

POLICY TITLE PROVISION OF RURAL ROADS SERVICES

VERSION IV: Adopted 21 February 2006

Last reviewed: 21 February 2006

OBJECTIVES

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

Definitions

Crown Roads 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 Roads 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.

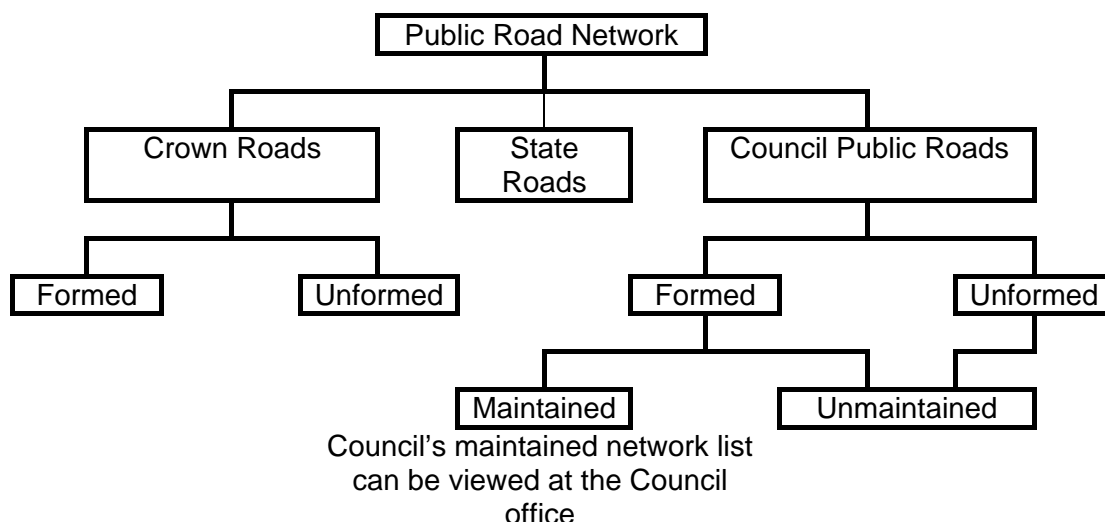
Dedication The setting aside of a parcel of land for the purposes of a road. This is done by publishing a notice in the Government Gazette.

Perennial Stream A 3rd order stream or higher as defined by the Department of Lands

Intermittent Stream A first or second order stream as defined by the Department of Lands.

Stream orders The Department of Lands have defined streams (blue lines on a 1:25,000 topographical map) by their order. The lines highest up in a catchment are classified as first order streams and when two first order streams join, the down stream section becomes a second order stream. Likewise when two second order streams join they create a third order stream. For the purpose of this policy first and second order streams are considered to be intermittent streams and higher order streams are considered to be perennial.

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



Introduction

The Dungog Shire Council is the owner of over 700 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.

Dungog 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. This policy outlines the rationale and processes for closure.

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 (attachment 'B1') 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 in Table 1b "Rural Roads Policy".

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.

Table 1 of this policy summarises 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 previously had the following statement included on the notice :-

“Access to the land is either by Crown Road or Public Unmaintained Road. Council has no responsibility for maintenance of this road.”

This notification should continue to limit Council’s future liability and Council will reinstate this advice on its section 149 certificates. Many purchasers of cheaper land in remote areas have unrealistic expectations regarding the available level of services. The limited rate base of Dungog 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 Savings, Transitional and Other Provisions 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 in Table 1b.

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 in relation to Table 1a.
- 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 detailed in Table 1.

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 1989. 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 tables 1b and 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 in table 1b and 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 in tables 1a and 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 1a and 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 in tables 1a, 1b and 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 pro-actively deal with Crown roads to service traffic generating developments is encouraged. A suggested protocol is attached as attachment 'B2'.

Council Road Closing Applications – Partnership Agreement / Processing Protocols

The Department of Lands undertakes the administrative actions to close all public roads (Council and Crown) under the Roads Act 1993.

Greater demands in bushfire mitigation, weeds/feral animal management, environmental review, land assessment, surveillance/compliance/monitoring and proactive land management has necessitated the Department of Lands to reallocate work priorities and resources. These demands have had a “flow on” impact on the department’s capacity to process road closure applications.

To meet these challenges, a Partnership Agreement and Processing Protocols document has been developed to enable council road closure applications to be processed at the discretion and timeframes for the applicant (Council). A sample Agreement and Protocol document is attached as attachment 'B3'.

The department will continue to independently process Crown road closure applications whilst generally assigning higher priority to road closure applications submitted under the partnership agreement. Whilst the department will accept all applications for closure of council public roads, it is unable to estimate the timeframe to complete processing actions for those cases not lodged under the partnership arrangement. However all cases where significant public benefit can be demonstrated will continue to be prioritised on their merits.

Rural Fire Service requirements

The Rural Fire Service have determined a number of minimum standards to be applied in rural developments. These standards are detailed in section 4.3 of Planning for Bushfire Guidelines and include minimum widths for firetrails and roads, maximum grades, minimum construction standards, shoulder widths required, mass limits and turning paths.

Where the RFS standards exceed the standards detailed in table 1, then developers will be required to meet the RFS standards.

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 will include 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.

Date Policy Adopted	Minute No	Authority
19 May 1998	29022	Council resolution
July 2001	29753	Council resolution
19 August 2003	31593	Council resolution
21 February 2006	32917	Council Resolution

TABLE 1a Council existing road network

Development	Road Classification	Nominal Traffic (AADT)	Speed		Pavement		Seal Width	Boundary Control	Road Maintenance	Waterways (Recurrence Interval)	
			Absolute	Desirable	Formation Width	Nominal Thickness				Major (Perennial Stream)	Minor (Intermittent Stream)
	Subarterial	Over 5000	100	110	9.5	Determined by soil testing and design	9.5	Fenced	MMS Data and Scheduled Maintenance Programs	100 year	10 year
		1500 to 5000	80	100	8		8	Fenced		100 year	
	Collector Distributor	500 to 1500	60	80	7		7	Fenced		50 year	5 year
	Local Maintained									20 year	5 year
	Sealed Unsealed	100 to 500 < 100	30 20	60 40	6 6		6	Fenced	Eligible Eligible	20 year 20 year	5 year 5 year

Developer may be required to improve existing road network in accordance with above table standards where the developer relies on a substandard section of road to provide access to the development

These standards will be applied to the development as specific improvements works in addition to Section 94 contributions

TABLE 1b Newly constructed / dedicated roads – developer standards

Development	Road Classification	Nominal Traffic (AADT)	Speed		Pavement		Seal Width	Boundary Control	Road Maintenance	Waterways (Recurrence Interval)	
			Absolute	Desirable	Formation Width	Nominal Thickness				Major (Perennial Stream)	Minor (Intermittent Stream)
Construction dwellings of	Crown Private	8 8	No access conditions apply			100		Gates Gates	Not Eligible Not Eligible	NA Culvert	NA Causeway
Property Only	Unmaintained	2			3	100		Gates	Not Eligible	NA	NA
Subdivisions	Unmaintained	8			3	100		Gates	Not Eligible	1 year	Causeway
No. of Lots / eq lots	Existing Road	16			3	200		Ramp	Not Eligible	1 year	Causeway
2	Or	24			3	300		Fenced	Not Eligible	1 year	Causeway
3	Proposed ROW	32			4	300		Fenced	Not Eligible	5 year	1 year
4	Or	40			5	300		Fenced	Not Eligible	5 year	1 year
5	Community	48			6	300		Fenced	Not Eligible	10 year	1 year
6	Title	56			8.5	350	6.5	Fenced	Eligible	10 year	1 year
7					8.5	350	6.5	Fenced	Eligible	20 year	5 year
>7	Existing or Proposed Road	Road Catchment Study Required									

These are the minimum standards to be applied to all newly created roads or developments accessing the crown or unmaintained road network

The above tables should be read in conjunction with Figure 1

TABLE 2 Minimum Sight Distance for Property Accesses							
Design Speed (km/h)	SISD – Safe Intersection Sight Distance (1.15m to 1.15m)						
	Upgrade			Flat Road	Downgrade		
	12%	8%	4%		4%	8%	12%
	(m)	(m)	(m)	(m)	(m)	(m)	(m)
40	60	60	60	60	60	60	60
50	75	77	80	80	80	85	85
60	95	100	105	105	105	110	115
70	120	120	130	130	135	140	145
80	145	150	155	160	165	170	190
90	170	175	180	190	200	210	220
100	200	205	215	225	235	250	270

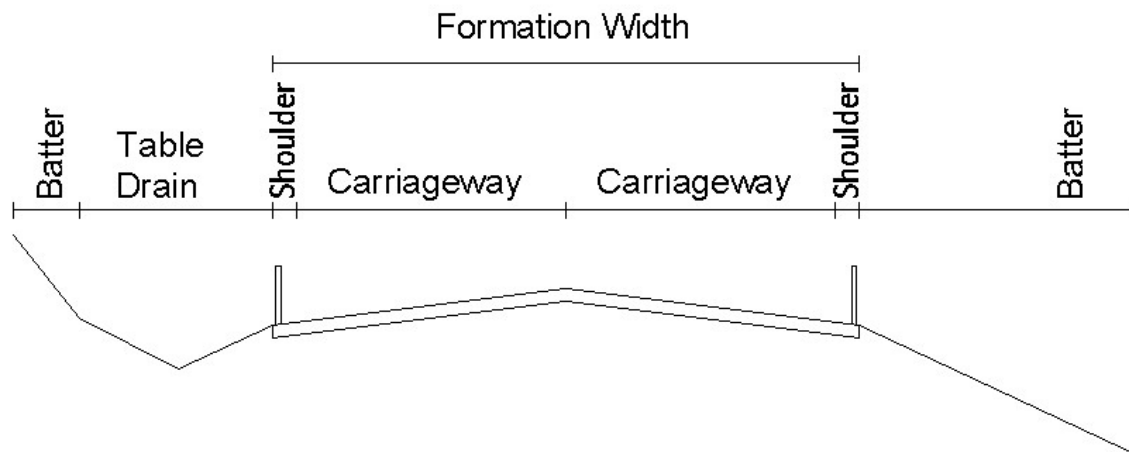


Figure 1 – Typical Road cross section



Department of Lands
*Land Administration & Management
Property & Spatial Information*

*Community Services Unit
Hunter & Central Coast*

CROWN ROADS GENERAL INFORMATION

Proposed Works on Natural Terrain Crown Public Roads

The Department of Lands is not funded or resourced for the specialised fields of road design, construction, maintenance and traffic management. Hence the department is not in a position to consent to major road works. (Major works are broadly defined as the design and construction of roads that involve earthworks or alteration of the existing landform to form a carriageway. This includes significant cut, fill and drainage structures such as pipes, culverts, causeways or bridges). Furthermore works will not be approved where a Crown road is located in terrain exceeding slopes of 15 degrees (being the maximum acceptable grade for public road access as specified by NSW Rural Fire Service), or terrain which is identified as State Protected Land.

The majority of Crown roads existing today comprise land which was set aside to provide corridors of public access during the settlement of land in New South Wales. These corridors are generally known as "paper roads" or "road reserves" and their use may be limited by their unformed or natural terrain state.

Crown roads are public roads administered by the Department of Lands under the Roads Act 1993. The Department's role differs from that of other Roads Authorities (Councils and the Roads and Traffic Authority) in that Crown public roads are managed to provide legal access to vacant allotments or parish portions established by subdivision of the Crown estate. Crown roads are available as a means of public access for pedestrians, vehicles where possible and to drive stock or animals, as natural terrain roads. However, urban and rural development has a significant influence on whether a Crown road corridor requires construction to local council engineering specifications and design criteria for bush fire regulation and vehicular access.

The department is only in a position to authorise basic "minor works" to establish or maintain an access track within the land corridor set aside as a Crown road. Minor works are generally not consistent with the minimum standards or thresholds administered by local council. While this work requires departmental consent, local council should be referenced to ascertain whether:

1. The work requires lodgement of a development application in terms of Council's planning instruments? Or;
2. Whether the works relate to a condition of consent issued by Council in respect to a development approval? Or
3. Are the works associated with maintaining a Crown road previously constructed to service a Council approved development?

(This needs to be clarified to establish whether the works need to be considered by Council and whether it is appropriate to negotiate the transfer of the Crown road to Council as the relevant Roads Authority to administer the works and ongoing road management issues).

If the situations in 1, 2 or 3 above do not **apply**, the department may consider minor works, which involves:

- Slashing undergrowth and clearing trees only where necessary.
- Light grading of the natural terrain.

- Slightly crowning the track formation to establish surface and 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 track formation or fill potholes.

Proposals are assessed on the basis of whether it is feasible to undertake minor works and the impact of those works on the road reserve, adjoining lands and local environment. Where the works relate to establishing an access track, the *Assessment of Minor Works* form (Environmental Assessment of Minor Proposals - Part 5 of the Environmental Planning and Assessment Act 1979) is to be completed, preferably by someone with appropriate experience and/or qualifications.

Costs associated with the works are the responsibility of the proponent. This may include a boundary survey to ensure that all 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. You may undertake the work yourself, engage an experienced contractor or the Department's Soil Services Division.

Minor works applications are assessed upon receipt of the current fee of \$71.20, which is an advance towards departmental costs for the following activities/functions:

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

Please also note that:

1. The work is considered on its merits and no guarantee can be given that departmental consent will be granted.
2. The timely processing of any proposal is reliant on the quality of the supporting documentation.

The following details should be included with the application:

- diagram/s;
- photos of the land within the road boundaries;
- the extent of clearing and grading to be undertaken;
- the type of machinery to be used; and
- contractor's details.

Should you require any additional information or further clarification regarding this matter please contact Les Conrad of the Department of Lands, Community Services Unit, East Maitland on telephone (02) 49379340.



ANNEXURE B2

Department of Lands
Crown Lands NSW
Community Services Unit
Hunter-Central Coast

PROTOCOLS FOR TRANSFER OF CROWN ROADS REQUIRED TO SERVICE DEVELOPMENTS

Issue:

Development of agreed road transfer protocols between Department of Lands (Hunter - Central Coast) and Local Councils.

Background:

1. Crown roads are generally known as "paper roads". They provide limited access in a natural terrain form. The department's emphasis on Crown roads administration is to maintain the continuity of legal public road access.
2. Demand for formed road access is predominantly generated by development approvals that relate to the progressive subdivision and occupation of land.
3. This has a significant impact on the management of Crown roads that were created to provide basic legal access corridors to vacant parish portions and allotments created in original Crown subdivisions, prior to motorised transport.
4. Local Council is generally the development consent authority under the EP & A Act 1979. As such Council is responsible for evaluating and determining appropriate standards for road access to developments, together with any ongoing road management issues.
5. The Department of Lands is not responsible for evaluating, approving or regulating road works requirements to service approved developments. Where road works are a requisite of development consent the Crown road should be transferred to Council.
6. Transfer of a Crown road enables Council to:
 - Fulfil it's obligations under the EP & A Act 1979 and Roads Act 1993.
 - Administer road works required in accordance with conditional consent.
7. Past practices have led to contention regarding road conditions and protracted and costly negotiations regarding road transfer. These unnecessarily effect working relationships between agencies and can be avoided.

Benefits of road transfer protocols:

- (a) Streamlines approval processes for DA's and subsequent road works and ancillary services.
- (b) Improvement of client servicing.
- (c) Clarifies the roles of respective agencies.
- (d) Enables equitable levels of contributions from proponents.
- (e) Enables adequate standards of access to service approved developments in the short and longer term.

- (f) Provides a pro-active approach to infrastructure planning. This ensures that reactive situations to substandard access don't arise.
- (g) Ensures that public roads are managed by the appropriate authority, generally the development consent authority.

Note that Departmental road transfer protocols have been established with Cessnock City Council and Muswellbrook Shire Council pursuant to Section 151 of the Roads Act 1993.

Key steps in this agreement are:

1. Council in assessing development applications evaluates issues associated with road access.
2. If road works are required to service the proposal, the status of the road is determined. If necessary the department provides assistance regarding status and other preliminary issues.
3. Where a DA involves or impacts on a Crown Road, the Department of Lands must be referenced during the assessment process.
4. For Crown roads, Council acknowledges the transfer provisions under the Roads Act 1993 and these protocols. This will facilitate land owner's consent to the DA from the Department of Lands as it relates to the Crown road.
5. Council determines the DA, establishing appropriate road construction standards and imposes conditions on the proponent necessary to achieve these requirements.
6. The transfer process is initiated immediately on advice or receipt of Council's approval for a development or road works and/or Construction Certificate.
7. Transfer is to be completed **prior** to the commencement of any road works.
8. The department will reverse the transfer of a former Crown road if the development does not proceed within five years from the date of consent and where road works have not commenced.

Contact Officer: Les Conrad
Lands Officer, Maitland
4937 9340

ANNEXURE B3

Department of Lands

Land Administration & Management

Property & Spatial Information

CC1-issued 27/1/2004

MD97 A 53

A PROPOSAL FOR PARTNERSHIP COUNCIL ROAD CLOSINGS

MEMORANDUM OF UNDERSTANDING

A proposal for partnership between Council and the Department of Lands to allow a more efficient and cost effective method of administering proposals to close Council public roads.

The objective of this memorandum of understanding is to allow Council to undertake certain specified actions as provided by the Roads Act 1993 on behalf of the Minister Assisting the Minister for Natural Resources (Lands) hereinafter called the Minister.

The signatories below confirm that the following agreed actions may be undertaken by Council on behalf of the Minister with regard to applications for the closing of roads for which Council is the roads authority under the provisions of the Roads Act 1993.

Agreed Delegated Actions:

- (a) The placing of a notice in a local newspaper as provided for in Section 35 of the Roads Act 1993 on behalf of the Minister
- (b) The receipt of submissions to the Minister provided for in Section 36 of the Roads Act 1993

..... Council agrees that the placing of a notice as per (a) above, will be undertaken following consultation and the concurrence of the delegate of the Minister at the Maitland office of the Department of Lands for the action to proceed on a case by case basis.

..... Council also agrees to serve notice on those parties affected by the road closing as requested by the delegate of the Minister.

All submissions regarding the road closure, received by Council will be forwarded to the Minister's delegate.

Attachments "a1" & "a2" to this Understanding provide a checklist and flowchart that set out the general protocols for proceeding. The protocols may be open to alteration by mutual agreement between the Minister's delegate and Council from time to time.

This memorandum of understanding will commence upon signature by both parties.

Signed thisday of...2004 Signed thisday of.....2004

.....
General Manager / Delegated Council Officer

.....
(Name & Position)

..... Council

Andrew McAnespie
Acting Regional

Sydney / Hunter
Department of Lands

As a delegate of the Minister Assisting the Minister for Natural Resources(Lands)

PROPOSED ROAD CLOSING AT COUNCIL PUBLIC ROAD

COUNCIL ACTING AS AGENT FOR DEPT OF LANDS CHECKLIST

(tick applicable boxes as action is completed)

- ☐ 1. Complete Application Form (CL31-30)
(only page 1 of the application form must be completed at this early stage of Council's investigations)
- ☐ 2. Prepare Diagram showing Road Closing Area
- ☐ 3. Prepare Draft Advertisement (form ccs)
- ☐ 4. Forward Application Form (Page 1), Diagram and Draft Advertisement together with cheque for \$328.90 (deposit) to the Department of Lands for approval to advertise
- ☐ 5. Approval to advertise, Reference list (form CC4) and diagram "T" of those to be notified received from the Department of Lands
- ☐ 6. Obtain copies of titles for relevant adjoining landownership (computer folio's etc)
- ☐ 7. Organise a search into the creation of the road, (some roads created pre 1920 may not be public roads that can be closed under the Roads Act 1993 / if a previous title existed before the road was created, this information is required for lodgement of a plan of the road closing area)
- ☐ 8. Organise advertisement to be placed in local newspaper
..... Date of Advertisement.....
- ☐ 9. Proof of advertisement from the publisher is essential. Obtain copy of newspaper advertisement when published
- ☐ 10. Forward copy of advertisement (ccs) reference letters and diagram to relevant government authorities and affected landowners (see form ccs) (Reference letters can be sent out when organising advertisement)
- ☐ 11. Forward reference letter (see form cce), diagram and copy of relevant section of topographic map to the Department of Mineral Resources. (In most cases the Department of Mineral Resources has no requirements.)
- ☐ 12. Recommendation to Council
- ☐ 13. Resolution number and date
- ☐ 14. If no submissions received / submissions received only from government authorities requesting easements or Council considers objections are without merit go to step 19.

If Submissions / objections received :-

- ☐ 16. Undertake Resolution of objections (if objections cannot be resolved go to step 18)
- ☐ 17. Receipt of withdrawal of objections in writing (go to step 19.)
- ☐ 18. Objections cannot be resolved:
 - ☐ Either refer to Land Board Hearing for report (Section 260 Roads Act 1993) - then go to step 19. or 21. as required.
 - OR**
 - ☐ Withdraw application (go to step 21.)

- ☐ 19. Prepare submission to the Department of Lands to approve road closing.
Submission should address issues such as:
- Council's agreement to creation of any required easements in the plan of road closure
 - Address any objections that Council may consider do not have merit
 - Address resolution of objections
- ☐ 20. Forward to the Department of Lands:
- Completed application form including advice regarding construction of the road and intended disposal of the road (vesting in Council or Crown on closure)
 - Submission / letter requesting approval of road closing
 - Proof of advertising (usually a copy of the advertisement)
 - Copies of all titles and results of search
 - Copies of letters sent to affected landowners and government authorities
 - Originals of all submissions / objections received
 - Originals of letters of withdrawal of objection
- ☐ 21 Advice sent to the Department Of Lands of withdrawal of application du to objections received. Council should also forward:
- Proof of advertising
 - Copies of letters sent to affected landowners and government authorities
 - Originals of all submissions / objections

GO TO EITHER 22 OR 23:

22. FOR CONSTRUCTED COUNCIL PUBLIC ROADS AFTER APPROVAL ACTION

- ☐ 22.1 Department of Lands has provided advice of approval. Road has been constructed in the past. Survey / plan compilation instruction received from the Department of Lands. Request for further monies owing may be made at this time by the Department of Lands
- ☐ 22.2 Make Section 50 Application to HWC
- ☐ 22.3.1 Arrange survey / plan compilation
 - ☐ 22.3.2 Forward plan to Department of Lands for signature by approved officer
 - ☐ 22.3.3 Signed plan received from Department of Lands
 - ☐ 22.3.4 Complete Subdivision Certificate on plan
- ☐ 22.4 Plan forwarded to Land and Property Information NSW (LPI) for registration
- ☐ 22.5 Plan registered. Copy of registered plan forwarded to Department of Lands to allow gazettal
- ☐ 22.6 Advice received of gazettal of road closing and vesting in Council
Gazette.....Folio.....
- ☐ 22.7 Request form and copy of gazette notification forwarded to LPI requesting issue of title and removal of "public road" notification from Second Schedule
- ☐ 22.8 Title received by Council

OR

23. FOR UNCONSTRUCTED COUNCIL PUBLIC ROADS AFTER APPROVAL ACTION

- ☐ 23.1 Department of Lands has provided advice of approval of road closing. Road is unconstructed. Land to vest in Crown on closure. No further action required by Council.



23.2. Department of Lands has provided advice that road closure has been gazetted and land has vested in the Crown

Department of Lands

Land Administration & Management
Property & Spatial Information

COUNCIL ROAD CLOSING APPLICATIONS

– a proposal for partnership.

