JUNEE SHIRE COUNCIL
POLICY REGISTER

SUBJECT: ROADS

POLICY TITLE: PROVISION OF RURAL ROAD SERVICES

OBJECTIVE: To provide Rural Roads Services (purchase, dedication, maintenance and development) within the Shire.

POLICY:
Definitions

Crown Road  A road owned by the State Government (Crown) and administered by the Department of Lands. The road may be constructed (formed) or unconstructed (unformed). Roads that have not been formed may be referred to as ‘paper roads’ as the road reserve appears on maps and plans but no road has ever been constructed. Council does not maintain Crown Roads.

Public Road  A road owned and administered by the local Council. The Public Road may be constructed (formed) or unconstructed (unformed). Constructed public roads may be maintained if Council has resolved to undertake that maintenance or they may be unmaintained roads if Council has not resolved to maintain them.

Dedication  The setting aside of a parcel of land for the purposes of a road. This is done by publishing a notice in the Government Gazette.

The structure below better describes the relationship between maintained and unmaintained roads, formed and unformed roads and Public and Crown Roads.
Introduction

The Junee Shire Council is the owner of over 900 km of public roads throughout the shire. These roads vary from constructed and maintained roads to unformed roads. Clearly it is not possible for Council to maintain all of its road network and as such this policy has been developed to ensure that Council has a clear direction in matters such as maintenance lengths, responsibilities of property owners in regards to maintenance and construction standards to be adopted when new roads are constructed or existing roads are rehabilitated.

The primary legislation governing the management of roads in NSW is the Roads Act 1993.

The object of the Act is:

(a) to set out the rights of members of the public to pass along public roads, and

(b) to set out the rights of persons who own land adjoining a public road to have access to the public road, and

(c) to establish the procedures for the opening and closing of a public road, and

(d) to provide for the classification of roads, and

(e) to provide for the declaration of the RTA and other public authorities as roads authorities for both classified and unclassified roads, and

(f) to confer certain functions (in particular, the function of carrying out road work) on the RTA and on other roads authorities, and

(g) to provide for the distribution of the functions conferred by this Act between the RTA and other roads authorities, and

(h) to regulate the carrying out of various activities on public roads.

Junee Shire Council is a ‘Roads Authority’ under the definitions in the Act.

There are a number of issues related to roads which are left to the individual roads authority and hence not addressed by the Act. The purpose of this policy is to address the predominant issues and set a framework for Council staff, the community and developers to work within.

Background

Each land parcel or property is required to have a frontage to a road or right-of-way for the purpose of access. Historically, access was provided by Crown Roads and over the years some of these were dedicated as Public Roads and transferred to Council control based on demand. Over a period of many years, construction standards for these Public Roads have continually improved to meet the demands of increasing traffic and payloads.
Many of Council's sealed roads have exceeded their nominal life of approximately 30 years and must be given a high priority for reconstruction because they require excessive and uneconomic levels of maintenance. Council's rate revenue base is not keeping pace with deterioration of the existing road network and until this situation improves, Council cannot extend the level of service provided.

There are many public roads that Council, under the Roads Act, is responsible for. It is, however, impossible to maintain all of these roads so Council has adopted a list of those roads that will be maintained within the Shire. This list of maintained roads is determined by the traffic volume and the number of properties these roads serve. The list of roads that make up Council's road maintenance network is reviewed by Council on a regular basis and can be viewed at Council's office.

In the past, subdivision/development of land in remote areas of the Shire has occurred without developers being made responsible for providing adequate standards of road access. As a consequence, Council is continuously requested by landholders to improve road conditions to their properties, despite the fact that such demands are clearly beyond the resources of Council. A self help approach is required of landholders in remote areas.

The EP&A Act requires Council to consider the question of access before granting development consent (ie granting development consent and leaving access via crown roads). Hence it is now mandatory that any works required by Council on Crown Roads will see them automatically transferred from the State Government to Council. However, Council will only consider dedication of a Crown Road where it is constructed to the standards required by this policy document. Implementation of these standards will not necessarily change the extent of the Council's adopted road maintenance areas.

Creation of public roads

Public roads are opened under the Act. A road may be opened to the public in accordance with Part 2 Division 1.

Closing public roads

The method of closing public roads is in Part 4 Division 1. When a public road is closed, the public right of passage is permanently extinguished. The applicant is responsible to complete the necessary paperwork and pay the relevant fees to the Department of Lands.

Road Works

Part 6 regulates the carrying out of road works by the Roads Authority (on roads under its control) including the erection of road structures such as gates, grids, culverts and bridges. Road works are regulated at the discretion of the applicable Roads Authority.

The Department of Land's general information sheet on minor works clarifies their position regarding works on Crown roads and may be used as an appendix to Council's policy and distributed by Council in relation to enquiries from residents in the Shire.
Protection of public roads

Part 7 contains provisions for the protection of public roads. Part 8 relates to the regulation of traffic and Part 9 regulates works, structures and activities of others in relation to public roads. These provisions control traffic and the various activities of adjoining landowners, public utility authorities and other persons which may obstruct or damage a public road. Works and structures to be erected under, on or over a public road must have the consent of the appropriate Roads Authority (s 138).

Ownership of Public roads

Public road ownership is clarified under (s 145). The land comprising the road corridor is vested in fee simple with the relevant Roads Authority.

The Act also makes provision to transfer ownership of a public road from one Roads authority to another. Instead of the past practice of “dedicating” a Crown road (as a public road under council’s control) the Minister for Lands may publish an order in the Government Gazette transferring a Crown road to Council (s 151).

The Act does not require Council’s consent to the transfer of a Crown road. However, following negotiations with the Local Government and Shires Association, it is current practice by the Department of Lands not to transfer a Crown road without the consent of Council.

Policy Statement

The maintained roads list defines the extent of Public Roads to be maintained by Council, although according to the Roads Act of 1993, Council is under no obligation to provide a minimum level of service. Due to financial considerations, Council will not necessarily accept dedication of newly constructed roads even though they meet the standards required.

Financial constraints imposed on Council funds limit the construction and maintenance of public roads. Only those roads specifically nominated on the maintained roads list will be maintained.

Council will nominate the standard that roads shall be constructed to when development occurs within the shire. It sets minimum standards of road width; pavement depth; whether a sealed road is required; boundary control such as fencing, ramps or gates; whether the road will be maintained by Council; and the minimum design for waterway crossings.

Purchase

It is important that property owners purchasing land with frontage to a Crown Road or unmaintained Public Road do so in the knowledge that maintenance of the existing access is not a responsibility of Council. This should not give rise to expectations of Council upgrading or maintaining access in the future. Further inquiries of Council at the time of
purchase would provide reliable information on access and building entitlements.

While it is incumbent on any prospective purchaser to make such inquiries as necessary regarding their decision to purchase, Council has a responsibility to ensure that it is not allowing development of remote areas with sub-standard services.

Section 149 Certificates for properties and/or lots with frontage to a public unmaintained or Crown Road have now had the following statement included on the notice:-

It is important that property owners purchasing land with frontage to a Crown road or unmaintained Public road do so in the knowledge that maintenance of the existing road access is not a responsibility of Council.

This should not give rise to expectations of Council upgrading or maintaining access in the future. Further enquiries of Council at the time of purchase will provide reliable information on access entitlements.

This notification should continue to limit Council’s future liability for maintenance and construction. Many purchasers of cheaper land in remote areas have unrealistic expectations regarding the available level of services. The limited rate base of Junee Shire dictates that developers must accept the responsibility for providing a minimum level of services.

**Dedication**

Crown roads are public roads by virtue of Section 267 of the Roads Act (Schedule 2 Part 2 Division 4 Section 56). Crown roads were therefore dedicated as public roads for the purposes of the Act and have the same legal status as all public roads. The difference between public roads is the responsible Roads Authority.

The term “dedication” is relevant to particular sections of the Act and past actions regarding road status and not commonly used nowadays in reference to dedicating a Crown road to the public as a Council road. It is more appropriate to use the term “road transfer” to Council.

Due to financial considerations, Council will not necessarily accept responsibility for newly constructed roads even though they meet the standards required.

Each application for dedication/construction/maintenance will be considered independently based on available evidence of:-

- Past and present maintenance commitments by Council
- Potential for further subdivision giving rise to a need for improved access
- Existing road condition
- Long term cost to Council of maintaining the extended length of road
- Degree of self help proposed by landholder/s for -
  a. construction
  b. maintenance
**Maintenance**

Under the Roads Act of 1993, Council is under no obligation to provide a minimum level of service in respect to maintenance of roads. Whilst every endeavour will be made by Council to maintain an appropriate standard, the level of service will vary significantly depending on available resources and no commitment is given to maintaining the standards.

Unfortunately, Council’s finances do not permit the upgrading or maintenance of additional roads. Therefore, Council will not maintain Crown or unmaintained Public Roads unless specifically adopted by a resolution of Council to extend the roads maintenance network to cover sections of road that are currently unmaintained.

Whilst owners are unable to undertake maintenance themselves within the roadway, Council or designated contractors can undertake this work on owners behalf. Approval from Council will be required for any work undertaken by contractors and the cost of this work will be borne entirely by the property owners.

**Development**

Each development application is to be assessed according to Section 79C of the EP&A Act 1979. Access is a consideration under Section 79C and conditions requiring upgrading will be imposed on properties which front a Crown, public unmaintained Road or public maintained road.

All newly created roads will be constructed by the developer at the developers costs in accordance with Junee Shire Council and Table 2.

For development on an Unmaintained or Crown Road the Developer will be required to improve the full length of the road network that is solely used by the development to meet the minimum standard as detailed by Junee Shire Council and Table 2 and may also be required to undertake additional road improvements especially in regards to safety. Where the improvements to the road that would be required by the developer are considered to be excessive by Council staff the development will be recommended for refusal.

For development on a Council Maintained Road the Developer will be required to undertake improvements along the road network that services the development to meet the minimum standard as detailed by Junee Shire Council and Table 2. Safety issues along the entire road leading to the development will be addressed by the developer in addition to any substandard sections (in relation to Table 2) immediately fronting the subject land. Where these improvements to the road that would be required by the developer are considered to be excessive by Council staff the development will be recommended for refusal.

For development other than subdivision, traffic generation and Average Annual Daily Traffic (AADT) for the road that the development is located on shall be used to determine staged upgrading costs and contribution rates respectively.

The standard to be adopted by Junee Shire Council and Table 2 shall have regard for all lots (including the proposed lots under the development) to be serviced by that section of road.
The cost of any upgrades to the Road will be borne by the developer.

**Development consent and Crown public roads**

The issue of road works on Crown roads continues to be increasingly problematic. The Department of Lands has never been resourced in the specialised areas of road design, construction or maintenance. This role has solely rested with the Roads and Traffic Authority and local government.

The emphasis on Crown road administration is to uphold the public’s right of passage along what are generally known as “paper roads” or “road reserves” in their natural terrain form. Demand for formed road access arises from developments incorporating subdivision and occupation of land. This impacts on Crown roads that were originally established to provide basic legal access only to vacant parish portions and allotments.

Council has considerable influence over traffic generating developments through the development consent process under the Environmental Planning and Assessment Act 1979. Ultimately Council is responsible for considering access requirements, the use of public roads and ongoing road management issues. Thus Council has the opportunity to include conditions of consent during the development application process to achieve appropriate standards for public road access.

If road works are a requisite of development consent, council is accountable for regulating these works. While Council only has the power to administer road works on public roads for which it is the road authority, the transfer pursuant to Section 151 of the Roads Act places Council in a position to fulfil its obligations under the EP&A Act and the Roads Act and administer the road works specified in accordance with that consent.

**Transfer from the Crown**

Transfer of a Crown road to Council is consistent with councils having the traditional responsibility for design, construction and maintenance of roads for local needs. This complements council’s role in environmental planning and development consent.

Approved developments continue to impact on Crown roads, leaving the Department of Lands to manage practical access. When council considers any development, it is required to formally reference a number of parties, including: all neighbouring landholders, any affected party, and all relevant approval bodies for the proposed activity. Past developments with problematic access have been approved by Council with no reference to the Department of Lands.

Access problems are easily avoided with a more proactive approach to planning. To meet the needs of Council, the department and prospective developers, an agreement to proactively deal with Crown roads to service traffic generating developments is encouraged.
Driveway Standards including sight distances

Council recognises that a number of driveway locations do not meet the present RTA guideline regarding safe intersection sight distances (SISD) required at intersections. While little can be done in relation to the existing driveways, Council will not allow further subdivision or change of use of properties unless driveway locations meet the minimum SISD as shown in Table 2.

Existing properties will be allowed to develop by erection of a dwelling but if the appropriate SISD are not available, the applicant will be required to construct a driveway at the location determined to provide the greatest sight distance. Council staff may also require additional road works in conjunction with the driveway works to ensure a minimum level of safety is maintained.

Charges for Services

The Act authorises a road authority to charge and recover fees for any services it provides (s 223). Council can provide a schedule of fees and charges to cover matters such as maintenance of non maintained roads and to cover the costs of undertaking road closures.

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