

# The Legal Roads Network Project – public roads and easements in the Western Region

Amendments to the *Western Lands Act 1901* provide for the dedication of public roads and the creation of easements for access.

## The Legal Roads Network Project

Unlike other parts of NSW, a large number of roads and highways in the Western Region have never been formally dedicated as public roads. Instead, most roads simply overlie Western Lands Leases, creating uncertainty of access and unknown legal liability.

Amendments to the *Western Lands Act 1901* have allowed the Department of Lands to develop a project which will provide a legal road and easement network for the Western Region.

Land that is currently being used as a roadway by members of the public can now be withdrawn from a lease and dedicated as a public road. As well, easements or rights of way can now be created to give legal access to land-locked properties which do not have direct public road access and where current access is through other Western Lands Leases.

## Public roads

Decisions to designate routes as public roads will be made only after consultation with landholders, local government, the Roads and Traffic Authority (RTA) and other affected parties.

Public road status will generally only be declared over those routes that provide essential linkages between towns and other popular locations that are currently being maintained by local government or the RTA in the Unincorporated Area.

Maintenance of those roads will continue to be the responsibility of local government where they are within a local government area, or the RTA in the Unincorporated Area.

It is not anticipated that any new roads will be constructed as a result of this project.

## Easements for access

A system of restricted easements in the form of a 'right of way' will provide legal access to land-locked properties.

Easements can only be created with the agreement of landholders whose properties they pass through. The easement network will limit access to the benefited landholder, those invited onto the property and public utility or service providers (telephone, energy, authorised government officers, etc) to use that easement. The land over which the easement applies and any improvements remain within the lease, so no severance or loss of property occurs.

Other tracks that are not required to provide access for the public or land-locked landholders will become private routes accessible only by the landholders, service providers or invited persons.

As public roads are gazetted and easements created, the current 'general access' provisions in the Act and those contained in the conditions of Western Lands Leases will be progressively withdrawn.

## Impact of the project

On completion of the project, all landholders in the Western Region will have legal access to their properties confirmed.

Routes that provide essential linkages between towns and other popular locations will be identified and created as public roads.

As the project progresses, landholders will be able to apply to have conditions which currently provide for the use of tracks by the public removed from their leases.

Landholders are not eligible for compensation following the withdrawal from a lease of any land used as a public road or for the creation of an easement.

Landholders will benefit from increased security, particularly those living in isolated areas. Formalising public roads and easements will give landholders the ability to restrict public access on their property. The uncertainty regarding legal liability for motor vehicle accidents on public roads will also be resolved.

A landholder that benefits from an easement over an access track on a neighbours lease may be required to maintain the condition of that track. Existing opportunities for Aboriginal access contained in the *Aboriginal Land Rights Act 1983* (sections 47 and 48) are not affected by the amendments to the Western Lands Act.

Existing opportunities for access by miners, fishers and forestry workers provided in the *Mining Act 1992*, *Fisheries Management Act 1994*, *Forestry Act 1916* or other appropriate legislation are not affected by the amendments to the Western Lands Act.

## Project rollout

It is anticipated that the Legal Roads Network Project will take some years to complete. The project has commenced at Broken Hill and will progress north along the Silver City Highway. The project team has built data sets to determine how many properties will require legal access and the number and length of roads and easements involved. The consultation process is progressing with input from the Western Lands Advisory Council, shire councils, RTA, Pastoralists' Association of West Darling, NSW Farmers' Association and other stakeholders. Individual landholders affected by proposed road openings and easements will be contacted for their input when the project moves into their area. Currently those landholders north of Broken Hill are being consulted.

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*Note: This does not constitute legal advice.*

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