
UNMADE OR UNFORMED ROADS

APPROVALS

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CATEGORY	Community		
POLICY OWNER	Infrastructure Planning and Technical Services		
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OBJECTIVE

The objectives of this policy are to:

- Establish the basis and process for staff to deal with requests to carry out improvements, minor repairs or maintenance on Unmade and Formed Roads;
- Provide guidelines for competent and legal entities to undertake improvements or repairs on unmade roads; and
- Provide guidance to potential users / adjoining owners on safety risks associated with the use of roads that are not Council maintained.

SCOPE

- This policy applies to current and existing gazetted road reserves under the jurisdiction of Isaac Regional Council (IRC).
- This Policy does not apply to developments that are covered under the *Planning Act 2016*.

DEFINITIONS

TERM / ACRONYM	MEANING
Council / IRC	Isaac Regional Council.
Formed Road	A public road reserve that does not have gravel paving, but which is formed using a grader so that stormwater will drain off laterally and may be used by the public but are maintained and used for property access in general.
Unmade Road	A public road reserve that has had no capital improvements including clearing, formation and gravel paving.
Unformed Road	A public road reserve that has been cleared and open to, and customarily used by the public.
Competent legal entity	A company or organisation that has legal rights and responsibilities (competent Civil Construction Contractor).

POLICY STATEMENT

The Unmade Roads Policy's focus is on the following criteria.

Road User Safety

Council does not maintain unmade roads and some unformed and formed roads and therefore does not assume responsibility for any lack of maintenance including maintenance of safe transport functionality on those roads.

Economic Considerations

Approximately 30% of IRC's Roads remain as Unmade Road. The level of funding available to Council to undertake the required level of maintenance, rehabilitation or renewal is a major constraint. Taking over the responsibility for upgrading and maintaining more roads currently not maintained by Council will require additional funds and the benefits to affected landowners need to be balanced against wider community benefits, reduction in service levels of other Council maintained roads and reduced financial sustainability. Therefore, the cost of maintaining safe access must be borne by the user until such time the road qualifies for Council's maintenance.

Environmental Impact

Upgrading unmade roads to current standards will have an impact on existing trees, habitat and biodiversity, as most of these roads are in rural areas and have vegetation encroachments along the road reserves. In many cases, these unmaintained road reserves represent the last remnants of undisturbed natural vegetation in the area. A vegetation clearance permit from relevant authorities must be obtained prior to such works.

Responsibility for Maintenance of Unmade Roads

- Council is not obliged to assume responsibility for unmade roads until it has made a decision under the *Transport Operations (Road Use Management) Act 1995*, that the road is reasonably required for general public use.
- Council only maintains the roads that are included in Council's Register of Public Roads.
- Council maintained Roads are usually constructed by Council or by another party to Council's standards and formally handed to and accepted by Council.

The cost of maintenance of unmade roads is the responsibility of the landowners who use the road for access to private properties. Where access is only for a single property, the property owners may also choose to upgrade the section of road to a standard lower than Council would accept (akin to a driveway) to access their property at their cost and maintenance responsibility.

Unmade roads are often subject to a lease or license by adjacent landowners under the *Land Act 1994*. In such circumstances, Council will not undertake any maintenance in these areas.

Although there is no obligation to undertake maintenance on unmade roads, the following exceptions may apply:

- Maintenance of fire access tracks
- Emergency service access requirements if assessed as acceptable by Council.
- Council's own requirements.
- Where there is an identified hazard or risk of significant injury or life not covered elsewhere in this policy.

Upgrading Unmade Roads by Landowners

Council will accept written applications to construct a formed road by the applicants. Applications will be assessed and may be granted conditional approval based on requirements outlined in this policy.

Conditions and standards of construction will generally be as per the Capricorn Municipal Development Guidelines (CMDG), other relevant engineering standards and guidelines in this policy. The Chief Executive Officer (or delegate) has the authority to amend these engineering standards appropriate to the situation.

The construction of a road to Council standards does not automatically imply that Council will maintain the road. Council as a rule will only take over maintenance of the road, if it provides wider community benefits and satisfies the conditions outlined under "Requests for Maintenance" below. At this point the road will be listed on Councils Road Register.

Following construction of the road in accordance with an approval and its acceptance by the authorised Council officer, Council may assume responsibility for its maintenance, subjected to conditions stated in this Policy.

Requests for Maintenance or Upgrade of Unmade Roads

Council considers applications individually based on:

- The merits to upgrade an existing Unmade Road to Council standard road.
- Costs associated with its maintenance and subsequent management responsibilities.

Factors considered include:

- Has the road has been constructed to a standard acceptable to Council?
- Is there an acceptance of an Infrastructure Agreement by the residents?
- Is the Road named and signed?
- Was the Road previously constructed by or regularly maintained by Council?
- Does the Road contain assets owned and maintained by public service authorities (e.g. Gas, Electricity, Telecommunications, Sewerage and Water)?
- Does the construction of the Road provide clear benefit to several property owners?
- Is the Road required for fire access purposes?
- Is the Road required for emergency services access other than fire access purposes?
- Does the Road connect into and form part of the wider network of public roads?
- Is the Road fenced on both sides?
- Does the Road have a minimum traffic count of average 25 vehicles per day (based on service interference feasibility) on a regular basis?

Council's decision on acceptability of any request will be binding and final.

Permits, Approvals and Legal

Working on Road permit is applicable prior to commencement of any works on an Unmade Road.

Unmade Roads will continue to remain as the lawful access to adjoining properties and Council is not obliged to assist property owners to establish practical access.

Unmade Roads subject to a State permit or lease or license by adjacent landowners under the *Land Act 1994*, the permit or lease or license holder must undertake any maintenance in these areas. Council will not undertake any maintenance in these areas.

No maintenance or legal liabilities are accepted by Council for works approved by other authorities, e.g. clearing.

No legal liabilities are accepted by Council, for usage that does not comply to requirements under this policy.

No maintenance or legal liabilities are accepted by Council for instances where natural disasters/ calamities affect the condition of the Unmade roads.

Guiding principles

Should a landowner require access via an unmade road, Council expects that the landowner will provide that access at their cost. This places them in the same situation as a subdivider who must upgrade roads at their cost as part of a new development.

Where Council receives a written request to carry out minor repairs or maintenance to an unmade road at no cost to Council, approval may be given by the Chief Executive Officer (or delegate) subject to the following conditions:

- a. The applicant obtains all appropriate State Government approvals before any works commences (i.e. clearing etc).
- b. No clearing of vegetation occurs without approval from the Chief Executive Officer (or delegate).
- c. No gravel is placed on the road without the approval of the Chief Executive Officer (or delegate).
- d. The work does not unduly affect or inconvenience neighbouring property holders.
- e. All affected landholders (i.e. regular users) and Council have been notified 2 working days prior to work commencing.
- f. The work is undertaken and protected by a competent legal entity.
- g. The landowner must negotiate and formalise any legal right of entry (e.g. easement) should the access traverse another's property.

LEGISLATION AND RELATED GUIDELINES

- *Local Government Act 2009*
- *Land Act 1994*
- Subordinate Local Law No. 1.1, 1.14 and 1.15