

Subject <b>Dedicated Roads in Private Plans of Subdivision in Unincorporated Territory</b>		Policy PL 4.11.08	Page 1 of 2
Compiled by - Branch Lands & Waters	Section Land Management	Date Issued July 30, 2008	
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## **1.0 DEFINITIONS**

In this policy,

“dedicated road in private plan of subdivision” means a road dedicated to public use by the owner of land over which a private plan of subdivision has been registered;

“road” means a road, street, lane or named road (e.g. Jones Road); and

“unincorporated territory” means territory without municipal organization.

## **2.0 BACKGROUND**

Many private plans of subdivision (e.g. cottage or residential lots) are located in the unincorporated territory of the province. Most of these plans include roads that were laid out and dedicated for public use. Some of these roads may be opened and in use, while others remain unused.

It is not uncommon to find that the owners of adjacent lands have encroached (e.g. constructed cottages, residences and other structures) onto these roads. 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, MNR will generally facilitate the transfer of portions of dedicated roads in private plans of subdivision in unincorporated territory (hereafter referred to as dedicated roads) to the adjacent land owner. Refer to Procedure PL 4.11.08 - Dedicated Roads in Private Plans of Subdivision in Unincorporated Territory for process direction.

Dedicated roads are not Crown land. Therefore the transfer of dedicated roads is not subject to MNR’s Class Environmental Assessment for Resource Stewardship and Facility Development Projects (RSFD). Applications will be reviewed in a manner that is consistent with the direction in PL 4.02.01 – Application Review and Land Disposition Process. MNR will process the transfer of portions of dedicated roads in private plans of subdivision to affected land owners as an administrative service. As this service is not generally associated with MNR’s primary resource management objectives, applications for portions of dedicated roads in private plans of subdivision are a low workload priority within the context of MNR’s resource management mandate.

While dedicated roads in private plans of subdivision are not Crown land, the Crown may stop up and sell or lease them as per Section 29.1 of the Public Transportation and Highway Improvement Act. The Minister of Transportation has this authority. However, the Ministry of Natural Resources has been delegated the authority by the Deputy Minister of Transportation to request an Order in Council under Section 29.1. Once stopped up, the lands may be transferred by registration of documents in the applicable Land Registry Office. However, no ministry or agency has the authority to manage (e.g. deal with the unauthorized use of) dedicated roads.

## **PROGRAM DIRECTION**

### **2.1 Goal**

This policy provides direction to Ministry staff and informs the public regarding the Ministry of Natural Resources' approach to the transferring of portions of dedicated roads, where these lands are required for adjacent private land owners to accommodate their encroachments.

### **2.2 Principles**

- A) MNR will generally facilitate the transfer of portions of a dedicated road in private plans of subdivision in unincorporated territory to the adjacent 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 land claim;
  - iv) the deprivation of access to private property or public lands; and
  - v) conflict with existing or future public use (e.g. access to water).
- B) MNR will charge the current administrative fee (refer to PL 6.02.01 – Administrative Fees for Public Land Transactions) to process the transfer of portions of a dedicated road in a private plan of subdivision in unincorporated territory.

## **3.0 REFERENCES**

### **3.1 Legislative Cross References**

Public Transportation and Highway Improvement Act – Section 29.1

### **3.2 Directive Cross References**

PL 4.01.01 – Obtaining Orders-in-Council (Procedure)

PL 4.02.01 – Application Review and Land Disposition (Policy and Procedure)

PL 4.11.08 – Dedicated Roads in Private Plans of Subdivision in Unincorporated Territory (Procedure)

PL 6.02.01 – Administrative Fees for Public Land Transactions (Policy)