

# Wagga Wagga City Council

## ACTIVITIES IN PUBLIC ROAD RESERVES POLICY

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## PART 1: INTRODUCTION

This Policy sets out the Council's requirements in relation to the regulation of certain Activities in public Road Reserves.

This Policy is to be read in conjunction with the appropriate Council guidelines for the particular Activities, which contain more detailed provisions regarding the implementation of this Policy.

This Policy does not cover every Council requirement relevant to Public Roads. Other policy documents referred to in this Policy provide additional information.

### 1.1 Definitions

**Act** means the *Roads Act 1993*.

**Activity** means any act, matter or thing done or proposed to be done in, on, over or under a Public Road for which Consent is required under Part 9 of the Act.

**Annual Revenue and Pricing Policy** means the annual charging regime set out under Councils Operational Plan as per Section 405 of the Local Government Act.

**Carriageway** means the part of a Road Reserve that is constructed for use by vehicles.

**Consent** means a consent, approval or permit..

**EPA Act** means the *Environmental Planning Assessment Act 1979*.

**Footpath** means the part of a Road Reserve that is constructed for use by pedestrians.

**Guidelines** means a document supplementing this Policy that specifies requirements for a particular Activity.

**Guidepost** means a post at the edge of the carriageway that indicates the lateral limit of the safe trafficable way and the alignment of the road ahead.

**LG Act** means the *Local Government Act 1993*.

**Manual** means the document prepared by the Council and titled *Road Reserves Procedures Manual*.

**Nature Strip** means the part of a Road Reserve between the boundary of the carriageway and the edge of the Road Reserve that is set aside for pedestrian use and landscaping and as a public utility service corridor.

**Non-Residential Activity** means an Activity other than a Residential Activity.

**Public Road** has the same meaning as the Act, which at the date this Policy was made, means any road that is opened or dedicated as a public road, whether under the Act or any other Act or law, and any road that is declared to be a public road for the purposes of the Act.

**Residential Activity** means an Activity that relates to the occupation and use of residential land adjoining or adjacent to a Public Road.

**Road** has the same meaning as the Act, which at the date this Policy is made, includes:

- a) the airspace above the surface of the road, and
- b) the soil beneath the surface of the road, and
- c) any bridge, tunnel, causeway, road-ferry, ford or other work or structure forming part of the road.

**Road Event** has the same meaning as in or under the Act, which at the date this Policy is made, means a speed contest and a filming project (within the meaning of the LG Act), and any activity that is ancillary to or connected with such a filming project.

**Road Reserve** means all of the land comprising a Public Road, and includes the carriageway and naturestrip from property boundary to property boundary.

**Roads Authority** has the same meaning as in the Act, which at the date this Policy is made, means a person or body that is, by or under this Act, declared to be a roads authority and, in relation to a particular public road, means the roads authority for that road. **Note.** The Council is the Roads Authority for all public roads in its local government area except any freeway or Crown road and any public road for which some other public authority is declared by the regulations to be the roads authority.

**Rural Road** means a Road in a non-urban area constructed to a lesser standard than an Urban Road.

**Urban Road** means a Road in an urban area.

**Utility Service** includes any water, sewerage, drainage, gas, electricity, telephone, telecommunication or other like service.

**WWCC** means Wagga Wagga City Council

## 1.2 Objectives of this Policy

The objectives of this Policy are:

- (a) to set out the Council's requirements relating to Activities and other matters in Road Reserves,
- (b) to regulate the carrying out of Activities and other matters in Roads Reserves.

## 1.3 Objectives for Road Reserves

The Council aims to provide an inter-linked system of Road Reserves that serve the needs of Road users, the community and service providers in a strategically economical and environmentally sustainable manner.

In particular, Road Reserves are to:

- (a) provide a safe transport and service corridor,
- (b) provide vehicular and pedestrian access for residents, businesses, visitors, emergency services and others
- (c) be safe to use and work in,
- (d) be constructed, managed and used to minimise environmental impacts of uses,
- (e) be constructed and managed to allow access to utilities, at minimal cost and disruption to road users,
- (f) service the needs of the community, and
- (g) provide for pedestrian movement, landscaping, tree planting and environmental purposes.

## 1.4 Scope of Policy

This Policy applies to all Roads Reserves in respect of which Council is the Roads Authority.

## 1.5 Applicable Legislation

The primary legislation setting out the powers of Council to regulate Activities and other matters in Road Reserves is set out below.

### 1.5.1 Roads Act 1993

Under s7 of the Act, the Council is the Roads Authority for all Public Roads within its area other than freeways and Crown roads and any Public Road for which some other public authority is declared by the regulations to be the Roads Authority.

Under s145(3) of the Act, all Public Roads for which the Council is the roads Authority are vested in fee simple in the Council. *Explanation: this means Council has full legal ownership of the land.*

The Council's regulatory powers relating to Public Roads under the Act that are relevant to this Policy include the following:

**Section 97:** the Council may direct a person entitled to place utility services in, on or over a Public Road to locate any new or replacement services in a conduit.

**Section 98:** the Council may direct a person having control of any structure that is situated over a Public Road to alter the structure.

**Section 101:** the Council may direct a person by whom a Public Road is dug up to restore the road to its previous condition.

**Section 102:** a person who causes damage to a Public Road or to any road work on a Public Road or any traffic control facility on a road or road related area is liable to pay the Council the cost incurred in making good the damage.

**Section 107:** the Council may direct the removal of encroaching structures which are not authorised.

**Section 125:** the Council may approve the use of part of the footway for the purposes of a restaurant. See Policy POL041 Street Activities on Footpaths

**Section 126:** the Council may approve the erection and maintenance of structures over any part of the footway (in relation to an approval to use part of the footway for a restaurant).

**Section 128:** the Council may grant a permit to the occupier of any land through which an unfenced Public Road passes to erect a gate across the road at any place at which the road intersects a boundary fence.

**Section 138:** the approval of the Council is required for the following:

- (a) erect a structure or carry out a work in, on or over a Public Road,
- (b) dig up or disturb the surface of a Public Road,
- (c) remove or interfere with a structure, work or tree on a Public Road,
- (d) pump water into a Public Road from any land adjoining the Public Road,
- (e) connect a road (whether public or private) to a classified Road.

**Section 139:** an approval granted by the Council under section 138 may be granted on the initiative of the Council, or on the application of any person may be granted generally or for a particular case and may relate to specific infrastructure or works and may be subject to conditions as the Council sees fit.

**Section 139A:** the Council may, in granting Consent to a structure in, on or over a Public Road (and located in a built-up area), permit the use of the structure for selling any article or service and require rent to be paid for such use.

**Section 139E:** the Council may grant a fresh approval for the purposes of s 138 in respect of a structure if a previous Consent is revoked, expires or otherwise lapses. Such approval may be granted on the Council's initiative or on the application of any person.

**Section 140:** the Council may, at any time and for any reason, revoke Consent by notice in writing served on the holder.

**Section 142:** a person who has a right to the control, use or benefit of a structure over a Public Road must maintain the structure in a satisfactory state of repair, including structures for which there is no Consent in force.

**Section 142(4):** if the Council has granted Consent under s 138 to the doing of any thing, and the thing is done other than in accordance with the consent, the Council may direct the Consent holder to take specified action to remedy damage.

**Section 144:** the Council may grant a permit to any person to conduct a Road Event on a Public Road.

**Section 153:** the Council may lease land comprising a public road (other than a Crown road) to the owner or lessee of land adjoining the public road if, in its opinion, the road is not being used by the public.

### **1.5.2 *Environmental Planning and Assessment Act 1979***

Development consent under the EPA Act may be required for an Activity or other matter within a Road Reserve in addition to Consent under the Act.

Any person proposing to undertake an Activity or other matter within a Road Reserve is responsible for complying with the applicable planning controls, including any requirement for development consent.

### **1.5.3 *Local Government Act 1993***

An approval under Chapter 7 of the LG Act may be required for required for an Activity in addition to Consent under the Act.

Any person proposing to undertake an Activity or other matter within a Road Reserve is responsible for complying with the requirements for an approval under the LG Act.

### **1.5.4 *Other legislation not administered by Council***

Other legislation may apply to Activities and other matters within a Road Reserve.

Any person proposing to undertake an Activity or other matter within a Road Reserve is responsible for complying with the requirements of any other legislation applying to the Activity or matter.

## 1.6 Related Documents

Other relevant documents referred to and utilised by the Council relating to Road Reserves include the following:

- (a) POL 050 – Awnings Policy
- (b) POL 041 -Street Activities on Footpath Policy
- (c) POL 012 - Enforcement and Prosecution Policy
- (d) POL 013 - Street Trees Policy
- (e) POL 014 - Local Orders Policy
- (f) POL 079 - Risk Management Policy
- (g) POL 001 - Infrastructure Asset Management Policy
- (h) POL 053 - Draft Hoarding Policy
- (i) *Landscaping of Nature Strips Guidelines and Application,*
- (j) *Works in the Road Reserve Guidelines and Application,*
- (k) Community Strategic Plan,
- (l) WWCC Delivery Program as adopted by the Council from time to time.
- (m) WWCC Engineering Guidelines for Subdivisions and Developments
- (n) RTA Traffic Control at Worksites Manual Version 4 (or as amended).
- (o) AS 1742 Manual of Uniform traffic Control Devices Parts 1 to 14

## **PART 2: CONSENTS FOR ACTIVITIES**

### **2.1 Types of Consents**

The different types of Consents issued by the Council relating to Activities are listed below.

The relevant Council Guideline for the activity may set out further provisions relating to each type of Consent.

#### **2.1.1 Residential Activity Consents**

These are Consents under s138 of the Act relating to the occupation and use of residential land adjoining or adjacent to a Public Road.

These include Consents for driveway crossings, connections to Utility Services, landscaping of the Nature Strip, maintenance or repair of Road Reserves and the like.

These Consents authorise things such as the erection of structures or the carrying out works in the Road Reserve, the digging up or disturbance of the surface of the Road Reserve for the purpose of erecting structures, carrying out works or for other purposes, and removing or otherwise interfering with structures, works or trees in the Road Reserve.

#### **2.1.2 Non-Residential Activity Consents**

These are Consents under s138 of the Act that do not relate to the occupation and use of residential land adjoining or adjacent to a Public Road.

These Consents authorise things such as the erection of structures or the carrying out works in the Road Reserve, the digging up or disturbance of the surface of the Road Reserve for the purpose of erecting structures, carrying out works or for other purposes, and removing or otherwise interfering with structures, works or trees in the Road Reserve.

#### **2.1.3 Footway Restaurants Approvals**

These are approvals under s125 of the Act given to a person who conducts a restaurant adjacent to a footway of a Public Road to use part of the footway for the purposes of the restaurant.

The Council may, in conjunction with such approvals authorise the holder of the approval to erect and maintain structures in, on or over any part of the footway the subject of the approval.

#### **2.1.4 Public Gate Permits**

These are permits under s128 of the Act that permit the occupier of any land through which an unfenced public road passes to erect a gate across the road at any place at which the road intersects a boundary fence.

#### **2.1.5 Road Event Permits**

These are permits under s144 of the Act relating to '*Road Events*' (as defined in Part 1.1, above).

### **2.2 Applications**

An Activity is not to be carried out without a Consent being first obtained for the Activity and the Consent being complied with.

Consent for an Activity may be granted subject to such conditions as the Council thinks fit.

The procedure to make an application for Consent is set out in the Guide relevant to the Activity.

### **2.3 Fees**

Fees are specified in Council Annual Revenue and Pricing Policy.

### **2.4 Occupation of a Road Reserve**

The Council, being the owner of a Public Road for which it is the Roads Authority, may require the holder of Consent to enter into such arrangements as the Council thinks fit to occupy a Road Reserve in order to carry out the Activity authorised by the Consent.

Consent authorises the applicant to occupy and use the relevant part of a Road Reserve to which the Consent relates in order to carry out the Activity authorised by the Consent unless the Consent requires a separate authorisation from the Council for that purpose.

## 2.5 Non-Residential Consents

Non-Residential Consents will only be given to commercial contractors who:

- (a) demonstrate the necessary trade and organisational skills to undertake the Activity the subject of the Consent, and
- (b) who hold a current RTA certification for traffic management or employ RTA certified contractors.

## 2.6 Activities relating to Utility Services

Providers of Utility Services are entitled to carry out Activities in Road Reserves under particular legislation but are still subject to the requirements of the Act and this Policy.

The Council has entered into agreements with providers of Utility Services other than the Council to ensure that Activities relating to the construction and maintenance of their physical infrastructure meets appropriate standards.

## 2.7 Insurance & indemnities

Consent for Activities other than Residential Activities may be subject to a condition that the applicant:

- (a) effects and maintains for the term of the Consent a public risk insurance policy to the value of \$20 million or more noting the Council's interest as the owner of the Public Road and otherwise on terms and conditions satisfactory to the Council,
- (b) is to produce evidence of such insurance and its currency to the Council when required, and
- (c) is to indemnify the Council in respect of the Activity authorised by the Consent on terms and conditions satisfactory to the Council.

## 2.8 Traffic management plans

Consent for an Activity will ordinarily be subject to a condition that the applicant is to ensure that the carrying out of the Activity does not occur unless the Applicant has a traffic management plan prepared by an appropriately qualified person, by or on behalf of the applicant, at the applicant's cost in relation to the Activity. Activities identified in section 4.5 of this Policy will not be subject to a Traffic Management Plan.

## **2.9 Public amenity, health and safety**

Consent for an Activity will ordinarily be subject to a condition that the applicant is to ensure that the carrying out of the Activity does not

- (a) unreasonably interfere with the ordinary use of a Road Reserve by motorists, pedestrians and other members of the public,
- (b) cause damage or pollution within the Road Reserve
- (c) involve the storage of hazardous materials, construction materials or waste materials in the Road Reserve,
- (d) otherwise prejudice public health or safety or interfere with the amenity of the surrounding neighbourhood.

## **2.10 Damage to Road Reserve**

Consent for an Activity will ordinarily be subject to a condition that the applicant:

- (a) restore a Public Road to its pre-event condition following any excavation work carried out in relation to the Activity,
- (b) rectify to the satisfaction of the Council, or pay the Council the cost of rectifying, any damage within the Road Reserve caused in connection with the Activity.

## **2.11 Security for damage**

Consent for an Activity will ordinarily require the applicant to provide the Council with appropriate security relating to the restoration of, or the rectification of damage to, the Public Road or Road Reserve.

## **2.12 Notification of damage and other matters**

Consent for an Activity will require the applicant to notify immediately the Council of any incident involving a matter to which clause 2.9 or 2.10 of this Policy relates and undertake such measures at the applicant's cost as are necessary to remedy the effects of the incident to the satisfaction of the Council.

## **2.13 Enforcement of Consents**

The powers available to the Council in relation to a breach of this Policy and the procedures for enforcing this Policy are set out in the Council's Enforcement and Prosecution Policy (POL 012).

## 2.14 Revocation of Consents

In addition to any other enforcement powers available to the Council for a breach of Consent, the Council may revoke Consent if it considers the applicant is in material breach of the Consent and has failed to rectify the breach to the satisfaction of the Council following a demand by the Council to do so.

Revocation is effected by service of a notice of the revocation on the holder of the Consent.

The notice is effective according to its terms. The notice may provide that the revocation is effective immediately or may occur at a later time or be conditional on the happening of a future event.

## **PART 3: OTHER MATTERS RELATING TO ROAD RESERVES**

### **3.1 Temporary footpath closures**

The Council may approve the temporary closure of Footpaths and Nature Strips for maintenance of underground services, building work, or planting of landscaping, etc.

Such an approval may require the following to the Council's satisfaction:

- (a) the Footpath or Nature Strip to be appropriately protected,
- (b) adequate warnings to be provided for pedestrians and other users,
- (c) alternate facilities to be provided for pedestrians,
- (d) fences, lights or other equipment to be provided.
- (e) approved traffic management plan.

### **3.2 Hoardings**

In certain circumstances, Council will grant Consent for hoardings to be erected on Footpaths in accordance with the Council's Hoarding Policy.

### **3.3 Driveway Access**

The location of every driveway access from a Public Road to an adjoining or adjacent property is to be approved by Council.

The detailed requirements for driveway access are set in the Council's Engineering Guidelines for Subdivisions and Developments.

### **3.4 Above ground utility services**

Wherever possible, above ground Utility Service structures are to be located off the Road Reserve.

## **3.5 Infrastructure owned by others within the Road Reserve**

### **3.5.1 Gates and grids**

Gates and grids must have a minimum width of 4m and must open away from the road to allow the passage of all vehicles, equipment and animals ordinarily expected to pass through them.

A Public Gate Consent will be subject to a condition that the gate is to be installed by appropriately approved and qualified personnel and otherwise in accordance with this Policy.

Such Consent will require that, once installed, gates and grids and associated traffic signage shall be maintained by the applicant.

### **3.5.2 Fences**

Property or other fences shall not be erected in Road Reserves except in conjunction with a gate or grid in respect of which Consent is in force.

### **3.5.3 Mail boxes**

Mail boxes must be located on private property in kerbed areas. An exemption to this applies where Australia Post has no kerbside mail service.

In un-kerbed areas mail boxes may be located within a safe distance behind the line of guideposts and in such a manner as does not create a hazard for the delivery of mail or a traffic hazard.

Should mail boxes be required to be located in the Road Reserve, they must be constructed in such a way as to minimise risk and damage in the event of contact by a vehicle.

Mail boxes and supporting structures must be frangible.

### **3.5.4 Bus Shelters**

Where funds are available and there is a clear need, the Council will consider locating bus shelters within a Road Reserve.

Shelters will be located with due recognition of potential use, traffic issues and location of other street/road services.

In no circumstances shall shelters be sited such that they can adversely affect vehicles driving adjacent to the kerb or guideposts.

### **3.5.5 Awnings**

The Council has a separate Awnings Policy which applies to all awning structures within the road reserve (see: POL 050 Awnings Policy).

## **3.6 Traffic Management Signage**

Council has a range of responsibilities with regard to traffic management on Public Roads. This includes:

- regulatory traffic management signs, and
- advisory signs (e.g. street names)

Many such responsibilities result in the need for signs and other traffic facilities.

Signs and traffic facilities shall be constructed and maintained in accordance with Australian Standard AS1742 and other appropriate legislation and guidelines.

### **3.6.1 Community information signs (also known as Community facility signs)**

Council allows organisations (such as schools, churches, tourist organisations) to advise the community of the location of their facilities by means of signs in Road Reserves. Consent is required from Council, prior to erecting community information facility signs.

This is limited to two signs per facility with the organisation supplying the original signs.

Community information signs are white on blue background with organisation name 50mm height and facility description of 100mm height, and Tourist signs are white on a brown background. Erection is at the organisation's cost.

Replacement, upgrade or maintenance is at the cost of the organisation.

Organisations must undertake to have the sign removed at their cost if it ceases to be relevant or the Council otherwise requires the sign to be removed for any reason.

### **3.6.2 Road work signs**

Road work signs are required to be installed as per the requirements of the RTA Traffic Control at Worksites Version 4 or as amended.

## **PART 4: NATURE STRIPS & FOOTPATHS**

### **4.1 Objectives**

The Council's objectives in regards to the management of Nature Strips and Footpaths are:

- that pedestrians (including approved wheeled access vehicles) can move around the City in a safe manner and, where appropriate, on paved surfaces,
- that public utilities and other services in the Footpath are coordinated and the area is appropriately maintained,
- to provide criteria for the management and consent of activities by others on Footpaths,
- that the Footpath, including street trees, will work sympathetically to enhance the amenity of the neighbourhood/s and the streetscape, and
- to protect Council from claims which may arise as a result of activities by others on Council's Road Reserves.

### **4.2 Landscaping**

The landscaping of Nature Strips and Footpaths is to comply with the requirements of the Landscaping of Nature Strips Guidelines.

### **4.3 In-ground Watering Systems**

The installation of underground sprinkler systems in Nature Strips is not recommended.

### **4.4 Inspection of Footpaths**

Council has an inspection regime in place for Footpaths and Nature Strips.

### **4.5 Permitted Activities**

The following are permitted on nature strips and footpaths:

- putting out containers for kerbside waste collection (rubbish, recycling and green waste services and approved collection services) in the evening before and on the day of collection.

- planting and maintaining a lawn, or suitable groundcover and/or approved landscaping (as per the Landscaping of Nature Strips guidelines).
- in un-kerbed areas, mail boxes compliant with conditions of this Policy are infrastructure owned by others within the Road Reserve.
- painting property numbers on kerbs, adjacent to the driveway to a property (subject to the conditions as outlined in this Policy).
- one driveway access per property to the Council's standard specification, subject to construction approval.
- connections to utility services (house drainage to kerb line, sewer water, gas & telephone connections).
- walkway allocation be maintained in a manner suitable for safe use by pedestrians, particularly elderly and vision impaired persons and other legal uses.

## 4.6 Prohibited Activities

The following activities are prohibited within Road Reserves in urban areas:

- gates or doors that open outwards onto the road, or Road Reserve,
- mail boxes on the Road Reserve in kerbed areas, except where Australia Post has no kerbside mail service.
- any activity which adversely impacts on safety of road users or the public,
- parking of caravans and trailers on nature strips.
- rails or chains across the footpath area, and carriageway.
- construction works, trenches, and equipment parked on the footpath without signage and protective barriers.
- stock handling facilities
- using the Road Reserve as a storage area
- temporary storage of material on the footpath
- Disabled persons ramps to provide access to adjacent property.
- non standard driveways.
- placing skip rubbish bins on the Road Reserve.

## 4.7 Activities requiring specific approval

The following in Road Reserves require the Consent of the Council either in the form of development consent under the EPA Act or Consent under the Act or both.

- multiple driveways,
- activities which result in changes in level to the Road Reserve,
- placing items for display,
- installation of street furniture,
- erection of advertising signs and structures,
- construction activities which impact onto Footpaths
- bollards for traffic control,
- unapproved contractor painting property numbers on kerb.
- Using the road reserve for the purposes of working on an adjacent private property.
- Awnings
- Hoardings

## 4.8 Events in Road Reserves

Please contact Council's Traffic Division for more information.

## 4.9 Painted Property Numbers on Kerbing

The painting of house numbers on the kerb can be of assistance to emergency services, taxis and the public.

Property owners are permitted to paint house numbers on kerbing subject to the requirements set by Council.