

# Council Policy

## Register of Public Roads Policy

Objective Reference: A12305649

### 1.0 AUTHORITY

*Road Management Act 2004* (the Act) generally; Sections 17 and 19 specifically.

### 2.0 INTENT

The purpose of this Register of Public Roads Policy (the Policy) is to provide a framework for making consistent, structured, and justifiable decisions on whether a road should be added to the Mornington Peninsula Shire's (Shire) Register of Public Roads (the Register).

The Policy will assist delegated Shire staff to identify roads that Council, as a Coordinating Road Authority, considers "reasonably required for general public use" as stipulated in the *Road Management Act 2004*, s 17(3).

### 3.0 SCOPE

This Policy applies to Shire staff delegated with the authority to make a decision on Council's behalf that a road "is reasonably required for general public use".

These roads are to be included in the Register.

### 4.0 GOVERNANCE PRINCIPLES

Under the *Local Government Act 2020*, Council must give effect to the following overarching governance principles:

- Council decisions are to be made and actions taken in accordance with the relevant law;
- priority is to be given to achieving the best outcomes for the municipal community, including future generations;
- the economic, social and environmental sustainability of the municipal district, including mitigation and planning for climate change risks, is to be promoted;
- the municipal community is to be engaged in strategic planning and strategic decision making;
- innovation and continuous improvement is to be pursued;
- collaboration with other Councils and Governments and statutory bodies is to be sought;
- the ongoing financial viability of the Council is to be ensured;
- the transparency of Council decisions, actions and information is to be ensured.

### 5.0 POLICY STATEMENT

#### 5.1 Register of Public Roads

5.1.1 In compliance with the *Road Management Act 2004*, s19(1), a municipality, as a road authority, is required to have a Register of Public Roads.

5.1.2 This Policy enables the Shire to fulfill its legal obligations under the Act by maintaining an accurate Register. It ensures that the community has a clear understanding of which roads are under the authority of the Shire. The Policy sets out the decision making principles and specific practical detail can be found in the Register of Public Roads Protocol (the Protocol).

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- 5.1.3 This Policy and the associated Protocol have been created to provide guidance on deciding whether a road should be classified as a "Public Road." The two documents provide guidelines for making consistent, structured, and justified decisions on whether a "road is reasonably required for general public use". Once a road is recognised as a "Public Road," it must be included in the Register.
- 5.1.4 The Shire's Register was initially adopted in 2004 and has been regularly reviewed and updated since. The latest version can be found on the Shire's Internet website at <http://www.mornpen.vic.gov.au>.
- 5.1.5 Inclusion in the Register is an acknowledgement by Council that it is the Coordinating Road Authority responsible for the coordination functions of the road. If the Shire is also the Responsible Road Authority, it will have the responsibility for operational functions such as on-going inspection, maintenance, and repair of the road, and the risks associated with these functions.

### 5.2 Roads Reasonably Required for General Public Use

- 5.2.1 Generally, if a road or ancillary area is to be included in the Register, Council needs to have made a decision that the "road is reasonably required for general public use".
- 5.2.2 In order to be considered "reasonably required for general public use," a road must fulfill all of the following criteria:
- It is situated on land owned or controlled by the Council.
  - It is constructed according to the Shire's standards that are in effect at the time it is being evaluated for inclusion in the Register.
  - It can be economically maintained.
  - It serves as the primary access route for multiple properties or as the secondary access route for multiple commercial or industrial properties. If the access is limited to a single property, the road must be fully constructed in accordance with the Shire's standards. This includes having a sealed surface and proper drainage. However, this requirement for full construction does not apply if the access is limited to public open space, Shire community or sporting facility, or Shire controlled car park.
  - It allows unrestricted public access.
  - It is currently being used by the general public, and this usage is expected to continue in the future.
  - It connects to and forms part of the broader network of Public Roads.

If all the criteria are not met, but extenuating circumstances exist, the situation can be referred to a Council meeting for a decision by Council that the road is "reasonably required for general public use".

- 5.2.3 Not all unmade roads or tracks can be placed on the Register 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.

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### 5.3 Rules and Practical Guidance for Making Decisions

- 5.3.1 To achieve the consistency required when deciding what roads should be added to the Register, a structured process needs to be followed. This Policy and accompanying Protocol sets out the issues that need to be considered when evaluating a road.
- 5.3.2 According to the *Road Management Act 2004*, s 17(3), for a road to be included in the Register, Council must have made a decision that the road is “reasonably required for general public use”.
- 5.3.3 In most cases this will be a straightforward process. For example, where a new land subdivision has been approved and the road infrastructure is constructed to the Shire’s standards. The roads will be added to the Register once considered to be “reasonably required for general public use”.
- 5.3.4 In some cases, more investigation is required. In general, issues fall into the following categories:
- Demarcation
  - Subdivisions
  - Committee of Management, Crown land or freehold title
  - Primary Roadway (Access to one Property)
  - Service Roads
  - Secondary Access (Residential/Commercial/Industrial)
  - Pre-existing Roadway or Property Access
  - Shire Approved Construction of a ‘Lower Standard’
  - Substandard Roads (Not constructed to standard but able to be economically maintained)
  - Not Maintainable Roads
  - Roads not in the Register.
  - Driveways (Vehicle crossings)
  - Monolithic Driveways
  - Common Property Driveways
  - Pathways
  - Shared Property Access / Pathway
  - Ancillary areas
  - Off-Road Car Parks

The Protocol linked to this Policy addresses these issues by establishing rules and providing practical guidance. It enables a clear, consistent, and structured approach to managing the Register.

### 5.4 Responsibilities

- 5.4.1 The Asset Management Team is responsible for maintaining the Shire’s Register, working with the Infrastructure Project Delivery Team to identify new or modified roads resulting from subdivisions or capital projects. The Team Leader of Asset Management is the responsible officer in such cases.

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- 5.4.2 The Asset Management Team also collaborates with the Infrastructure Services Unit, road maintenance services provider, and the community when determining which roads should be included or excluded from the Register. In these situations, the responsible officer is the Manager of Infrastructure Services.
- 5.4.3 Council staff members must inform the Asset Management Team and Infrastructure Services Unit about any agreements where the Council assumes responsibility for a private road or a road previously managed by another authority. For instance, this may occur through a section 173 agreement under the *Planning and Environment Act 1987*.
- 5.4.4 The Infrastructure Services Unit and Asset Management Team need to be notified of any proposed road discontinuances and informed once these discontinuances are finalised.

## 6.0 HUMAN RIGHTS CHARTER COMPATIBILITY

This Policy has been assessed as being compatible with *the Charter of Human Rights and Responsibilities Act 2006 (Vic)*.

## 7.0 ASSOCIATED DOCUMENTS

- Mornington Peninsula Shire Road Management Plan 2022
- Mornington Peninsula Shire Asset Management Policy 2020
- Mornington Peninsula Shire Asset Management Strategy 2020
- Mornington Peninsula Shire Unmade Roads Construction Strategy 2006
- *Road Management Act 2004*
- *Road Management Act 2004* - Code of Practice “Operational Responsibility for Public Roads”
- *Subdivision Act 1988*
- *Local Government Act 1989*
- *Local Government Act 2020*

## 8.0 DEFINITIONS

<b>Ancillary Area</b>	Refer to the <i>Road Management Act 2004</i> .
<b>Coordinating Road Authority</b>	
<b>Pathway</b>	
<b>Public Road</b>	
<b>Responsible Road Authority</b>	
<b>Private Driveway</b>	Area providing vehicle access to a public road or other road from a single adjoining private property or land parcel
<b>Public Highway</b>	Any area of land that is a highway for the purposes of the common law.

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### 9.0 POLICY SPONSOR

The Manager Infrastructure Services, Infrastructure Service Unit, is responsible for overseeing the application and review of the Register of Public Roads Policy.

### 10.0 DOCUMENT CONTROLS

The Register of Public Roads Policy will be reviewed every four years or earlier as required.

#### 10.1 Document Version Table

Document Version Control				
Version	Section	Revision Description	Date Revised	Approved by

#### Administrative Updates

It is recognised that, from time to time, circumstances may change leading to the need for minor administrative changes to this document. Where an update does not materially alter this document, such a change may be made administratively. Examples include a change to the name of a Shire department, the change to an existing policy or document referred to in this Policy, and minor updates to legislation and the like which does not have a material impact. However, any change or update which materially alters the document must be by resolution of Council.