



DEPARTMENT OF INDUSTRY - LANDS & FORESTRY FACT SHEET

Purchasing Crown Roads

July 2017

Providing legal access

Crown public roads provide lawful access to many privately owned and leasehold lands where little or no subdivision has occurred since the early nineteenth century.

These roads are part of the State's public road network. They are often referred to as 'paper roads' as the majority have not been formed or constructed.

Closing and purchasing Crown roads

The NSW Government is committed to managing the Crown estate to maximise outcomes for the community. This includes exploring the sale of road reserves which are not required for public access. In many cases there is considerable scope to rationalise the Crown road network without compromising the broader public interest.

Purchase of roads within and adjacent to freehold property provides many benefits including:

- certainty of ownership;
- consolidation of holdings;
- no requirement for an enclosure permit or need to pay rent once the road is closed and purchased;
- use of the land for purposes other than grazing;
- once closed and purchased there is no longer a need to make the road available for public access; and
- simplified conveyancing in rural areas.

To minimise potential conflict between neighbours over access and future ownership of a Crown road, applicants are advised to discuss the road closure proposal with other affected landholders. Applicants should seek to obtain the general agreement from adjoining landholders prior to lodging the application to close the Crown road. Where agreement can be reached between neighbours processing of the application is generally less complex and streamlined. However, if agreement can not be reached with other affected landholders, an application may still be lodged with NSW Department of Industry - Lands.

Where appropriate, Crown roads may be closed for public access with an easement granted over the land to give legal access to a neighbour or other affected party.

Where an application is unsuccessful, an [Enclosure Permit](#) may be applied. The holder of the Enclosure Permit will be required to pay rental or take steps to fence out the road.



Making an application

1. Discuss the proposal with your adjoining neighbours and affected landholders.
2. Complete the application form. Application forms can be downloaded from the Department's website.
3. Prepare a diagram clearly showing the Crown road/s proposed to be closed and purchased.
4. Post the application form, diagram and payment of the application fee to:

NSW Department of Industry - Lands & Forestry
PO Box 2215, Dangar NSW 2309
5. The Department will send you notification that your application has been received.

Application process

Before land that makes up a road corridor can be sold it must be closed under the [Roads Act 1993](#) (the Act). To close a road the Act requires a number of steps to take place which take a minimum of seven months to complete once an application commences being processed. Primarily this is to ensure that there is no longer a need for that section of the road network.

Due to the number of applications on hand it may take considerable time to commence processing any application.

To be fair to all affected and interested parties, the department advises of its intention to close the road. Public consultation occurs through:

- advertising in the local newspaper of the intent to close the road inviting submissions from all interested parties;
- notifying relevant public authorities (including local government, Local Land Services (LLS), Fishing and Aquaculture, National Parks and Forests NSW);
- writing to affected and adjoining landholders notifying them of the proposal; and.
- the department has established an online advertising system which has been operational since late 2013 improving information accessibility.

Once notified adjoining and affected landholders, public authorities and any other interested party can lodge a written submission to the department regarding the proposed road closing within the 28 day advertising period. Supporting documentation where appropriate should be provided with your submission (eg tenure details, fencing diagrams, photos). Parties making submissions need to quote the file reference number and direct the submission to the case officer whose details are found within the advertisement.

Each road closure application is considered on its individual merits. The matters considered include, but are not limited to:

- current use of the road for access including any topographical or environmental constraints that may exist;
- requirements to maintain primary legal and/or practical access, where already available, to a holding;
- requirements to maintain access to other Crown land (eg. Reserves) or waterways including any concerns raised about recreational use or access via Crown roads;
- current utilisation of the road by other parties such as Enclosure Permit and other tenure holders;
- any relevant existing fencing;
- alternative access available to affected landholders; and
- local government and other statutory authority submissions regarding the proposed closure.

The assessment will result in the following outcome:

- the road can be closed (either whole or part);
- the road can be closed with requirements for an easement;
- the road cannot be closed (either whole or part) as it is required for public access or Government purpose; or

- a combination of the above.

The decision to close the Crown road is made by the Minister responsible for the [Crown Lands Act 1989](#) (the CL Act) or their delegate. The applicant and parties who lodged a submission are advised of the decision and the basis on which the outcome was reached.

There is no guarantee that because an application to close the road is received, that it will be able to be closed especially if it is required for access.

Where the road is able to be closed the next step is to finalise the sale of the land under the CL Act.

Application and purchase costs

The purchase price will generally be based on the land value of the adjoining land in the Valuer General's Register of Land Values (the land values used to determine local council rates) as at the date the application was lodged with the Department.

In addition to the value of the road being purchased, the following fees apply:

- Application fee to close the road \$475
- Road purchase application fee \$220
- Cost of preparing a compiled plan \$250*

*This fee covers the cost of a compiled plan prepared by NSW Trade & Investment from a range of source documents. In more complex instances the applicant may require the services of a registered surveyor at the applicant's cost.

- Land and Property Information lodgement fees (current fees as at 1 July 2017 adjusted annually):
 - \$138.80 to lodge a transfer of ownership;
 - \$138.80 for removal of notification from title regarding balance of purchase money, on final payment (only when instalments are selected)
 - \$138.80 to lodge a dealing and includes registration of 88B instruments for easements such as rights of access and carriageways (if required);
 - \$292.20 to lodge the deposited plan + an additional fee of \$292.20 for each lot after the first lot within the plan.
- Ad Valorem Stamp Duty
- GST (improved land only)

Flexible purchase options

NSW Department of Industry - Lands offers two payment options for the purchase price:

- one payment (being the total price), or
- three equal annual instalments with the first instalment payable on acceptance of purchase price.

The invoice (for the full purchase price or first instalment) will include any associated purchase costs and fees. Late payment fees apply to debts that remain in arrears after 28 days from the due date.

If the first payment (either whole or instalment amount) is not made within 28 days of the due date, the department reserves the right to withdraw the sale and offer the land to another party.

When paying by instalments, the title to the land will be encumbered to protect the Crown's interest in the land until the purchase price is paid in full to the department. The property is unable to be sold before the debt is paid.

An account will be issued to the purchaser for the instalment due each year.

Alternative legal access

Where a Crown road is needed for legal access to an adjoining or affected property, the department may still close and sell the road to an adjoining neighbour. Legal access to an adjoining or affected property is secured by putting in place a right to cross the former road, though registration of an easement during the sale/plan registration process.

Typically an easement would burden the closed road lot and benefit another lot to which the closed road previously provided access. Alternatively, this can be undertaken following purchase by the registration of a subsequent dealing with the consent of the holder and all other registered interests.

Easements may be created by means of a section 88B instrument under the provisions of the [Conveyancing Act 1919](#) and must be accompanied by the plan of survey and/or a compiled plan prepared by Crown Lands.

The fee for each easement imposed on title of the closed road is payable by the applicant. Unless the proposed easement complies with Land and Property Information compiled plan guidelines (affects the whole of the lot or the easement site is parallel or perpendicular to existing boundaries of the surveyed lot), a plan of survey is required. The cost of a plan of survey is payable by the applicant.

Once an easement is in place, any disputes between the parties are private matters and the department is not able to assist.

Authorising the use of a Crown road

An enclosure permit authorises the owner of the land adjoining or encompassing a Crown public road to enclose the road as if it were part of the property, subject to the payment of an annual rent. The authorisation to enclose the road alleviates the need and expense of having to fence the road out of the property.

An enclosure permit:

- does not provide the holder with any title to the Crown road;
- requires that the land must remain available for access if required; and
- authorises grazing, which is the only permissible use of an enclosure permit.

Improved performance

In August 2012, the Deputy Premier announced that the department had substantially streamlined the closure and disposal process and increased resources, leading to improved timeliness. The minimum possible time taken to complete the statutory process has been reduced to, on average, seven months. This has been achieved through internal efficiencies whilst maintaining appropriate consultation. The rights of applicants, public authorities and affected landholders remain unaltered.

Applicants should be aware that completion can be influenced by the time it takes to mediate any submissions to a road closure application. More information

Should you have any further queries or require additional information please contact the Crown Road Closure Program team on

- T: 1300 886 235 (Option #2)
- T: 4925 4104
- E: cl.roads@crowmland.nsw.gov.au
- W: www.crowmland.nsw.gov.au

© State of New South Wales through the NSW Department of Industry, Skills and Regional Development 2016. You may copy, distribute and otherwise freely deal with this publication for any purpose, provided that you attribute the NSW Department of Industry, Skills and Regional Development as the owner.

Disclaimer: The information contained in this publication is based on knowledge and understanding at the time of writing (July 2017). However, because of advances in knowledge, users are reminded of the need to ensure that information upon which they rely is up to date and to check currency of the information with the appropriate officer of the NSW Department of Industry, Skills and Regional Development or the user's independent advisor.

Published by the Department of Industry – Lands & Forestry

DOC14/115271 (Rev 9)