



CROWN LANDS MANAGEMENT

Travelling stock reserves dealings procedure

Departmental procedure document

April 2020



Published by NSW Department of Planning, Industry and Environment

dpie.nsw.gov.au

Title: Travelling stock reserves dealings procedure

Subtitle: Departmental procedure document

First published: April 2020

Department reference number: DOC19/174710

More information

Visit the department's Crown lands website at industry.nsw.gov.au/lands

© State of New South Wales through Department of Planning, Industry and Environment 2019. You may copy, distribute, display, download and otherwise freely deal with this publication for any purpose, provided that you attribute the Department of Planning, Industry and Environment as the owner. However, you must obtain permission if you wish to charge others for access to the publication (other than at cost); include the publication in advertising or a product for sale; modify the publication; or republish the publication on a website. You may freely link to the publication on a departmental website.

Disclaimer: The information contained in this publication is based on knowledge and understanding at the time of writing (September 2019) and may not be accurate, current or complete. The State of New South Wales (including the NSW Department of Planning, Industry and Environment), the author and the publisher take no responsibility, and will accept no liability, for the accuracy, currency, reliability or correctness of any information included in the document (including material provided by third parties). Readers should make their own inquiries and rely on their own advice when making decisions related to material contained in this publication.

IMPORTANT: Purpose of this document

This document outlines the internal procedure taken by the Department of Planning, Industry and Environment when conducting dealings relating to travelling stock reserves. It is not intended that the procedure be followed by the public. The document is being made public for interest only and to increase transparency on Crown land management.

Foreword

The Crown Lands branch of the Department of Planning, Industry and Environment considers applications for easements, licences, leases, vestings and sales in relation to travelling stock reserves (TSRs) in accordance with the requirements of the *Crown Land Management Act 2016* and the Travelling Stock Reserves Dealings Policy IND-O-262.

The department's Local Land Services branch provides advice on the potential impacts of proposed dealings on the viability, management and use of TSRs in the Eastern and Central and the Western Division in accordance with the *Local Land Services Act 2013*.

These procedures provide the department with procedural guidance in implementing the policy. This document provides supplementary information to the policy, including how all TSRs in NSW are categorised by use and intended purpose, and which dealings, activities and agreements are considered acceptable for each category.

The procedures outline the processes and criteria the department will consider in assessing a dealing on a TSR. The assessment aims to maintain the viability and integrity of the 'active' TSR network across NSW. It seeks to ensure TSRs that are needed and used for moving and grazing stock can continue to be used as such.

This document also provides information about the roles and responsibilities of Local Land Services in assisting the department to implement the policy.

The policy and this procedure do not fetter the minister administering the *Crown Land Management Act 2016*'s discretion to approve a dealing over a TSR, regardless of where the TSR is located across the state.

The Crown Lands branch must follow the procedures detailed in this document, in conjunction with complying with the relevant policies and documents listed below.

Record keeping

The Crown Lands branch must comply with recording keeping requirements set out in the NSW Department of Planning, Industry and Environment Code of Ethics and Conduct.

Related documents

Relevant policies

- Travelling Stock Reserves Dealings Policy IND-O-262
- Biodiversity Offsets and Agreements on Crown Land Policy IND-O-261
- Licensing of Crown Land Policy IND-O-252
- Sale of Crown Lands Policy IND-O-251
- Sale or Lease of Crown Land by Direct Negotiation IND-O-182
- Leasing of Crown Land Policy IND-O-253
- Purchasing Crown Leasehold Land to Obtain Freehold Title Policy IND-O-242

Other relevant documents and legislation

- [Commonwealth] *Native Title Act 1993*
- *Crown Land Management Act 2016*
- *Local Land Services Act 2013*
- Local Land Services: *Travelling Stock Reserves—Delivering better TSR services for our community: Statewide Plan of Management*
- [NSW] *Aboriginal Land Rights Act 1983*
- *NSW Travelling Stock Reserve Network—Review and Government Response*, 28 November 2018

Definitions

Word	Meaning
'Active' TSR network	The part of the travelling stock reserves (TSR) network that continues to be used for travelling stock, emergency management or biosecurity purposes
Biodiversity conservation agreement	An agreement under Part 5 of the <i>Biodiversity Conservation Act 2016</i> , being a biodiversity stewardship agreement, conservation agreement and/or a wildlife refuge agreement
Eastern and Central Division	As defined in Section 1.6 of the <i>Crown Land Management Act 2016</i>
CLID	Crown Lands Information Database
CM9	The department's internal record keeping system
CrownView	The department's spatial information database and mapping system
Crown Tracker	The department's land information system
Dealing	As defined in the policy: 'A dealing includes a sale, vesting, lease, licence or easement of Crown land as described in the <i>Crown Lands Management Act 2016</i> . For the purposes of this policy, a dealing also includes entering into a biodiversity conservation agreement; a change to reserve purpose made by the department; and an access arrangement or compensation agreement made under the <i>Mining Act 1992</i> .'
De-pasturing	Stock grazing on land
ILUA	Indigenous land use agreement
Local Land Services	Department of Planning, Industry and Environment—Local Land Services
Native title	As defined in Section 223 of the Commonwealth <i>Native Title Act 1993</i>
The policy	The Travelling Stock Reserves Dealings Policy IND-O-262

Word	Meaning
Stock watering place	A place declared as a stock watering place under Part 7 of the <i>Local Land Services Act 2013</i>
Travelling stock reserve (TSR)	As defined in section 61 of the <i>Local Land Services Act 2013</i>
Vesting	The immediate transfer of ownership of land to another party, and can be for no payment
Western Division	As defined in Section 1.6 of the <i>Crown Land Management Act 2016</i>
Western lands lease (WLL)	As defined in Schedule 3 of the <i>Crown Land Management Act 2016</i>

Contents

Overview	1
Scope	1
Not within scope	1
PART A: Roles and responsibilities of the department and Local Land Services staff	2
Crown Lands branch of the department	2
Local Land Services branch of the department	2
PART B: Acceptable dealings on TSRs	4
The TSR network	4
Permits and licences for grazing on TSRs	5
TSRs support multiple purposes	5
Assessment considerations	5
PART C: Assessment of dealings, activities and agreements over TSRs	10
Step 1—Recognise proposed dealing is over a TSR	11
Step 2—Notify Local Land Services and assign case officer	11
Step 3—Local Land Services determines agreement and conditions	11
Step 4—Processing officer receives response from LLS and forwards to case officer	11
Step 5—Consult with existing tenure holders and consider impacts of proposed dealing	12
Step 6—Assess dealing application and complete TSR Dealings Assessment Report	12
Step 7—Determine outcome of the application: approval	12
Step 8—Continue to process dealing in accordance with the relevant policies and procedures	12
PART D: Completing the TSR Dealings Assessment Report	14
Completing the assessment report	14
Annexure A—TSR Dealings Assessments Report	18
Annexure B—Local Land Services Notification Letter template	19

Overview

A travelling stock reserve (TSR) is a parcel of Crown land that has been reserved under the *Crown Land Management Act 2016* for the purposes of travelling stock. These reserves form networks across the Eastern and Central Division and the Western Division of NSW. Figure 1 shows a diagram of the TSR network in NSW.

Scope

The dealings administered by the department on TSRs that fall within the scope of the policy include:

- easements
- licences
- leases (including mining leases)
- vestings
- sales
- alteration of reserve purpose/s
- revocations
- biodiversity conservation agreements.

Once a decision has been made to accept or decline a proposed dealing on a TSR, staff must refer to the relevant policies and procedures for that dealing to continue to administer the application.

The dealings administered by Local Land Services on TSRs within the scope of the policy include:

- Local Land Services leases on Category 4 TSRs, under the *Local Land Services Act 2013*.

Not within scope

Local Land Services issues permits on TSRs under its care, control and management to authorise use for stock movement and grazing, and for reserve uses of commercial apiary and recreational activities. Permits are the responsibility of Local Land Services and do not fall within the scope of the policy or this procedure.

Further information about obtaining a permit can be found on the Local Land Services website at www.lls.nsw.gov.au

PART A: Roles and responsibilities of the department and staff

The Crown Lands and Local Land Services branches of Department of Planning, Industry and Environment will assess all applicable dealings for their impact on TSRs and ensure the principles and requirements of the policy are applied.

Crown Lands branch of the department

The Department of Planning, Industry and Environment through its Crown Lands branch is responsible for dealings on Crown land that is a TSR, regardless of who has the care and control of the TSR.

The Crown Lands branch manages TSRs not vested in Local Land Services, or where there is no Western lands lease overlaying a TSR in the Western Division.

Business areas within Crown Lands are:

- Business Centre, responsible for:
 - recognising that an application impacts a TSR
 - referencing Local Land Services for agreement and advice
 - providing administrative support to Regional Services
- Business Centre—Telecommunications Team, responsible for:
 - recognising that a licence application associated with communications tower infrastructure impacts a TSR
 - consulting with Local Land Services and Regional Services
 - completing the TSR Dealings Assessments Report (Annexure A)
 - liaising with the applicant and/or Local Land Services and other relevant stakeholders if appropriate to resolve issues with the dealing application
 - determining if the dealing is an acceptable use of the TSR
- Regional Services, responsible for:
 - completing the TSR Dealings Assessment Report (Annexure A)
 - liaising with the applicant, Local Land Services, and/or other relevant stakeholders, if appropriate, to resolve any issues with the dealing application
 - determining if the dealing is an acceptable use of the TSR
- Commercial, responsible for:
 - negotiating/determining easements on a TSR
 - negotiating sale or lease with an applicant in accordance with policy and procedures in consultation with Local Land Services and Regional Services
 - completing/assisting Regional Services with the TSR Dealings Assessment Report for a lease (Annexure A)
 - completing/assisting Regional Services with completing the TSR Dealings Assessment Report for a sale (Annexure A)
 - determining if the sale is an acceptable use of the TSR.

Local Land Services branch of the department

The care, control and management of most TSRs in the Eastern and Central Division and stock watering places in the Western Division are vested in the Local Land Services branch of Department of Planning, Industry and Environment. The care, control and management of TSRs in

the Western Division that are overlaid by Western lands leases are managed by the leaseholder in accordance with the terms of their lease.

Where a TSR is vested in Local Land Services, it is responsible for providing advice to the department regarding potential impacts of a dealing on its viability, management and use by:

- providing agreement/disagreement for the proposed dealing within an agreed timeframe
- providing advice or conditions on the proposed dealing to the department
- approving leases in accordance with the *Local Land Services Act 2013* on Category 4 TSRs.

See Part C for more information on the roles and responsibilities of Local Land Services.

PART B: Acceptable dealings on TSRs

This part expands on the guiding principles of the policy.

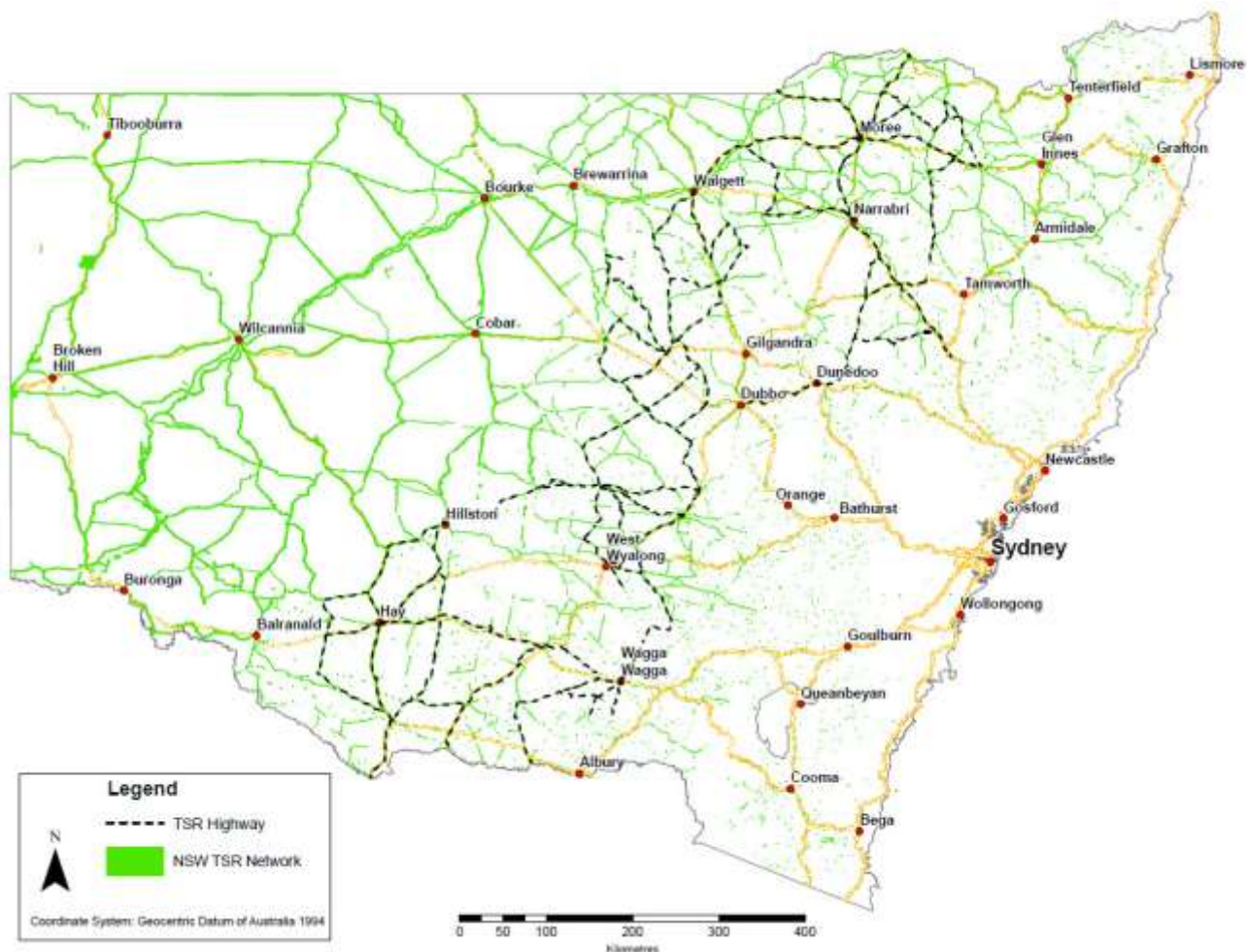
The TSR network

The TSR network often follows pathways traditionally used by Aboriginal people to travel across the country. These pathways later became used for travelling stock and grazing purposes.

TSRs are integral to farmers, drovers and communities for travelling stock, emergency management and biosecurity. They also serve the broader community for a range of environmental (including biodiversity and conservation), cultural heritage (Aboriginal and European), recreational and other purposes.

Figure 1 shows the TSR network, including TSR ‘highways’, in the Eastern and Central Division and the Western Division that connects NSW with Queensland and Victoria. The network also connects key agricultural regions within NSW and remains essential for travelling stock. TSR highways, in conjunction with other TSRs used for droving, are critical for maintaining a viable, connected network of TSRs across the state.

Figure 1. TSR network in NSW



It is the responsibility of the department to ensure that any dealing on a TSR protects the connectivity of those parts of the TSR network that are actively used. TSRs predominantly used for travelling stock, emergency management and biosecurity purposes are particularly important. The

department must ensure that environmental, social, cultural heritage conservation and economic factors are assessed prior to any decision being made.

Permits and licences for grazing on TSRs

To graze stock on a TSR under the care, control and management of Local Land Services requires a Local Land Services permit. In certain limited circumstances the department may issue a licence for grazing.

Local Land Services permits do not fall within the scope of the policy or this procedure. For information about obtaining a permit, visit the Local Land Services website at www.ils.nsw.gov.au.

A grazing licence can be issued by the department where:

- the licence area encompasses a TSR and other adjoining Crown land or
- the licensee seeks a licence for another purpose as well as grazing (for example irrigation or storage shed).

Grazing licences over TSRs granted by the department are governed by the *Crown Land Management Act 2016* and the Travelling Stock Reserves Dealings Policy.

TSRs support multiple purposes

Many TSRs are used and valued for a range of purposes, often concurrently.

The department will consider all dealings that are proposed on a TSR with respect to the area and extent that the proposal impacts the TSR and the integrity of the 'active' TSR network. The policy sets out which dealings are acceptable on TSRs, according to five defined categories of use. These categories, and examples of acceptable dealings for each category, are shown in the section on **TSR classifications**.

For instance, a Category 2 TSR that is predominantly used for travelling stock or emergency management and biosecurity purposes must remain viable for that purpose. Acceptable dealings might include an easement or licence that does not materially impact on access to the TSR or the 'active' TSR network, even temporarily.

Conversely, a Category 3 TSR that is rarely or never used for travelling stock or emergency management and biosecurity purposes, but has important community or cultural heritage values, could be subject to a range of dealings to support these values. Alternatively, it may have its reserve purpose altered to better reflect its values and use. In this instance, a Crown land manager may be appointed to appropriately manage the reserve under a different reserve purpose.

Crown Land staff will work with applicants and Local Land Services to manage multiple uses of a TSR wherever possible, so that the reserve can continue to meet the needs of the community and allow for other uses consistent with the principles of Crown land management.

Assessment considerations

Part D of this procedure provides further information and guidance on consideration of all dealings on TSRs, including environmental, social, cultural heritage, conservation and economic factors, prior to the approval of a dealing.

Emergency management and biosecurity

TSRs in the Eastern and Central Division may be used as part of emergency management in the event of a fire, flood, drought or biosecurity risk, or for stock refuge or fodder when other land is unsuitable for grazing. Local Land Services issues permits on TSRs under its care, control and

management to authorise use for stock movement and grazing in such circumstances. TSRs may also provide access and route-finding for emergency services in the case of a fire or flood.

Biosecurity refers to animal welfare and the reduction of pests, diseases, weeds and invasive species for the benefit of stock and the natural environment.

Consideration of these potential uses in the assessment of a dealing provides for the wellbeing of local communities, conservation and safeguarding of economic outcomes in the agricultural productivity of the Eastern and Central Division and the Western Division.

Western lands leases

In the Western Division, the majority of TSRs overlay Western lands leases, with most no longer used by travelling stock. TSRs on Western lands leases tend to be indistinguishable from the surrounding landscape, being unmarked and unfenced, but continue to exist as a condition of the Western lands lease. These TSRs are not vested in Local Land Services but are the responsibility of the leaseholder with oversight by the department.

The *Crown Land Management Act 2016* includes provisions for Western lands lessees to apply to purchase their lease to obtain freehold title. Where a Western lands lease overlays a TSR that is not actively used by travelling stock, the department may consider revocation of those parts of the TSR that are affected by a purchase application. However, where a Western lands lease overlays an 'active' TSR, the department may require an easement be registered over the TSR as part of a purchase application. This helps maintain capacity for travelling stock movement. This process does not require completion of a TSR Dealings Assessment Report as the dealing is governed by the *Purchasing Crown Leasehold Land to Obtain Freehold Title* policy IND-O-242. Crown Land staff must prepare a separate briefing recommending that the TSR be revoked.

Other dealings on Western lands leases that overlay a TSR, such as easements or licences, require an assessment of the impacts to the TSR and the TSR network in accordance with the policy.

Stock watering places

A stock watering place is an area of Crown land upon which stock can rest, graze, water and camp overnight or for longer periods as required. They are reserved for travelling stock and are strategically located along the TSR network to support stock movement.

The policy applies to stock watering places as Category 4 TSRs. The care, control and management of stock watering places is vested in Local Land Services. The *Local Land Services Act 2013* authorises Local Land Services to lease these areas through either competitive tender or direct negotiation. Accordingly, Local Land Services officers are not required to complete the TSR Dealings Assessment Report in Annexure A.

All other dealings on stock watering places must follow the principles and directives of the policy and procedure.

TSR classifications

The following sections define the five TSR categories and provide examples of acceptable dealings for each category of TSR to assist staff in meeting the requirements of the policy. The examples given are not definitive, but illustrate the types of dealings that are acceptable for each category.

The Local Land Services website provides a map of each TSR vested in Local Land Services and its category. The map does not provide for TSRs managed by the department or overlaying a Western lands lease.

Note: As stated in the policy, all dealings must comply with the native title legislation and nothing in these categories authorises dealings that do not comply.

Category 1

Category 1 covers TSRs that are predominantly actively used for travelling stock or emergency management and biosecurity purposes.

These TSRs need to remain and be managed for travelling stock purposes.

Examples of acceptable dealings on category 1 TSRs include:

- low-impact dealings that do not adversely affect the TSR for travelling stock, emergency management or biosecurity purposes. No dealing may permanently or materially impact on connectivity of the 'active' TSR network
- licences for purposes including:
 - access
 - erection of signs
 - recreation
 - site investigation
- biodiversity conservation agreements that are temporary agreements to restore habitat or connectivity of habitat, or for revegetation
- easements for purposes such as:
 - property access
 - powerlines
 - pipelines
- addition of reserve purpose/s determined to be in the public interest and not likely to materially harm the use of the land as a TSR
- lease, vesting and sale for part of a TSR only, in circumstances where the lease, vesting or sale of the part does not materially affect the active use of the TSR or the TSR network for travelling stock or emergency management and biosecurity purposes. Lease, vesting and sale could be for purposes such as:
 - resolving an encroachment by a landholder on a small portion of a TSR
 - excising a small area for services to the community or to support primary production, such as construction of a grain silo or refuelling facility.

Category 2

Category 2 covers TSRs that are used for travelling stock, emergency management or biosecurity purposes, but are also important and used for other reasons, such as biodiversity conservation, Aboriginal cultural heritage or recreational purposes.

Examples of acceptable dealings on category 2 TSRs include:

- low-impact dealings that do not adversely affect the TSR for travelling stock, emergency management or biosecurity purposes. No dealing may permanently or materially impact on connectivity of the 'active' TSR network
- licences for purposes including:
 - storage areas
 - access
 - pump sites
 - pipeline
 - communications infrastructure
- some biodiversity conservation agreements such as those to restore habitat or connectivity of habitat; or for revegetation

- easements for purposes such as:
 - property access
 - powerlines
 - pipelines
- addition of TSR land to adjoining reserve, such as excision and revocation of a small area of the TSR and addition to an adjoining reserve such as a 'racecourse'
- adding to the reserve purpose, such as public recreation, rural services, community purposes
- lease, vesting and sale for part of a TSR only, in circumstances where the lease, vesting and sale of the part does not materially affect the active use of the TSR or the TSR network for travelling stock or emergency management and biosecurity purposes. Lease, vesting and sales could be for purposes such as:
 - resolving an encroachment by a landholder on a small portion of a TSR
 - excising a small area for services to the community or to support primary production, such as construction of a grain silo or refuelling facility.

Category 3

Category 3 covers TSRs that are rarely, if ever, used for travelling stock or emergency management, but are important, valued and used for other reasons, such as biodiversity conservation, Aboriginal cultural heritage or recreational purposes. These TSRs are not considered stock watering places.

No dealing may permanently materially impact on connectivity of the 'active' TSR network.

Examples of acceptable dealings on category 3 TSRs include:

- a broad range of licence purposes such as:
 - extractive industry activities
 - channel
 - motor cycle training track
 - bore site
 - road construction
- a broad range of easements
- biodiversity conservation agreements where a lessee wants to enter into an agreement that meets the requirements of the Biodiversity Offsets and Agreements on Crown Land policy.
- addition of TSR land to an adjoining reserve for purposes such as excision and revocation of a small area of the TSR and addition to an adjoining reserve such as 'racecourse'
- changing or adding to the reserve purpose
- leasing part of the TSR where the lease is consistent with the current values and uses or where the lease would bring outcomes to the state that supersedes the current values and uses
- vesting or selling part of the TSR where the vesting or sale would bring outcomes to the state that supersede the retention of the land for its current values and uses or where those values and uses are protected through conditions in the sale contract or vesting agreement.

Category 4

Category 4 covers TSRs that are stock watering places in the Western Division only, that are rarely, if ever, used for travelling stock or emergency management, but are important, valued and used for other reasons such as biodiversity conservation or Aboriginal cultural heritage.

As the controlling authority, Local Land Services may administer leases on stock watering places in accordance with the *Local Land Services Act 2013*.

Recreational use is not authorised.

No dealing may permanently materially impact on connectivity of the 'active' TSR network.

Examples of acceptable dealings on category 4 TSRs include:

- leases (granted by Local Land Services) to third parties for a stock water place in line with the functions of the *Local Land Services Act 2013*
- licences for a broad range purposes
- biodiversity conservation agreements where a lessee wants to enter into an agreement that meets the requirements of the Biodiversity Offsets and Agreements on Crown Land policy.
- adding TSR land to an adjoining reserve
- adding to the reserve purpose
- easements, leases, vesting and sale under a range of circumstances.

Category 5

Category 5 covers TSRs that are no longer used or valued for any of the reasons listed in the previous categories.

A broad range of uses and impacts for dealings are appropriate.

Examples of acceptable dealings on category 5 TSRs include:

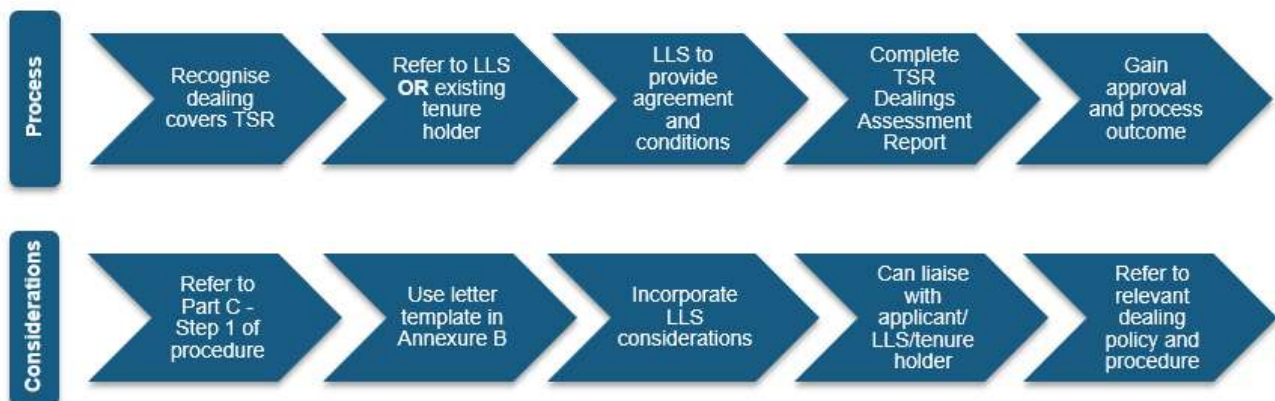
- licences
- easements
- biodiversity conservation agreements
- adding land to a reserve
- adding to/altering the reserve purpose
- revocation of reserve
- leases
- vesting
- sale (where the TSR does not overlay a Western lands lease).

PART C: Assessment of dealings, activities and agreements over TSRs

This part outlines the process that staff must follow when assessing an application or dealing that will affect a TSR. The timeframes for completion of the assessment are variable and depend on information provided by the applicant and the complexity of the application.

Note: This procedure must be applied in conjunction with any other relevant policy and procedure. It is the responsibility of the Crown Lands and Local Land Services staff to recognise where the dealing, activity or agreement impacts a TSR and to follow the procedure accordingly.

Figure 2. Procedural flow for assessing applications or dealings that affect TSRs



Following is an outline of roles and responsibilities in the assessment process:

- **Processing officer** is the Crown Lands officer receiving and administratively processing the application.
- **LLS** is the relevant Local Lands Services regional office.
- **Case officer** is the Crown Lands officer compiling information and undertaking the TSR Dealings Assessment Report
- **Assessor** is the Crown Lands officer supporting the outcome of the assessment against the required criteria (e.g. the group Leader)
- **Approver** is the Crown Lands area manager or equivalent approving the outcome of the TSR Dealings Assessment Report (e.g. area manager for most licences and leases; Manager Commercial; Manager Business Centre for telco licences).

Note: The roles of processing officer, case officer and/or assessor may be performed by the same person.

Step 1—Recognise proposed dealing is over a TSR

Step 1.1—The processing officer is responsible for identifying that a dealing is proposed over an area of a TSR and recognising that these procedures must be followed. The processing officer must assess the status of the land under the proposed dealing, including information regarding native title and Aboriginal land claims, and also identify any land reserved for the purpose of travelling stock.

Step 2—Notify Local Land Services and assign case officer

Step 2.1—The processing officer prepares a letter (example template available in Annexure B) to refer the application to the regional Local Land Services office for its concurrence and any comments. Locate the regional Local Land Services office for the area on the website at www.lls.nsw.gov.au/contact-us and forward the letter by email.

Step 2.2a—If the TSR is vested in Local Land Services, a response from the regional Local Land Service office will be required to complete the TSR Dealings Assessment Report. Inform the Local Land Services office that its response is required within 28 days for an assessment to be completed. If it is an urgent request, forward this information to the Local Land Services office and request a shorter timeframe.

Step 2.2b—If the TSR is not vested in Local Land Services **OR** the applicant has provided written approval from Local Land Services, notify the regional Local Land Services office using the letter template **OR** via email or phone, for information only. A response is not required as the TSR is not vested in Local Land Services **OR** because Local Land Services has already approved the dealing.

If there is already a standing agreement between the Crown Lands and Local Land Services, the processing officer does not have to notify Local Land Services.

Notify the case officer and disregard Steps 3 and 4.

Step 2.3—The processing officer assigns the dealing application to the case officer for review and notes a TSR dealings assessment report must be completed.

Step 3—Local Land Services determines agreement and conditions

Step 3.1—The regional Local Land Services office determines if a response to the notification letter is required and if so, investigates the impacts of the dealing proposal on the TSR.

Step 3.2—In responding to the department's letter, Local Land Services is to decide whether to:

- agree to the dealing and include any requirements that are a condition of Local Land Services' agreement
or
- disagree and provide an explanation as to why Local Land Services do not agree with the application.

Step 3.3—Local Land Services responds to the processing officer within 28 days, unless the request is urgent or a response is not required.

Step 4—Processing officer receives response from LLS and forwards to case officer

Step 4.1—The processing officer saves the response from Local Land Services into the relevant CM9 dealing folder and notifies the case officer.

Step 5—Consult with existing tenure holders and consider impacts of proposed dealing

Step 5.1—The case officer consults any existing tenure holders (for example, Western lands lessee) on the proposed dealing **unless** this action has or will be conducted by another departmental business unit in processing the dealing application.

Step 6—Assess dealing application and complete TSR Dealings Assessment Report

Step 6.1—The case officer reviews the application and the regional Local Land Services office response and completes the TSR Dealings Assessment Report in Annexure A. See Part D of this document for an explanation of the assessment report.

Step 6.2—Reference the information from Local Land Services in the assessment report.

If no response has been received and it is a requirement of the assessment, or further information from Local Land Services is required, the case officer should contact the Local Land Services office.

Step 6.3—If Local Land Services disagree with the proposal, the case officer should notify the applicant that the dealing will not proceed (after consultation with the assessor) **OR** liaise with the applicant, assessor and/or Local Land Services to address and overcome potential issues associated with the dealing.

Step 7—Determine outcome of the application: approval

Step 7.1—If the dealing is acceptable against all assessment criteria consistent with the policy, the case officer can recommend approval of the assessment report.

Step 7.2—If the dealing is not acceptable against one or more of the assessment criteria, the case officer can:

- consult the applicant on the unacceptable criteria of the dealing and seek to modify the dealing to comply with the TSR Dealings Assessment Report and policy
or
- reject the dealing as it does not comply with the policy.

Step 7.3—The case officer makes a recommendation on the outcome of the assessment and any conditions that are to be imposed on the dealing for approval by the assessor and approver.

Step 7.4—The assessor reviews the recommendations of the assessment report and if they are satisfied with the outcome, approves the assessment report.

Step 7.5—The approver reviews the recommendations of the assessment report and if they are satisfied with the outcome, approves the assessment report.

Step 7.6—The case officer records the decision in dealing application/cover sheet and saves it to the relevant CM9 file with any supporting documentation.

Step 8—Continue to process dealing in accordance with the relevant policies and procedures

Step 8.1—The case officer assigns the outcome of the assessment report to the processing officer or relevant business unit (Sales/Leases/Licences/Land Negotiation Program) to be actioned in accordance with the relevant dealing policy and procedure.

Step 8.2—Notify the Local Land Services office of the outcome of the dealing.

PART D: Completing the TSR Dealings Assessment Report

The TSR Dealings Assessment Report must be used to determine if the proposed dealing, activity or agreement is an acceptable use of land on the TSR and to ensure the principles of the policy are upheld.

This part describes the requirements for each question of the TSR Dealings Assessment Report in Annexure A.

Completing the assessment report

Applicant Details

Complete the fields using the dealing application form.

Crown Land Details

Complete the fields using the application covering letter or refer to CLID and CrownView for more information.

Local Land Services Consultation

This section should be used to record correspondence with Local Land Services regarding the proposal. Different proposals will need different levels of information in response. For example, a low-impact licence that will not impact stock movement will require written agreement from Local Land Services. However, a proposal that may potentially obstruct or otherwise impact use of the TSR will need more detailed written advice from Local Land Services to support the assessment criteria. If there is a standing agreement in place with Local Land Services relating to the type of dealing being assessed, then that must be referenced in this section, including a CM9 reference.

Western Division

If the proposal is not in the Western Division, these rows can be disregarded.

If the TSR is to be revoked, and is under licence by National Parks and Wildlife Service (NPWS) for conservation purposes, then it is a requirement of the policy that there is agreement from the NPWS.

The case officer should contact the department's Environment, Energy and Science Group office in the region of the TSR to discuss the revocation of the reserve and request written agreement for the removal of the licence; and whether the purpose of the reserve revocation and if environmental conservation outcomes can continue to be achieved.

TSR Assessment Criteria

Note: You must include information in the supporting statement sections to support the option selected.

The amount of detail required will vary based on the proposal. For example, if the proposal has a large but temporary footprint that affects a TSR regularly used for stock movement, then a thorough explanation of how this impact will be mitigated is required in the relevant sections. Alternatively, a proposal with a very small footprint on a TSR that is not used for stock movement will require less explanation.

If the application contains insufficient information to make an assessment, the department must contact the applicant to obtain further details. If there is a delay in the applicant providing the information, the application will not progress until the information is provided. If the information has

not been provided within a designated time frame (e.g. 14 days, 28 days, etc.), the assessment will be made on the information available and the applicant may be rejected. The case officer should inform the applicant of this when they request the additional details.

1. *Integrity of the 'active' TSR network*

When determining whether the integrity of the 'active' TSR network is affected, the case officer should consider:

- the size (that is, the width and length) of the TSR in the area and the approximate percentage of the TSR impacted by the proposal
- if the proposal obstructs, removes, causes deterioration, or otherwise reduces the functionality of a part of the TSR that is required for connectivity to the 'active' TSR network
- cumulative impacts from other current approvals or proposals on the TSR. Any current approvals or proposals can be identified in CrownView and CLID
- if the proposal restricts stock movement or grazing potential, the likely nature and size of the impact (provide supporting evidence in the Supporting Statements section). For example, an underground pipeline only has a temporary impact during construction and maintenance, whereas a road that requires fencing may fragment the TSR permanently. Where infrastructure is to be constructed, provide approximate timeframes and a brief outline of the construction methodology (for example, if an electrical connection will be under-bored, explain how this reduces the impact to the TSR or, if an irrigation channel will have stock crossing points, indicate their proposed location)
- whether it is possible to incorporate conditions that reduce the impact. For example, a road may incorporate gates, grids or livestock underpasses in order to maintain the 'active' TSR network integrity. This should be outlined in the Supporting Statement, including how conditions will be administered (such as licence conditions)
- whether it is possible to retain the 'active' TSR network in the absence of the area affected by the dealing.

2. *Make the TSR route unusable for travelling stock.*

If the proposal will prevent the use of the reserve for travelling stock, the case officer should consider whether the TSR is part of the 'active' TSR network. This will include seeking advice from Local Land Services about any current or historical stock permits issued for that reserve, or any immediately connected reserves. The guiding principle must always be that consent should not be granted to a dealing that would make the 'active' TSR network unusable for travelling stock. However, a permanent relinquishment of very small areas is permissible providing TSR continuity is maintained and grazing potential is not adversely affected.

In some areas, such as the Western Division, information relating to the historic use of the TSR by stock may already be available and so further advice from Local Land Services will not be required. Any existing information should be referenced in the assessment report.

3. *Emergency management purposes or ancillary infrastructure.*

Dealings for emergency management purposes or ancillary infrastructure such as fire trails or levee banks are generally given consent where they will have a higher use and benefit to the community than other uses of the TSR.

The case officer must consider what is in the best interest of the community and justify their decision in the Supporting Statement on the basis of the higher need for emergency management or ancillary infrastructure over other uses of the TSR. Examples might include a Rural Fire Service shed, flood mitigation infrastructure or an emergency air strip.

4. *Obstruct biosecurity or safety outcomes.*

If the dealing will not impact on biosecurity or safety outcomes, this should be clearly stated with any necessary evidence in the Supporting Statement. If the dealing presents risks for biosecurity or safety, outline how in the Supporting Statement and consider whether this can be mitigated or if it means the proposal must be rejected.

5. *Significantly deteriorate the conservation values, cultural values, heritage (Aboriginal and European) values or other public (such as access, or recreation) values of the TSR.*

The case officer must reflect on the intended land use that will be authorised by the dealing and investigate if the proposal will significantly deteriorate any of the values above through significant disturbances (during construction and post construction) to the reserve, restricting use of the reserve or removing public access to the reserve. Consider if the impact to these values can be reduced and outline how this can be achieved in the Supporting Statement. Alternatively, outline if a significant impact remains and the application must be rejected.

Note: Any proposal on a TSR must consider whether the land is affected by a claim under Aboriginal land rights legislation or if native title has been extinguished. If native title is not extinguished, the dealing may not proceed unless it is validated by a future act or under an ILUA. The case officer must ensure that an Aboriginal Land Claim and Native Title check has been conducted by the business unit responsible for the dealing application.

The case officer must also ensure any requirement to undertake an Aboriginal Heritage Information Management System search has been completed depending on the dealing type. If none of the above have been completed, it is the responsibility of the case officer to follow up on the business unit responsible for the dealing application to ensure these checks are undertaken.

6. *Adversely impact the right of way of landholder.*

Landholders are entitled to a right of way over a TSR vested in Local Land Services if there are no other means of access available to and from the nearest road (Section 75 *Local Land Services Act 2013*). Any proposal that prevents the right of access of landholders is not to proceed. Any dealing that will adversely impact access for landholders must include measures to mitigate access issues that are to be outlined in the Supporting Statement.

Note: Aerial imagery may not capture the most recent use of the land for access by landholders and a ground truth search is recommended wherever possible.

7. *Result in the overuse of pasture and water along the TSR route.*

If the proposal reduces the capacity of this TSR to be grazed or used as a watering point, the case officer must investigate if the dealing will have a significant or cumulative impact on grazing loss that may impact the balance of pasture and water sources along the 'active' TSR network.

The case officer can contact Local Land Services to establish the frequency or quantity of the TSR use (that is, review what stock permits have been issued). They can also provide desktop evidence to support the capacity of alternative reserves to provide for the shortfall in pasture and water availability (that is, evidence of recent use of nearby reserves, information from Local Land Services regarding stock carrying capacity if available, recent aerial imagery or inspection photographs with explanations attached).

8. *Set any adverse precedent.*

If the proposal presents any issues that are contentious and/or likely to make it difficult for the department to refuse dealings of a similar nature in the future, the case officer must outline the justification for accepting the proposal and/or include any measures to mitigate the issues.

9. *Affect a TSR, or part of the TSR which is critical for public use.*

If the dealing negatively impacts on any part of the TSR that is used for public infrastructure, access or other public requirements, consider if the proposal must be rejected, or outline the justification for the proposal in the Supporting Statement section. For example, 'This TSR is regularly used by the community for fishing access to the river but the proposed pipeline installation will only impact the bank within a five metre corridor and once construction is completed it will have no ongoing impact to recreational use'.

10. *Benefit businesses, landholders and/or the wider community.*

The case officer should include relevant details in the Supporting Statement. Some considerations will include if the dealing facilitates economic growth or jobs creation for the local or broader NSW community, advances the economic, social or environmental well-being of the community or facilitates improved management of environmental matters such as weeds or feral animals that would otherwise have been funded by the department.

11. *Facilitate the construction or extension of public infrastructure such as public railway, highways and roads, or an approved state significant development or state significant infrastructure project.*

The case officer should include relevant details in the Supporting Statement if relevant. For example, 'The proposal permits construction access to the adjoining railway line, and this upgrade is part of the Inland Rail project'.

12. *Encroachments.*

The case officer should include details as to whether the dealing resolves existing encroachments by neighbouring landowners if relevant. As part of this, the case officer may need to consider whether it should be a condition that compensation is paid or other land made available to offset losses to the TSR. One example might be a give-and-take fence line. If relevant, the case officer should use the Supporting Statement to outline how the encroachment came about (or refer to a CM9 document if this has been addressed previously) and provide information on the size of land lost to the encroachment and the nature and size of the replacement.

Summary of Outcomes

Select whether or not the dealing is acceptable against all of the assessment criteria.

Additional Approvals

Include a reference to any other reports (for example, a licence coversheet, or a reserve decision support template) that are a part of the dealing application.

Recommendation and Approval

Select a recommendation for whether the dealing aligns with the principles of the policy and whether the dealing should or should not proceed.

Submit the TSR Dealings Assessment Report for support and signature by the assessor (group leader or equivalent) and approval by the approver (Crown lands area manager or equivalent).

If the application does not meet the assessment criteria, the case officer or assessor should give the applicant the opportunity to provide additional supporting information if applicable, or notify the applicant that their application is unsuccessful.

Attachment A – Locality Diagram

Attach an image of the affected area. Add any shapes, lines or comments to illustrate the physical impact of the dealing and any mitigating measures to be imposed on the image.

Annexure A—TSR Dealings Assessment Report

The report template is an internal departmental document and is not for public use. It is not attached to the published version of this document.

Annexure B—Local Land Services Notification Letter template

The letter template is an internal departmental document and not for public use. It is not attached to the published version of this document.