



Central Darling Shire Council

Title of Policy	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		
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Superseded Policies	Closed Roads (Council Minute 654-12-99)		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:	November 2017		
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 under the *Roads Act 1993* or any other Act or law, and
- b) any road that is declared to be a 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 the Roads Authority.

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

Council, as a roads authority, 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) ...
 - (a) ...
 - (b) for the purpose of protecting a public road from serious damage by vehicles 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) ...
 - (g) for a purpose for which the roads authority is authorised or required, by or under this or any other Act or law, to regulate traffic.
- (3) ...
- (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 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 Central Darling Shire Council’s Road Report.

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

- a) fire, ambulance and medical services provider’s 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 Rail and State Emergency Service Provider vehicles who are be permitted to travel on closed roads due to wet conditions in emergency situations only after consultation with the General Manager. Permission 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 be advised on Central Darling Shire Council’s website at: www.centraldarwin.nsw.gov.au.

Affected roads will be re-opened as soon as Council determines the surfaces have dried sufficient so no significant damage is likely to occur.

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 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 meaning 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 to 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) ...
- (4) ...”

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 implement appropriate action for the recovery of costs associated with the restoration of damage to roads subject to this policy.

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