensure that any roads that are created within the newly subdivided property meet the minimum requirements appropriate to the type of use and location of the land.

In urban areas the appropriate requirement may include:

- Fully formed and properly shaped road with concrete kerb and channel fully sealed kerb to kerb with a minimum width sufficient to meet both the proposed development and any on street parking.

In rural areas the appropriate requirement may include:

- Fully formed and properly drained gravel road with satisfactory levels of hard surface overlay with a minimum width to meet both the proposed development and potential heavy vehicle movements.

In addition to this Council has an infrastructure policy relating to contributions for community infrastructure and each application will be dealt with on its merits, in accordance with engineering design standards appropriate to the area and land use.

### 3) Policy Position: Access to public facilities via private roads

Whilst Council is unable to expend public money on private roads there are a number of situations in which such expenditure is justified:

- a) Access to public facilities such as nature reserves, lakes or rivers, significant tourist sites, tourism driving trails and access to areas of cultural heritage.

Council will consider expenditure on the development and maintenance of such roads on condition that:

- The road exists in part or fully to provide access to a public facility.
- There is no requirement upon Council to pay compensation to the landowner.
- The road is developed for public use and the owner of the property agrees to permit public access at all reasonable times.
- The road can or has been developed generally within a road reserve and/or without creating an obligation to address native title or cultural heritage issues.
- The owners of land acknowledge that Council is under no obligation to improve the road and that the scope and extent of maintenance is determined by available budget.
- The road is named and signposted as an access road for public facilities for the full length that it is to be maintained by Council.

- b) Access for emergency service vehicles.

Council will consider limited expenditure on the grading of private access roads that have been identified as being essential to provide access to a particular property homestead or airstrip for emergency vehicles on condition that:

- The property homestead is permanently occupied throughout the year and
- The grading is undertaken in conjunction with roadworks in the area and the expenditure is limited to a maximum of 8 hours grading per year on the road that has been identified as access for emergency vehicles and
- The Local Emergency Management Group has identified the access road as one that is required to have limited expenditure due to the location of the property homestead or airstrip and difficulty to gain access for emergency vehicles and
- The road can or has been developed generally within a road reserve and/or without creating an obligation to address native title or cultural heritage issues and

- The owners of land acknowledge that Council is under no obligation to improve the road and that the scope and extent of maintenance is determined by available budget and
- The road is to be signposted as an emergency access route by the land owner.

Any additional cost other than maintenance grading referred to above is to be borne by the landowner either directly or from funds secured through water and gravel access fees.

#### 4) Policy Position: Hierarchy of road use

The Council has limited funds available and many obligations to address with respect to road issues, therefore Rural Shire Roads have been classified according to the following classification system.

##### Category 1: Local Roads of Regional Significance (See Schedule 1)

Roads in this category provide for significant tourism and economic benefits and are generally eligible for limited State and Federal Government funding due to their economic or regional significance. Priority is given to maintain access to a high standard including new sealing, programmed resealing and re-sheeting works as budget permits.

##### Category 2: Link Roads (See Schedule 1)

These are roads that link communities or locations and provide for traffic to travel through to other locations or to service multiple properties. Roads in this category would be eligible for routine grading and scheduled re-sheeting works as budget permits.

##### Category 3: Local Access only (See Schedule 1)

These are roads that provide access to a property boundary and terminate at that point. Where there is more than one road access to the property boundary, i.e. that is more than one boundary access road, Council shall only maintain the access road connecting to the nearest category one or two Shire Road or State Highway. Also included are roads that provide access to a specific natural attraction, a public waterhole or picnic area for example. Roads in this category shall be maintained to a minimum access standard, with grading undertaken to maintain vehicle access.

##### Category 4: Emergency Access only (See Schedule 1)

These are roads that service a particular property homestead or emergency airstrip that have been identified by the Local Emergency Disaster Management Committee as requiring limited grading to maintain access. The grading is undertaken when plant is operating in the area and is limited to a maximum of 8 hours dry grading only.

## **SCHEDULE 1: CLASSIFICATION OF ROADS**

This schedule together with Council's Road Register identify the extent of roads that have been categorised by Council.

**Category 1: Local Roads of Regional Significance:**

Included in this category is the Donohue Highway, Coorabulka, Urandangi North, Urandangi Border, Selwyn, Toolebuc and Springvale Roads.

**Category 2: Link Roads:**

Included in this category are the Headingly, Linda Downs, Linda Downs Link, Slashes Creek, Urandangi South, Selwyn Connection, Warra and Toolebuc-Middleton Roads.

**Category 3: Local Access only:**

Included in this category are Cravens Peak, Elrose, Montague and Pathungra Roads. Also included in this category is Wirrylerna Road to the extent that public are able to access Parapituri water hole.

**Category 4: Emergency Access only:**

These are roads that service a particular property homestead or emergency airstrip that have been identified by the Local Emergency Disaster Management Committee as requiring limited grading to maintain access.