

# Closure of Walkways Policy

## 1. Policy Statement

The City of Playford is committed to providing a safe and connected community. Occasionally requests are received from residents seeking to close public access to walkways, generally as a result of experiencing anti-social behaviour. The purpose of this policy is to outline how the City of Playford will manage requests for closure of a walkway. The policy aims to:

- Clarify the conditions that must be considered to close a walkway;
- Define the responsibility for meeting the costs associated with closing a walkway; and
- Provide commitment to ensuring public consultation is undertaken by Council staff in accordance with relevant legislation and Council’s Public Consultation Policy

Any decision on the closure of a walkway will be subject to compliance with the relevant legislative requirements, prior to a decision being made

## 2. Scope

This policy applies to all members of the community within the City of Playford.

## 3. Definitions

**Adjoining property owner** is a person who owns property which adjoins a walkway being considered for closure and/or disposal.

**Agreement for Transfer** means an agreement (other than an agreement for exchange) between a Council and another person under which land subject to a proposed road closure is to be transferred to that other person in fee simple; or is to be added to land held by that other person under a Crown lease or agreement to purchase, whether or not an amount is agreed to be paid in consideration of such transfer or other dealing, as defined in the Roads (Opening and Closing) Act 1991.

**Council Member** as stated in the *Local Government Act 1999*, **member** of a council means the principal member or a councillor of the council

**Road Process Order** means an order made by a relevant authority for a road process pursuant to the Roads (Opening and Closing) Act 1991, including, in relation to a road closure, any further order made as part of the order, as defined in the Roads (Opening and Closing) Act 1991.

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**Staff** includes Council staff, contractors, volunteers and all others who perform work on behalf of Council.

**Traffic control device** means a sign, signal, marking, structure or other device or thing, to direct or warn traffic on, entering or leaving a road, and includes a traffic cone, barrier, structure or other device or thing to wholly or partially close a road or part of a road; as defined in the Road Traffic Act 1961.

**Walkway** is a pedestrian thoroughfare under the care and control of Council between adjacent properties. A walkway is classified as a road under the Roads (Opening and Closing) Act 1991 and the Local Government Act 1999. A walkway may also be classified under the Road Traffic Act 1961 as a 'road-related area'.

#### 4. Legislation and References

The following legislation and references apply to this policy:

##### **Roads (Opening and Closing) Act 1991**

Under the Roads (Opening and Closing) Act 1991 a 'road' means a public road within the meaning of Section 4 of the Local Government Act 1999; or an alley, laneway, walkway or other similar thoroughfare vested in a Council.

Section 4 gives Council the power to open and close roads by a road process order made by the relevant authority, confirmed by the Minister and notified in the Gazette.

Section 5 allows Council to commence a road process.

Part 3 of the Roads (Opening and Closing) Act 1991 details the requirements of Council to undertake a road process including preparation of the relevant documentation and public consultation.

An 'agreement for transfer' means an agreement (other than an agreement for exchange) between a Council and another person under which land subject to a proposed road closure -

- a) is to be transferred to that other person in fee simple; or
- b) is to be added to land held by that other person under a Crown lease or agreement to purchase, whether or not an amount is agreed to be paid in consideration of such transfer or other dealing.

##### **Local Government Act 1934**

Section 359 - Prohibition of traffic or closure of streets or roads

- 1) The council may by resolution, supported by a majority of all members of the council, exclude vehicles generally or vehicles of a particular class from a particular street, road or public place or part of a particular street, road or public place.
- 2) The council may by resolution revoke or vary any such resolution.

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- 3) Subject to the *Road Traffic Act 1961*, the council may erect such barricades or other traffic control devices as are necessary to give effect to a resolution passed under this section.
- 4) A resolution passed under this section cannot take effect before it has been published in the Gazette and in a newspaper circulating in the area.

### **Local Government Act 1999**

Section 4 provides a definition of a road as meaning 'a public or private street, road or thoroughfare to which public access is available on a continuous or substantially continuous basis to vehicles or pedestrians or both and includes -

- a) a bridge, viaduct or subway; or
- b) an alley, laneway or walkway;

Section 50 requires Council prepare and adopt a Public Consultation Policy which sets out the steps that the Council will follow when the Act requires Council follows its public consultation policy or when decisions are made.

### **Road Traffic Act 1961**

Section 17 provides that Council (as a road authority) may, with the approval of the Minister, install, maintain, alter or operate, or cause to be installed, maintained, altered or operated, a 'traffic control device' on, above or near a 'road'.

Under the Road Traffic Act 1961 a 'traffic control device' means a sign, signal, marking, structure or other device or thing, to direct or warn traffic on, entering or leaving a road, and includes -

- a) a traffic cone, barrier, structure or other device or thing to wholly or partially close a road or part of a road;

Under the Road Traffic Act 1961 a 'road' means an area that is open to or used by the public and is developed for, or has as one of its main uses, the driving of motor vehicles.

Section 6A provides that a reference in the Road Traffic Act 1961 to a 'road' includes a reference to a 'road-related area' unless it is otherwise expressly stated.

Under the Road Traffic Act 1961 a 'road-related area' means any of the following:

- (a) an area that divides a road;
- (b) a footpath or nature strip adjacent to a road;
- (c) an area that is not a road and that is open to the public and designated for use by bicyclists or animals;
- (d) any public place that is not a road and on which a vehicle may be driven, whether or not it is lawful to drive a vehicle there;

Section 32 details the process which Council must follow if it proposes to install a traffic control device to wholly or partially close a road or part of a road.

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## 5. Policy

The relevance of walkways has declined over the years. Residents are now more reliant on motor vehicles for transportation and the prominence of community facilities that walkways originally serviced has declined with the introduction of major regional shopping centres.

Antisocial behaviour in and around walkways has escalated. Council recognises that this antisocial activity can adversely impact directly on those living adjacent to walkways and the immediate need is to ensure that the community can enjoy an improvement in their personal safety and security.

This policy is designed to provide guidance to:

- Residents who may wish to have a walkway closed to address antisocial issues associated with that walkway;
- Residents who may wish to have a walkway closed and the land amalgamated with their adjoining property;
- Affected persons who may object to a walkway closure;
- Council Members to assist them in assessing requests for walkway closures; and
- Staff who are involved in walkway closures and maintenance.

### Considerations for Closure/Disposal

The closure of walkways will be supported unless strong reasons can be shown for keeping the walkway open.

A walkway will be considered for closure/disposal if:

- It is no longer required as a thoroughfare;
- It is not required for services reticulation, (e.g. for electricity mains, storm water, floodway), or if appropriate access to services can be maintained by access or an easement; and it either
- Attracts an unsatisfactory level of antisocial behaviour; or
- Adjoining property owners have an interest in acquiring the land

A walkway may be closed in any of the following ways:

- *Permanent closure of the walkway and transfer of the land to adjoining owners via an Agreement for Transfer*  
In the case where four owners adjoin a walkway, there must be at least two owners willing to have the land amalgamated with their allotment, one owner from each end of the walkway, for Council to consider an application to close the walkway
- *Temporary closure of the walkway by installation of a gate*  
Gate installation will be undertaken by Council contractors and will become an asset of the Council. Where service providers need access to a gated walkway, keys will be provided to allow access to continue.

### Order of Preference for Closure

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Where a walkway has been identified for closure, the following order of preference for closure shall apply.

1. In the first instance, a walkway will be offered for closure by transfer of land to the adjoining property owners.
2. Where a walkway is unable to be closed by transfer of land (ie due to significant infrastructure located within the walkway which is unable to be relocated), as a last resort gates may be installed at either end of the walkway. Council will subsidise the cost of the installation of gates with each adjoining property owner charged an administration fee (in accordance with Council's Schedule of Fees and Charges) to cover the costs associated with this process.

### **Maintenance of Walkways**

Council will ensure that any walkways that are closed by installation of gates will remain within its maintenance program covering such issues as weeds, gate maintenance and graffiti removal.

## **6. Responsibilities**

The Assets and Projects team will be responsible for communicating, implementing and monitoring compliance to the policy.

## **7. Relevance to Council Plan**

### **Strategy 5 - Building our capabilities**

Outcomes:

- 5.1 Highly performing organisation
- 5.2 Delivering value for money services
- 5.3 Effective government and private sector partnerships.

## **8. Supporting Documentation**

- Walkway Closure Procedure
- Public Consultation Policy
- Local Government Act 1934
- Local Government Act 1999
- Road (Opening and Closing) Act (1991)
- Road Traffic Act 1961

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## 9. Approval and Change History

Version	Approval Date	Approval by	Change
1.0	September 2006	Council	New Policy
2.0	June 2015	Council	Policy Review

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