

Circular to Councils

Subject/title	Advice to councils on transfer of Crown roads to councils
Circular Details	Circular 26-04 / 20/02/2026 / A998186
Who should read this	Councillors / General Managers / All council staff
Contact	Department of Planning, Housing and Infrastructure – Crown Lands Email: enquiries@crowmland.nsw.gov.au <u>Tel:1300 886 235</u>
Action required	For information

What's new or changing?

- Some councils have raised concerns regarding the transfer of Crown roads to councils after councils have approved development applications (DAs) that require the road for access. In some cases, these transfers were done without council agreement.
- The Department of Planning, Housing and Infrastructure – Crown Lands (the Department) wishes to clarify the policy on the transfer of Crown roads to council.
- The Office of Local Government is releasing advice on behalf of the Department's Crown Lands group.

What will this mean for council?

- Under the Crown Lands Administration of Crown Roads Policy (Policy) and Guidelines, if a council (including previous councils where amalgamated) approves, or has approved, a development application (DA) that requires a Crown road for access without the prior approval of the Department, the Department may transfer the road to council, regardless of whether the council agrees to the transfer.
- The Department is advising councils to require applicants for all DAs that rely on Crown roads to obtain Landowners consent from the Department before the DA is determined.

- Councils should also assess road condition and location as part of the DA process. Councils can then condition the DA consent to require the developer to upgrade and maintain the road to council standards, or for them to make developer contributions if they have a contributions plan.

Key points

- The Department is not a traditional road construction or maintenance authority and has no related plant, equipment, technical capability or funding. Rather, the Department's role is primarily to be an administrative roads authority. This means the Department manages Crown roads until they are required for public access, at which point the roads are transferred to a more appropriate roads authority.
- Under the Crown Lands Administration of Crown Roads Policy and Guidelines, if a council approves a DA that requires a Crown road for access, this meets one of eight possible criteria for the transfer of the road and the Department will initiate the transfer of the road to council as the relevant roads authority.
- That is because with the commencement of the development consent, the purpose of the Crown road will change, and either council is satisfied with the road condition in its current form, or will require it to be upgraded and maintained to council standards to allow ongoing access.
- A Crown road can be transferred to council without the council's agreement, however it is the practice of the Department to consult with the affected council before processing a Crown road transfer. Each proposed transfer is considered on a case by case basis and road transfers proceed under section 152I *Roads Act 1993*, by gazette.
- Councils should be aware that concerns around the road condition and/or cost to upgrade and maintain the road, or that the road or 'track in use' is not completely within the gazetted road corridor, are not considered valid reasons to prevent the transfer of a Crown road to council.
- To ensure councils are aware of the Department's position and the potential implications of Crown land transfers, councils are advised to require DA applicants that rely on a Crown road, or 'tracks in use' through Crown land, to get landowners' consent before approving the DA. Then they can be aware of the Department's position and potentially require the DA applicant as a condition of consent, to upgrade the road to council minimum standards or, make an infrastructure contribution or charge a levy (if council has a contributions plan). The Policy also states other criteria for the transfer of Crown roads without the agreement of councils, include:
 - The Crown road is formed and provides access to urban and rural areas

- The Crown road was constructed, has been/is being maintained by council to facilitate access as part of its local road network
- A council objects to a road closure on the grounds the road is required for public access.
- The Department will not transfer a Crown road if it has been upgraded or repaired following a natural disaster as part of disaster mitigation. However, if the road was eligible for transfer prior to the natural disaster, transfer may be initiated.
- The majority of Crown roads are transferred to councils by agreement, to facilitate development and other outcomes in the public interest.

Where to go for further information

- [Guidelines – Administration of Crown Roads](#)
- [Administration of Crown Roads Policy](#)
- [Landowner's consent | Crown Lands](#)
- <https://www.crownland.nsw.gov.au/find-services/sale-and-ownership-transfers/transfer-a-crown-road>
- Contact: DPHI – Crown Lands
[Tel:1300 886 235](tel:1300886235)
Email: enquiries@crownland.nsw.gov.au



Brett Whitworth PSM
Deputy Secretary, Local Government