



KEMPSEY SHIRE COUNCIL
APPLICATION FOR CLOSURE
OF A COUNCIL PUBLIC ROAD
(SECTION 38A ROADS ACT 1993)

When to use this form

This form is used to apply for Closure of a Council Public Road.

To be considered for this application, applicants must demonstrate that they meet all the relevant criteria. Please provide as much detail as possible, including documentary evidence and supporting material, to demonstrate that all eligibility criteria are met in all relevant parts of the application form. If you have any questions about the application process, please contact Council on 02 6566 3200

To complete this form

- Use black pen only
- Print using BLOCK LETTERS
- Place a cross in the appropriate box where applicable
- Sign the form
- Attach copies of supporting documentation where instructed

Where to send this form

Kempsey Shire Council
PO Box 3078
WEST KEMPSEY NSW 2440
Fax: 02 6566 3205
ksc@kempsey.nsw.gov.au

Methods of payment

- Cash
- EFTPOS
- Money Order
- Cheque
- Credit Card

For more information

For more information about making this application please contact Kempsey Shire Council on 02 6566 3200

PRIVACY STATEMENT: Council collects and holds personal information for a number of reasons related to Council business e.g. to process applications, to issue rate notices, to process correspondence. When you provide personal information to Council it is used in accordance with privacy laws applicable to Council. Your personal information will only be used for purposes related to the business of Council.

V: 2.1.17



KEMPSEY SHIRE COUNCIL

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(SECTION 38A ROADS ACT 1993)

SECTION 1 – APPLICANTS DETAILS

Mr Miss Mrs Ms Dr Other

Company Name

Surname

Given Name/s

Street No. Address

Suburb/Town State Postcode

Phone Number Fax Number

Mobile

Email

SECTION 2 – ADDRESS OF CLOSURE

PROPERTY DETAILS (OF LAND ADJOINING ROAD PROPOSED TO BE CLOSED)

Lot:	Section:	DP/SP:
Lot:	Section:	DP/SP:
Lot:	Section:	DP/SP:

DESCRIPTION OF ROAD (S) APPLIED TO BE CLOSED (INCLUDE ROAD NAME)



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PURPOSE OF CLOSURE/ INTENDED USE

SECTION 3 - SUPPORTING DOCUMENTATION

- Site Plan Sketch completed showing relevant information drawn at or reduced to A4 size
 - The location, boundary dimensions, site area and north point of the land;
 - The existing public utilities on the land;
 - The location and uses of any buildings or structures encroaching on the land;
 - The location and uses of buildings on sites adjoining the land

- Agreement of any adjoining landowners (evidence in writing requested)

SECTION 4 – COSTS

Please refer to the Kempsey Shire Council website for full details of fees & charges

SECTION 5 – APPLICANTS SIGNATURE

I understand and acknowledge responsibility of costs involved with this road closure as outlined above in Section 4.

Signatures: _____ Date: _____

OFFICE USE ONLY

W128.1650

Amount Paid

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Receipt No.

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Date: DD MM YY

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Register Number

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ID

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ROAD CLOSURE ADVICE SHEET

Roads will be considered for closure under the provisions specified in the Roads Act 1993 and Roads Regulation 2018. Roads are owned by various Roads Authorities. Roads are usually either:

1. CROWN ROAD

Any person may apply for the closure of a Crown road. Application should be made directly to Department of Industry – Crown Lands. Email your enquiry to roads.newcastle@crowland.nsw.gov.au or telephone 1300 886 235. This form is NOT to be used for applications to close a Crown public road. Crown Lands will provide the appropriate form to you.

2. COUNCIL ROAD

Any person may apply to close a Council road, however applicants are usually the owners of the land adjoining the road sought for closure.

COSTS

The road closure process will require you to meet various costs which are levied by Council and other Agencies on a full cost recovery basis. That is, all costs incurred in the closing of the road are to be met, in full, by you. These costs, or cost estimates are shown at Section 4 of this Application Form.

It is recommended that before making this application, you seek independent financial and/or legal advice and satisfy yourself as to the quantum of such costs to be incurred by you in making this application. It is also recommended that you seek an independent estimate of the value of the land comprised in the road should the application be successful.

Stage 1 Application Fee:

Council is required to give notice of an intention to close a public road. Notice must be provided to various Statutory Authorities and service providers including Essential Energy, Transgrid, NSW Roads & Maritime Services, Transport for NSW, Forestry Corporation, National Parks and others. Notification must also be given to all owners of land adjoining the road as well as generally to the public. The Statutory Authorities, service providers and any person may lodge a submission in respect of the proposed road closure. Service providers may require easements to allow ongoing access to their infrastructure. For example, this will include Council infrastructure such as water, stormwater and sewer.

Dependant on submissions (if any) received during the notification period, Council will formally consider your application and determine if your application is to proceed to the next stage. In some instances, submissions by way of objection, may not be able to be resolved and as such Council may be unable to close the road. Should this be the case, your application will be terminated. **The Stage 1 Application Fee is non-refundable.**

Stage 2 Application Fee:

If Council resolves to proceed with your application, a full survey capable of registration at Land Registry Services (formerly the Land Titles Office) will be required. The survey may require the inclusion of easements to cover current infrastructure. If an easement(s) is required, a solicitor will be required to prepare paperwork to attach to the survey when it is sent to Sydney for registration. Once the survey has been registered, Council will publish a Notice of Closure of a Public Road in the NSW Government Gazette.

In the case where the road has been 'formed', that is gravelled, bituminised or funds otherwise expended on its construction/maintenance, the land within the closed road will remain in Council ownership. Council will call for a formal valuation of the land from its Consulting Valuer, once the notice of road closure has been published in the NSW Government Gazette. The value determined by Council's Consulting Valuer will form the sale price of the land and represent what you will pay Council to purchase the land in the closed road.

In the case where the road has not been formed, or funds otherwise expended on its construction/maintenance, upon publication of the road closure Notice in the NSW Government Gazette, the land will become the property of the Crown and you will be required to pay to Council the value of the land in the closed road as advised by the Department of Planning Industry & Environment – Crown Lands.

To enable the land in the closed road to be transferred to your ownership, Council's solicitor will be engaged to prepare a Contract for Sale. The NSW Government has mandated that the transfer of land must be done electronically. You will need to engage your own solicitor or property conveyancer that is registered on the PEXA platform to enable the land transfer to be completed.

As a general guide, the process of closing a Council road will likely take in the order of 44 weeks to be completed.