

Subject Road Allowances, Dedicated Roads and Crown Shoreline Reserves – Disposition		Policy PL 4.11.03	Page 1 of 3
Compiled by - Branch Lands & Waters	Section Land Management	Date Issued March 31, 2009	
Replaces Directive Title Road Allowances and Crown Shoreline Reserves - Disposition	Number Same number	Dated February 26, 2003	

1.0 DEFINITIONS

In this policy,

“Crown shoreline reserve” means an area of ungranted Crown land lying between a water body and a privately owned parcel or unit of upland property, provided the depth of such reserve does not exceed 30 metres (or 100 feet) in perpendicular distance from the water body, including such areas designated as a “block”, but does not include so-called 200 foot (or 60m) and 400 foot (or 120 m) shoreline reserves that may have been laid out in front of lands granted under the Mining Act;

“dedicated road” means a road dedicated to public use by the Crown;

“incorporated territory” means an area under municipal jurisdiction;

“Minister” means the Minister of Natural Resources;

“road allowance” means an allowance (normally 66 feet in width) for a road laid out by a Crown surveyor, including a road allowance shown on an original township survey and a road allowance included on a Crown plan of subdivision;

“stopped up and closed” means the result of a statutory process under which a track of land that has the legal status as a road ceases to be a road under law and may be disposed of;

“unincorporated territory” means territory without municipal organization.

2.0 BACKGROUND

Many waterfront properties are fronted by road allowances or Crown shoreline reserves that were laid down at the time of the original grant by the Crown for purposes such as to provide public access and to manage shoreline development. In addition, roads may have been dedicated by the Crown on Crown plans of subdivision where lots were subsequently sold. The owners of adjacent private land have over the years, with the tacit approval of municipalities and/or the Ministry of Natural Resources (MNR), constructed cottages, residences and other structures on the road allowances, dedicated roads or Crown shoreline reserves adjacent to their properties. Consequently these land owners have encountered problems with land transfers, mortgages, insurance claims and the settling of estates because their improvements are located on, or partly on, land they do not own.

In recognition of these situations, the MNR will generally approve requests to purchase Crown shoreline reserves, dedicated roads and road allowances as defined in this policy (refer to section 2.1) that are adjacent to private, upland, developed lots (e.g. cottage lots in a plan of subdivision or individual summer resort locations). The disposition of road allowances, dedicated roads and Crown shoreline reserves that front larger parcels such as patented mining lands will be considered on an individual basis. Refer to section 3.2 (A) of this policy for criteria that must be considered when reviewing all applications.

This policy does not apply to shoreline reserves (i.e. 60 metres (200 feet) or 120 metres (400 feet)) fronting lands granted under the Mining Act. The practice of instituting a 200 ft. or latterly 400 ft. surface rights reservation on mining claims was to expressly prevent the development of these lands for purposes other than mining activities (Ministry of Northern Development and Mines – Mining Lands Policy LP103-2). Applications for such lands are to be treated as other applications for Crown land with dispositions being at market value.

Policy No. PL 4.11.03 Road Allowances, Dedicated Roads and Crown Shoreline Reserves - Disposition	Date Issued March 31, 2009	Page 2 of 3
--	-------------------------------	----------------

Applications to purchase road allowances, Crown shoreline reserves and dedicated roads will be reviewed as per the MNR's Class Environmental Assessment for Resource Stewardship and Facility Development Projects (RSFD) and PL 4.02.01 – Application Review and Land Disposition Process. Refer to PL 3.02.01 – Shoreline Reservations for Recreation and Access – Section 3, PLA to ensure the intent of Section 3 of the Public Lands Act is upheld.

2.1 Jurisdiction and Disposition

2.1.1 Road Allowances and Dedicated Roads within Incorporated Territory

All road allowances within incorporated territory (i.e. within a municipality) are, as per Subsection 28(2) of the Municipal Act, under the jurisdiction of the municipality, except where they have been stopped up in accordance with the law, and sold. Where a road allowance or portion thereof is submerged, the municipality is required to seek the consent of the Ministry of Natural Resources, per Section 43 of the Act, prior to conveying it (refer to PL 4.11.07 – Municipal Road Allowances).

2.1.2 Road Allowances and Dedicated Roads in Unincorporated Territory

All road allowances laid out by a Crown surveyor in unincorporated territory and roads dedicated for public use by the Crown are under the jurisdiction of the Minister. Such road allowances and dedicated roads may be stopped up and sold per Section 55.1 of the Public Lands Act.

2.1.3 Crown Shoreline Reserves

Crown shoreline reserves in both incorporated and unincorporated territory are under the jurisdiction of the Minister and may be disposed (e.g. sale, lease) of per the Public Lands Act.

3.0 PROGRAM DIRECTION

3.1 Goal

This policy provides direction to Ministry staff and informs municipalities and the public regarding the Ministry of Natural Resources approach to the disposition of Crown shoreline reserves, road allowances and dedicated roads.

3.2 Principles

- A) MNR will generally approve the disposition of road allowances, dedicated roads, and Crown shoreline reserves to the adjacent upland owners, where there are no compelling site specific reasons to justify retention of land including:
 - i) a conflict with legislation;
 - ii) a direct and quantifiable impact on MNR programs interests (e.g. disposition could be expected to result in harmful affect on known nesting habitat of an endangered species);
 - iii) the disposition would compromise the resolution of First Nation or Aboriginal land claim;
 - iv) the deprivation of access to private property or public lands
 - v) conflict with existing or future public use (e.g. access to water).
- B) MNR will generally charge the current administrative fee (refer to PL 6.02.01 – Administrative Fees for Public Land Transactions) for the disposition of road allowances, dedicated roads and Crown shoreline reserves. However a consideration of the market value of the subject lands will be undertaken and documented prior to any disposition of a road allowance, dedicated road or Crown shoreline reserve. Dispositions may be at market value in where the addition of the road allowance, dedicated road or Crown shoreline reserve will add

Policy No. PL 4.11.03 Road Allowances, Dedicated Roads and Crown Shoreline Reserves - Disposition	Date Issued March 31, 2009	Page 3 of 3
--	--------------------------------------	-----------------------

significant value (i.e. value in contribution) to the adjacent upland property (e.g. ability to sever a new lot(s)). In such cases the disposition will be made for the administrative fee or market value whichever is greater. An applicant will also be responsible for the cost of the survey and plan preparation and registration, per instructions to be provided by MNR.

4.0 REFERENCES

4.1 Legislative Cross References

Municipal Act, 2001 – Sections 28(2) and 43

Public Lands Act – Section 55.1

4.2 Directive Cross References

PL 3.02.01 – Shoreline Reservations for Recreation and Access – Section 3, PLA

PL 4.02.01 – Application Review and Land Disposition Policy and Procedure

PL 4.11.03 – Road Allowances, Dedicated Roads and Crown Shoreline Reserves Procedure

PL 4.11.07 – Municipal Road Allowances Policy

PL 6.02.01 – Administrative Fees for Public Land Transactions

MNR Class EA for Resource Stewardship and Facility Development Projects