

# Register of Public Roads Policy

**Version:** 1.5

**Date updated:** 1 August 2017

**Responsible Department:** Service and Asset Planning

## 1. Purpose

This document outlines the procedure to ensure Council's Register of Public Roads (Roads Register): is maintained to reflect the requirements of the Road Management Act 2004 (Act), and; accurately identifies the roads for which the City of Casey has care and management responsibility.

## 2. Definitions

<b>Act</b>	Road Management Act 2004. Section numbers (e.g. (s.19)) identified in this document reference to this Act.
<b>Coordinating Road Authority</b>	The municipal council of the municipal district in which the road is situated, unless the road is part of the State road network in which case VicRoads is the Coordinating Road Authority.
<b>Council</b>	means Casey City Council, being a body corporate constituted as a municipal Council under the Local Government Act 1989
<b>Councillors</b>	means the individuals holding the office of a member of Casey City Council
<b>Council officer</b>	means the Chief Executive Officer and staff of Council appointed by the Chief Executive Officer.
<b>General Public Use</b>	as defined in section 5.1 of this Policy.
<b>LGA</b>	Local Government Act 1989
<b>Public Highway</b>	Land being a road over which the public has the right to pass (excluding parks and reserves).

*Council policy documents change from time to time and it is recommended that you consult the electronic reference copy at [www.casey.vic.gov.au/policiesstrategies](http://www.casey.vic.gov.au/policiesstrategies) to ensure that you have the current version. Alternatively you may contact Customer Service on 9705 5200.*

<b>Public Road</b>	any road that the Coordinating Road Authority considers is reasonably required for general public use.
<b>Road</b>	The word “road” is not clearly defined by legislation. For the purposes of Council’s Roads Register, a road is considered to be land that has the legal status of road (i.e. road reserve), regardless of whether the land contains a constructed road or is a public highway, and any other land specifically defined as being a road within the Act (e.g. being declared a road under s.11 of the Act). Constructed roadways or paths outside of a road reserve (e.g. within a park or other reserve or on private land) are therefore not included on Casey’s Roads Register unless declared a road under s.11 or designated an ancillary area under s.18.
<b>Roads Register</b>	The register of public roads that each Coordinating Road Authority is required by the Act to keep that lists all public roads for which it is the Coordinating Road Authority.

### 3. Scope

This Policy defines when a road should be on the Roads Register and identifies how and when a road can be: added to; changed in; or removed from; the Roads Register to meet the requirements of the Act, including the requirements for appropriate consultation.

### 4. Context

The City of Casey (as a Coordinating Road Authority under the Act) must keep a register specifying all public roads within its municipality other than roads in the VicRoads-managed network (s.19).

Council must include on its Road Register any road in respect of which Council has made a decision that the road is reasonably required for general public use (s.17(1)(e)). Details entered for each road shall be as identified in Schedule 1, clause 1 of the Act. If Council makes a decision that the road is no longer required for general public use, the Act requires that the road be removed from the Roads Register (s.17(4)).

Council is empowered to enter into an arrangement with another road authority or a utility to transfer a road management function between organisations. Details of all such agreements must be recorded on the Roads Register (s.15).

### 5. Policy

#### 5.1 General Public Use

In determining whether a road is required for general public use, Council (or the delegated officer) will be guided by, but not limited to the items in this clause.

A road is not considered to be available or required for general public use if access is legitimately denied (either by Council or lawfully by any other authority or person), as indicated by signage and/or a barrier to pedestrians and vehicles (e.g. a fence or a gate).

In all other cases, a road or segment of a road is considered to be required for general public use if in the opinion of the Council or the delegated officer:

- there is evidence that the road is used (frequently or infrequently) for vehicular, cycling, equestrian or pedestrian access, and the road links an existing Public Road with either public land or another existing public road, or
- the Casey Planning Scheme or a granted planning permit provides for current public access over the road to the subject land, or
- the road serves two or more unrelated properties that do not have direct access from an alternative Public Road, except that in circumstances where there is clear evidence that the road was neither constructed nor maintained by Council or its predecessor and is used essentially for private access, Council may consider the road as not being required for general public use.

## 5.2 Roadways or Pathways not on Road Reserve

If a roadway or pathway meets the criteria for general public use but is constructed on public land other than Road Reserve, then the procedure to declare a road under s. 11 of the Act will be followed and the road placed on the Roads Register, subject to Council (or the delegated officer) being of the opinion that it is in Council's interest to do so.

Roadways or pathways on private land will not be identified in the Roads Register. Such roadways are the responsibility of the land owner (or Owners Corporation in the case of common land).

## 5.3 Status after Registration or Removal

The registration of a road on the Roads Register results in the road becoming a "Public Road" (s. 17(1)(e)), and consequently a public highway (LGA: s. 3(1)).

Public Road status imposes a statutory duty on Council to inspect, maintain and repair the road to the standard specified in the Road Management Plan (s. 40(1)). Council is not however obligated to upgrade the road or maintain the road to a higher standard than the standard to which the road was constructed (s. 40(2)).

The removal of a road from the Roads Register does not affect the status of the road as a public highway, or the right of the public to use the public highway (s. 17(5)). A separate process is required if the road is to be discontinued (schedule 10 of LGA), or in the case of a government road, specified as unused (s. 400 of Land Act 1958).

## 5.4 Amending and Maintaining the Register

Subject to the provisions of this Policy, a road can be:

- added to, amended in, or removed from the Roads Register through a decision of Council (as the Coordinating Road Authority) or a Council Officer acting under authority delegated by the Chief Executive Officer (s. 118(1)), or
- added to the Roads Register as described in clause 5.5 below, as part of the subdivision process.

Where a road is to be added to the Roads Register or the details for an existing registered road are to be changed, the changes will be entered into Council's Asset Management System (AMS) and Geographic Information System (GIS). The Roads Register shall be updated monthly from the AMS and be available on Council's website.

Geospatial information to support the Roads Register description and to precisely define the road area is recorded on the GIS. This information is available to the public for specific roads, either by viewing at Council's Offices in Magid Drive or in printed form, upon request.

Attributes of roads within the road register (such as length or classification) may be changed by a delegated officer without external consultation. The road register will show the history of the attribute changes and the date of the change.

## **5.5 New Roads Created through Subdivision**

After Council has issued a Statement of Compliance for a subdivision, the developer will lodge the plans with Land Registry and provide as-constructed plans of the subdivision to Council. As soon as practicable (within available resources) after the as-constructed plans are received, the road data will be entered into the AMS and GIS. The date acquired shall be the date the road became vested in Council, as shown on the Certificate of Title.

In general all constructed roads in new subdivisions are considered available for general public use from the date the title is issued. If Council (or the delegated officer) decides that a newly constructed road in a subdivision is not required for general public use the road will not be added to the Roads Register, and the explanation for that decision will be recorded in Council's Records Management System.

If a road shown on a plan of subdivision has not yet been constructed, it will not ordinarily be added to the Roads Register unless a decision is made that it is required for general public use at that time.

## **5.6 Existing Roads**

Before adding an existing road to, or removing a road from, the Roads Register, Council will write to owners and occupiers adjoining the land giving them the opportunity to respond in writing within a specified period of at least 28 days. Should Council choose to declare the Road and the Road is not currently controlled by Council (e.g. it is fenced off by an adjoining property owner), Council will also implement the process for declaring the road a Public Highway (under s. 204(1) of the LGA).

If Public Road status for a particular road is considered to affect more than the immediate property owners, then Council will advertise in a local circulating newspaper advising of the change a providing the opportunity for anyone to respond in writing within a specified period of at least 28 days.

All owners and occupiers adjoining the road and any other submitter will be notified in writing of the decision and reasons for the decision.

## **6. 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 Council department, a change to the name of a Federal or State Government department, and a minor update to legislation which does not have a material impact. However, any change or update which materially alters this document must be by resolution of Council.

## **7. Review**

The next biennial review of this document is scheduled for completion by 31 August 2019.