



Central Darling Shire Council

Title of Procedure	Unsealed Roads – Wet Weather Policy		
This applies to	All Road Users		
Author	Michael Boyd	Date approved	
Position of Author	General Manager	Authorised by	
Legislation, Australian Standards, Code of Practice	<i>Roads Act 1993</i> <i>Road Transport Act 2013</i>		
Related Policies/Procedures	Closed Roads Council Minute 654-12-99 Unsealed Roads Policy		
Aim	To prevent and minimize damage to Council’s Unsealed Road network affected by wet weather conditions		
Version	Council Minute	Date	
2.0	TBA	TBA	
Superseded Policies	Closed Roads (Council Minute 654-12-99)		
Review Date	23 February 2024		
The Policy			

1. DEFINITIONS

Road 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.

Public road means:

- a) Any road that is opened or dedicated as a public road, whether it’s under the *Roads Act 1993* or any other Act or law,
- b) Any road that is declared to be public road for the purposes of the *Roads Act 1993*

Regulate traffic means restrict or prohibit the passage along a road of persons, vehicles, or animals.

Traffic includes vehicular, pedestrian, and all kinds of traffic.

Traffic Hazards means a structure or thing that is likely:

- a) To obscure or limit the view of the driver of a motor vehicle on a public road, or
- b) To be mistaken for a traffic control device, or
- c) To cause inconvenience or danger in the use of a public road, or
- d) To be otherwise hazardous to traffic.

2. PURPOSE

In accordance with Section 7 of the *Roads Act 1993*, Central Darling Shire Council is the Roads Authority for all public roads within the Shire, other than:

- Crown Roads; and
- Any public road for which some other public authority is declared by the regulations to be Roads Authority.

During periods of wet weather, some of the unsealed Roads within the Shire are damaged by vehicles that are being driven along them, often unnecessarily and occasionally maliciously. To minimise such damage, Central Darling Shire Council promotes to implement control measures to regulate traffic as provided in the *Roads Act 1993*.

Council, as a Roads Authority and as provided by Section 115 of the *Roads Act 1993*, may regulate traffic. The relevant provisions of Section 115 are set out below:

“115 ROADS AUTHORITY MAY REGULATE TRAFFIC IN RELATION TO ROAD WORK ETC”

- 1) A Roads Authority may regulate traffic on a public road by means of barriers or by means of notices conspicuously displayed on or adjacent to the public road.
- 2) The power conferred by this section may be exercised by TfNSW for any purpose but may not be exercised by any other Roads Authority otherwise than -
 - a) For the purpose of enabling the Roads Authority to exercise its functions under this Act with respect to the carrying out of road work or other work on a public road, or
 - b) For the purpose of protecting a public road from serious damage by vehicle or animals as a result of wet weather, or
 - c) For the purpose of protecting earth roads from damage caused by heavy vehicles or by animals, or
 - d) For the purpose of protecting members of the public from any hazards on the public road, or
 - e) For the purpose of protecting vehicles and other property on the public road from damage, or
 - f) For the purpose of enabling a public road to be used for an activity in respect of which a permit is in force under Division 4 of Part 9, or
 - g) For a purpose for which the roads authority is authorised or require, by or under this or any other Act or law, to regulate traffic.
- 3) A Roads Authority may not restrict the passage of heavy vehicles or animals along the roadway of an earth road unless clear side tracks have been provided for their passage.
- 4) A person:
 - a) Must not, in wilful contravention of any such notice or in wilful disregard of any such barrier, pass along, or cause any vehicle or animal to pass along, a length of public road, and

- b) Must not damage, remove or otherwise interfere with a notice or barrier erected for the purposes of this section.

Maximum penalty: 10 penalty units.

- 5) It is the duty of a Roads Authority by which a notice or barrier has been erected under Section 115 of the *Roads Act 1993* to remove the notice or barrier if there is no longer any need to regulate the traffic for the purpose for which the notice or barrier was erected.

3. SCOPE

This Policy will apply to all Unsealed Roads in the Central Darling Shire Council and where notice is hereby given of road conditions, being traffic hazards, on the Central Darling Shire Council's Road Condition Report.

This Policy applies to all Traffic, with the exception of the following:

- a) Fire, Ambulance, and Medical Service provider vehicles who are permitted to travel on closed roads due to wet conditions in emergency situations.
- b) Roads and Maritime Services, Telstra, Council, Electricity, Police, State Road and State Emergency Service Provider who are permitted to travel on closed roads due to wet conditions in emergency situations only after consultation with the General Manager. Permissions may only be granted by the General Manager where the emergency service is able to demonstrate that the benefit gained in permitting the road to be used exceeds the cost to the community of restoring the damage caused to the road. The General Manager may delegate approval to the Director of Shire Services as required.

4. IMPLEMENTATION

Signage will be erected and maintained as necessary to define the sections of roads that become subject to this Policy.

A Notice of Road Closure will be displayed at the Council Offices at Wilcannia, Menindee, and Ivanhoe. A Notice of Road Closure will also be advertised on the Central Darling Shire Council's website at: www.centraldarling.nsw.gov.au and Council Facebook page.

Affected roads will only be re-opened upon determination by Council that affected road surfaces have dried sufficiently and no further damage is likely to occur, and damaged sections have been repaired and the road is deemed safe to re-open to vehicles.

5. COST RECOVERY UNDER THIS POLICY

Council is empowered to seek compensation from those responsible for causing damage to a road that has otherwise been closed pursuant to this Policy. In this regard, Section 102 of the *Roads Act 1993* provides relevantly as follows:

"102 LIABILITY FOR DAMAGE TO PUBLIC ROAD

- 1) 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 within the meant of Section 4 (1) of the *Road Transport Act 2013* (other than a road or road related area that is the subject of a declaration made under Section 18 of that Act relating to all of the provisions of that Act), is liable to pay for the appropriate roads authority, the cost incurred by that authority in making good the damage.
- 2) If damage referred to in this section is caused by a motor vehicle or vessel, the owner, and the driver of the motor vehicle or, as the case may be, the owner and the master of the vessel are jointly and severally liable for the damage.
- 3) This section does not apply to ordinary wear and tear caused by reasonable use of a public road.
- 4) This section applies to tollways and to private roads that are classifies roads in the same way as it applies to public roads.

Compensation for such damage may be sought by way of a Statement of Claim lodged with the:

- Local Court for claims not exceeding \$100,000
- District Court for claims not exceeding \$750,000
- Supreme Court for claims over \$750,000

Subject to legal advice first being obtained, the General Manager is authorised to implements appropriate action for the recovery of costs associated with the restoration of damage to roads subjected to this Policy.

In determining appropriate action, the General Manager may exercise discretion on the ground of hardship, necessity, emergency, or other reasonable justification for using the road in contravention of the closure.