

9.1.11 Land Acquisition and Road Boundary Adjustments

Background & Issues

There are innumerable instances throughout the Shire where constructed roads are found to be outside formal road reserves or where fences between private properties and the road reserve are located within that reserve. In addition, during reconstruction activities and to comply with recognised construction standards, the Shire has to realign a road resulting in works impacting on adjoining private property and constructed fences.

Objectives

The purpose of this policy is to establish guidelines and procedures for dealing with land acquisition and road boundary adjustment issues when they are brought to the attention of the Shire or when the Shire needs to undertake works that impact on private property.

As part of Policy 9.1.21 Road Traffic Safety the Shire has a responsibility to provide a Road Safety Management System.

Area of Application

Across the whole of the Shire.

Policy Measures

Land issues may need to be addressed by the Shire when any of the following occurs:

- The landowner undertakes boundary re-fencing;
- Land is being sold subject to confirmation/survey of boundaries;
- Landowner has been made aware of boundary irregularities and wishes to formalise these;
- Land is subdivided;
- Council undertakes road works which could include road realignment or relocation of fences not on boundary.

This policy sets down the extent of financial assistance and/or compensation that might be provided to landowners to finalise land issues. The Shire will consider contributions in accordance with the following:

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Circumstance	Land Compensation Payable	Contribution to Fencing Costs	Contribution to Land Survey and Legal Costs
1. The landowner undertakes boundary re-fencing which when surveyed is found to be encroaching onto the road reserve.	N/A	Nil	Nil
2. Land is being sold subject to confirmation / survey of boundaries, fenced boundaries are then found to be within the road reserve	Nil	Nil	Nil
3. Circumstances 1 or 2 above occur which identifies that the road encroaches into private land	Nil. May be subject to land exchange if suitable.	Up to 50% only of a “sufficient fence” as described by the Dividing Fences Act – depending on extent of encroachment and subject to negotiation.	To same extent as agreed fencing contribution.
4. Land is subdivided	Nil	Nil	Nil
5. Council undertakes road works requiring encroaching fence to be relocated	N/A	Up to 50% only of a “sufficient fence” as described by the Dividing Fences Act – depending on extent of encroachment and subject to negotiation.	To same extent as agreed fencing contribution.
6. Council undertakes road works requiring private land to be acquired	100% of current land valuation. May be offset by land exchange for non-required road reserve if suitable.	100% of a “sufficient fence” as described by the Dividing Fences Act or to the standard of the existing fence.	100% of legal survey and resumption costs.

Implementation of the policy will have regard for the requirements of Parts 9 and 10 of the *Land Administration Act 1997 (LAA)* dealing with the acquisition of land for public works.

Guidelines

1. Where a landowner applies to subdivide land, Council will seek a condition requiring the applicant to verify the exact property location with reference to constructed roads under the control of the Shire and to cede, free of cost, land required for the purposes of rationalising the road requirement. The applicant will be financially responsible to rectify any abnormalities with lot boundaries traversing the built road.



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2. The Shire will commission a Licensed Surveyor to undertake all works associated with land acquisitions for circumstances 6 in the table above.
3. As part of Council road works requiring land acquisitions, the Shire will be financially responsible for compensating the landowners for acquired land as determined by the Valuer General Office, in accordance with the requirements of Parts 9 and 10 of the *LAA*, along with all legal and associated costs.
4. All Council contributions will be subject to budget availability (or may be deferred to the following year so that budget can be made available). Contributions for circumstances under Part 5 & 6 above will be part of road construction costs.
5. The Department of Planning, Lands and Heritage (DPLH) will be approached for financial assistance for rationalisation of road realignments through Crown land.

Administration

Responsibility for implementing this policy is delegated to the Manager Technical Services.

Adoption and Date Due for Revision

ADOPTED 14 OCTOBER 2004
REVIEWED 10 SEPTEMBER 2009
REVIEWED 24 JANUARY 2014
REVIEWED 26 JULY 2018
REVIEWED 28 JULY 2022

NEXT DUE FOR REVIEW JULY 2026

The Administration of this Policy is by the Works & Services Directorate