

Moirā Shire Council

DRAFT Road Closure Policy

Policy type	Council
Version Number	4
Responsible Director	Director Infrastructure Services
Responsible Officer	Manager Property and Assets
Date adopted by Council	
Scheduled for review	

This policy is scheduled for review four years from the date of adoption, or earlier if circumstances require.

It is acknowledged that minor administrative amendments may be necessary from time to time. These changes do not materially alter the intent or substance of the policy and may include corrections to spelling or typographical errors, updates to the names of Council departments, or changes to the names of Federal or State Government agencies.

Such administrative updates may be made in accordance with the **Policy Framework Guidelines**.

1. PURPOSE

The purpose of this policy is to ensure a consistent, equitable, and transparent approach to the discontinuance and sale of roads and reserves within the Moira Shire. It provides guidance on the circumstances under which Council may resolve to discontinue a road.

2. SCOPE

This policy applies to the discontinuance of any government or non-government roads within the Council's municipal district, whether initiated by a community request or determined by Council.

The sale provisions outlined in this policy do not apply to roads located on Crown land.

3. DEFINITIONS

Term	Definition
Council	Moira Shire Council
Discontinued Road	A road reserve which is permanently closed to public access.
Government Road	A road reserve that is managed and maintained by Council on behalf of the Crown. A road reserve that is owned by the Crown which may be opened under Section 407 of the <i>Lands Act 1958</i> .
Non-Government Road	A road that is created by the development of land under the <i>Subdivision Act 1988</i> .

4. POLICY STATEMENT

It is the policy of Council that roads are generally considered essential for public access and shall not be discontinued.

However, Council will consider applications for the discontinuance of roads in accordance with the process outlined in this policy, where it can be demonstrated that:

- Public access is no longer required; and
- Alternative legal and physical access is available to affected properties.

5. LEGAL CONTEXT

Council has the power to discontinue roads under the *Local Government Act 2020*, while still adhering to relevant provisions of the *Transfer of Land Act 1958*, *Road Management Act 2004* and the *Planning and Environment Act 1987*.

If Council resolves to discontinue the road, public notice of the intention to do so in accordance with the public notice requirements of the *Local Government Act 2020* and *Council's Community Engagement Policy* is required.

Council's powers to discontinue and subsequently sell a Road or Reserve is discretionary, meaning Council can refuse to proceed with a Discontinuance application if the Road or Reserve meets the principles for retention including legal access requirements.

An applicant has no formal rights of appeal to such a decision. To protect the public interest, the discontinuance of public access roads is generally not supported.

5.1 Government Roads

A government road is land owned by the Crown that may be under the management of Council. For these roads the discontinuance process will commence subject to the following agreements:

- Any costs associated with determining if there are any impediments to commencing the discontinuance process must be borne by the party requesting the road discontinuance.
- All legal fees incurred by parties in the transaction will be borne by the party requesting the road discontinuance.
- Council's other costs involved in discontinuing the roadway, including staff time and disbursement

Council cannot sell a Government Road that has been discontinued. Once discontinued, the land is transferred back to the Crown. Council cannot sell a discontinued government road, as the land becomes unallocated Crown land.

Before commencing the formal discontinuance process, Council will seek feedback from the Department of Energy, Environment and Climate Action (DEECA) to identify any potential impediments.

It is important to note that Council's agreement to initiate the discontinuance process does not imply any commitment by the Crown to sell or lease the land to the applicant.

6. PROCESS

The process of discontinuing a road is complex and can take up to two years, depending on the outcome of public consultation. Applicants should be aware of this potential timeframe when submitting an application.

Council will advertise the commencement of the discontinuance process in accordance with the community engagement requirements of the *Local Government Act 2020*. And Council's *Community Engagement Policy*. Any submissions received in relation to the proposed discontinuance or the potential sale of the land will be considered by Council.

Council's decision to discontinue a road will be based on the following criteria:

Access	• The road serves a minor function (e.g. not a through-link, services a limited number of properties, or the road reserve is too narrow to construct a road on). • Alternative legal and constructed access is available to all adjoining properties and any other properties that currently rely on the road. • No land-locked allotments will be created. If unavoidable, access must be secured through the creation of an easement or amalgamation of titles.
Environmental	• The environmental value of the road reserve will be assessed, including the presence of native vegetation or threatened species. • Where high-value vegetation exists, protection may be best achieved by retaining the road.
Support	• The majority of affected landowners support the proposed closure. • All relevant authorities and stakeholders have been consulted. • The proposal aligns with sound planning principles for the area.
Other Criteria	In addition to the core assessment criteria, Council will also consider the following factors when determining whether to proceed with a road discontinuance: Demonstrated Benefits: The extent to which the proposed closure provides clear benefits or advantages to Council, the community, and/or private interests. Future Use: Whether the road reserve may be required in the future for other Council functions, such as drainage infrastructure, revegetation offsets, or other strategic purposes. Ownership and Financial Responsibility: Clear identification of ownership and maintenance responsibilities post-discontinuance.

7. RESPONSIBILITIES

Council Officer (CEO)	• Ensure organisational compliance with this Policy.
Executive and Senior Leadership Teams	• Establish and maintain effective systems to support decision-making under this Policy
Manager Property and Assets	• Coordinate and manage the assessment of road discontinuance requests. • Prepare and present reports to Council to support decision-making under this Policy.
Public Interest Disclosure Coordinator (PIDC)	• Ensure that any conflicts of interest are appropriately declared and managed during the consideration of road discontinuance and sale decisions.
Employees, Contractors and Council Volunteers	• Act with integrity and transparency in all Council activities. • Avoid using their position to gain personal advantage or to confer advantage or disadvantage on others.

8. MONITORING AND EVALUATION

The implementation of this Policy will be overseen by the Manager Property and Assets. Progress and decisions relating to road discontinuance will be reported to Council, with records maintained through Council meeting agendas and minutes.

9. RELATED LEGISLATION

This policy is guided by the following legislation:

Local Government Act 2020
Local Government Act 1989
Road Management Act 2004
Subdivision Act 1988
Lands Act 1958

10. RELATED POLICIES AND PROCEDURES

Community Engagement Policy
Local Government Best Practice Guidelines for the Sale and Exchange of Land

11. DOCUMENT REVISIONS

Version	Summary of Changes	Approved by	Date
1	Original Policy adopted	Council	16 June 2003
2	Policy Reviewed	Council	18 April 2011
3	Policy Reviewed	Council	15 April 2013
4	Policy Reviewed	Council	12 November 2025
5	Reviewed Policy adoption	Council	