

Application for grant and release of easement

Use this form to lodge an enquiry for the grant or release of an easement over Crown land.

Important information

The Minister has broad powers under the *Crown Land Management Act 2016* (CLM Act) to grant and release easements over Crown land for a range of public and private purposes.

Easements for public purposes

The CLM Act provides the minister with the power to create easements for public access over Crown land in general. The act also specifically provides for the creation of easements to secure ongoing public access over Crown land that is about to be sold or leased. Examples of where easements for public access include walking and bike riding paths that provide connectivity between public reserves, and pedestrian and vehicular access tracks to beaches or other natural features of public value.

Easements to local councils

The *Local Government Act 1993* gives local councils the power to access Crown land for the purposes of providing essential public services such as the provision of town water supplies, sewer systems and stormwater drainage. The CLM Act recognises that where such services are provided on Crown land and ongoing access works are required, the Government knows the location of such services and can ensure access and service arrangements are recorded and maintained. Accordingly, the CLM Act provides that where a council requires ongoing works on Crown land it must ask the Minister for Property & Housing to create an easement for access. The minister must grant the easement if satisfied that it is appropriate to do so.

Easements over leased Crown land

The majority of Crown land in New South Wales is held under lease. At times the NSW Government identifies the need to access leased land and create easements that are in the public interest. Generally, the lessee of the land must give consent for any easement to be granted over their leased land. In a small number of circumstances, the CLM Act also enables easements to be granted over leased Crown land without the consent of the lessee. Relevant examples include where the easement is required to:

- enable the owner of other land to access the owner's land. This will generally only occur where the only practical access route is over the leased land
- enable necessary services (for example, drainage, water, gas or electricity services) to be provided to other land
- ensure that travelling stock routes are maintained as networks.

Easements for private purposes

The CLM Act allows the Minister for Housing & Property to grant easements over Crown land for the benefit of private parties. Examples include easements for access to private property and easements that allow the provision of essential services to private developments. Such easements are only considered when there are no practical alternatives other than to use Crown land.

Easements by compulsory acquisition

Organisations with powers of acquisition under their enabling acts should consider in the first instance the creation of easements by compulsory acquisition in accordance with the *Land Acquisition (Just Terms Compensation) Act 1991*. Examples of easement requests that should be directed via the compulsory acquisition process are all easements:

- for electricity services. Network providers under the *Electricity Supply Act 1995* have the power to acquire easements for electricity over Crown land. Companies and individuals should make application to the network provider to acquire the easement on their behalf by compulsory means. It is the responsibility of the network provider to lodge an application to compulsorily acquire the easement with the NSW Department of Industry. In a limited number of situations the department can consider creating electricity easements by agreement where justified by a business case
- required by local councils. Exceptions are where an easement is required for works under the *Local Government Act 1993*
- required by statutory authorities and prescribed corporations with powers of acquisition provided in their enabling acts, for example state water corporations and NSW Health Administration.

Direct applications for easements by compulsory acquisition to the Acquisitions Team at cl.acquisitions@crowmland.nsw.gov.au

Process

The CLM Act allows the Minister for Housing & Property to grant an easement over Crown land on any terms and conditions that the minister thinks appropriate (including terms and conditions relating to compensation payable to the Crown).

In determining whether an easement should be granted or released over Crown land, regard will be had to:

- making sure the granting or release of the easement is consistent with the objects of the CLM Act, including the principles of Crown land management
- the purpose of the easement, if it is 'reasonably necessary', and its likely effect on Crown land and adjoining Crown land
- for reserved or dedicated land, whether the purpose of the easement is consistent with the Crown reserve purpose, and if not consider what action needs to be taken
- whether the easement would be of public good or benefit
- if the easement is of private benefit only, whether there is compensation to the state and appropriate conditions to ensure any public benefits derived from the Crown land are not adversely affected.

Where an easement for private purposes is requested, the Department of Planning, Industry & Environment - Crown Lands will consider carefully whether it is in the public interest to grant the easement. As part of its considerations, there will be a strong focus on the consequential impact on public use of land, public access, future use of the land and value of the land. Alternatives to private easements will be considered in the first instance.

Where the grant or release of an easement for a private purpose is requested, all easement preparation work will generally be the responsibility of the private party seeking the benefit of the grant or release of the easement. The department may require the applicant to pay the costs incurred by the department in processing an easement for private purposes, including any costs in preparing or reviewing documentation.

Contact us

For more information, please contact us at:

NSW Department of Planning, Industry & Environment - Crown Lands
PO Box 2155
DANGAR NSW 2309

Phone: 1300 886 235

Fax: 02 4925 3517

Email: cl.enquiries@crowland.nsw.gov.au

Web: industry.nsw.gov.au/lands

Fee

\$626.00

The fee is charged for lodgement of this application form. For further information please refer to the NSW Department of Planning, Industry & Environment - Crown Lands website (industry.nsw.gov.au/lands).

Lodgement

Email the completed form to: cl.enquiries@crowland.nsw.gov.au

or

Mail to:

NSW Department of Planning, Industry & Environment - Crown Lands
PO Box 2155
DANGAR NSW 2309

Include fee payment - Cheque or Money Order payable to the Department of Planning, Industry & Environment - Crown Lands

Applicant's information

This information may be used to positively identify you during your dealings with the NSW Department of Planning, Industry & Environment - Crown Lands

As the Applicant, are you:		<input type="checkbox"/> Individual/s	<input type="checkbox"/> Business/company	<input type="checkbox"/> Agent/advocate
		<input type="checkbox"/> Local council	<input type="checkbox"/> Statutory authority or prescribed corporation	
Council/authority/prescribed corporation name:				
Business/company name:*				
ABN/CAN:*				
Salutation:		<input type="checkbox"/> Mr	<input type="checkbox"/> Mrs	<input type="checkbox"/> Ms
		<input type="checkbox"/> Miss	<input type="checkbox"/> Dr	<input type="checkbox"/> Other:
Contact:	First Name	Surname		
Email address:				
Street address:				
Postal address:				
Daytime contact:		Mobile	Fax	

* If the Applicant is a business/company, a current ASIC search with details of the directors is to be lodged with this application form. If you are representing the Applicant nominated above as an agent or other advocate, you must provide a copy of authority to act from the individual or entity that you represent.

Powers of acquisition

Does the Applicant have powers of acquisition that would enable the easement to be acquired in accordance with the <i>Land Acquisition (Just Terms Compensation) Act 1991</i> ?	<input type="checkbox"/> Yes <input type="checkbox"/> No	If yes, you should create the easement by compulsory acquisition. Refer to Acquisitions Team at cl.acquisitions@crowland.nsw.gov.au
---	---	--

Grant or release of an easement

<input type="checkbox"/> Grant of easement	<input type="checkbox"/> Release of easement
--	--

Details about the Applicant's current land interests

Please complete the following sections for correct identification of land.

Particulars of adjoining land owned or held by the Applicant

Please provide details below of land associated or adjoining the Crown land that you are enquiring about.

Lot/section/plan number:	
Local government area:	
Locality/ Street address	

Particulars of an existing Crown land tenure held by the Applicant

Please provide details below of any tenure associated with the land that you are enquiring about.

Licence/lease number:	
Licencee/lessee name:	
Tenure purpose:	
Tenure end date:	

Identification of the Crown land affected by the easement

Attach a copy of a survey plan or sketch to show the easement location and boundary of the Crown land.

Particulars of land burdened

Lot/section/plan number:	
--------------------------	--

Particulars of land benefitted

Lot/section/plan number:	
--------------------------	--

What is the easement purpose?

Provide sufficient detail on the purpose and attachment diagrams, survey plans and any other additional information in support of your application.

Please detail whether the easement is for:

- a) private benefit (detail if there is more than one benefitting party)
- b) public benefit (detail the type of benefit)
- c) works in accordance with s191A of the *Local Government Act 1993*.

What is the proposed method for easement creation?

Provide draft easement documents and deeds of agreement, including any proposed easement terms.

Additional Information

<p>Has the NSW Aboriginal Land Claims Registrar been contacted to determine if any Aboriginal Land Claims affect the Crown land of interest?</p>	<input type="checkbox"/> Yes <input type="checkbox"/> No	<p>If yes, please attach copy of Registrar's report.</p>
<p>Will the grant or release of the easement provide benefit to the State of NSW? Eg. Is the easement associated with a development that will create jobs, economic growth, or result in an improvement in public access etc?</p>	<input type="checkbox"/> Yes <input type="checkbox"/> No	<p>If yes, please detail of the proposed development expenditure and number of jobs likely to be created during development and long term:</p>
<p>Do you have an existing interest in this site?</p>	<input type="checkbox"/> Yes <input type="checkbox"/> No	<p>Do you have an existing interest in this site?</p>

Is the easement for existing infrastructure?	<input type="checkbox"/> Yes <input type="checkbox"/> No	If yes, please provide details:
Is there any current occupation on the site, <u>other</u> than existing infrastructure for which the easement is required?	<input type="checkbox"/> Yes <input type="checkbox"/> No	If yes, what occupation/infrastructure exists on the site:
If you are seeking release of an easement, has all easement related infrastructure been removed from the land and the land rehabilitated?	<input type="checkbox"/> Yes <input type="checkbox"/> No	If yes, please provide evidence or works undertaken:
Have you applied previously?	<input type="checkbox"/> Yes <input type="checkbox"/> No	If yes, please provide details:

Supporting Documentation

- Attached is a detailed site plan, diagram or survey showing the location of the easement proposal.
- Attached is a detailed description of proposed easement, sufficient to understand its full extent and likely impacts.

Declaration & Acknowledgement of Easement Process

- I acknowledge that the lodging of this application does not guarantee the grant or release of an easement.

Name:			
Signature		Date	

© State of New South Wales through Department of Planning, Industry & Environment 2019. The information contained in this publication is based on knowledge and understanding at the time of writing (July 2019). However, because of advances in knowledge, users are reminded of the need to ensure that the information upon which they rely is up to date and to check the currency of the information with the appropriate officer of the Department of Planning, Industry & Environment or the user's independent adviser.