

# Road Closures



<b>Council Policy Number</b>	<b>069</b>
Date adopted	19 May 2020
Scheduled for review	May 2024

## 1. Purpose

To provide guidance when Campaspe Shire Council ('Council') resolves to discontinue a non-government or a government road.

## 2. Definitions

Discontinued road	A road reserve which is permanently closed and available for sale.
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> .

## 3. Policy Statement

Council has the power under Schedule 10, Section 3 of the *Local Government Act 1989* to discontinue a road providing that the provisions of the *Local Government Act 1989*, *Transfer of Land Act 1958*, *Road Management Act 2004* and the *Planning and Environment Act 1987* are adhered to.

In the event the road closed is not a government road, and the resultant land is to be sold then the sale of the road will be in accordance with the following.

The purchaser of the land will pay:

- Cost of the valuation
- All legal fees incurred by both parties in the transaction
- All Land Surveyor or Title Office costs
- Council's other costs involved in closing the roadway or selling the property, including staff time and disbursements

The sale of the resultant freehold land will be consistent with Council's Asset Rationalisation Policy.

Community groups or not for profit organisations may apply to Council to waive all or part of the administration costs incurred by Council in closing the road. Council staff will present this request to Council for their consideration as part of the discontinuance process.

Council will advertise the commencement of the discontinuance process in line with the requirements of the *Local Government Act 1989*. Any submissions made in relation to the process and in relation to the sale of the land will be considered by Council.

Council cannot sell a government road that is discontinued. A discontinued government road will be transferred back to the Crown for their use or disposal. Council will request feedback from the Department of Environment, Land Water and Planning to determine if there may be any impediment prior to commencing the formal discontinuance process. Council agreeing to start the discontinuance process does not commit the Crown to sell or leasing the land to the applicant.

In the event that the road to be closed is a government road, then the discontinuance process will commence subject to the following agreements:

- Any costs associated with determining if there is any impediment to commencing the discontinuance process be borne by the party requesting the road discontinuance

- All legal fees incurred by both 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 disbursements

The process of discontinuance is not quick and depending on the outcome of public consultation can take up to two years. Applicants need to be aware of the possible timeframe when making an application.

#### 4. Exclusions

Nil

#### 5. Human Rights

This policy has considered and complies with the Human Rights and Responsibilities contained in the Victorian Charter of *Human Rights and Responsibilities Act 2006*.

#### 6. Related Legislation

*Lands Act 1958*

*Local Government Act 1989*

*Local Government Act 2020*

*Planning & Environment Act 1987*

*Transfer of Land Act 1958*

*Road Management Act 2004*

*Subdivision Act 1988*

#### 7. Related Policies, Procedures and Strategies

Nil

#### 8. Attachments

Nil

#### 9. Review Period Responsible officer

Four years

Assets Manager

#### 10. Administrative Updates

It is recognised that, from time to time, circumstances may change leading to the need for minor administrative changes to this document. Where an update does not materially alter the policy, such a change may be made administratively. Examples include a change to the name of a Council department, a change to the name of a Federal or State Government department, and a minor update to legislation which does not have a material impact. However, any change or update which materially alters this document must be by resolution of Council.

#### 11. Approval History

Adopted	26 June 2001	Minute Book Reference No 5346 (Item 10.6)
Revised	13 August 2002	Minute Book Reference No 6305 (Item 12.1)
Revised	14 September 2004	Minute Book Reference No 7941 (item 12.2)
Revised	16 October 2007	Minute Book Reference No 11542 (Item 9.1)
Revised	18 August 2009	Minute Book Reference No 14208 (Item 9.1)
Revised	21 September 2010	Minute Book Reference No 16407 (Item 12.6)
Revised	18 August 2015	Minute Book Reference No 905 (Item 6.2)
Revised	30 January 2018	Minute Book Reference No 29 (Item 6.2)
Revised	19 May 2020	Minute Book Reference No 2059 (Item 9.4)
Revised	1 March 2021	Administrative update to apply consistent reference to Campaspe Shire Council ('Council')

Chief Executive Officer: ..... *[Signature]* .....

Date: ..... *3/3/2021* .....

Council Policy

Council Policy

Council Policy

Council Policy