

## Issue

In May 2006 the Minister for Lands extended the concessional arrangements for the purchase of crown roads.

## Background

In 2004 the Government proposed the introduction of market based rents for enclosure permits.

Enclosure Permit Size	Government Minimum annual rent to apply
1 hectare or less	Government increased to: <b>\$350 (700% increase)</b>
More than 1 hectares and up to 5 hectares	Government increased to: <b>\$500 (1000% increase)</b>
More than 5 hectares and up to 20 hectares	Government increased to: <b>\$750 (1500% increase)</b>
More than 20 hectares	Government increased to: <b>Market Rent – subject to a minimum \$750 (&gt;1500% increase)</b>

## What we won:

- **\$350 for 3 years with one upfront fee.** (This fee was based upon the Government Report by PriceWaterhouseCoopers, which estimated that the cost for the Government to administer the fee was \$350)
- The cost of converting Crown roads to freehold is reduced from \$5000-\$6000 per Crown road to less than \$2000 per property in most cases;
- Purchase price no more than the valuation used to determine local council rates;
- Purchase price will not include any improvements to the land (eg. Dwellings, etc);
- Reduction in purchase price where land is affected by easements, covenants or poor terrain;
- Payment of purchase price over 3 equal annual instalments;
- Amalgamation of Enclosure Permits;
- Use of easements in lieu of Crown roads, where possible; and
- Refund of the unused balance of the initial \$475 road enclosure application fee if the application is refused.

## What happens now:

- The 3 year extension on the concessional rent deal for enclosed roads means that farmers have until 2010 to get their applications in to close crown roads at the concessional rates.
- For all those farmers who had lodged an application before 10 June 2006, the next rent payment will be waived pending the outcome of the application. You should receive correspondence from the Department of Lands confirming this.
- Those farmers who had not lodged an application to close their crown roads prior to 10 June 2006 will receive a rent invoice over the coming months for the next 3 year instalment of \$350. Farmers will be reimbursed on a pro rata basis a portion of the rent depending on when the application is processed.
- Towards the end of the 3 year period in 2010 a review of the enclosure permit rents will be conducted. The Government expects that at the end of this period rents will be revised to reflect market based rents.

## Options for farmers:

### 1. Convert Road Enclosures to Freehold:

**Cost:** A single application for closing and freeholding all Crown roads held by a landholder can be made with an approximate cost of \$1750 plus the value of the land itself. Of this cost only \$475 will need to be lodged with an application. If the application is unsuccessful any unused portion of the \$475 will be rebated.

**Land value:** The Department will take the unimproved capital value as held on the land valuation register at the time of application as the value for the road enclosure. There is the opportunity to renegotiate land values if the farmer does not feel they are appropriate.

**Multiple properties:** Rather than having to make separate applications for each property, a single application can be made. For each separate property a separate compiled plan will have to be made at a cost of \$250.

**Continued access:** If the Crown road is used for access by neighbours there are a few options. The most straightforward is to grant an easement. An easement is a legal right of access that is granted to a specific person or entity, which is attached to a title. If the road is being used by a large number of people the Minister will also consider transferring the road to the local shire.

**Deferred payment:** Purchases can be made in three equal annual payments.

**Offer period:** The Government has indicated that the concession will be granted for another 3 years to 2010.

**Capital Gains Tax:** If one property was acquired pre-CGT and the other after 19 September 1985, there are no CGT consequences on the amalgamation but the

land acquired after 19 September 1985 remains subject to the CGT provisions and the pre-CGT land remains exempt.

### 2. Continue to Pay Enclosure Permit Fees

**Cost:** The Association has successfully lobbied the government into accepting the Association position of \$350 for a 3 year permit for all Crown roads held by a landholder.

**Why \$350 for a 3 year permit:** The Government commissioned and received a report into the management of Crown Lands by Price Waterhouse Coopers. The report concluded that the average cost of administering a piece of Crown land was \$350 per year.

**What happens in 3 years time:** The 3 year permits will be reviewed in 3 years time. The Government has indicated that they wish to pursue market rents for all crown lands.

**Hardship:** The Government has agreed to hardship provisions for landholders. Landholders need to contact the Department of Lands with their specific details, but generally the hardship provisions will be in the form of rebates.

### 3. "Fencing Out" Crown Roads

Landholders may 'fence-out' road enclosures from their farm. Please be aware that this will mean that the road will revert to the Crown. Although the landholder no longer has any control over this land, if the land is offered for sale the adjoining landholders may object to its sale. The obvious consideration is the cost of fencing, all of which must be borne by the landholder. The other consideration is that the "fenced out" Crown road may become a harbour for pests and weeds.

## Further information

For further information contact your local Department of Lands office or see the Department's website, <http://www.lands.nsw.gov.au/LandManagement/Crown+Land/Roads/default.htm>