

**CHARTERS TOWERS REGIONAL COUNCIL**  
*Exceptional Service for an Exceptional Community*

Frank  
Reverage.



**POSTED**  
25 FEB 2013

21 February 2013

Our Ref: 710101  
Your Ref: TSV915862  
File Ref: 20/ROA/03  
Enquiries: Ramon Jayo

Department of Natural Resources & Mines  
PO Box 5318  
TOWNSVILLE QLD 4810

Dear Sir

Re: Access to Lot 2 on MPH20755

Reference is made to previous correspondence concerning provision of practical access to the abovementioned allotment.

Copies of such correspondence are enclosed for your convenience. The proprietors have now requested Council to consider allowing themselves to construct their own access upon the gazetted alignment marked "A" on the plan attached.

As previously indicated the terrain is such that Council considers formation of a road impracticable due to anticipated high future maintenance costs. Council however has no objection to the applicant constructing their own road provided potential liability to both itself and the State are satisfactorily dealt with.

This aspect can be achieved by providing the applicants with a road licence (temporary road closure) attaching to their property over the gazetted alignment. Other alignments adjoining the gazettal in question will not be disenfranchised by the temporary closure as same are accessed via alternate road systems.

Council requests your consideration to the granting of a temporary road closure to enable this ongoing matter to be resolved.

Should you require further clarification or information, please contact Ramon Jayo of this office at your convenience.

Yours faithfully

49-Sch4 - Personal Information

K Jayo  
Director Regulatory Services

09 July, 2001

RJ/MK  
Property No: 884

The District Manager,  
Department of Natural Resources,  
PO Box 5318,  
MC TOWNSVILLE OLD 4810

Dear Sir,

**RE: ROAD OPENING**

For the purpose of providing access to land described as L2/MPH20755, Council is desirous of effecting a road opening along the existing practical access which basically follows the delineation on the plan attached hereto for your assistance.

The road has been in existence, and has, in fact, been maintained by Council for approximately 25 years.

For the purpose of allowing Council to consider the matter further, I would be grateful if you would kindly advise your requirements for road opening purposes and particularly, as to whether native title will be an issue given the existence of the road for the time specified. Your advice on whether a balance survey of the land described as Lot 82 on DV56 will be required in the event that the excision proceeds would also be appreciated.

The lessees of the land concerned have indicated that they are prepared to surrender such land for road purposes.

Your early attention to this matter would be most appreciated.

Yours faithfully,

**JP GOTT,  
CHIEF EXECUTIVE OFFICER**

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**CHARTERS TOWERS REGIONAL COUNCIL**  
*Exceptional Service for an Exceptional Community*



**POSTED**  
25 AUG 2009

24 August 2009

Our Ref: 387408  
File Ref: 20/ROA/03  
Enquiries: Ramon Jayo

DERM – Townsville  
PO Box 5318  
TOWNSVILLE QLD 4810

Dear Sir/Madam

Re: L2/MPH20755 Parish of Charters Towers

The registered proprietor of land described as Lot 2 on MPH20755 Parish of Charters Towers have, at present, no practical legal access to the property and rely upon the goodwill of the proprietors of Lot 82 on DV56 for practical access.

Gazetted access to Lot 2 on MPH20755 is via the road marked in red on the attached sketch. The road has never been constructed nor is there any likelihood for same to be constructed given the alignment of same within wetlands associated with the adjoining creek system.

It is not financially feasible to construct a road in the area as essentially, construction would necessitate the construction of a bridge approximately two (2) metres in height for the entire length of road.

For all realistic purposes, the property is landlocked. In an attempt to resolve the issue, the following agreement has been reached amongst all landholders concerned. The agreement cannot be finalised without the consent of the Department.

1. That the owners of land described as Lot 115 on DV835497 apply for permanent road closure of road described as Road "A" for inclusion into their adjoining property.
2. That owners of land described as Lot 115 on DV835497 assign their interest in that portion of land marked "B" to the owners of land described as Lot 82 on DV56, marked "C" on the attached map and being an area approximately equal to that to be surrendered for road upon the alignment marked "D".
3. That the owners of land marked "C" surrender for road purposes, that area of land as marked "D".

Council is agreeable to such proposal as same offers a solution to the landlocked parcel in the most practicable and cost effective manner.

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Our Ref: 387408  
Enquiries: Ramon Jayo

Prior to proceeding, the Department's views as to whether it will consent to the proposal is sought. In addition, your advice concerning whether or not Council would be required to purchase the road for conversion and amalgamation would also be appreciated, as the cost of same may have significant bearing on Council's decision on the matter. Council requests that your Department provide favourable consideration to allowing the proposed 'land exchange' arrangements for the following reasons:

- i) the road reserve will be preserved and no detrimental affect to value of asset will be suffered by the Department; and
- ii) as the Department is well aware, a number of roads throughout the region are 'off alignment' or unconstructable having regard to geographical and/or environmental features. The cost of regularising, particularly as regard survey fees, are already substantial and should the Department require payment for land such as in this instance, Council's financial capacity to undertake regularisation as required, will be significantly limited.

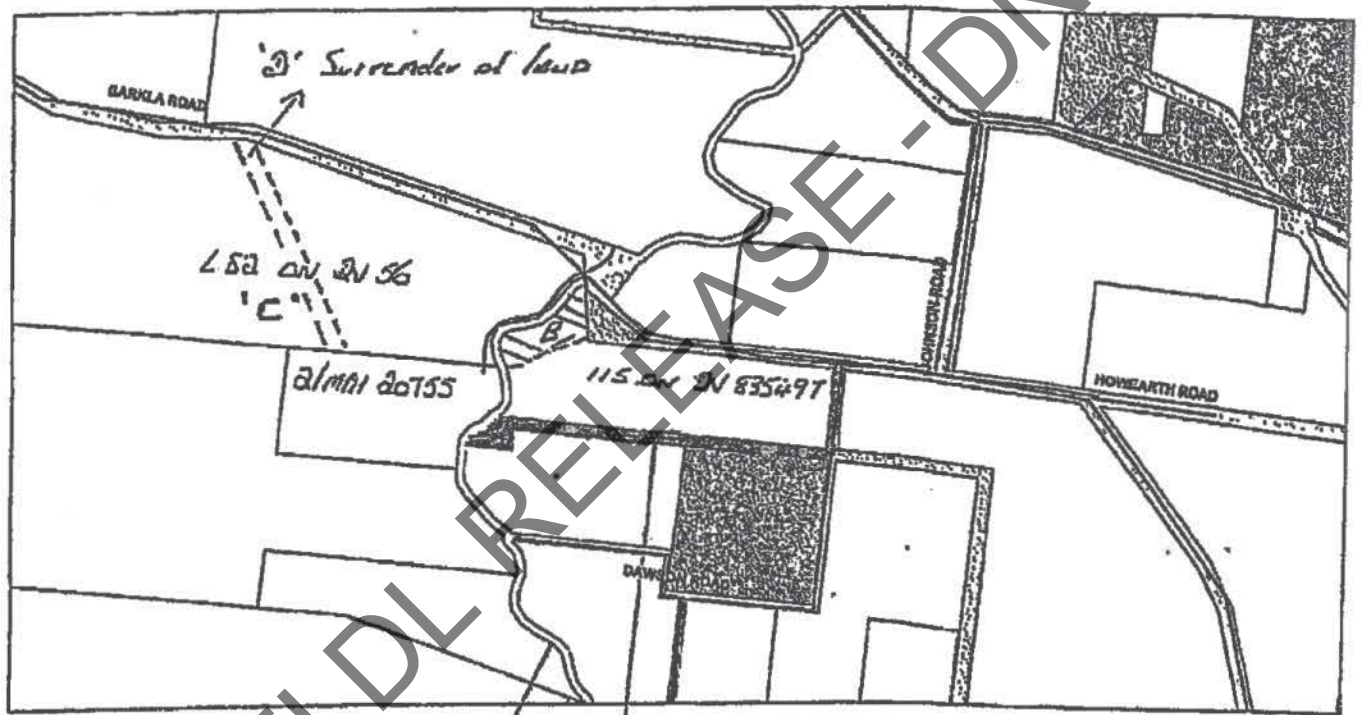
Should you wish to discuss the matter further, please contact Ramon Jayo of this office at your convenience.

Yours faithfully

49-Sch4 - Personal Information

   
Chief Executive Officer

RTI DL RELEASED UNDER DIRM



*'B' Surrender of land*

*LSA ON 21 56  
'C'*

*alman do 55*

*115.54 21 835497*

*HONEYBUSH ROAD*

*ROAD 'A' unbraced.*

*SANDY CREEK SYSTEM.*

RTI DL RELEASE - DNRM



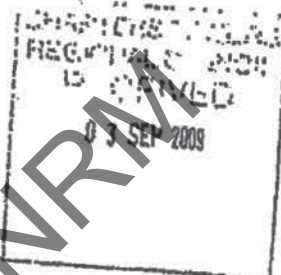
Queensland  
Government

Author: Julie Monzeglio  
Our Ref: TSV915862  
Your Ref: 387408 - 20/ROA/03  
Workgroup: State Land Asset Management  
Phone: (07) 4799 7167

2 September 2009

Department of  
Environment and Resource  
Management

The Chief Executive Officer  
Charters Towers Regional Council  
PO Box 233  
Charters Towers Qld 4820



Dear Mr Jayo

Re: Access for lot 2 on MPH20755, parish of Charters Towers

I refer to your letter of 24 August 2009, regarding the above matter.

It is acknowledged the access to lot 2 on MPH20755 is gained via the adjoining freeholding parcel of land being lot 82 on DV56 and not via the gazetted road access.

Due to the proposed road opening and permanent road closure not being in the same parcel of land nor is the land in the same ownership consideration cannot be given an exchange of land.

The Department would give formal consideration to your proposal upon lodgement of an application for road opening through lot 2 on MPH20755 and an application for permanent road closure of the unnamed road adjoining lot 115 on DV833497.

Should an application for permanent road closure be approved and the area was to be included into the adjoining freehold parcel of land, payment of the area of road would be required to be paid together with an additional costs ie GST, stamp duty and plan lodgement fees.

If you require any additional information on the above, please contact Julie Monzeglio on telephone number (07) 4799 7167, quoting reference number SV915862.

Yours faithfully

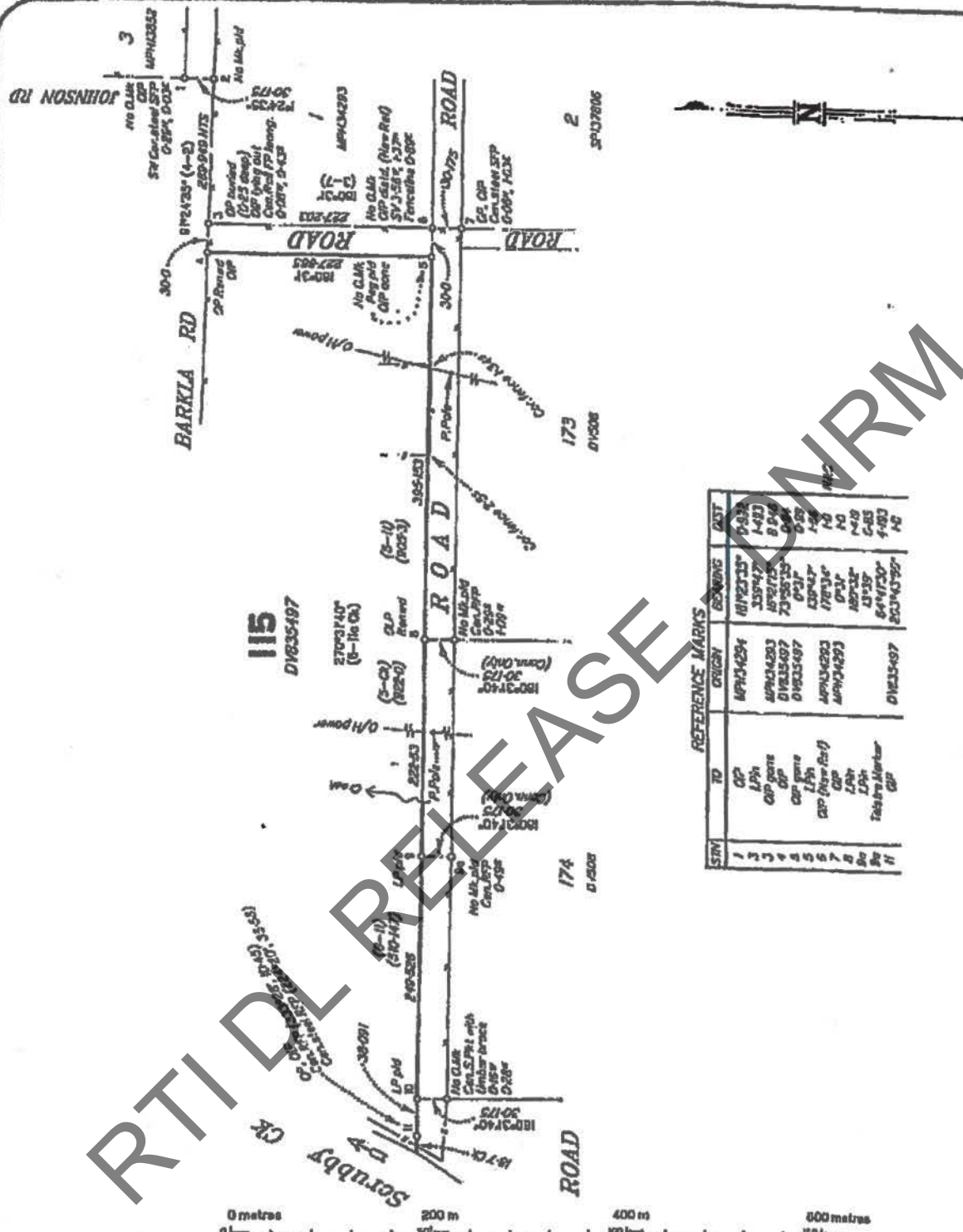
49-Sch4 - Personal Information

Julie Monzeglio  
Land Officer  
State Land Asset Management  
Land and Vegetation Services  
North Region

Office :  
DERM Townsville  
3<sup>rd</sup> Floor, State Govt Building  
187-209 Stanley Street  
Townsville Qld 4810

Postal :  
DERM Townsville  
PO Box 5318  
Townsville Qld 4810

Telephone : (07) 4799 7167  
Fax: (07) 4799 7533



STN	TO	ORIGIN	Bearing	Dist
1	CP	MP134234	81°23'13"	70.53
2	CP	MP134234	338°47'	1.483
3	CP	MP134234	89°21'52"	8.94
4	CP	DV835497	73°25'23"	0.66
5	CP	DV835497	0°21'	0.55
6	CP	MP134234	139°47'	1.24
7	CP	MP134234	178°33'	NO
8	CP	MP134234	0°21'	NO
9	CP	MP134234	180°35'	4.18
10	CP	MP134234	13°35'	0.85
11	CP	DV135407	84°17'30"	4.183
			203°43'50"	NO

RTI DL RELEASE UNDER NRM

**IDENTIFICATION SURVEY of the Eastern and Southern boundaries of Lot 115 on DV835497.**

PARISH: CHARTERS TOWERS COUNTY: DAVENPORT LOCALITY: SOUTHERN CROSS

**JACK BOOY**  
**CADASTRAL SURVEYOR**  
 138 Bergh Road, Cranbrook QLD 4814  
 Phone/Fax: (07) 47234885

I, Jack BOOY hereby certify that the land comprised in this plan was surveyed by Fraser Jacki Walker, Cadastral Surveyor, for whose work I accept responsibility, and that the plan is accurate, that the said survey was performed in accordance with the Survey and Mapping Instructions Act 2003 and Surveyors Act 2003 and associated Regulations and Standards and that the said survey was complete.

LOCAL GOVT. <b>CHARTERS TOWERS R.C.</b>	MAP REF. <b>8157-41133</b>	SCALE <b>1 : 4000</b>
MERIDIAN <b>DV835497</b>	SURVEYOR REF. <b>3130A</b>	FIELDBOOK <b>F27/5</b>
CLIENT <b>CHARTERS TOWERS R.C.</b>	DRAWN <b>planit v 10/12</b>	

**CADASTRAL SURVEYS**  
 PLAN: dwg  
**IS243992c.dwg**

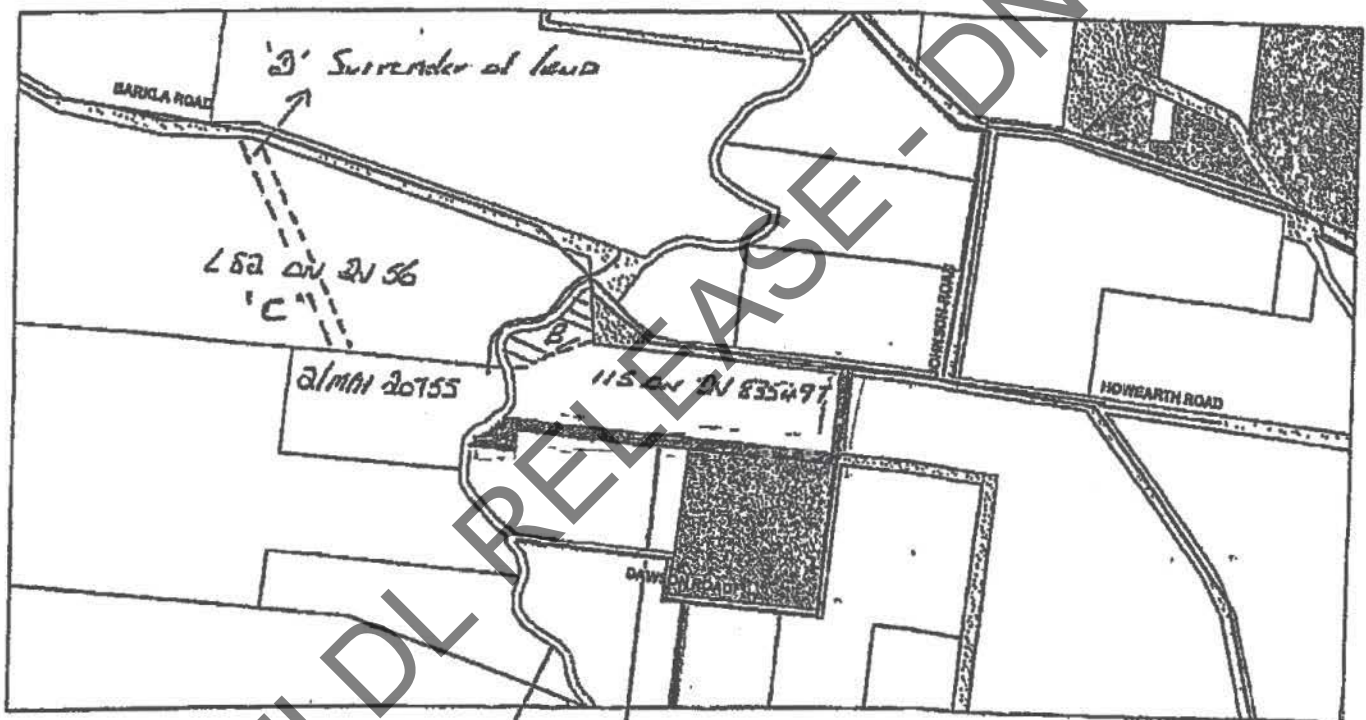
49-Sch4 - Personal Information

This plan is of an Identification Survey and as such is not submitted for registration by the Office of the Registrar of Titles, although it is lodged in that Office for Survey Information only, in accordance with the Survey and Mapping Infrastructure Act 2003. No responsibility can therefore be accepted for any future difference in boundary definition, which may result from resurveys of adjoining lands or subsequent registration of new survey plans. . . . . ACS



Date 1/11/2012

1:20A-CRIG-1/8-F27/5



RTID/ RELEASE - DNR/M

'B' Surrender of land

252 ON 21 56  
'C'

21/11 20155

115 ON 21 83297

HOWARTH ROAD

ROAD 'A' unbraced.

SANDY CREEK SYSTEM.





## Chapter 13 Local government infrastructure

Department of  
Natural Resources and Water

### Part 1 Extended application of chapter

- 900 Application of chapter to Brisbane City Council  
This chapter applies to the Brisbane City Council.

### Part 2 Roads

#### Division 1 Control of roads

##### 901 Local governments' control of roads

- (1) A local government has control of all roads in its area.
- (2) Control of roads includes capacity to take all necessary steps for—
  - (a) survey and resurvey of roads; and
  - (b) construction, maintenance and improvement of roads; and
  - (c) regulation of use of roads; and
  - (d) regulation of movement of traffic and parking vehicles on roads.
- (3) Subsection (2)(d) is subject to the *Transport Operations (Road Use Management) Act 1995*.
- (4) Regulation of use of roads includes—
  - (a) requiring, by local law, an owner of land adjoining a road to fence the land to prevent animals escaping from the land onto the road; and



- (b) specifying, by local law, the obligations of the owner of the land.

## Division 2      Realignment and widening of roads

### 902      Realignment of roads

- (1) A local government may realign a road to widen it.
- (2) A road may be realigned—
  - (a) by acquisition of land necessary for the purpose; or
  - (b) if a structure or part of a structure is on land affected by the realignment between the existing and proposed alignments—under a notice of realignment.
- (3) A local government must serve a notice (the *notice of realignment*) on the owner of land affected by a realignment.
- (4) The notice must inform the owner in general terms of this section and section 904.
- (5) The local government must lodge a copy of the notice of realignment with the registrar of titles for the registration on the instrument of title to the land.

### 903      Effect of notice of realignment

- (1) The owner of land that is the subject of a notice of realignment must not erect, place, re-erect, replace or repair any structure or part of a structure on the land between the existing and proposed alignments of the road without the permission of the local government.
- (2) Despite service of the notice, land between the existing and proposed alignments of a road does not form part of the road until it has been acquired by the local government and dedicated to public use as a road.
- (3) The registrar of titles may register the notice despite the non-production of a relevant instrument of title.

in relation to a legal instrument made, executed, lodged or given, for example).

- (2) A corporate entity is not liable to pay an amount of State taxes for a thing that is more than the amount of State taxes for the thing that a local government would have been liable to pay.
- (3) *State taxes* includes taxes imposed under an Act of another State, so far as the legislative power of Parliament permits.

## Part 3 Roads and other infrastructure

### Division 1 Roads

#### 59 What this division is about

- (1) This division is about roads.
- (2) A *road* is—
  - (a) an area of land that is dedicated to public use as a road;  
or
  - (b) an area of land that—
    - (i) is developed for, or has as 1 of its main uses, the driving or riding of motor vehicles; and
    - (ii) is open to, or used by, the public; or
  - (c) a footpath or bicycle path; or
  - (d) a bridge, culvert, ford, tunnel or viaduct.
- (3) However, a *road* does not include—
  - (a) a State-controlled road; or
  - (b) a public thoroughfare easement.

[s 60]

## 60 Control of roads

- (1) A local government has control of all roads in its local government area.
- (2) This control includes being able to—
  - (a) survey and resurvey roads; and
  - (b) construct, maintain and improve roads; and
  - (c) approve the naming and numbering of private roads; and
  - (d) name and number other roads; and
  - (e) make a local law to regulate the use of roads, including—
    - (i) the movement of traffic on roads, subject to the *Transport Operations (Road Use Management) Act 1995*; and
    - (ii) the parking of vehicles on roads, subject to the *Transport Operations (Road Use Management) Act 1995* (including the maximum time that a vehicle may be parked in a designated rest area that adjoins a road, for example); and
    - (iii) by imposing obligations on the owner of land that adjoins a road (including an obligation to fence the land to prevent animals going on the road, for example); and
  - (f) make a local law to regulate the construction, maintenance and use of—
    - (i) public utilities along, in, over or under roads; and
    - (ii) ancillary works and encroachments along, in, over or under roads; and
  - (g) realign a road in order to widen the road; and
  - (h) acquire land for use as a road.

**61 Notice of intention to acquire land to widen a road**

- (1) If a local government wants to acquire land in order to widen a road, the local government must give the owner of the land a notice of intention to acquire land.
- (2) A *notice of intention to acquire land* informs the owner in general terms of this section and section 62.
- (3) However, a local government can not, without the consent of the Planning and Environment Court, serve notice of intention to acquire land on an owner of land after the owner has applied to the court—
  - (a) for approval to subdivide the land; or
  - (b) for approval, consent or permission—
    - (i) to erect or use a structure on the land; or
    - (ii) to use the land for any other purpose.
- (4) The court may consent to the notice of intention to acquire land being served only if the court is satisfied that the purpose of the notice is to enable the local government to make, in good faith, a reasonable widening of the road.
- (5) After a local government gives an owner a notice of intention to acquire land, the owner must not erect, place, re-erect, replace or repair any structure, or part of a structure, on the land without the local government's permission.
- (6) The local government must lodge a copy of a notice of intention to acquire land with the registrar of titles for registration on the instrument of title to the land.
- (7) The registrar of titles may register the notice of intention to acquire land even if the instrument of title is not produced.

**62 Compensation for a notice of intention to acquire land**

- (1) This section applies to a person who is served with a notice of intention to acquire land, if the person would be entitled to claim compensation for the acquisition of land.

[s 62]

- (2) The person is entitled to compensation from the local government for injurious affection to the person's interest in the land because of the notice of intention to acquire land.
- (3) However, the compensation is not payable until—
  - (a) the land is sold for the first time after the notice of intention to acquire land was served; or
  - (b) after being served with the notice of intention to acquire land, the owner of the land offers the land for sale in good faith, but can not sell the land for a fair and reasonable price.
- (4) The compensation must be assessed in accordance with the following principles—
  - (a) the amount of compensation must represent the difference between—
    - (i) the market value of the interest in the land immediately after service of the notice of intention to acquire land; and
    - (ii) what would be the market value of the interest in the land, at that time, if the notice had not been served;
  - (b) any benefit that may accrue, because of the realignment of the road, to land adjacent to the land that is affected by the realignment of the road, and in which the claimant has an interest, must be taken into account;
  - (c) the amount of compensation must not be increased because the land that is affected by the realignment of the road has, since the service of the notice of intention to acquire land, become or ceased to be separate from other land.
- (5) A claim for compensation must be made—
  - (a) within 3 years after the entitlement to compensation arose; and
  - (b) to the chief executive officer in the approved form.