

6.1 UBWN: Request to Close the Majority of Carrs Gap Road

REPORT BY THE REVENUE & PROPERTY MANAGER TO 16 OCTOBER 2013 COUNCIL MEETING

Road Closure Application - Carrs Gap Road

GOV400029, A0100056, R0790175

RECOMMENDATION

That:

- 1. the report by the Revenue & Property Manager on the Request to Close the Majority of Carrs Gap Road be received; and**
- 2. Council agree to the closure of that section of Carrs Gap Road at the western end from the western boundary of the adjacent lot 1 DP 803204 to the intersection of Murragamba Road at the eastern end as shown on the plan in Attachment 1 to this report and make an application to the Crown Land Lands Division for the closure; and**
- 3. If, upon closure of that section of Carrs Gap Road all of the land in that section or land in part/parts of that section vests in Council, Council authorises:-**

that upon transfer of title to Council, public notice be given of the intention to classify the land as “Operational” and should Council not receive any submissions during the 28 day notification period, the land be so classified ; and

the General Manager to negotiate the terms of the sale of the land to Moolarben Coal Mines P/L including the proponent being responsible for any and all associated costs.
- 4. Council authorises the Common Seal of Council to be affixed to all documentation necessary in relation to the Road Closure; and if applicable, to all documentation necessary in relation to the sale of the land to Moolarben Coal Mines P/L.**

Executive summary

On 20 August 2008, after receiving a formal request from Moolarben Coal Operations P/L, Council resolved to close that part of Carrs Gap Road from the Murragamba Road intersection to the southern-most section of road reserve between Lot 1 DP 803204 only after the affected landowners agreed to the closure. At the time, two landowners objected to the closure and as a consequence the application did not progress.

Since August 2008, Moolarben Coal Mines P/L (Moolarben) has acquired all lands either side of that part of the Carrs Gap Road that was requested to be closed initially. Due to these changed circumstances and the considerable time lapse from the initial request, Moolarben has now lodged a fresh Road closure request.

Detailed report

Attachment 1 to this Report is Moolarben’s request to Council to close the majority of Carrs Gap Road. A plan of that part of the Road to be closed forms part of Attachment 1. The length of the Road proposed to be closed is approximately 4.886 klms, comprising approximately 9.28 Ha.

The small section of Carrs Gap Road that adjoins Lagoons Road and traverses part of lots 280 DP 42195 and 96 DP 755442 is not included in Moolarben's road closure request as Ulan Coal Mines Ltd (Ulan) own Lot 280 DP 42195.

Attachment 2 is an aerial photograph showing the location of the entire Carrs Gap Road in relation to the Moolarben Coal Mine, Murragamba Road and the Ulan-Wollar Road.

The closure of the Road is sought by Moolarben for the following uses:

The western end of the road will only be used for farm activity access to Lot 1 DP 803204 which is owned by the Moolarben Coal Joint Venturers.

The remainder of the road and their adjoining properties will be actively mined in accordance with the Mining Project Approval 05_0117 of 6 September 2007.

Council's records indicate that Carrs Gap Road is a Council controlled road reserve, parts of which have had road construction activity undertaken in the past. The Road no longer provides direct access to property owned by any other landowner and there is little likelihood of the Road being required as a through road.

Ulan owns land north-east of the intersection of Carrs Gap Road and Murragamba Road, with physical access currently being obtained off the Ulan –Wollar Road and Murragamba Road (accessed off Ulan-Wollar Road). Potentially Ulan could access their property from the Carrs Gap Road. Ulan has indicated that it has no objections to the closure.

The decision to close this Road will be made by the Crown Lands Division after a public process, where the possibility of closing the Road will be advertised, and all community members will have a chance to object to the closure.

As parts of this Road have not benefited from road construction activity in the past, there is a strong possibility that upon the proposed closure, all or some of the land the land will vest in the Crown and not in Council (Section 38(2)(b) & (c) Roads Act 1993). The outcome is the land would become the Crown's to sell and the proceeds of the sale would be directed to the Crown. Council would not gain any benefit upon the closure of the Road.

Enquiries to overcome this issue have been made to the Crown Lands Division on the basis that sections of the Road have had construction activity undertaken at some time, some maintenance has occurred closer to the Murragamba Road intersection and the Road has been used as access for decades to a number of farming properties prior to the purchase of these properties by Moolarben. Crown Lands has subsequently advised that due consideration will be given to these circumstances when processing the proposed application. Crown Lands may deliberate that the entire section of the Road, part or parts of the Road; or none of the Road will vest in Council.

Attachment 3 to this Report comprises photographs of the Road, showing some of the formed and unformed sections.

Financial implications

Dependent upon the deliberations of Crown Lands in relation to the vesting of the land in Council and in accordance with Council's *Permanent Road Closures Policy* regarding the closure of a road subject to the processes of the Roads Act 1993, Moolarben would be responsible for all costs associated with the closure of that part of Carrs Gap Road. In addition, Moolarben would be responsible for the purchase of the land through which the Road is passing from Council, the cost of which would be determined and calculated on the basis of current Improved Capital Value market rates, with reference to sales of surrounding lands. Moolarben would also be required to facilitate the progress of the Road Closure Application where applicable.

Strategic or policy implications

Council's *Permanent Road Closures Policy* and *Unmaintained and Unformed Roads Policy* apply.

That part of Carrs Gap Road proposed to be closed no longer provides access to properties that are separately owned and there is little likelihood of the Road being required as a through Road.

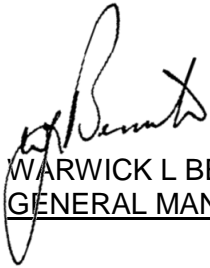
DIANE SAWYERS
REVENUE & PROPERTY MANAGER

CLARE PHELAN
DIRECTOR, FINANCE & ADMINISTRATION

5 September 2013

- Attachments:*
1. Mooarben Coal Mines request for closure of Carrs Gap Road & plan of the part of the Road to be closed.
 2. Aerial photograph of proposed Road closure
 3. Photographs showing some formed and unformed sections of the Road.
 4. Council's *Permanent Road Closures Policy* and *Unmaintained and Unformed Roads Policy*.

APPROVED FOR SUBMISSION:



WARWICK L BENNETT
GENERAL MANAGER



SITE: 4250 Ulan Road, Ulan NSW 2850
POSTAL: Locked Bag 2003 Mudgee NSW 2850
PHONE: +61 2 6376 1500
FAX: +61 2 6376 1599
WEBSITE: www.moolarbencoal.com.au
ABN: 59 077 939 569

09 August 2013

Mr Warrick Bennett
General manager
Mid-Western Regional Council
PO Box 156
MUDGEE NSW 2850

Dear Warwick

CARRS GAP ROAD CLOSURE APPLICATION

Reference is made to the road application made for Carrs Gap Road in 2008, copy of application is attached.

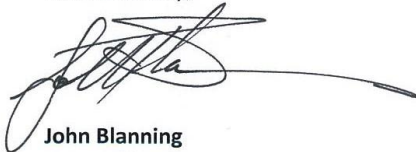
Please find attached a new Road Closure Application for Carrs Gap Road in view that the application is now 5 years old and land ownerships have changed during this time.

We trust that this documentation satisfies Moolarben Coal's obligations for the Road Closure.

Your agreement in approving the road closure as per discussions with Moolarben Coal on the 8th August 2013 is appreciated and Moolarben Coal looks forward to meeting to resolve the purchase price.

Should you require further information relating to this matter please do not hesitate to contact me on 02 6376 1500 or Hans Richter on 02 6376 1536.

Yours sincerely,



John Blanning
General Manager



Road Closure: Public Road Closure application (Council)

This form should be used by councils applying to close a public road. Refer to the Roads page for more information.

Applicant(s) details

Applicant(s)	Moolarben Coal Operations Pty Ltd		
Postal Address	Locked Bag 2003 MUDGEE NSW 2850		
Phone	02 6376 1500	Fax	02 6376 1599
Email Address			

hereby apply for the closing of the public road described in Section 1 below.

Section 1: Description of Public Road to be Closed

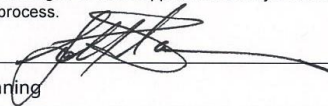
Town/locality	Moolarben/Ulan	LGA	Mid Western Regional	Parish	Ulan/Wilpinjong	County	Philip
General text description of road	Unformed Carrs Gap Road from Lagoons Road at the western end to Murragamba Road at the eastern end.						
Supply Diagram	Road proposed to be closed shown by		RED	colour on attached diagram.		Area: about	10.06 Ha
Include a copy of any relevant map or sketch to show clearly the locality, the boundaries & dimensions of the road proposed to be closed plus the land title boundaries of adjoining properties. Also show the position and type of any fencing and buildings / structures adjoining the road and any reticulation services (eg. power or telephone lines, water, sewer or gas pipes, drains) within the road boundaries.							

Section 2: Details of Land Held by Applicant in Vicinity of Road

Portion or Lot/DP	Title Reference	Parish	County
Refer to attached List & Plan		Ulan / Wilpinjong	Philip

I/we understand that the fee lodged with this application is only an advance towards costs and that further costs and information may be called for during the course of the application process.

Signature(s)
of applicants


John Blanning

For and on behalf of
Moolarben Coal Operations Pty Ltd

Date 9 August 2013

Submitting this form

- Mail the form to Crown Lands Division, NSW Trade & Investment, PO Box 2155, DANGAR NSW 2309 with a cheque or money order for \$767.30* made payable to Crown Lands

Privacy: Information collected will not be given to any other third party except where required by law. All information provided will be held by the Crown Lands Division of NSW Trade & Investment and will be managed in accordance with provisions under the *Privacy and Personal Information Protection Act 1998*.

*Fees are subject to change and are current at the time of publication. Conditions apply.

Office Use Only

Business Unit	BCN	Referral code	BCNRD	Receipting code	RD/RC	TRIM Doc	
Fee Paid		Receipt No.		Date		Account No	

Section 3: Details of Any Construction and Use of the Road

Use	<i>(provide a general statement on whether or not any use has been made of the road for access by the public or landowners in the last 5 years, or whether the road is needed for access to properties, rivers, creeks, lakes, beaches, public reserves, railway lines etc.) --</i> The western end of the road is used for access to the Moolarben Coal owned property know as "The Lagoons" There is no other known use of the road. Moolarben Coal Joint Venturers own all properties adjoining and in the vicinity of the road. Road closure application of the Crown Roads leading from this road are being processed by T & I.
Services	<i>(provide a list of any public authorities or persons that have reticulation services or lines laid within the road boundaries – please provide their written consent to the proposed road closing to facilitate action on the application – some may require the creation of easements in connection with the registration of a deposited plan, which shows the road to be closed) --</i> No active services within the road reserve.
Construction	<i>(provide a brief statement on whether or not any construction of the public road has ever taken place - if so provide any known details such as the type of roadworks & structures, the surface material, maintenance works, the last type & date of work & whether the existing surface retains evidence of any former road construction or use.)</i> The road has never been formed, constructed or maintained. There is a four-wheel drive tack in evidence, much of which does not follow the road reserve and also never been formed or maintained. The track has only had light use over many years.
Unnecessary road	<i>(provide a general statement on why the road is considered unnecessary, particularly if the road is at present constructed or used, or if separate action has been or is being taken by the Roads Authority to relocate the road to another position), --</i> All the properties that the road would have serviced are owned by Moolarben Coal Joint Venturers pursuant to its Coal Mining Project approval 05_0117 of 6 September 2007.
Proposed use	<i>(provide a general statement of how you envisage the land will be used if the road is closed), --</i> The western end of the road will only be used for farm activity access to Lot 1 on DP 803204 which is owned by the Moolarben Coal Joint Venturers. The reminder of the road and their adjoining properties will be actively mined in accordance with the Mining Project Approval 05_0117 of 6 September 2007
Vegetation & topography	<i>(provide a general statement on the vegetation within the road boundaries and the nature of the terrain, particularly for a rural road),</i> The road runs through open grassland on a steep raise to the saddle of Carrs Gap. Parts of the eastern section of the road is on low laying and marshy country and is impassable in wet conditions.

Section 4: Affected Adjoining Owners/Public Utilities

Details of Ownership of Land Adjoining the Road	
<p>1. Portion/Lot _____ DP _____</p> <p>Please refer to attached List and Plan</p> <p>Owner(s) _____</p> <p>Address _____</p> <p>Please attach documentation from the landowner to your application indicating their agreement to the road closure proposal.</p>	<p>2. Portion/Lot _____ DP _____</p> <p>Owner(s) _____</p> <p>Address _____</p> <p>Please attach documentation from the landowner to your application indicating their agreement to the road closure proposal.</p>
<p>3. Portion/Lot _____ DP _____</p> <p>Owner(s) _____</p> <p>Address _____</p> <p>Please attach documentation from the landowner to your application indicating their agreement to the road closure proposal.</p>	<p>4. Portion/Lot _____ DP _____</p> <p>Owner(s) _____</p> <p>Address _____</p> <p>Please attach documentation from the landowner to your application indicating their agreement to the road closure proposal.</p>
<p>5. Portion/Lot _____ DP _____</p> <p>Owner(s) _____</p> <p>Address _____</p> <p>Please attach documentation from the landowner to your application indicating their agreement to the road closure proposal.</p>	<p>6. Portion/Lot _____ DP _____</p> <p>Owner(s) _____</p> <p>Address _____</p> <p>Please attach documentation from the landowner to your application indicating their agreement to the road closure proposal.</p>

Public Authorities with Affected Public Utilities (E.G., power lines, water pipes, gas pipes, drainage pipes, telephone lines)	
<p>Utility type _____</p> <p>Public Authority _____</p> <p>The proposed road closing has been discussed with the authority who has indicated the following views:</p> <p><input type="checkbox"/> No objections to closing of road</p> <p><input type="checkbox"/> Written agreement to creation of easement attached</p>	<p>Utility type _____</p> <p>Public Authority _____</p> <p>The proposed road closing has been discussed with the authority who has indicated the following views:</p> <p><input type="checkbox"/> No objections to closing of road</p> <p><input type="checkbox"/> Written agreement to creation of easement attached</p>
<p>Utility type _____</p> <p>Public Authority _____</p> <p>The proposed road closing has been discussed with the authority who has indicated the following views:</p> <p><input type="checkbox"/> No objections to closing of road</p> <p><input type="checkbox"/> Written agreement to creation of easement attached</p>	<p>Utility type _____</p> <p>Public Authority _____</p> <p>The proposed road closing has been discussed with the authority who has indicated the following views:</p> <p><input type="checkbox"/> No objections to closing of road</p> <p><input type="checkbox"/> Written agreement to creation of easement attached</p>

Section 5: For Completion only by Council - If the Local Council is the Applicant

Council Contact: _____ Phone: _____ Reference: _____

Classified Roads Is the road to be closed a classified road? No Yes *(The written consent of the Roads & Maritime Services is attached)*
 Roads created in private subdivisions prior to 1920 (see note in information sheet on page 3)

The land was set aside for the purposes of road in plan of subdivision DP _____

- Title to the land remains as a residue of the subdivided title in the name of the original subdivider.
 The reference to title is Volume _____ Folio _____
- Council has made all necessary enquiries and on the basis of evidence has determined that the land is a public road by way of common law dedication; (please provide a statement regarding the evidence relied upon) or
- Council, pursuant to Section 16 of the Roads Act, has published a notice to dedicate the land as public road in the Government Gazette.
 Gazette date _____ Gazette folio _____

COUNCIL ROAD (land will remain vested in Council if road is closed – sec. 38(2)(b) Roads Act)
 (Please tick the appropriate boxes to indicate the manner of intended disposal, which may arise from the closure of the public road. Where the land is to remain vested in Council on closure, Council should indicate below whether the land is to be vested as operational land or community land, see sec.43)

- operational land:**
 - sale to adjoining land owners* sale by public auction or tender
 - sale by private treaty retention of land for Council operations
 - other _____

community land (if so please indicate the intended use)

General statement outlining intended disposal/land use

*If it is intended that the land be sold to adjoining land owners listed in Section 4, the statement could refer to "owner 1 - half width; owner 2 - full width" etc.
 Note – A deposited plan, registered at the Office of Land and Property Information, NSW, will be called for from the Council prior to final closing action, after any objections have been considered and if the proposal is to proceed. The DP may be either a plan of survey, or a plan compiled from existing surveys and may show the whole of the road as one lot, or as a number of lots (plus easements) in accordance with a proposed disposal.

COUNCIL ROAD (land will vest in the Crown if the road is closed – sec. 38(2)(c) Roads Act)

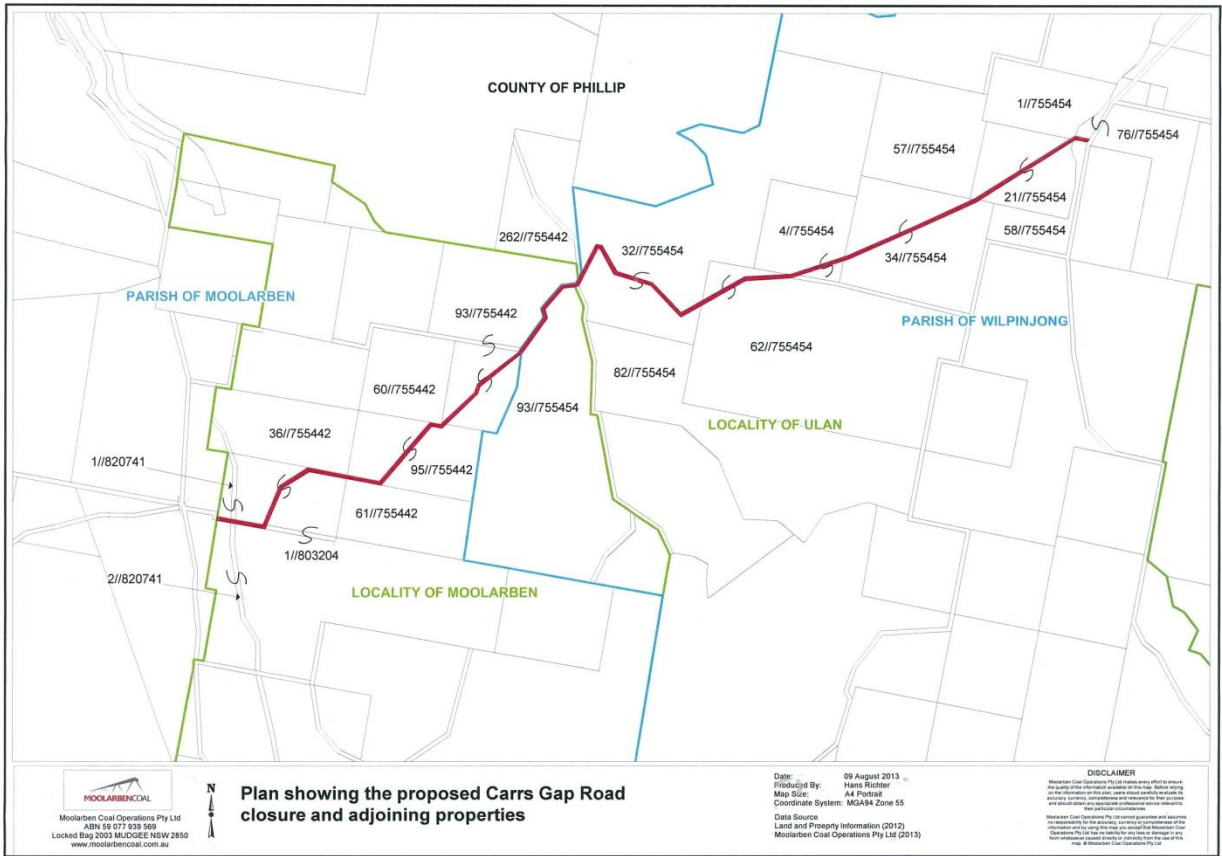
- Road closing proposal initiated by Council
- Third party**
- Road closing proposal initiated with Council by third party
- Application costs have been submitted through Council by the third party
- Name(s) _____ Phone No. _____
- Address _____
- Objective _____

JOINT ROAD OPENING/ROAD CLOSING - Proposal to close road in conjunction with a Council road opening

- Comment regarding need to synchronise timing of road closing to coincide with Council acquisition of other land for road or construction and opening of new road

- Request for land in closed road to be given in compensation (For other land acquired by Council for the purposes of the Roads Act 1993, eg. a road opening associated with this road closing to improve the public road network for the benefit of the public – see section 44. Please provide details.)

Details of Land held by the Applicant in the vicinity of the Road				
Lot N°	Plan N°	Parish	County	Owner
36	755442	Moolarben	Philip	Moolarben Joint Venture (see below)
60	755442	Moolarben	Philip	Moolarben Joint Venture (see below)
61	755442	Moolarben	Philip	Moolarben Joint Venture (see below)
93	755442	Moolarben	Philip	Moolarben Joint Venture (see below)
95	755442	Moolarben	Philip	Moolarben Joint Venture (see below)
262	755442	Moolarben	Philip	Moolarben Joint Venture (see below)
1	755454	Wilpinjong	Philip	Moolarben Joint Venture (see below)
4	755454	Wilpinjong	Philip	Moolarben Joint Venture (see below)
21	755454	Wilpinjong	Philip	Moolarben Joint Venture (see below)
32	755454	Wilpinjong	Philip	Moolarben Joint Venture (see below)
34	755454	Wilpinjong	Philip	Moolarben Joint Venture (see below)
57	755454	Wilpinjong	Philip	Moolarben Joint Venture (see below)
58	755454	Wilpinjong	Philip	Moolarben Joint Venture (see below)
62	755454	Wilpinjong	Philip	Moolarben Joint Venture (see below)
76	755454	Wilpinjong	Philip	Moolarben Joint Venture (see below)
82	755454	Wilpinjong	Philip	Moolarben Joint Venture (see below)
93	755454	Wilpinjong	Philip	Moolarben Joint Venture (see below)
97	755454	Wilpinjong	Philip	Moolarben Joint Venture (see below)
1	803204	Moolarben	Philip	Moolarben Joint Venture (see below)
1	820741	Moolarben	Philip	Moolarben Joint Venture (see below)
2	820741	Moolarben	Philip	Moolarben Joint Venture (see below)
Moolarben Joint Venture owners are:				
Moolarben Coal Mines Pty Limited				
Sojitz Moolarben Resources Pty Ltd				
Kores Australia Moolarben Coal Pty Limited				
Operating as:				
Moolarben Coal Operations Pty Ltd				

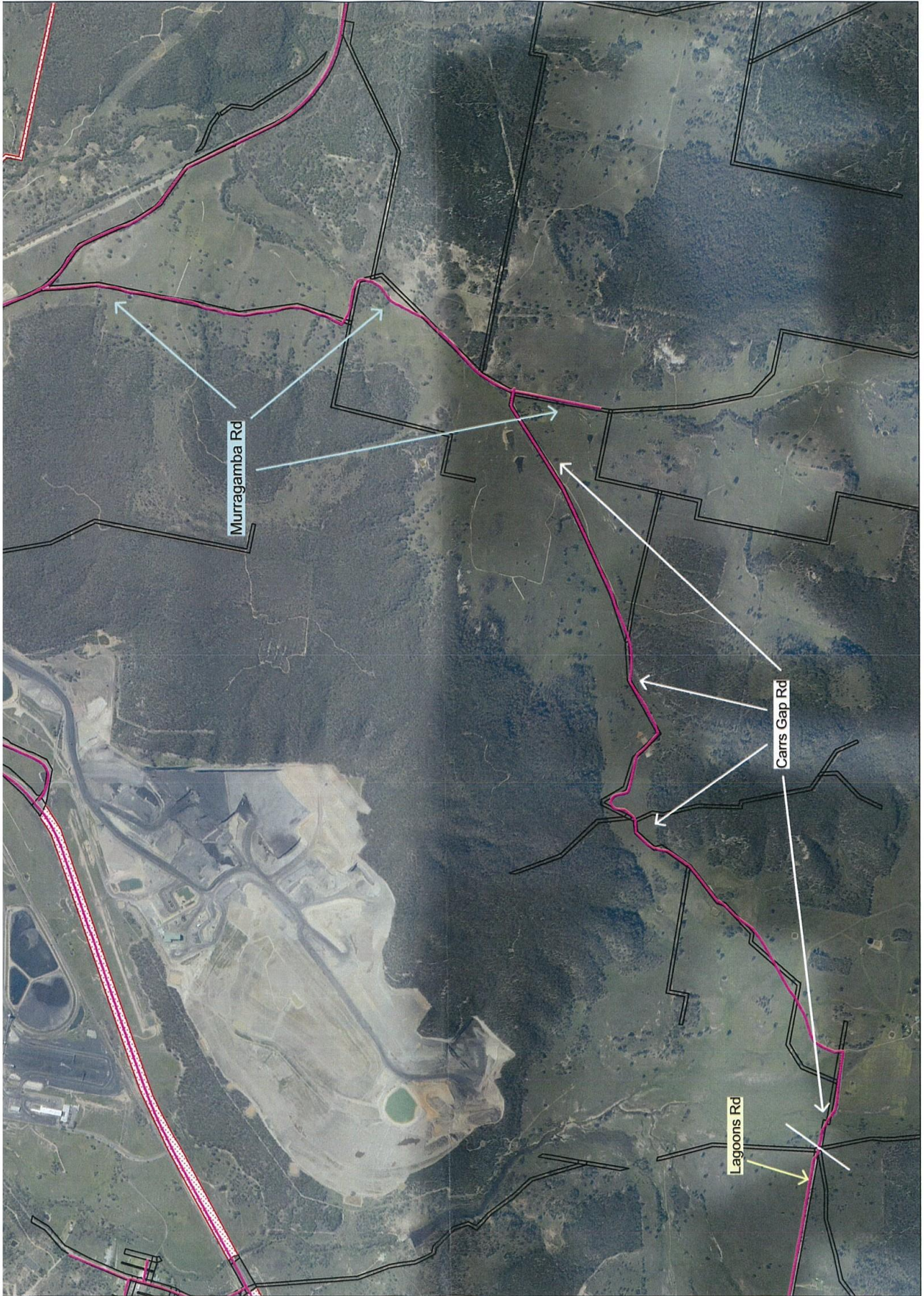


MOOLARBEN COAL
 Moolarben Coal Operations Pty Ltd
 ABN 59 077 929 960
 Locked Bag 2003 MUDGEE NSW 2850
 www.moolarbencoal.com.au

Plan showing the proposed Carrs Gap Road closure and adjoining properties


Date: 09 August 2013
 Produced By: Hans Richter
 Map Scale: A4 Portrait
 Coordinate System: MGA84 Zone 55
 Data Source:
 Land and Property Information (2012)
 Moolarben Coal Operations Pty Ltd (2013)

DISCLAIMER
 Moolarben Coal Operations Pty Ltd makes every effort to ensure the quality of the information available on this map. Whilst every effort is made to ensure the accuracy of the information, the user acknowledges that the user is responsible for their own use of the information and that the user should seek professional advice where necessary.







	POLICY	ADOPTED CM 6/6/13 Minute 212/13
	Permanent Road Closures	REVIEW: Aug 12 FILE No. A0100021

OBJECTIVE

To manage requests for extinguishment of existing Public Road Reserves.

This policy will assist Council in achieving Theme 4, Goal 4.1 of the Community Plan, *'Connecting our Region High Quality Road Network that is Safe and Efficient'*

POLICY

Council will consider applications from adjoining owners for the closure and sale of unformed roads in the Region provided that it does not deny access to a public waterway, public infrastructure or adjoining properties.

Prior to proceeding through the formal process of road closure through the Roads Act (s33 – 38), Council will take account of the individual circumstances of the road including;

- The likelihood of the road being required as a through road;
- The legal requirement for the road to give access to separate lots or sections;
- The access to public infrastructure or public waterway.

In the event that Council determines that a road may be closed subject to the processes of the Roads Act, the person requesting the road closure will be responsible for the following:

- All costs associated with the closure of the road.
- The cost of the land calculated on the basis of the improved Capital Value of the land through which the road is passing.

Adopted: Min No. 212/13 Ord Mtg 06.06.13
Re-Affirmed/Amended:
Review Date:

PERMANENT ROAD CLOSURES

ROADS ACT NSW 1993

33 Proposal to close public road

- (1) The Minister may, whether or not on an application under section 34, propose the closing of a public road other than a freeway.
- (2) The RTA may propose the closing of a freeway.

34 Applications for closing of public road

- (1) An application for the closing of a public road (other than a freeway) may be made:
 - (a) in the case of a Crown road, by any person, and
 - (b) in the case of any other public road, by the roads authority for the road or by any other public authority.
- (2) An application may be transferred, in accordance with the regulations:
 - (a) in the case of a Crown road, to any person, and
 - (b) in the case of any other public road, to the roads authority for the road or to any other public authority.
- (3) The Minister may from time to time, by notice in writing served on an applicant, require the applicant to lodge with the Minister:
 - (a) any fee required to cover the cost of processing the application, and
 - (b) any sum of money necessary to defray a cost incurred by the Minister or any other person with respect to the proposed closing of the road, and
 - (c) any further information relevant to the application.
- (4) Such a notice may be served either before or during the consideration of the application.
- (5) An application is taken to have been abandoned if any requirement of the notice is not complied with within the period specified in the notice.

35 Publication of proposal to close public road

- (1) The Minister (or, in the case of the proposed closing of a freeway, the RTA) must cause notice of the proposed closing of a public road to be published in a local newspaper.
- (2) The notice:
 - (a) must identify the road that is proposed to be closed, and
 - (b) must state that any person is entitled to make submissions to the Minister (or, in the case of the proposed closing of a freeway, to the RTA) with respect to the closing of the road, and
 - (c) must indicate the manner in which, and the period (being at least 28 days) within which, any such submission should be made.

36 Public submissions

Any person may make submissions to the Minister (or, in the case of the proposed closing of a freeway, to the RTA) with respect to the closing of the road.

37 Decision on proposal


- (1) After considering any submissions that have been duly made with respect to the proposal, the Minister (or, in the case of the proposed closing of a freeway, the RTA) may, by notice published in the Gazette, close the public road concerned.
- (2) However, a public road may not be closed:
 - (a) in the case of a classified road--unless the RTA consents to the closure of the road, or
 - (b) in the case of a road owned by a council--unless the council consents to the closure of the road, or
 - (c) in the case of a classified road that is owned by a council--unless both the RTA and the council consent to the closure.

38 Effect of notice of closure

- (1) On publication of the notice closing the public road concerned:
 - (a) the road ceases to be a public road, and
 - (b) the rights of passage and access that previously existed in relation to the road are extinguished.
- (2) The land comprising a former road:

PERMANENT ROAD CLOSURES

- (a) in the case of a freeway, remains vested in the RTA, and
- (b) in the case of a public road that was previously vested in a council (other than a public road in respect of which no construction has ever taken place), remains vested in the council, and
- (c) in any other case, becomes (or, if previously vested in the Crown, remains) vested in the Crown as Crown land.

	POLICY	ADOPTED C/M 16/02/11 Minute No. 16/11
	Unmaintained and Unformed Roads	REVIEW: Feb 13 FILE No. A0100021

OBJECTIVE

1. To establish guidelines for the management and administration of unformed roads, and road reserves.
2. To make a determination on those roads that should be incorporated into the maintained network.
3. To define guidelines that can be applied to all requests for maintenance of roads currently not on the maintained road register.

BACKGROUND

Council currently looks after approximately 1,375 km of unsealed roads at an annual cost in excess of \$2.6 million. Over 160 km of roads are presently identified as unmaintained, ie those that do not receive regular grading or any other works thereon. The annual cost to perform a maintenance grade on each road bi annually would be approximately \$62,000 per annum (assuming appropriate formation, an additional cost of some \$1.3million would be required to construct a single lane gravel road)

The issue of roads that should be maintained by Council is an emotive one, where in certain cases an expectation exists for Council to maintain every rural road to each ratepayer's property. This policy identifies roads or road segments not presently maintained by Council (Refer Attachment). This list of roads is not definitive as there are many "paper" roads within the region in which there may be access tracks. As Council is made aware of any named tracks they will be added to the list. Several roads do not have their length identified, as this information has not been sourced at this time.

With existing financial constraints it is unlikely that sufficient funding is available to adequately maintain Councils' existing unsealed road network. To add any additional roads at this time would place an undue burden on the available funding.

The lack of a maintained road to every rural property could have some social impact due to the fact that access may not always be available for visitors to those properties. It also places an increased cost on the landowners to maintain their own access.

The length of unformed roads in the area has been estimated to be over 3,000 km. At an assumed average rate for construction in excess of \$20,000 per km for good open surface road (single lane in virgin country) it may cost over \$60 million to construct all of the presently unformed roads. This does not take into account that many of the unformed roads have never been constructed because they are over sand-hills, rocky ridges or swamps.

All Councils are being urged to consider very carefully the creation of new assets as figures indicate that it may already be beyond the resources of governments, including local government to maintain existing assets. While council will receive requests for the creation of new roads it will give such requests consideration against the above background.

The unformed but surveyed roads are on occasions a hindrance and a liability to property owners as they may give access to parts of properties that cannot be managed for public access, and this could cause financial loss to the property owners and be a risk to council. There are occasions

UNMAINTAINED AND UNFORMED ROADS

when in the public interest Council may give consideration to selling road reserves to the adjoining landowner(s) – refer Permanent Road Closures Policy.

POLICY

Public Road Reserves

Council will not maintain every public road reserve within the shire whether formed tracks or unformed road reserves. Council will only provide a maintained road network within the limit of funds available as determined in the Road Network Strategic Plan as amended from time to time.

Roads will only be added to the maintained list after consideration Council and taking into account the cost to bring the road up to a minimum standard (as defined in the Road Classifications and Standard Policy) and the impact on the total roads program.

Roads, or sections thereof that service less than 5 residences will not be considered for addition to the maintained road list, noting that historically, there are roads within the shire that do not meet this requirement.

Road extensions beyond a property boundary will not be considered. Council considers that its first priority is to provide access to individual properties; access for the improved management of a property is the responsibility of the landowner.

Council may perform maintenance on unmaintained roads under a private works arrangement with the affected property owner(s) when plant is in the region and subject to current workloads.

Private individuals or Contractors may perform maintenance on public roads that are listed on the unmaintained road register, if and only if:

- They have submitted an application to perform maintenance - Such application shall detail the extents of proposed maintenance activities, experience of the person performing the works, and plant and equipment to be used for the maintenance;
- Appropriate traffic control plans are in place prior to undertaking the proposed works;
- The applicant has a current Public Liability Insurance Policy to cover any mishap which may occur with a recommended minimum level of indemnity of \$10 million and such policy shall be suitable endorsed to cover Council

Where the subdivision of land creates a new road, a condition of the development approval will be that the developer constructs the new road in accordance with Council requirements.

Where the subdivision of land or a new development envisages the construction or upgrading of a road within an existing road reserve and the upgrade is solely for that development, a condition of approval will be that road access to that land is required to be upgraded to a standard sufficient to serve that development, in other cases Council may negotiate with the proponent for a contribution to the cost of the upgrade to enable the application to meet the requirements of the Development

Approval of a dwelling on a property on an unformed road or track does not commit the Council to the construction or repairs of that road. Council works are dependant on finances available and works programmed.

Council will consider applications from adjoining owners for the closure and sale of unformed roads in the shire in accordance with its Permanent Road Closure Policy. **Crown Road Reserves**

Council does not maintain or administer Crown Road Reserves.

UNMAINTAINED AND UNFORMED ROADS

In the event of the Department of Lands proceeding to transfer Crown Roads to Council then Council will not maintain additional rural roads constructed as accesses to rural subdivision or properties.

Council **may** consider maintenance of Crown Roads where the road provides access to ten or more subdivided lots or separate land holdings capable of being occupied and the road is upgraded by the subdivider or land holders to conform to the standards for a single lane gravel road as specified in Council's Road Classification and Standards Policy.

Private Roads

The following procedure shall be followed when a request is made to have the Council accept a privately owned road as a town road:

- An application to Council signed by all people having an interest in the road, such as owner in fee simple and abutting property owners having rights-of-way over the road, shall be presented. This application shall state that all parties having interest in the road will be willing to dedicate the subject road as a public road reserve. The application shall also be accompanied by a scaled drawing of the road, prepared by a licensed surveyor, locating the road with reference to existing roads, waterfronts, etc., and showing all abutting property lines.
- The Council shall accept no privately owned road unless it meets all of the minimum standards as set forth in Auspec and the Council's Road Classification and Standards Policy.
- A copy of the application will be submitted to Council. This Committee may suggest other requirements upon the applicants before the Council may accept the road.
- If Council accepts the transfer of the Road as a maintained public road, then the applicant(s) shall lodge a Subdivision Application for determination and registration of the road reserve.
- The road shall not be considered a Council maintained road until all conditions and requirements have been met and approved by the Council.

UNMAINTAINED AND UNFORMED ROADS

ROADS ACT 1993

6 Right of access to public road by owners of adjoining land

- (1) The owner of land adjoining a public road is entitled, as of right, to access (whether on foot, in a vehicle or otherwise) across the boundary between the land and the public road.
- (2) The right conferred by this section does not derogate from any right of access that is conferred by the common law, but those rights are subject to such restrictions as are imposed by or under this or any other Act or law.

86 Functions of council in respect of private roads

- (1) A council may direct the owner of a private road (other than a classified road) to carry out such work as, in the opinion of the council, is necessary to prevent the road from becoming unsafe or unsightly or, if of the opinion that it is appropriate that the work should be carried out by the council at its own expense, may carry out any such work itself.
- (2) If there is more than one owner of a private road, the respective owners are liable to pay those expenses in such proportions as the council decides.
- (3) In deciding the proportion of expenses to be paid by the respective owners, the council must have regard to:
 - (a) the benefit that any particular land will derive from the work, and
 - (b) the amount and value of any work carried out in respect of the road by the respective owners or occupiers of the land.

138 Works and structures

- (1) A person must not:
 - (a) erect a structure or carry out a work in, on or over a public road, or
 - (b) dig up or disturb the surface of a public road, or
 - (c) remove or interfere with a structure, work or tree on a public road, or
 - (d) pump water into a public road from any land adjoining the road, or
 - (e) connect a road (whether public or private) to a classified road, otherwise than with the consent of the appropriate roads authority.

Maximum penalty: 10 penalty units.

- (2) A consent may not be given with respect to a classified road except with the concurrence of the RTA.
- (3) If the applicant is a public authority, the roads authority and, in the case of a classified road, the RTA must consult with the applicant before deciding whether or not to grant consent or concurrence.
- (4) This section applies to a roads authority and to any employee of a roads authority in the same way as it applies to any other person.

UNMAINTAINED AND UNFORMED ROADS

(5) This section applies despite the provisions of any other Act or law to the contrary, but does not apply to anything done under the provisions of the *Pipelines Act 1967* or under any other provision of an Act that expressly excludes the operation of this section.

139 Nature of consent

(1) A consent under this Division:

(a) may be granted on the roads authority's initiative or on the application of any person, and

(b) may be granted generally or for a particular case, and

(c) may relate to a specific structure, work or tree or to structures, works or trees of a specified class, and

(c1) in relation to integrated development within the meaning of section 91 of the *Environmental Planning and Assessment Act 1979*, is subject to Division 5 of Part 4 of that Act, and

(d) may be granted on such conditions as the appropriate roads authority thinks fit.

(2) In particular, a consent under this Division with respect to the construction of a utility service in, on or over a public road may require the service to be located:

(a) in such position as may be indicated in that regard in a plan of subdivision or other plan registered in the office of the Registrar-General with respect to the road, or

(b) in such other position as the roads authority may direct.

(3) In particular, a consent under this Division with respect to the erection of a structure may be granted subject to a condition that permits or prohibits the use of the structure for a specified purpose or purposes.

142 Maintenance of works and structures

(1) A person who has a right to the control, use or benefit of a structure or work in, on or over a public road:

(a) must maintain the structure or work in a satisfactory state of repair, and

(b) in the case of a structure (such as a grating or inspection cover) located on the surface of the road, must ensure that the structure is kept flush with the surrounding road surface and that the structure and surrounding road surface are so maintained as to facilitate the smooth passage of traffic along the road, and the person is, by this section, empowered to do so accordingly.

Maximum penalty: 30 penalty units.

(2) Subsection (1) applies to all structures and works in, on or over a public road, including structures and works for which there is no consent in force under this Division.

(3) Subsection (1) does not apply to a person whose right to the control, use or benefit of a structure or work consists merely of a right of passage that the person

UNMAINTAINED AND UNFORMED ROADS

has as a member of the public or a right of access that the person has as the owner of adjoining land.

(4) If:

(a) a roads authority has granted a consent under this Division to the doing of anything, and

(b) that thing has been or is being done otherwise than in accordance with the consent,

the roads authority may direct the holder of the consent to take specified action to remedy any damage arising from the doing of that thing otherwise than in accordance with the consent.

146 Nature of ownership of public roads

(1) Except as otherwise provided by this Act, the dedication of land as a public road:

(a) does not impose any liability on the owner of the road that the owner would not have if the owner were merely a person having the care, control and management of the road, and

(b) does not affect the rights or liabilities of any person under any easement or under any Act or law, and

(c) does not affect any rights of any person with respect to minerals below the surface of the road, and

(d) does not constitute the owner of the road as an occupier of the land, and

(e) does not authorise the owner of the road to dispose of any interest (other than an easement or covenant) in the land, and

(f) does not prevent any lands that were previously considered to be adjoining lands for the purposes of the *Land Acquisition (Just Terms Compensation) Act 1991* from continuing to be so considered.

(2) This section does not restrict the power of a roads authority to regulate the digging up of public roads pursuant to the provisions of any other Act.

UNMAINTAINED AND UNFORMED ROADS

Unmaintained Road Register

No	Road Name	Group	Chainage	Length	From	To
4170	Abbots Lane	Rural - Mudgee	0.00	2.60	MR 214	End
6875	Annie's Rock Road	Rural - Mudgee	0.00	0.80	Beryl	End
6816	Argyle Road	Rural - Mudgee	0.00	1.90	Queen's Pinch	End
6879	Badger's Lane	Rural - Mudgee	0.00	1.70	Drip Lane	Linburn Lane
6821	Baradale Road	Rural - Mudgee	0.00	1.30	Bara Road	End
4027	Bara-Lue Road	Rural - Mudgee	4.40	6.30	Causeway - From Ch 4.39	Bara Road
6831	Barossa Road	Rural - Mudgee	0.00	0.40	Queen's Pinch	End
6811	Bayly Lane	Rural - Mudgee	0.00	0.90	Cooyal Lane	End
4241	Beechworth Road	Rural - Mudgee	2.00	1.60	Gate On Top Of Hill	End
4247	Bishops View Road	Rural - Mudgee	1.80	0.40	3Rd Grid Start Unmaintained	End
4058	Black Soil Road	Rural - Mudgee	3.70	0.70	End Maintained	End
4686	Bobadeen Road	Rural - Mudgee	0.90	3.70	Start Gravel	End Road
6866	Brittania Road	Rural - Mudgee	0.00	2.90	Mudhut Creek	End
6880	Broadfield Road	Rural - Mudgee	0.00	1.80	Whitehouse	End
9065	Brogans Siding Road	Rural - Rylstone	0.00			
9051	Budden Gap Road	Rural - Rylstone	0.00	0.40	Bylong Valley Way	Upper Bylong Rd
6838	Bungulla Road	Rural - Mudgee	0.00	3.70	Ulan - Wollar	End
4238	Byrnes Lane	Rural - Mudgee	0.30	0.80	end Maintained	End
6806	Cannibal Hill Road	Rural - Mudgee	0.00	1.00	Old Grattai	End
6810	Carr's Gap Road	Rural - Mudgee	0.00	3.10	Lagoons	Murragama Rd
4074	Clarke's Creek Road	Rural - Mudgee	2.50	1.50	Causeway- End Maintained	End - Gate
6805	Clydemere Road	Rural - Mudgee	0.00		Oaklands	End
6859	Coming Event Lane	Rural - Mudgee	0.00		Springfield Lane	Grimshaw Lane
9061	Crooked Lane	Rural - Rylstone	0.00			
	Cuthels Lane	Rural - Mudgee	0.00		Spring Ridge Road	End
6862	Dolomite Road	Rural - Mudgee	0.00	3.40	Lue	End
9062	Dunns Swamp Road	Rural - Rylstone	0.00		Coricudgy Road	Park
6823	Evesham Road	Rural - Mudgee	0.00	1.10	Ullamalla	End
9107	Farrelly Street (BVV)	Rylstone	0.00	1.00	East Mudgee	End
6817	Firetail Lane	Rural - Mudgee	0.00	0.90	Wonga Roo	End
9035	Flatlands Road	Rural - Rylstone	0.00			
	Florence Close	Mudgee Town	0.00			
4104	Gardiners Road	Rural - Mudgee	3.50	0.50	From Ch 3.47	End
6854	Gibson's Lane	Rural - Mudgee	0.00	5.30	Goolma Road	Lwr Piambong Rd
6845	Glenrock Lane	Rural - Mudgee	0.00	0.50	White Cedars	End
6863	Gordons Gully Road	Rural - Mudgee	0.00	2.00	Jennings Rd Sth	End
4061	Grattai Creek Road	Rural - Mudgee	5.10	0.80	Gate Before Creek	End
4034	Green Gully Road	Rural - Mudgee	0.00	1.60	Queens Pinch Int	Causeway
6857	Grimshaw Lane	Rural - Mudgee	0.00		Anderson Street	Ridout Lane
4103	Gum Gully Road	Rural - Mudgee	1.70	1.00	Grid End Maintained	Gate End Road
4250	Happy Valley Road	Rural - Mudgee	0.80	0.80	Spring Creek	MR 598
6829	Hazelwood Road	Rural - Mudgee	0.00	1.40	Queen's Pinch	End
10000	Hearne Lane	Rural - Rylstone	0.00	1.60	Camerons Rd	End
6812	Hideaway Lane	Rural - Mudgee	0.00	1.50	Black Lead Lane	End
6839	Highland Home Road	Rural - Mudgee	0.00	1.60	Wallerwaugh	End
4127	Hughes Road	Rural - Mudgee	4.00	0.40	From Ch 3.95	End
4239	Hundys Creek Road	Rural - Mudgee	0.60	0.50	End Maintained	End
6867	Jenkings Lane	Rural - Mudgee	0.00	1.00	Castlereagh Highway	Lahey's Creek Rd
4118	Jennings Road North	Rural - Mudgee	8.00	2.80	From Ch 8 (Farmhouse)	Gordens Road
6116	Jennings Road South	Rural - Mudgee	0.00	3.00	Bara Road	Gordens Road
4045	Kaludabah Road	Rural - Mudgee	8.40	0.80	Start Unmaintained	End Road
6870	Karuma Road	Rural - Mudgee	0.00	1.00	Lambing Hill rd	End
6828	Kyewong Road	Rural - Mudgee	0.00	1.30	Windeyer	End
6830	Leven's Road	Rural - Mudgee	0.00	1.50	Hazelwood Rd	End
6871	Lobley Lane	Rural - Mudgee	0.00	0.50	Spring Ridge	Beryl Rd
9103	Louee Street (Part BVV)	Rylstone	1.30	0.20	Cycle Track (MR 215)	End

UNMAINTAINED AND UNFORMED ROADS

No	Road Name	Group	Chainage	Length	From	To
4251	Lyons Lane	Gulgong Town	0.20	0.30	Start Unmaintained	Nugget Lane
4415	Lyons Lane (Mudgee)	Mudgee Town	0.20	0.20	Court	Douro
4415	Lyons Lane (Mudgee)	Mudgee Town	0.00	0.20	Cox	Court
4415	Lyons Lane (Mudgee)	Mudgee Town	1.30	0.10	Lawson	End
6865	MacArthur Park Road	Rural - Mudgee	0.00	3.00	Upper Botobolar Rd	End
4130	Mahon's Road	Rural - Mudgee	1.50	0.70	From Ch 1.4 (Elbow)	Cooyal Ck Lane
4040	Maitland Bar Road	Rural - Mudgee	7.20	0.60	Grid (End Maintained)	End
9106	Mann Street	Rylstone	0.00	0.20	Coomber	(North) Short
6809	Maree Road	Rural - Mudgee	0.00	3.40	Barigan	End
6826	Martin's Crossing Road	Rural - Mudgee	0.00	1.10	Ulan Road	End
4242	Mayberry Road	Rural - Mudgee	1.80	1.50	End Maintained	End
6842	May's Place	Rural - Mudgee	0.20	0.10	Fire shed	End
6882	McMasters Road	Rural - Mudgee	0.00	0.70	Green Gully	Closed Gate
6868	Mineshaft Lane	Rural - Mudgee	0.00		Ulan Road	End
4059	Mogo Road	Rural - Mudgee	11.40	12.40	From Ch 11.4	End
6853	Mt. Misery Road	Rural - Mudgee	0.00	0.00	Rifle Range	End
4095	Murragamba Road	Rural - Mudgee	2.80	0.80	From Ch 2.75	End
6848	Nugget Lane	Gulgong Town	0.40	0.60	End Maintained	MR 598
9079	Old Ilford Road	Rural - Rylstone	1.10	0.60	end maintained	end
4258	Peach Tree Lane	Rural - Mudgee	0.00		Start	End
4194	Perke Road	Rural - Mudgee	0.50	0.50	From Ch 0.5	End
4146	Perseverance Lane	Rural - Mudgee	1.40	4.00	End Maintained	Spring Ridge Rd
6833	Peter's Creek Road	Rural - Mudgee	0.00	1.70	Barigan	End
4084	Pipeclay Lane	Rural - Mudgee	3.40	0.30	Causeway	end Road At Gate
4084	Pipeclay Lane	Rural - Mudgee	3.00	0.30	End Maintained	Causeway
4222	Pitts Lane	Mudgee Town	0.60	0.30	End Of Seal	End Road
4035	Prices Lane	Rural - Mudgee	5.70	2.50	Property "Glenmore"	End
4077	Puggoon Road	Rural - Mudgee	9.80	1.20	End Maintained - Gate	End
4135	Puggoon Siding Road	Rural - Mudgee	0.00	1.70	Jackson's Lane	End
9006	Quarry Road	Rural - Rylstone	0.00	13.71	Bylong Valley Way	End Seal
9006	Quarry Road	Rural - Rylstone	0.00	5.10	Start Gravel	Cudgegong Rd
6846	Raydon Lane	Rural - Mudgee	0.00	1.10	Ulan Road	End
6856	Ridout Lane	Gulgong Town	0.00	1.20	Canadian Lead	Grimshaw Lane
4203	Roberts Road	Rural - Mudgee	2.10	2.00	Grid (End Maintained)	Causeway (5)
4246	Robinsons Road	Rural - Mudgee	1.30	1.40	End Maintained (Check)	End
6874	Rockford Lane	Rural - Mudgee	0.00	1.60	Yarrabin	End
6822	Rocky Glen Lane	Rural - Mudgee	0.00	0.50	Botobolar	End
610	Rosedale Road	Rural - Mudgee	0.00	1.20	Summer Hill Road	End
6861	Saddlers Creek Road	Rural - Mudgee	0.00	1.70	Cassilis Road	End
4692	Scotts Lane	Gulgong Town	0.50	0.40	Perserance Ln	MR 233
4054	Sills Lane	Rural - Mudgee	2.10	3.40	From Ch 2.1	Wilbetree
4683	Smede's Lane	Rural - Mudgee	4.00	2.30	Summer Hill Road	End
6815	Tabrabucca Road	Rural - Mudgee	0.00	2.70	Aaron's Pass	End
6808	Tichular Road	Rural - Mudgee	0.00	2.10	Barigan	Tichular Gate
6803	Tiendebah Road	Mudgee Town	0.00	0.20	Waterworks	End
6813	Tierney Lane	Rural - Mudgee	0.50	0.40	End Maintained	Henry Lawson Dr
6850	Tippings Road	Gulgong Town	0.00	0.40	Ulan Road	Black Lead Lane
4008	Triamble Road	Rural - Mudgee	24.90	6.60	Echo Gate	End
6877	Trilby Lane	Rural - Mudgee	0.00	2.00	Castlereagh Highway	End
710	Turill Bus Route	Rural - Mudgee	3.60	3.80	End Maintained	End
6858	Tuxford Lane	Rural - Mudgee	0.00	1.20	Canadian Lead	Ridout Lane
4252	Unnamed (Off BRdhead)	Rural - Mudgee	0.00	0.50		
6801	Upper Cumbo Road	Rural - Mudgee	0.60	3.20	Causeway1	Causeway2
6801	Upper Cumbo Road	Rural - Mudgee	0.00	0.60	Cumbo	Causeway1
6801	Upper Cumbo Road	Rural - Mudgee	3.80	1.90	Causeway2	MR 208
4041	Upper Piambong Road	Rural - Mudgee	9.70	1.40	From Ch 9.7 (Unmaintained)	End Road
6881	Wattlegrove Lane	Rural - Mudgee	0.00	1.50	Cassilis Road	End
6819	Waudong Creek Road	Rural - Mudgee	0.00	2.90	Hill End Road	End
6860	Welcome Reef Lane	Rural - Mudgee	0.00		Springfield Lane	Grimshaw Lane

UNMAINTAINED AND UNFORMED ROADS

No	Road Name	Group	Chainage	Length	From	To
6840	Westcourt Lane	Rural - Mudgee	0.00	1.90	Tinja Lane	Henry Lawson Dr
4123	Whistons Lane	Rural - Mudgee	2.70	0.40	Railway Line	End
6873	Williardt Lane	Rural - Mudgee	0.00	0.80	Canadian Lead	Wlwg-Gwbg Rlway
4096	Wilpinjong Road	Rural - Mudgee	5.60	1.50	From Ch 5.6	Bungulla
6827	Wilson Road	Rural - Mudgee	1.20	2.30	First Gate	Causeway
6827	Wilson Road	Rural - Mudgee	3.50	3.10	Causeway	End
4503	Wollar - Munghorn Street	Villages	0.20	0.10	Barnett St	Barigan St
4503	Wollar - Munghorn Street	Villages	0.30	0.20	Barigan St	End
4210	Wonga Roo Road	Rural - Mudgee	4.50	0.90	From Ch 4.5	End
4062	Woodburn Road	Rural - Mudgee	1.00	0.80	Top Of Hill	End Road
4224	Woorawa Road	Rural - Mudgee	0.00	1.40	Bocoble Rd	End
6825	Worlds End Road	Rural - Mudgee	0.20	2.30	From Ch 0.2 (1St Creek Xing)	End
4009	Yarrabin Road	Rural - Mudgee	23.90	0.20	End Maintained	End
			Total Length	183.30		