



Transfer  
of  
Crown Road Reserves  
to  
Council Ownership  
Policy



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### Document Control

<b>Policy</b>	Transfer of Crown Road Reserves to Council Ownership Policy	<b>Policy Number</b>	TBA
<b>Author/Reviewer</b>	Director Infrastructure	<b>Review Period and Date</b>	Reviewed within 12 months of election/4 yearly - September

This policy shall be reviewed: -

- This policy shall be reviewed within 12 months of an election, and thereafter at four yearly intervals at least, to ensure it meets all statutory requirements and the needs of council. It may also be reviewed at other times as determined by council.
- Subject to the provisions of the Local Government Act and/or Regulation, this policy may be amended or cancelled by council at any time without prior notice or obligation to any person.

### Document History

Date	Status	Version	Resolution	Description
18 March 2019	Draft	0.1		Draft Transfer of Crown 'Paper or Green' Public Road Reserves to Council Ownership and Maintenance Policy created
27 March 2019	Draft	0.2		Presented to Council for endorsement 28 day public exhibition period
27 March 2019	Draft	0.3	19/56	Deferred for future meeting of Council and forwarded to Policy Review Committee for comment.
9 April 2019	Draft	0.4		Draft Transfer of Crown Road Reserves to Council Ownership Policy – reviewed by Policy Review Committee with changes made
17 April 2019	Draft	0.5		Presented to Council for endorsement 28 day public exhibition period
17 April 2019	Draft	0.6	19/109	Policy endorsed for 28 day exhibition
26 June 2019	Draft	0.7		Presented to Council for adoption
26 June 2019	Final	1.0	19/196	Transfer of Crown Road Reserves to Council Ownership Policy - adopted



## 1. Introduction

The purpose of this Policy is to provide a Council policy position on the process whereby Crown Road Reserves may be acquired or transferred from Crown to Council ownership by way of legal transaction.

Crown Road reserves provide lawful access to freehold and leasehold land. Crown Road reserves and all public roads in NSW are managed under the provisions of the Roads Act 1993. Only the State may, by order published in the Gov gazette, transfer a specified Crown Road reserve to another road's authority ie: LGA, and then only by agreement.

Crown road reserves often provide the only means of legal access to (rural) property owners, Council acknowledges that this creates issues for development of those properties.

Section 7 of the Roads Act 1993 prescribes the roads authorities for all public roads in NSW.

When Council becomes the roads authority for a road, it assumes responsibility for the road. Where a road is not constructed or has a substandard gravel formation, Council may be faced with requests from the public or user/s of the road to undertake maintenance and or upgrade the road to a better standard.

## 2. Definitions

Crown Public Road	<p>A road owned the State Government (Crown) under the Crown Lands Management Act 2016. A Crown Public Road may be constructed (formed) or not constructed (unformed) .</p> <p>Roads that have not been formed may be referred to as 'Paper or Green' roads. So named due to the road reserve existing on maps and plans but without any physical road construction being present. Council is not the roads authority for Crown Public Roads and does not maintain Crown Roads.</p>
Private Road	<p>A road that is owned by the individual/s who utilise that road for access to their Primary Entrance. Maintenance of a Private Road is the responsibility of the owners of the road.</p>
Public Road	<p>A road owned and administered by the Local Council as the roads authority. The Public Road may be constructed (formed) or not constructed (unformed).</p> <p>Constructed public roads may be maintained if Council has resolved to undertake maintenance, or they may be unmaintained roads if Council has not resolved to maintain them.</p>
Primary Entrances	<p>The main entrance through which the majority of people enter the property or Consolidated Property, and is the address as designated by Hilltops Council Council's Rural address system.</p>
Consolidated Property	<p>A property made up of lots as outlined in the corresponding Plan of Consolidation</p>
Right of Way	<p>A right of way is a particular type of easement, i.e. a right, annexed to land (excluding a right of way in gross), to travel over other land of different ownership in a particular manner (not involving the taking of any of its produce or soil).</p>
Beneficiary	<p>The entity who is the subject of the Development Application requesting the transfer of the Crown Road into Council's control.</p>

## 3. Objectives

The objective of this Policy is to provide a Council policy position on the process whereby Crown Road Reserves may be acquired or transferred from Crown to Council ownership by way of legal transaction.



## 4. Policy Statement

Council will assess on merit all applications received from the Crown to transfer road reserves to Council ownership.

This policy provides guidance on the process of Council determines if a Crown Road reserve may be accepted for transfer to Council. It establishes general criteria to be applied that will determine if the transfer of ownership is to be accepted. The intent of the policy is to ensure that assessments are applied consistently and objectively, thus ensuring a transparent, methodical and equitable approach in the recommendation of the road reserve transfer.

## 5. Process for Determination

The process of acquiring or accepting Crown Road reserves initially would be determined by factors or circumstance that may include:

- A Development Application has been lodged to undertake works that will provide vehicle access to a property along such a road reserve, or application for construction works on a parcel of land that fronts such a road reserve;
- The sole means of legal access is by Crown Road reserve i.e. there is no other property access other than a Crown Road reserve
- A Property owner wishes to formalise existing access by way of formation works or upgrade to a higher load standard along a such a road reserve;
- Notwithstanding the above, Council may have a substantial asset such as a formed road carriageway existing on such a road reserve.

The conclusion of the assessment process will direct Council to a result that may benefit a property owner/s in having a formed road (whether gravel or bitumen sealed) to their property access point. The conclusion of this assessment may also provide benefits including but not limited to;

- Council and the wider community. N.B, this is hard to gauge as the formed road initially benefits the respective property owner/s.
- Benefits towards the provider of goods and services wishing to access a property from a formed road.
- Benefits derived through provision of a formed road frontage to existing land portions that otherwise would require consolidation/ amalgamation, so as not to become land locked where the Crown road reserve is to be transferred by way of sale to a third party.

As part of the assessment process Council will consider means to avoid future costs of roadworks and / or maintenance through financial recovery or financial provision at the time of development or transfer of road ownership.

## 6. Determination

In determining if Council will take ownership of an existing Crown Road, the number of Primary Entrances using the road for access needs to be considered. The ownership of such a Road comes with a Whole-of-Life implication that needs to be weighed by Council prior to making such a determination.

The determination to take ownership of the road will be governed by:

1. If three (3) or more Primary Entrances that exist along the Road to be transferred; or
2. There are exception circumstances, which are fully articulated by the Beneficiary in their application.

Where an application meets one or all the above criteria, Council may seek to take ownership of the Road. Where Council takes ownership of a Road, all administrative costs associated with the transfer shall be borne by the Beneficiary. The estimated cost of this process shall be identified by Council and paid to Council by the applicant as a deposit prior to work commencing. The applicant shall be liable to meet the full costs regardless of the estimated cost.

Where there is only one (1) Primary Entrance along the road, Council will not generally accept the road but advise the Crown that it has no objection to it being sold to the applicant.



Where there are two (2) Primary Entrances along the road, the road Council will not generally accept the request but will advise the Crown that it has no objections to the road being transferred to one or both parties with Reciprocal Rights of Way granted to both Primary Entrances along the road.

Note: If more than 2 entities have access then the maintenance and access costs become difficult to assess. Therefore, it is reasonable that Council then take care and control of the road.

Where Council takes ownership of a Crown Road:

1. the road formation shall terminate at the first accessible vehicle access point on the furthest Beneficiary's property, and beyond this point the public road reserve shall remain undisturbed as a natural environmental corridor until such time the road formation is required to be extended. There would be no reason to extend the road formation beyond the approved vehicle access point location, as rural properties consisting of portion clusters generally have internal tracks to access areas of their properties.
2. The road reserve shall be fully fenced with a rural style stock proof fence on the correct boundary alignment (even if this is beyond the terminating point of the road formation) as marked by a Registered Surveyor.
3. The works required for the Road to meet the above standards shall be completed at the Beneficiary's full cost.

## 7. Review of a Determination

Where Council refuses to accept a Crown Road with two (2) or less Primary Entrance's being accessed by the Crown Road under determination, this decision may be reviewed if:

1. A Development Application is lodged that would result in three (3) or more Primary Entrance's requiring access of the former Crown Road
2. An application is made for a road to be dedicated in Council i.e. made a Public Road under Council's care and control. This will be assessed under 6.2 above. Should Council resolve to accept the road, the Beneficiary will be responsible for undertaking any construction works required to bring the road to Council's standard as required in Section 8. The Beneficiary would also be required to bear any cost associated with the administrative transfer of the road to Council ownership.

## 8. Design and Construction

The new Public Road must be constructed in accordance with Council's Engineering Guidelines for Subdivision and Development, as approved.

Where the traffic volume generated by a development exceeds that of a single dwelling vehicle movement environment a higher standard of construction shall be required. This will be determined on a case by case basis in accordance with Council's Engineering Guidelines for Subdivision and Development.

## 9. Legislative and Policy Provisions

1. Crown Land Management Act 2016
2. Road Act 1993
3. Road Regulation Act 2008
4. Hilltops Council Development Control Plans
5. Hilltops Council Engineering Guidelines for Subdivision and Development
6. Austroads Guidelines for Road Design and Pavement Technology
7. RMS Road Design Guide