

8.4. Request to purchase portion of West Creek Road, Langhorne Creek

Cr Sue Miller declared a material conflict of interest in the matter for consideration due to a related party undertaking contract work for West Creek Partners and advised she will leave the Chamber.
Cr Sue Miller left the Chamber at 7 26 pm

C24047

Moved Cr Michael Scott seconded Cr Lou Nicholson

That the Community Consultation results on the road closure of West Creek Road between Mosquito Creek Road and McAnaney Road be received.

CARRIED UNANIMOUSLY

C24048

Moved Cr Michael Scott seconded Cr Peter Oliver

That Council initiates a road closure process and associated sale of West Creek Road between Mosquito Creek Road and McAnaney Road.

CARRIED UNANIMOUSLY

Cr Sue Miller returned to the Chamber at 7 37 pm

8.4. Request to purchase portion of West Creek Road, Langhorne Creek

Responsible Officer: Jon Smyth, Manager Assets
Report Author: Shaun Smith, Civil and Traffic Engineer

Recommendation 1

That the Community Consultation results on the road closure of West Creek Road between Mosquito Creek Road and McAnaney Road be received.

Recommendation 2

That Council:

- 1. Does not initiate a road closure process and associated sale of West Creek Road between Mosquito Creek Road and McAnaney Road.
- 2. Proceeds with the Re-sheeting of West Creek Road as detailed in the 2023/24 Budget and Capital Program.

Prior Resolutions

Meeting Date	Agenda Item Number	Report Title	Resolution Number
10 July 2023	4.1	Annual Business Plan and Budget Adoption and Rate Declaration 2023/24 Financial Year	C23246-C23250
18 September 2023	8.1	Request to purchase portion of West Creek Road, Langhorne Creek	C23315

Community Strategic Plan Impact

LIVEABLE	Distinctive townships, places, spaces, and transport networks that support active lifestyles vibrant cultures and productive enterprise
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Report Objective

This report outlines the investigation into the requested closure and sale of a portion of West Creek Road as per the Council Resolution C23315 from the Ordinary Council Meeting of 18 September 2023.

Executive Summary

It has been requested by the McAnaney family that Council consider closing the portion of West Creek Road between Mosquito Creek Road and McAnaney Road and sell that portion of land to them.

The process to formally close a road must follow the steps detailed within the Roads (Opening and Closing) Act 1991 and can take 12 months or more to complete. The costs associated with a formal road closure process are generally greater than \$10,000 and recoverable by Council from the purchaser, regardless of the outcome. The full detail of the road's closing process is explained further in item 8.

The potential sale price for the disposed land is estimated to be approximately \$20,000. This estimate has been provided by Council's Sales & Acquisitions Property Officer; however the final value would be determined by the Valuer General should the process proceed.

Council has investigated the traffic movements by collecting traffic data on both West Creek and McAnaney Roads over a 3-month period to determine the impact on the wider community should the proposed portion of West Creek Road be closed. The data collected clearly demonstrated that this section of West Creek Road is consistently utilised by the general public.

A search of the relevant portion of West Creek Road using the "Before You Dig" service location provider was undertaken indicating that there is one public utility on this section of road reserve detailed further in this report.

There are no parcels of land that would become land-locked by closing this section of road.

A Community Consultation was also undertaken which resulted in 6 formal responses to the consultation with all respondents confirming that they would like to see West Creek Road remain open.

It is therefore recommended that the road remain open and is resheeted as planned this financial year.

Context

Following the release of the 2023/24 budget to the public, the McAnaney family (owners of property adjacent West Creek Rd) made an enquiry to Council agreeing that West Creek Road from Boundary Road South to McAnaney Road should be re-sheeted due to its current condition. In addition, they also requested that Council consider closing the section between Mosquito Creek Road and McAnaney Road with savings gained from the reduced scope to be allocated into upgrading other roads in the area such as sealing Mosquito Creek Rd and realigning various intersections for perceived traffic safety. It should be noted that savings gained from reducing the West Creek Road re-sheet would be vastly insufficient to undertake the suggested upgrade works. The below map details the relevant roads discussed within this report.



At the September 2023 General Council Meeting, a deputation was provided by Mr Grant McAnaney formally requesting that Council consider permanently closing the portion of West Creek Road between Mosquito Creek Road and McAnaney Road (detailed below) and selling that portion of land to him.



The following resolution (C23315) was then passed at the meeting:

That Administration further investigate a proposed road closure of a section of West Creek Road between Mosquito Creek Road and McAnaney Road and provide a further report to Council detailing:

- *Required process to close and dispose of the section of road.*
- *Costs involved in the process.*
- *Potential sales price of land disposal.*
- *Details of an investigation into current.*

o Traffic movements.

o Existing services and potential easements.

o Access to adjoining properties to ensure not creating land-locked parcels/allotments, and the need for easements for access purpose.

o Value to community to close and dispose of this land.

That prior to the consideration of the investigation report, that Administration delays the re-sheeting of the section of road requested to be closed.

General Analysis

The requirements of the resolution from the Ordinary Council Meeting of 18 September 2023 are explained in further detail below.

A summary of the process required to formally Close and Dispose of a section of road reserve is detailed in the Roads (Opening & Closing) Act 1991.

The power to open or close a road is provided by Part 2 Section 4 of the Act "A road may be opened or closed by a road process order made by the relevant authority, confirmed by the Minister and notified in the Gazette in accordance with this Act". Other than for major developments, the relevant authority is normally the council of the area, which is the case here.

The process begins by Council engaging a Surveyor to prepare a preliminary plan of the land subject to the proposed road closure and depositing this with the Surveyor-General, along with the names and addresses of those persons who may be affected (section 9). This would be initiated should Council change the recommendation in this report and resolve to commence a road's closing process.

Section 10 then requires that a public notification be carried out. Regulation 6 of the Roads (Opening and Closing) Regulations 2021 describes the public notice requirements. The public notice must include a clear and accurate diagram of the subject land and specify how it intends to deal with the road that is to be closed. In this case, it would be intended to deal with the land, by merging it with the adjoining land. The preliminary plan must be available for inspection at Council's office and also at the Adelaide office of the Surveyor-General. The public notice must be published in the

Government Gazette, on Council's website and/or local papers and must also advise that any person who objects to the proposal may make a written objection which is lodged with both Council and the Surveyor-General.

Section 13 of the Act states that "*Any person may object to a proposed road process*". Any objections received are to be lodged with both Council and the Surveyor-General. Section 14 then requires Council to advise any objectors of when a meeting will be held to discuss the matter and allow them to make a formal submission in support of the objection.

To proceed any further in the process, Section 15 of the Act requires a second report be presented to Council where consideration of any formal submissions received must be reviewed and considered before a resolution to close the road can be made. If a resolution to close the road is made, as soon as practicable after making the decision, Council must notify the Surveyor-General of the decision. The land surveyor originally engaged by Council will complete the final plan at this point.

Council must then forward to the Surveyor-General a copy of the minutes of all meetings held in relation to the road closure, certified by the CEO (Section 19). It must also notify in writing, any person who objected to the proposed road closure.

Within three months of making the order to close the road, Council must provide the Surveyor-General with two copies of the order and the final survey plans for the Registrar-General (section 20). The Surveyor-General must also be provided with a copy of the agreement for transfer when the land in a road reserve to be closed is to be merged with other land. This would be relevant in this case, as the road reserve would be added to the adjoining land. If this section is not complied with, the road closure may not be confirmed and will lapse.

The Surveyor-General must then review the order to close the road (section 21).

If the Surveyor-General is of the opinion that the order to close the road has any error or deficiency, he may correct or amend the order and advise Council. Council must then notify any interested parties (section 22).

Section 23 requires the Surveyor-General to make a recommendation to the Minister on the results of the review of the order to close the road and recommend to the Minister whether the order should be confirmed.

The Minister must confirm or decline the order to close the road (section 24). If the order is confirmed by the Minister, the Surveyor-General must publish in the Government Gazette the confirmation of the order to close the road.

On publication of the notice in the Gazette, the subject land for transfer vests in the person to whom it is to be transferred.

It must be noted that the formal closure of a road is very process driven and as such can take around 12 months or more to complete depending on the complexity of the case and the number of objectors. The initial public consultation had indicated that there will likely be a number of objectors in this case.

Costs involved in the Road Closure process.

The cost of the process is typically at least \$10,000. This is made up of survey, notifications, Land Services SA fees and Gazette notice fees. All of these costs are recovered from the entity acquiring the land. The only non-recoverable costs are those related to the time spent by Council officers. That time is variable and would include writing two reports (one to commence the process and one to recommend the closure of the road), procurement of a surveyor, arranging the public notices and consultations and some communications time.

Potential Sales Price of Land Disposal

To calculate a guide value of the land to be disposed of as part of a road closure, Council would multiply the adjoining land value by the total area of the road reserve.

In this case the land value of the adjoining property is approximately \$1 per m² as advised by Council's Sales & Acquisitions Property Officer.

The total area of West Creek Rd that is proposed to be closed is 20,515m².

Therefore, the guide Sale Price of Land Disposal = 20515m² x \$1 = \$20,515.

Noting that the final value would be determined by the Valuer General should the process proceed.

Traffic Volumes

Council has been monitoring the Traffic Volumes on both West Creek Road and McAnaney Road for the past 3 months.

Traffic Counter Locations are shown on the map below.



The traffic volumes recorded for West Creek Road (between Mosquito Creek Road and McAnaney Road) were:

Date	Light Vehicles per day	Heavy Vehicles per day	Total Vehicles per day
27/9/2023 – 5/11/2023	18	4	22
5/11/2023 – 14/12/2023	18	3	21
14/12/2023 – 11/1/2024	19	3	22

The traffic volumes collected for McAnaney Road (between Mosquito Creek Road and West Creek Road) were:

Date	Light Vehicles per day	Heavy Vehicles per day	Total Vehicles per day
27/9/2023 – 5/11/2023	17	6	23
5/11/2023 – 14/12/2023	19	8	27
14/12/2023 – 11/1/2024	18	4	22

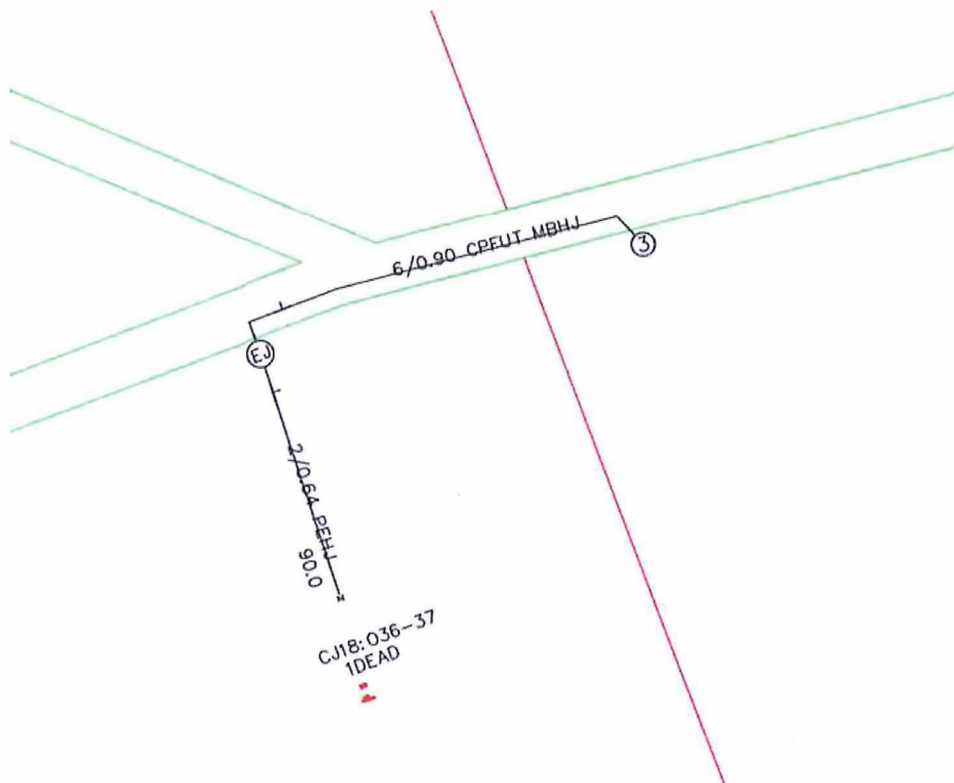
Both West Creek Road and McAnaney Road are classified as Rural Minor Roads and these traffic volumes show that both roads are regularly utilised equally by the local community.

These traffic volumes are also consistent with the Unsealed Road Hierarchy classifications which suggest that Rural Minor roads should carry approximately 25 to 50 vehicles a day.

Existing services and potential easements.

Council has undertaken a Before You Dig request on the proposed section of West Creek Road and found that there is a buried Telstra Cable at the Eastern end of the portion of West Creek Road that is proposed to be closed (see picture below).

As such, should the sale and disposal of this road proceed, an easement to Telstra for continued access to the buried cable would be likely.



Access to adjoining properties to ensure not creating land-locked parcels/allotments, and the need for easements for access purpose.

As the McAnaney Family owns all the land surrounding West Creek Road, no land Locked allotments would be created which would mean that No easements for access purposes would need to be created.

Community Consultation

Although the Closure of a Road requires a formal Consultation process, Council has undertaken preliminary Community Consultation via our MySay page to gather feedback from some of the users who utilise West Creek Road, the types of vehicles they drive and whether they would like to see the road closed.

Council received 6 formal responses to this Consultation, 5 of these being Council ratepayers and residents. All 6 of the respondents stated that they would like to see West Creek Road remain open in its entirety. There were also other informal responses received via telephone suggesting that further deputations and petitions would result should the road closure proceed to formal consultation.

The Full MySay Consultation Report can be seen in Attachment 1

Value to community to close and dispose of this land.

It would be of no Value to the Community if Council were to close this portion of West Creek Road besides the minimal revenue generated through the sale of the land.

The maintenance of this portion of West Creek Road would be no longer required, however due to additional traffic volumes now having no alternative other than to use the surrounding roads, this will result in increased maintenance costs and accelerated deterioration on these roads.

Additionally regular users of West Creek Road would now be required to travel an extra kilometre by using Mosquito Creek Road and McAnaney Road.

Comparative Analysis

Nil

Financial and Economic Implications

The financial Implications of not disposing of this land will be the re-sheeting of West Creek Road as was originally programmed and budgeted in the Unsealed roads renewal program for 2023/24. This activity will be cost neutral to the current approved 2023/24 budget.

If Council decides to sell the road to the McAnaney Family, this will result in a potential sale price of circa \$20,000 (subject for formal valuation) being paid to Council, however this amount would be offset through the administrations time to process the formal Road Closure. The budget allocated for the re-sheet portion of West Creek Road proposed for closure would then be deferred to an alternate unsealed road renewal candidate.

Risk Management

In accordance with Alexandrina Council's Risk Assessment Matrix, the risk of adopting this recommendation is considered **Low** given there is no change to the current arrangement. Based on the survey responses, this will ensure Council reputation remains positive in that we are listening to our community and respecting their views.

Should Council change the recommendation, then the risk would be considered **Medium**, in that Council may proceed to undertake the formal process of closing this section of road and therefore risking reputational damage and service delivery interruption for road users. Given the traffic data collected and feedback received from the consultation, there will likely be multiple objections to the closure with the Minister declining the application.

Conclusion

Based on the traffic volumes undertaken over the last 3 months, it is clear that many of general public utilise West Creek Road and McAnaney Road which is consistent with its Rural Minor Road classification within the Unsealed Road Hierarchy.

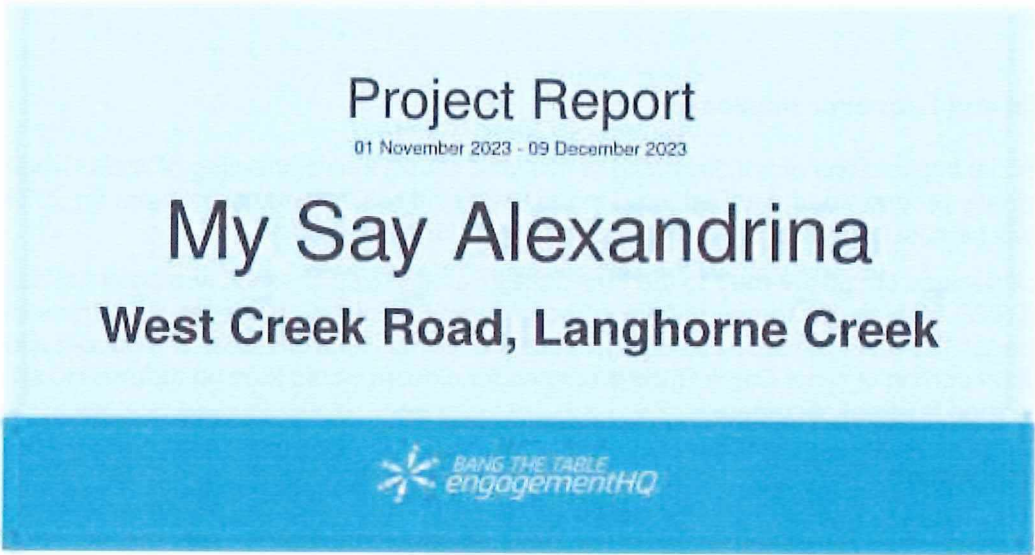
The Sale of a portion of West Creek Road would provide little to no benefit to Council or the wider community.

Additionally, through the initial Community Consultation already undertaken, the feedback suggests that multiple members of the general public wish for the road to remain open. It is expected that during a Formal Notification of the road closure, Council will receive a number of formal objections which will likely influence the Surveyor-General and the Minister to decline the Public Road Closure Request.

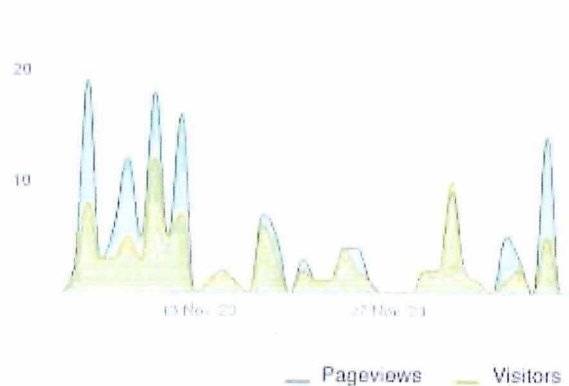
As such Administration recommends that West Creek Road remain open for public use, that the requested sale by the McAnaney Family be declined and that West Creek Road undergo re-sheeting as programmed.

Attachments

Attachment 1 – My Say Consultation Report



Visitors Summary



Highlights

TOTAL VISITS	MAX VISITORS PER DAY	
104	12	
NEW REGISTRATIONS		
0		
ENGAGED VISITORS	INFORMED VISITORS	AWARE VISITORS
6	20	88

Aware Participants	88	Engaged Participants	6		
Aware Actions Performed	Participants	Engaged Actions Performed	Registered	Unverified	Anonymous
Visited a Project or Tool Page	88	Contributed on Forums	0	0	0
Informed Participants	20	Participated in Surveys	0	0	6
Informed Actions Performed	Participants	Contributed to Newsfeeds	0	0	0
Viewed a video	0	Participated in Quick Polls	0	0	0
Viewed a photo	0	Posted on Guestbooks	0	0	0
Downloaded a document	11	Contributed to Stories	0	0	0
Visited the Key Dates page	0	Asked Questions	0	0	0
Visited an FAQ list Page	0	Placed Pins on Places	0	0	0
Visited Instagram Page	0	Contributed to Ideas	0	0	0
Visited Multiple Project Pages	11				
Contributed to a tool (engaged)	6				

ENGAGEMENT TOOLS SUMMARY



INFORMATION WIDGET SUMMARY



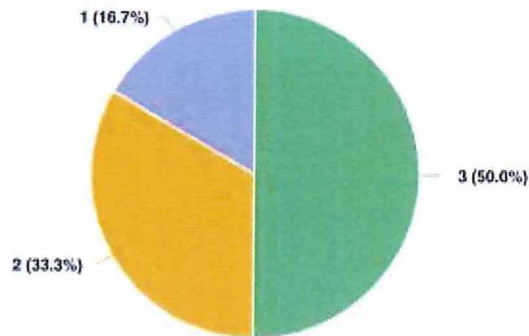
Widget Type	Engagement Tool Name	Visitors	Views/Downloads
Document	HARD COPY Survey - West Creek Road, Langhorne Creek	5	5
Document	West Creek Road - Proposed Section Closure Map	4	5
Document	Council Meeting Agenda - 18 September 2023 - Administration Report 8.1	3	4
Document	Council Meeting Minutes - 18 September 2023 - Administration Report	1	2

ENGAGEMENT TOOL: SURVEY TOOL

Survey - West Creek Road, Langhorne Creek

Visitors	11	Contributors	6	CONTRIBUTIONS	6
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Which statement best describes you?



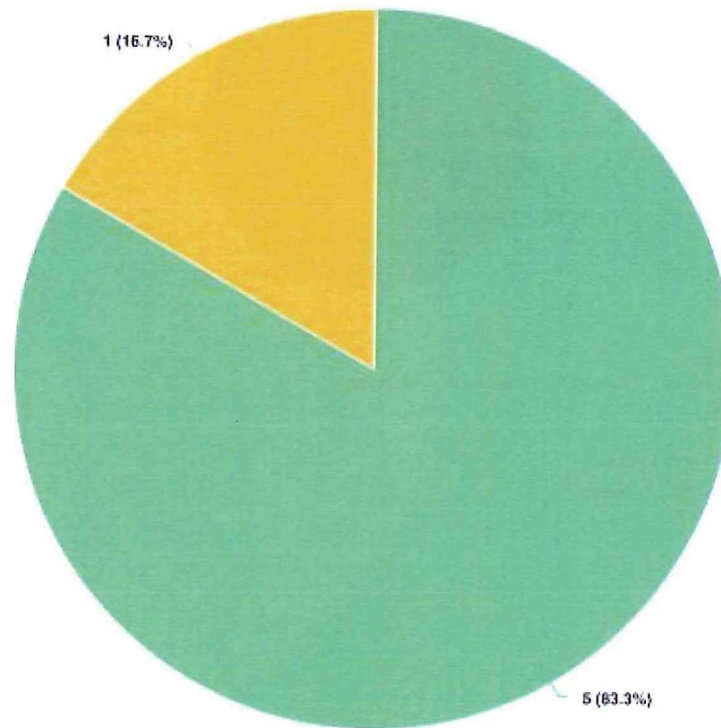
Question options

Alexandrina Resident Alexandrina Ratepayer Visitor

Mandatory Question (6 response(s))

Question type: Radio Button Question

Do you regularly use this portion of West Creek Road as part of your travels?



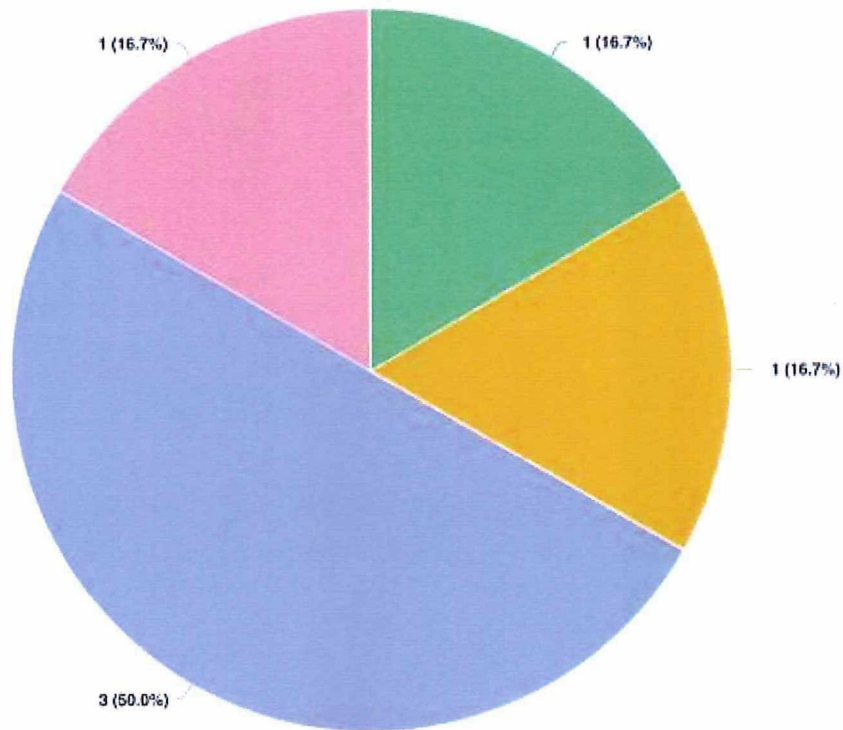
Question options

☒ Yes ☐ No

Mandatory Question (6 response(s))

Question type: Radio Button Question

How often do you use this section of road?



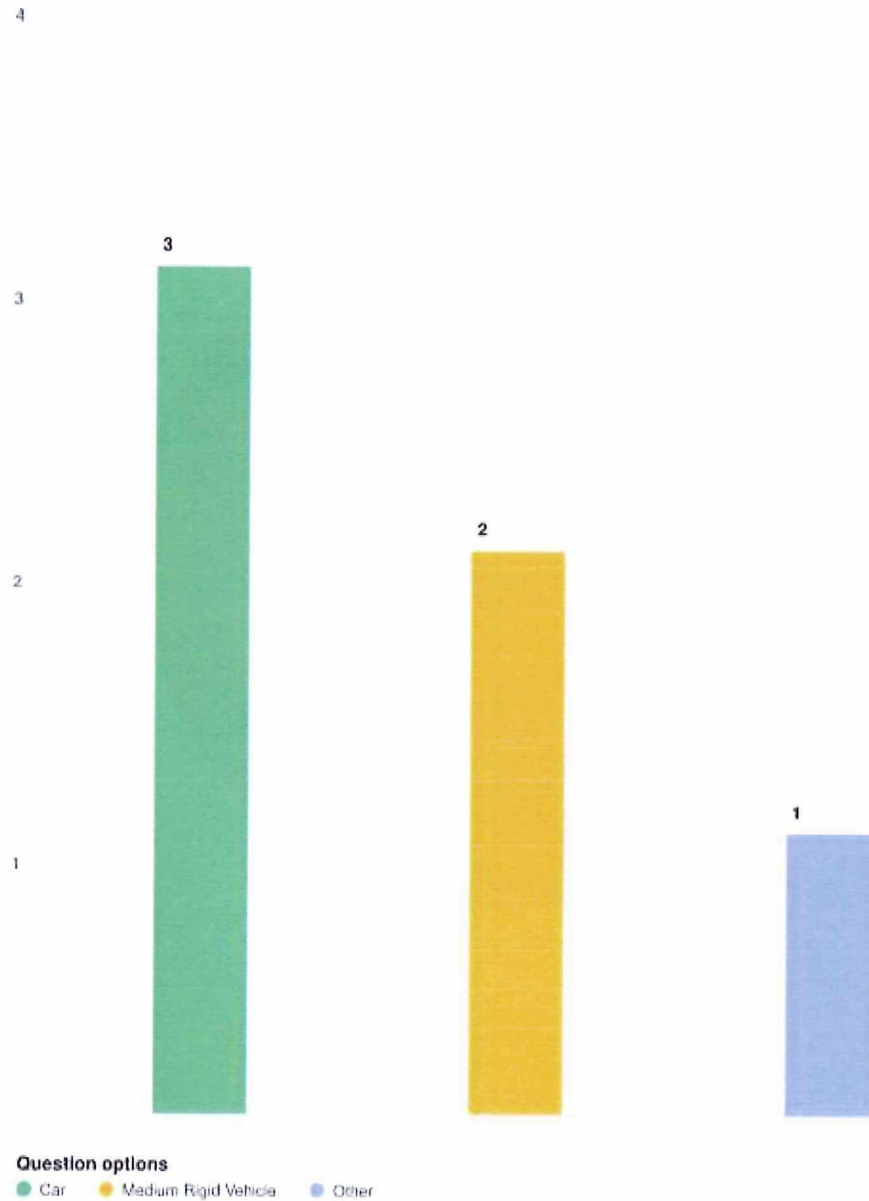
Question options

☐ Daily ☐ Fortnightly ☐ Seasonally ☐ Other

Mandatory Question (6 response(s))

Question type: Radio Button Question

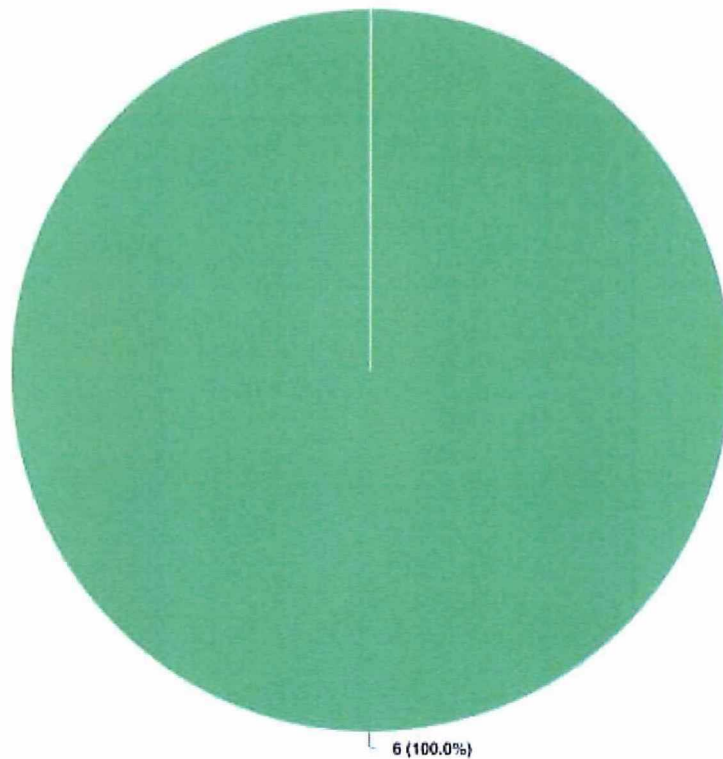
What type of vehicle do you drive on this section of road?



Optional question (6 response(s), 0 skipped)

Question type: Checkbox Question

Do you wish to see the section of West Creek Road (between Mosquito Creek Road and McAnaney Road) permanently closed?



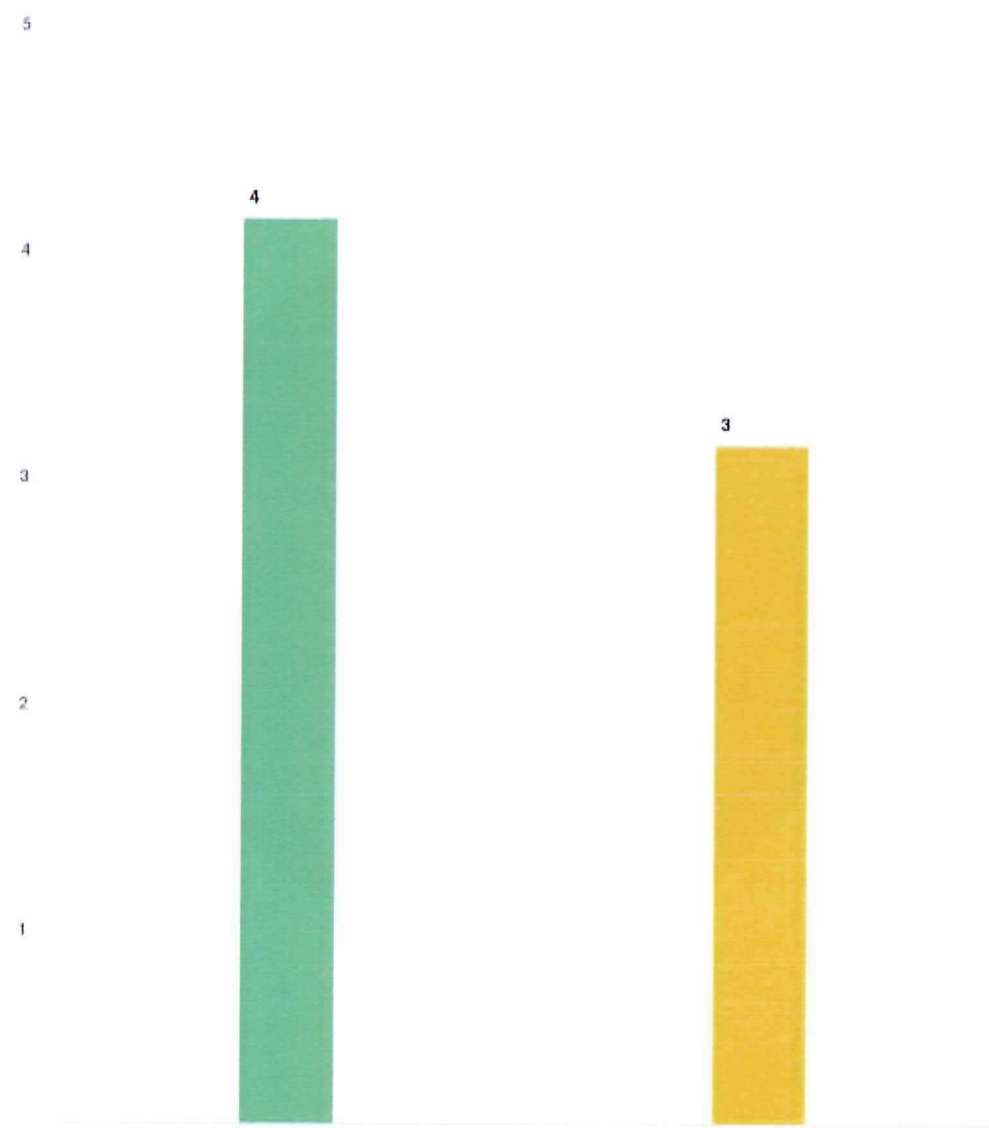
Question options

☒ No

Optional question (6 response(s), 0 skipped)

Question type: Radio Button Question

For what purpose do you use this section of road?



Question options

- Travel between towns (e.g. Milang to Murray Bridge)
- Other

Optional question (6 response(s), 0 skipped)

Question type: Checkbox Question