



land series

Roads under the *Land Act 1994*

This information is provided to give an understanding of how roads are administered under the *Land Act 1994*.

State roads

The *Land Act 1994* gives the meaning of road as, an area of land, whether surveyed or unsurveyed:

- dedicated or notified or declared to be a road for public use or
- taken under an Act for the purpose of a road for public use. (An example of this is a road taken under the *Acquisition of Land Act 1967 (Qld)* and *Transport Infrastructure Act 1994 (Qld)*).

The term includes:

- a street, esplanade, reserve for esplanade, highway, pathway, thoroughfare, track or stock route
- a bridge, causeway, culvert or other works in, on, over or under a road
- any part of a road.

A road is not only the area covered by the actual road formation (carriageway) but encompasses the entire area of land set apart for road purposes, from property boundary to property boundary. Indeed, a constructed carriageway may not even exist.

A road may be dedicated in:

- state land (S.94 of the *Land Act 1994*)
- freehold land (S.51 of the *Land Title Act 1994*).

While the ownership of the road rests with the state, the management, control and regulation of most roads lies with the relevant local government in terms of the *Local Government Act 1993 (Qld)*.

However, if a road is a declared road under the *Transport Infrastructure Act 1994 (Qld)*, its management and control rest with the Department of Main Roads.

Closing roads and the public interest

A road can be closed temporarily or permanently. Present or potential public use is the main reason for refusing an application for closure.

Relevant issues and other matters to be considered include:

- objections from local governments, statutory authorities, government departments or adjoining owners
- deprivation of dedicated access to a parcel of land
- weakening of the integrity of the road network. (Even unused roads will often come into use in the future as settlement and subdivision continue)
- adverse planning issues
- environmental value. Some roads form important corridors and refuges for flora and fauna and, on the basis of 'caring for the land', should not be closed.

Apart from the specific legal purposes that roads serve, the general public have certain rights and expectations in relation to roads. The public should not be dispossessed of these rights and expectations without good and just reasons.

Application

An application for permanent road closure can be made by a public utility provider or an owner or lessee or trustee of land adjoining the subject road.

An application for a temporary road closure may be made by the adjoining owner, lessee or trustee or by another person if the road closure is only for allowing the person to make structural improvements for:

- pipes for irrigation purposes that cross the road beneath its surface
- water channels for irrigation purposes that cross the road.

Application forms are available from the NRW website <www.nrw.qld.gov.au> or by contacting the department.

See the NRW website <www.nrw.qld.gov.au> for a list of NRW offices and application fees or contact the department.

The minister may close a road without receiving an application or refuse the application if the minister considers:

- the application is vexatious or frivolous
- the road is the only dedicated access to a person's land
- the road is, or may be, used regularly by the public as a road or stock route
- the road provides continuity to a road network
- the road is still needed.

Investigation

Notice of the proposed application for the road closure is:

- published in the Government Gazette
- given to every adjoining landholder
- exhibited in a conspicuous position—on or near the road, at the Department of Natural Resources and Water and/or at the office of the local government.

Views of the local government, potentially affected statutory authorities and government departments are sought.

The overall integrity of the state's road system, access to individual properties and the need to protect the state's land assets are important considerations.

Decision

NRW will notify applicants of the decision in writing when it has investigated all issues, including native title.

Access limitation strips can be held as:

- freehold land
- freehold land in trust
- unallocated state land
- reserve for local government (access limitation strip) purposes

and are dealt with in different ways.

More information

For more information, contact the nearest NRW office or see the NRW website at <www.nrw.qld.gov.au>.