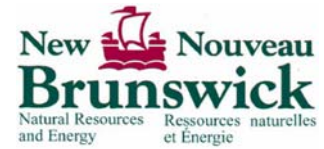


**SUBJECT: CROWN RESERVED
ROAD POLICY**



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1.0 Purpose

The purpose of this policy is to guide Departmental staff in the management of Crown Reserved Roads.

2.0 Policy Statement

The Department of Natural Resources (DNR) will consider applications for the construction or disposal of Crown Reserved Roads in support of the orderly and efficient development of the Province, consistent with the original purpose of Crown Reserved Roads, and the Department's goals for the management of Crown lands and resources.

3.0 Background

During the original surveying and granting of Crown Lands it was the practice of the provincial surveyors to identify and reserve Crown Reserved Roads (CRR) at regular intervals between or within grants. The intent was to provide access for the Crown or private citizens through eventual construction of roadways on CRR's. In many cases, however, the reserved roads are not now, nor likely ever to be needed for access. In some cases, a road could never be built on the CRR due to physical limitations such as cliffs or waterbodies.

The Crown occasionally is approached by individuals seeking permission to construct a road on a CRR to gain or improve access to their lands and resources. Similarly, DNR sometimes requires the use of the CRR to develop or maintain access to Crown lands or resources. For example, the CRR may be the only legal and practical access from a public road to a block of Crown land; alternatively, the CRR may provide a needed public access to public resources such as a lake.

There is rarely clear evidence on the ground of the location of an undeveloped CRR. As a result, there are situations where adjacent landowners have inadvertently occupied the CRR, including the establishment of permanent improvements such as houses and other buildings. This unauthorized occupation often first becomes evident during a mortgaging process or in preparation for a property sale, in which case, the occupant generally approaches the Crown seeking some form of legal tenure of a portion of the CRR.

**Background,
continued**

The *Crown Lands and Forests Act* addresses the need for legal tenure by allowing the Crown to either grant a section of a CRR to an individual, or to discontinue its interest in that section of the CRR. Historically, preference has been given to discontinuance over granting due to the fact that it was less costly to the applicant (no survey) and, for the past couple of years, could be done with only Ministerial approval. However, the ambiguity of ownership following discontinuance, and the introduction of the *Land Titles Act*, which does not allow registration of discontinuances, has reduced the utility of this otherwise simpler disposal option. In addition, DNR has an obligation to the people of New Brunswick to ensure that appropriate benefit is derived from Crown land. Granting involves receipt of a grant fee reflecting that Crown land has value while discontinuance does not.

4.0 Objectives

The objectives of this policy are to:

- permit construction of roads on Crown Reserved Roads in response to applications, as needed to provide access to Crown lands and resources, and private lands;
 - retain CRR's identified as needed to meet Departmental needs; and
 - dispose of CRR's not required to meet the previous objectives, in response to applications, in accordance with the *Crown Lands and Forests Act* and consistent with all other Provincial legislation.
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5.0 Definitions

**Crown
Reserved Road**

A Crown Reserved Road is a narrow strip of land, usually 20.1 metres (66 feet) in width, located between or within granted or reconveyed Crown lands and reserved by the Crown for access to and from other granted lands or Crown lands. In some cases, portage roads, tote roads, forest roads, old military roads and some old public highways may be CRR's. In many cases, no actual roads were ever built on the reserved lands, but they are still considered to be reserved roads under the *Crown Lands and Forests Act*.

Discontinuance

A discontinuance is the process by which the Crown terminates its ownership of a CRR in favour of the adjacent owner(s).

Grant

A grant is the process by which a portion or all of a CRR is sold to a person.

6.0 Principles

6.1 Construction principles

- a) Construction of a Crown Reserved Road in response to an application will not increase DNR's management costs (administration, protection, production of resources).
- b) Construction of road access along a CRR is the preferred use for CRR's, unless physically impractical.
- c) DNR may refuse construction of road on a CRR that would jeopardize rare or endangered species, natural resources, archaeological resources, protected lands or environmentally significant lands.
- d) Any access afforded by construction of a CRR is available to the public¹.
- e) Construction of a road on a CRR does not imply that the Department of Transportation or a municipality will assume responsibility for that road. Administration and Control of the CRR may then be transferred to DOT.
- f) When reviewing a request for construction on a CRR, DNR will ensure that all adjacent owners are informed of the request.
- g) DNR will consult the appropriate planning authority on all CRR construction requests.
- h) DNR will consider objections to construction of a CRR only if they pertain to section 6.1.c) or if they are from an adjacent landowner who physically occupies the CRR.
- i) If an adjacent land owner physically occupies the CRR, DNR may request that alternate land be provided for access or that any improvements be removed from the CRR.
- j) When reviewing a request for construction on a CRR, if:
 - it is shown that all adjacent properties have viable legal access and;
 - the CRR is not needed to provide access to Crown lands and resources; and
 - the CRR is not required to meet Departmental needs;DNR may offer a grant of the CRR to the applicant.
- k) Upgrade, repair or construction on a CRR must be authorized by DNR.

NOTE: If the reserved road is considered to be a public road under the administration and control of DOT, then the upgrading or repair only needs to be authorized by DOT.

¹ This includes construction and/or use of a portion of a CRR as a private driveway.

6.2 Disposal principles

- a) Disposal of a CRR will not increase DNR's management costs (administration, protection, production of resources).
 - b) In general, disposal of CRR's will be via a grant. Only under the circumstances identified in Section 7.3(d) will a CRR be discontinued.
 - c) Disposal of a CRR will not leave other landowners without reasonable access to their lands.
 - d) DNR will not dispose of CRR's that are required for access to Crown lands (including rivers, lakes or the sea) or Crown resources, even though construction may not occur in the foreseeable future.
 - e) DNR will not dispose of CRR's that are required by DOT for highway purposes.
 - f) Where there is a public right of passage over the CRR, the CRR will not be disposed of until the public right of passage has been extinguished.
 - g) DNR will consult the appropriate planning authority on all CRR disposal requests.
 - h) While reviewing a request for disposal of a CRR, DNR may decide to offer disposal of other sections of that CRR to adjacent owners.
 - l) When reviewing a request for a CRR disposal, DNR will ensure that all adjacent owners are informed of the request.
 - i) Where disagreements exist among landowners adjacent to a CRR subject to an application for disposal, DNR may require the disputing parties to resolve all legitimate concerns of adjacent landowners **at their own expense** before DNR will proceed with disposal.
 - j) Following resolution of the dispute, the applicant will provide to DNR a release signed by the disputing landowners freeing the Province from future claims.
 - k) Where no resolution to valid objections can be reached, DNR will not dispose of the CRR.
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7.0 Standards

7.1 Application standards

- a) All applications consistent with this policy will be accepted for review.
 - b) All applications must be accompanied by a non-refundable application fee.
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7.2 Construction standards

- a) Permission to construct on a Crown Reserved Road may be given when:
 - i. the CRR is identified on the ground through survey;
 - ii. the CRR is clear of unauthorized occupations or unauthorized occupations are resolved;
 - iii. any required development permits have been obtained; and
 - iv. DOT approves any access point onto a Provincial highway.
 - b) A road constructed on a CRR must meet the standards determined by DNR (to be established).
 - c) Any damages to adjacent properties during construction of the road will be the responsibility of the applicant.
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7.3 Disposal standards

- a) CRR grants must meet the requirements for registration as described in the *Community Planning Act* and the *Land Titles Act*.
- b) DNR may dispose of a CRR only when it is shown that all adjacent properties have viable legal access.
- c) Except as prescribed below, disposal of CRR's will be via grants.
- d) CRR's may **be discontinued only** when:
 - i. they cannot be surveyed on the ground; and
 - ii. it is shown that all adjacent properties have viable legal access; and
 - iii. it is shown that the discontinuance will not result in encroachments among adjacent land owners.

NOTE: After a discontinuance the ownership is vested to the adjacent owners as prescribed in section 83(4) of the Crown Lands and Forests Act.

7.4 Survey standards

- a) Before construction of a CRR takes place and before a CRR is granted, the CRR must be surveyed.
 - b) The survey must be:
 - i. completed by a New Brunswick Land Surveyor; and
 - ii. reviewed and recorded by Crown Lands Branch.
 - c) The survey of a CRR is the responsibility of the applicant.
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7.5 Exchange standards

- a) DNR may consider land exchanges as a last resort to regularize an unauthorized occupation and/or to provide needed access.
 - b) The applicant will bear all the associated costs.
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8.0 Scope and Application

This policy applies to all Crown Reserved Roads under the *Crown Lands and Forests Act*.

9.0 Authority

- Grant: Section 82, *Crown Lands and Forests Act*
 - Discontinuance: Section 83, *Crown Lands and Forests Act*
 - Construction: Section 84, *Crown Lands and Forests Act*
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10.0 Inquiries

10.1 Written Inquiries

Inquiries concerning this policy may be made in writing to:
Director of Crown Lands Branch
or Manager of the Upland and Coastal Planning Section
Department of Natural Resources
P.O. Box 6000
Fredericton NB E3B 5H1

10.2 Phone Inquiries

Inquiries may be made by phone by calling the Land Use Application Service Centre at 1-888-312-5600.