

# DOCUMENT ON EXHIBITION

## Road Encroachment on Private Land Policy

**Exhibition period: 28 days  
Friday, 15 December – Friday,  
12 January 2024**

**For enquiries, please contact Council's  
Director Operations.**

**Please submit your feedback in writing  
addressed to the General Manager**

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[council@midwestern.nsw.gov.au](mailto:council@midwestern.nsw.gov.au)

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Mid-Western Regional Council  
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ADOPTED		VERSION NO	2.0
COUNCIL MEETING MIN	24/243	REVIEW DATE	MAY-14
DATE:	6/613	FILE NUMBER	A0400024GOV400047

## Objective

To ~~clarify Council's stance where the~~formalise Council's position where a physical constructed and maintained ~~road~~Public Road is not wholly contained within the surveyed public road reserve.

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

That where Council is aware that a road does encroach onto private property and the landowner is concerned about the liability implication, Council may provide the following information:

~~"We confirm that as the public road is controlled and maintained by Council, we accept that liability arising from the operation of the road will attach to Council. The definition of the area occupied by the encroaching public road: ~~to~~ includes:~~

- ~~• -Where fenced, the carriageway and verges being a width of no more than 16 metres between fences; or~~
- ~~• Where unfenced, the carriageway and verges being a width of no more than 16 metres: that is 8 metres each side of the centreline of the carriageway;~~

~~—and where both the Council and the landowner accept the definition of the 'road' as described, the carriageway and verges being a width of 16 metres that is 8 metres each side of the centreline of the carriageway and where both the Council and the landowner accept the definition of the 'road' as described."~~

This policy is to ensure access to Public Roads is maintained and that any liability issues for landholders are also adequately addressed. This policy does not, however, do away with Council's obligations to work through the process of legalising these road encroachment situations - by means of road widenings, land acquisitions, road reconstructions or combinations of these - as they become known to Council and resources allow.

### Notes:

Analysis indicates that there are considerable lengths of road of this type.

In some cases the roads could not be constructed in the road reserves originally dedicated for the purpose because of difficult terrain.

It is generally accepted as a practical solution.

Such arrangements need to be reviewed in the case of subdivision – clause required?

I have added additional qualifications on the application of this policy.

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It will not apply to private right of ways or tracks on private property nor private right of ways that have been allocated a road name and numbering.