

COMPREHENSIVE REVIEW OF NSW CROWN LAND MANAGEMENT

A more efficient approach to Crown roads

MAY 2017

To deliver modern, streamlined and transparent management of the state's vast Crown land the NSW Parliament has passed the Crown Land Management Act 2016 (the Act) and the Crown Land Legislation Amendment Act 2017. This implements the reforms identified in the Crown Land Management Review. It is anticipated the majority of the legislative changes will commence in early 2018. This fact sheet describes some of the issues found during the review and how the legislation addresses them.

Keeping Crown roads safe to use

Public roads in NSW are administered by Transport for NSW, Department of Industry (on behalf of the Minister for Lands and Forestry), and local councils. The Minister is the authority for all Crown roads.

Crown roads are generally unconstructed and unformed roads. They represent land that was historically set aside in anticipation of the State's future road needs.

As roads authority for Crown roads, the Minister has a general duty of care to ensure that roads are in a safe condition. Given that many Crown roads are simply lines on a map, are often unused, referred to as 'paper roads' and are located within people's properties or tenures, it is inappropriate that the Minister ensure they are maintained.

The Minister for Lands and Forestry is responsible for the opening and closing of most roads, even where council is the roads authority for the road. This creates inefficiencies and is problematic for local councils.

How the legislation deals with this issue

- Crown roads will remain the responsibility of the Minister for Lands and Forestry. Crown roads provide lawful access to many privately owned and leasehold lands where little or no subdivision has occurred since the early nineteenth century. They are part of the state's public road network.
- The Minister for Lands and Forestry will retain the existing ability to transfer Crown roads to other authorities where they are required for public access.. This allows them to be maintained to an appropriate standard for public access and by the bodies best equipped to maintain and upgrade them.
- Roads will be transferred to Transport for NSW if it requires them for highways or freeways. Roads will be transferred to local councils where they are accessed and used by the public under the same policies as currently exist for such transfers.
- Where a Crown road is not generally accessible to the general public, for example if it only provides access to and is of benefit to a single or small number of private properties, the Minister for Lands and Forestry will be able to direct the user/s who benefits from using the road to repair and maintain the road, or to pay the Department of Industry's costs to do this. This is because where a Crown road is used exclusively by one person it makes sense and is equitable that they contribute to the costs of maintaining the road.



Figure 1. The legislation will ensure roads are maintained by the appropriate authority or user.

- Local councils will have the power to close those public roads for which they are the roads authority in their local area, without requiring the Minister for Lands and Forestry's approval. This will reduce red tape and double handling by government agencies. Stringent safeguards are included to ensure a closure is appropriate and does not deny access to a property.

Managing backlogs in the closure and sale of Crown roads

The NSW Government is committed to managing the Crown estate to maximise outcomes for the community. This includes exploring the sale of Crown roads which are not required for public access. In many cases the Crown road network could be rationalised without compromising the broader public interest.

Purchase of roads within and adjacent to freehold property provides many benefits. This includes 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, and simplified conveyancing in rural areas.

There are concerns about how long it takes to process the number of road closure applications, given the strong interest in Crown road closures, and the number of steps the Department of Industry needs to take to close a road.

The review found that provisions relating to Crown roads could be streamlined to facilitate these benefits.

How the legislation deals with this issue

- The process outlined in the *Roads Act 1993* for closing and selling Crown roads has been simplified.
- Crown roads will be able to be sold while they are Crown roads, instead of needing to make them into Crown land before selling them.
- The sales process will follow an administratively simplified version of the current process, with a view to improving efficiency.
- The Department of Industry will continue to close and sell appropriate roads not required for public access on an area-by-area, cluster basis, allowing more strategic assessment of Crown road closures and access requirements.
- All existing public consultation requirements will be retained, as will current processes for referring road closures to other agencies for their consideration of impacts and issues.
- If a Crown road is proposed to be sold, the owner of each property that adjoins the road or relies on it for access to their property will continue to be notified, as currently occurs. Consultation will also be undertaken with appropriate government agencies and statutory bodies. Before a decision to close or sell the road is made all submissions received will be considered.
- The sale of Crown roads will continue to be advertised to the broader public both in local print media and online. This will allow the wider community the ability to comment on any proposed purchase of former Crown roads, ensuring third parties who may use the road, such as bushwalkers or fishers, to have their say in relation to the future of the road.
- Existing flexible payment provisions will be included in the legislation and will continue to allow for payment by three instalments.

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