

Proposed works for access on Crown roads

Crown roads

Crown roads are public roads administered by the Department of Planning, Housing and Infrastructure (the department) under the *Roads Act 1993*. This fact sheet provides a guide to dealing with road work proposals in relation to Crown roads bearing in mind that the role of the department differs considerably from the traditional functions undertaken by Local Government in delivering funded public road services for local needs. Notably the department's role is not based on road construction and maintenance and therefore is not resourced or funded to carry out these works on Crown roads.

Proposed works

The department is only in a position to consider road work proposals on the basis of the road user undertaking authorised work to facilitate use of a Crown road as a road for access. Requests for road works are considered in view of the applicant acting as an agent on behalf of the department under a Deed of Agreement subject to conditions. Work proposals generally relate to routine maintenance to treat and conserve pre-existing access conditions, or undertake small-scale road works to establish access along a Crown road over the natural terrain.

Note: (Local council needs to be referenced to ascertain whether the proposal requires lodgement of a development application under Council's planning instruments. If development consent is required, Council (not the department) is responsible for determining the proposal as consent authority under the Environmental Planning & Assessment Act 1979.

If development consent is not required, proposals are assessed on the basis of whether it is feasible to undertake small-scale works in view of the potential impacts on the road reserve, adjoining lands and local environment. Small-scale works fall below the requirements, standards or minimum thresholds administered by local councils and are limited to:

- Slashing undergrowth and clearing trees only where necessary.
- Light grading of the natural terrain.
- Slightly crowning of surface to establish cross fall drainage.
- Establishing cross-banks and/or mitre drains or comparable effective devices to control water and sediment run off.
- Placement of gravel, road base or stones to stabilise the surface or fill potholes.

It is important to note that proposals outlined below are beyond the department's capacity to endorse.

- Works on Crown roads located in State Protected Land (Category A) Land sloped over 18 degrees (Category B) Riparian Land or (Category C) Sensitive Land.
- Construction of structures such as pipe culverts, concrete causeways or bridges.
- Any works located outside the Crown road corridor

For further clarification on the first two points above refer to the road construction and transfer sections of this document.

Application process and costs

Making an application

You may apply to undertake the work yourself; engage an experienced contractor or the Soil Conservation Service, <https://www.scs.nsw.gov.au/our-services/tracks-and-trails>. The following forms are to be completed and submitted to the department for consideration.

1. Application for small-scale works proposals on a Crown road

The following details should be included with the application:

- diagram/s;
- photos of the land within the road boundaries;
- extent of clearing, grading or small-scale works to be undertaken;
- type of machinery to be used;
- contractor's details, if known

2. Review of Environmental Factors; Proposed small-scale road work on a Crown Road: Environmental Assessment under Part 5 of the Environmental Planning and Assessment Act 1979.

Note: (Review of Environmental Factors (REF) form principally relates to works associated with establishing a track or maintenance of existing access (e.g. clearing or slashing surrounding vegetation). The form may not need to be completed for proposed small-scale maintenance work on existing tracks such as filling potholes, gravelling the existing track surface and where vegetation is not disturbed. A copy of Environmental Assessment Requirements is attached to assist with completing the REF. An appropriately experienced and/or qualified person may be engaged to complete the REF at the applicant's expense. In some cases an Environmental Consultant may need to complete the REF especially where native vegetation needs to be cleared).

Completed forms are to be returned to the department for evaluation. Please note:

- Proposals are considered on merit and no guarantee can be given that consent will be granted.
- The timely processing of any proposal relies on the quality of the supporting documentation.
- The application will only be endorsed if small-scale works are feasible in establishing or maintaining basic access.
- Road closure and sale will also be considered as an alternative option to issuing a small-scale road works consent so that access may be managed by the landowner as a private access corridor on the resulting freehold land.

While subject to future change, the department at this time does not charge for;

1. Processing and administration;
2. Site investigation and assessments of environmental impact in terms of Part 5 of the *Environmental Planning & Assessment Act 1979*.

All costs associated with small-scale works are the responsibility of the applicant. This may include a boundary survey to ensure that all approved works are carried out within the road reserve. While the costs reflect the minor level of work, the consent presents reasonable opportunities to minimise the expense.

Road construction

The department is not a road constructing authority funded or resourced in the specialised fields of road design, maintenance and traffic management. This is the traditional role of local council. The department is not positioned to authorise the construction or maintenance of Crown roads to achieve suitable access standards. Road construction usually requires appropriate engineering input/design to deal with site/terrain, planning and

environmental constraints often requiring major works beyond the scope and expertise of the department to authorise. These works broadly involve:

- Clearing and/or earthworks (cut and fill) that alter the natural terrain to form a gravelled or sealed carriageway.
- Drainage infrastructure such as pipes, culverts, causeways or bridges for watercourse crossings.

Key issues influencing the construction and/or maintenance of Crown roads are incremental traffic generating development and local council's role in development consent, planning and public road management. Past planning and development decisions have led to the construction and use of Crown roads, and in certain cases inappropriately leaving the department to manage vehicular access in contentious circumstances. The ongoing responsibility for the management of these roads should rest with local council. This can only be achieved by road transfer from the department to local council.

Road transfer

The appropriate means to facilitate road works associated with Crown roads that service Council approved development is for the Crown road to be transferred to council prior to the commencement of any works. Transfer pursuant to Section 151 of the *Roads Act 1993*) legitimately places Council in a position to fulfil its obligations under the *Environmental Planning & Assessment Act 1979 and the Roads Act 1993* to administer the road in the interest of local residents and public generally.

Road transfer would equally apply to Crown roads already formed to service council approved developments as part of council's local road network. In cases where construction was not required as a condition of consent, it may mean road transfer still applies as the road already conformed to council's standards to service the development. Crown road transfer to council is consistent with local government having the traditional responsibility for managing public roads for local needs. This complements Council's role in environmental planning, road engineering and development consent. Once transferred, the issues of road construction and/or maintenance are for Council and the landowner/s concerned.

Should you require any additional assistance regarding this matter please telephone 1300 886 235.
