

# Register of Public Roads Policy 2017

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Policy Version 2.0

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# Table of Contents

- 1 Introduction..... 1
- 2 Purpose..... 1
- 3 Objectives..... 2
- 4 Scope ..... 2
- 5 Definitions ..... 2
- 6 Policy ..... 5
- 7 Procedure ..... 5
- 8 Responsibility ..... 7
- 9 References..... 8
- 10 Review ..... 8
- 11 Appendix..... 8

# 1 Introduction

As part of the Road Management Act 2004, a municipality, as a road authority, is required to have a Register of Public Roads (referred to hereafter as the 'Register').

Council's current register was first gazetted in 2004 (available on Council internet site <http://www.mornpen.vic.gov.au>). The Register requires continual updates and is queried from time to time in regard to what should and should not be on the register.

For this reason a Register of Public Roads policy and the accompanying background paper has been developed to set out a framework for making consistent, structured and justifiable decisions as to whether a road or area of land is reasonably required for general public use and is therefore considered to be a "Public Road". Once identified as a Public Road it must be included in Council's Register.

Council will be able to decide whether a road is a Public Road based on criteria that are set out in the background paper. The inclusion in the Register of a Public Road is an acknowledgement by Council that it is the Co-ordinating or Responsible Road Authority in respect of the road or area of land, and therefore has the responsibility for its on-going maintenance, repair, inspection and the risk associated with this function.

# 2 Purpose

To provide a framework for making consistent and structured decisions as to whether a road or area of land should be added to Council's Register of Public Roads.

### **3 Objectives**

- 3.1 To show that due diligence has been carried out, in regard to health, safety and the environment of the Municipality.
- 3.2 To comply with Road Management Act 2004.
- 3.3 To clearly state which public roads or ancillary areas the Shire is the coordinating road authority or responsible road authority.
- 3.4 To have a framework for making consistent, structured and justifiable decisions in regard to how the register is updated.
- 3.5 To provide for policy defence in case of litigation.
- 3.6 To clearly show area of responsibility for vehicle crossings.

### **4 Scope**

Will directly affect the all road users, Infrastructure & Planning Group, Asset Custodians, Service Providers and Corporate Services Group (Finance).

### **5 Definitions**

- 5.1 Ancillary area – An ancillary area is an area of land owned or managed by Council that's use is ancillary to the use of an adjacent road. In most cases this will be car parks.
- 5.2 Coordinating Road Authority – Means the road authority which has coordination functions as determined in accordance with section 36 of the RMA2004.
- 5.3 Due Diligence – Need for Council to show that all possible measures were taken to provide the community with assets free of hazards, as Council owes a duty of care to the public.
- 5.4 Fire Access Track - A fire access track is a track constructed and maintained expressly for fire management purposes. (AFAC Bushfire Glossary, 2012). A fire access track is constructed for the purpose of facilitating rapid fire response where access using Public Roads is limited. A fire access track is not a Public Road under the Road Management Act 2004.

- 5.5 Formed Road or Pathway – A roadway or pathway that is constructed to an approved Council standard. These roadways or pathways can range from basic construction to full construction.
- 5.6 Pathway – means a footpath, bicycle path, walkway etc. constructed or developed by a Road Authority for use by members of the public other than with a motor vehicle but does not include any path:
- a) which has not been constructed by a Road Authority (e.g. a foot trodden track); or
  - b) which connects to other land (e.g. a path that connects from a roadway or footpath to privately owned land would not be a pathway)
- 5.7 Public Road means a Public Road within the meaning of section 17 of the Road Management Act 2004.
- 5.8 Negligence – means failure to exercise reasonable care.
- 5.9 Private Driveway – is the area providing vehicle access to a public road or other road from a single adjoining private property or land parcel;
- 5.10 Responsible Road Authority – Means the road authority which has operational functions as determined in accordance with section 37 of the RMA2004, e.g. for service roads that are on state road reserves.
- 5.11 Right-Of-Way- is a thoroughfare 6 metres or less in width between boundaries and primarily provide private access to the rear or side of a property. ROWs may also be called Service Lanes, Limited Access Roads or Resident Access Lanes.
- 5.12 Road - includes –
- (a) any public highway;
  - (b) any ancillary area;
  - (c) any land declared to be a road under section 11 of the Road Management Act 2004 or forming part of a public highway or ancillary area.
- 5.13 Road Reserve – means all of the area of land between property boundaries on both sides of the road.
- 5.14 Service Roads - are subsidiary carriageways separated from the main carriageway for the primary purpose of providing public access to abutting properties.

- 5.15 Shared Access Driveway - is the area providing vehicle access to a public road or other road from two or more adjoining private property or land parcels;
- 5.16 Unformed Roads or Pathways – A road or pathway which has no formed construction. Commonly these are tracks on an irregular alignment with no drainage.
- 5.17 Vehicle Crossing – An improved area between the carriageway of any Road to the adjacent property line of private property and includes culverts, kerb and channel laybacks and pavement thickening of footways, that provides safe, all weather access to properties and prevents damage to services and other assets located within the Road Reserve.

## 6 Policy

- 6.1 The Mornington Peninsula Shire will meet its statutory requirements of the Road Management Act 2004 in regard to providing an accurate Register of Public Roads. Giving the community a clear understanding of which roads or land areas the Shire is the Road Authority. Refer to attached flow chart or background report for details of policy.
- 6.2 Generally, if a road or ancillary area is to be included on Council's Register of Public Roads, Council needs to have made a decision that the road is reasonably required for general public use.
- 6.3 To be considered "reasonably required for general public use" a road must meet all of the following criteria:
- a) It is located on council owned or controlled land,
  - b) It provides primary, access to a property or secondary access to a commercial or industrial property.
  - c) It is constructed to current Shire standards
  - d) It is capable of being economically maintained;
  - e) It provides unrestricted public access.
  - f) If it is not a commercial or industrial property and it provides secondary access, it must be fully constructed (including sealed surface and drainage) to current Shire standards at the time of consideration for inclusion on the Register.
- 6.4 Not all unmade roads or tracks can be placed on the Register of Public Roads due to limited financial and other resources that are available to Council for the purposes of exercising its road management functions, giving due consideration to the broad range of services it provides to the community.

## 7 Procedure

- 7.1 To achieve the consistency required when deciding on what roads or land areas should be added to the Register of Public Roads a structured process needs to be followed. This policy and accompanying background paper sets out the issues that need to be considered when evaluating a road or land area.

- 7.2 According to the Road Management Act 2004, for a road or land area to be on the Register of Public Roads, Council must have made a decision that the road is “reasonably required for general public use”.
- 7.3 In most cases this will be a straight forward process, for example where a new subdivision has been accepted by Council the roads will be added to the Register of Public Roads once considered to be “reasonably required for general public use”.
- 7.4 In some cases, more investigation is required and, in general, issues fall into the following:
- a) Ancillary areas
  - b) Subdivisions
  - c) COM Crown land or freehold title
  - d) Body corporate driveways
  - e) Pathways
  - f) Demarcation
  - g) Driveways (Vehicle crossings) including Monolithic Driveways
  - h) Primary Roadway (Access to one residence)
  - i) Secondary Access
  - j) Shared Property Access/Pathway
  - k) Pre-existing Roadway or Property Access
  - l) Shire approved construction to a lower standard
  - m) Substandard Roads (Not constructed to standard but able to be economically maintained)
  - n) Roads not on the Register of Public Roads

By addressing these issues in detail in the background report the Shire has provided a clear, consistent and structured approach to managing the Register of Public Roads.



## 8 Responsibility

- 8.1 The Asset Management team is responsible for keeping the MPS Register of Public Roads up to date. This involves working with the Infrastructure Project Delivery team to identify new or changed roads that occur through new subdivisions or capital works. In these cases, the responsible officer is the Team Leader Asset Management.
- 8.2 It also requires the AM team to work closely with the Infrastructure Services team, Safer Local Roads service providers and the community when issues arise regarding what roads or land areas should or should not be included on the Register of Public Roads. In these cases, the responsible officer is the Executive Manager Infrastructure Services.
- 8.3 Council staff in general must inform the AM Team and Infrastructure Services of any agreements made with other parties where the Council is to take on responsibility for what was a private road or a road under the control of another road authority, e.g. where a 173 agreement has been made.
- 8.4 Infrastructure Services and AM Team must be informed of any proposed road discontinuances and when they are discontinued.

## 9 References

- a) MPS Road Management Plan 2017
- b) MPS Asset Management Policy 2015
- c) MPS Asset Management Strategy 2015
- d) MPS Unmade Roads Construction Strategy 2006
- e) Road Management Act 2004
- f) RMA - Code of Practice “Operational Responsibility for Public Roads”
- g) Subdivision Act 1988
- h) Local Government Act 1989

## 10 Review

This policy is an ongoing requirement as the roads register will need to be continually updated. This policy will be reviewed and amended as required within each term of Council and within no more than 5 years of its approval date in alignment with the review of the Shire’s Road Management Plan.

## 11 Appendix

Following is a flow chart representing the process that will be followed when assessing whether a road, pathway or land area should be included on the Register of Public Roads.

**APPENDIX 1 – REGISTER OF PUBLIC ROADS ASSESSMENT PROCESS FLOW CHART**

