

ADOPTED	VERSION NO	2.0
COUNCIL MEETING MIN NO 314/23	REVIEW DATE	DECEMBER 2027
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Objective

1. To establish guidelines for the management and administration of unformed/unmaintained roads, and
2. This policy will assist Council in achieving Theme 4, Goal 1 of the Community Plan.

Legislative requirements

This Policy is consistent with the ROADS ACT 1993

Related policies and plans

- The Roads Asset Management Plan
- Land Acquisition & Disposal Policy

Scope

This policy applies throughout the Mid-Western Regional Council local government area.

This policy applies to:

- (a) All roads identified in Council's Road Asset Management Plan as "unmaintained"
- (b) All roads identified in Council's Road Asset Management Plan as "unformed"

This policy applies to all "unformed" roads regardless of if they are named or not.

Definitions

- "Unmaintained" – for the purpose of this policy, shall mean a road reserve that can be a formed road or unformed road that is not constructed to a standard and has no assets that are maintained by Council or which is privately owned. A road is identified as unmaintained if it is not listed as maintained in Council's Road Asset Management Plan
- "Unformed" - for the purpose of this policy, shall mean that the road exists in cadastre however has either:
 - 1) not been graded to the appropriate width with appropriate crossfalls and table drains and other necessary drainage facilities do not exist. A flat dozer bladed track will still be classified as "Unformed"; or
 - 2) are "paper roads" and have had no physical work carried out on the road reserve and the reserve is generally in its natural state.

Background

In addition to the expansive network of sealed and unsealed roads that Council maintains, there are hundreds of kilometres of Crown and Public roads across the Mid-Western Regional Council local government area that Council does not maintain. These roads, while available for Public use, are referred to as Unmaintained or Unformed roads.

The roads that Council currently maintains are listed in Council Roads Asset Management Plan. If a road or access way is not listed in this document and exists in cadastre as a Council or Crown road, it is legally accessible to the Public, however the maintenance of the road is the responsibility of the landowners who use the road for access. The reason for this is Council does not have the funds or capacity to construct and maintain an access along every road reserve in the local government area over and above Council's maintained road network.

Even though all road reserves are owned by Council or the Crown, Council only maintains those roads that have been constructed by Council, or constructed by another party to Council's requirements then formally handed over to Council.

People wishing to upgrade their access along an unformed road are required to gain the approval of Council prior to undertaking the work. In addition, if the road is a Crown Road, approval is also required from the Department of Lands. The formation of a road to Council standards, however, does not automatically imply that Council will maintain the road. While council will receive requests for the creation of new roads it will give such requests consideration against the above background and as a rule will only take over maintenance of the road if it serves a genuine public function, for example by providing access to a minimum number of five permanent residences along the road.

An easement with right of carriageway is generally constructed to a lesser standard and will not be accepted and maintained by Council.

Unformed roads are on occasions a hindrance and a liability to property owners. There are occasions when Council will give consideration to selling unformed road reserves to the adjoining landowner(s) – refer

Land Acquisition & Disposal Policy.

Policy

Council Road Reserves

Roads will only be added to the maintained list after consideration by Council and taking into account the cost to bring the road up to a minimum standard (as defined in the Road Asset Management Plan), ongoing maintenance costs and the impact on the total roads program.

Sections of Council road reserve that service less than 5 permanent residences will not be considered for addition to the maintained road list, noting that historically, there are maintained roads within the local government area that do not meet this requirement.

Road extensions beyond a property boundary will not be considered. Council considers that its first priority is to provide access to individual properties, access for the improved management of a property is the responsibility of the landowner.

Council may perform maintenance on unmaintained roads under a private works arrangement with the affected property owner(s) when plant is in the region and subject to current workloads.

Private individuals or Contractors may perform maintenance on public roads that are unmaintained, if and only if:

- They have submitted Council's 'Application for Works within the Road Reserve' - such application shall detail the extent of proposed maintenance activities, experience of the person performing the works, and plant and equipment to be used for the maintenance;
- Appropriate traffic control plans are in place prior to undertaking the proposed works;
- The applicant has a current Public Liability Insurance Policy to cover any mishap which may occur with a recommended minimum level of indemnity of \$20 million and such policy shall be suitable endorsed to cover Council

Approval of a dwelling on a property on an unmaintained or unformed road or track does not commit the Council to the construction or repairs of that road. Council works are dependent on finances available and works programmed.

Crown Road Reserves

Crown Road Reserves are administered by NSW Department of Industry - Crown Lands & Water. Council does not maintain or administer Crown Road Reserves.

Where a Crown road reserve has a road constructed on it that is maintained by Council, Council will transfer these Crown road reserves to Council road reserves.

Where a Crown road reserve that is not maintained by Council is required because it provides the only legal and physical means of access, Council will not consent to the road reserve being closed. Council will transfer these Crown road reserves to un-maintained Council road reserves, the maintenance being the responsibility of the owners of the lots gaining access from the road. All NSW Department of Industry – Crown Lands & Water fees and/or Council fees associated with any road closures and/or transfers will be borne by the landowner requesting the closure or transfer.

Council must be satisfied prior consenting to any Crown Road transfers that there are no fencing encroachments, enclosure permits (issued by Crown Lands), or misaligned roads. Under the Crown Lands Management Act 2016, there is a legal responsibility to ensure the use of the public land, including roads, is authorised. Any anomalies should be resolved prior to transfer as once Council becomes the roads authority, it also assumes the liability for the roads.

Council is not responsible for any costs associated with the physical construction of any former Crown road reserve once it has been transferred to Council control. This includes (but not limited to) surveys and fencing.

The Landowner is responsible for lodgement of the required Council 'Application for Works within the Road Reserve' with council prior to commencing any physical construction of unformed road reserves, and only after the Crown road reserve has been formally transferred and gazetted to Council as the controlling authority.

Where the Crown Road provides access to 10 or more lots and the road is upgraded by the developer, Council may consider maintenance of the Crown Road. This will only be considered where the developer has constructed the road to conform to conditions of consent, and only after the Crown road reserve has been formally transferred and gazetted to Council as the controlling authority.

Private Roads

The following procedure shall be followed when a request is made to have the Council accept a privately owned road as a Council public road:

- An application to Council signed by all people having an interest in the road, such as owner in fee simple and abutting property owners having rights-of-way over the road, shall be presented. This application shall state that all parties having interest in the road will be willing to dedicate the subject road as a public road reserve. The application shall also be accompanied by a scaled drawing of the road, prepared by a licensed surveyor, locating the road with reference to existing roads, waterfronts, etc., and showing all abutting property lines.
- The Council shall accept no privately owned road unless it meets all of the minimum standards as set forth in Auspec and the Council's Road Asset Management Plan.
- A copy of the application will be submitted to Council who may suggest other requirements upon the applicants before the Council may accept the road.
- If Council accepts the transfer of the Road as a maintained public road, then the applicant(s) shall lodge a Subdivision Application for determination and registration of the road reserve.
- The road shall not be considered a Council maintained road until all conditions and requirements have been met and approved by the Council.