



# Guidelines

FOR USE IN NEGOTIATIONS BETWEEN  
LOCAL GOVERNMENT AND MAIN ROADS

ON THE

CONDITION OF ROADS PROPOSED FOR  
TRANSFER OF ADMINISTRATIVE  
RESPONSIBILITY

(Road Transfer Guidelines)

# Contents

<b>1</b>	<b>PURPOSE OF THE GUIDELINES.....</b>	<b>4</b>
<b>2</b>	<b>STATEMENT OF INTENT .....</b>	<b>4</b>
<b>3</b>	<b>APPLICATION OF THE GUIDELINES.....</b>	<b>4</b>
3.1	All transfers.....	4
3.1.1	Department of Treasury and Finance Approval .....	4
3.1.2	Time limit.....	4
3.1.3	Appeal rights .....	4
3.1.4	Grant Adjustment .....	5
3.1.5	Routine Maintenance.....	5
3.1.6	Bridges.....	5
3.1.7	Road Reserves.....	5
3.1.8	Road data.....	5
3.1.9	Administrative Processes .....	5
3.2	Transfers from Local Government to Main Roads.....	5
3.2.1	Transfer conditions .....	5
3.2.2	Delegated Areas and Other Responsibilities .....	6
3.2.3	Footpaths .....	6
3.3	Transfers from Main Roads to Local Government.....	7
3.3.1	Transfer conditions .....	7
3.3.2	Bypasses.....	7
3.3.3	Footpaths .....	8
<b>4</b>	<b>SUPPORT .....</b>	<b>8</b>

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## Amendments

Revision Number	Revision Date	Description of Key Changes	Section / Page No.
New	August 2019	<p>Supersedes: <b><i>Guidelines For Use In Negotiations Between Local Government And Main Roads On The Condition Of Roads Proposed For Transfer Of Administrative Responsibility (Road Transfer Guidelines) – endorsed August 2011</i></b></p> <p>Key changes:</p> <ul style="list-style-type: none"><li>• Updated document template</li><li>• Added Document Control and Amendments page</li><li>• Updated position and agency titles</li></ul>	

## Endorsements

Agency	Position Title	Signature	Date
<b>Main Roads WA</b>	Managing Director		
<b>WALGA</b>			

# 1 PURPOSE OF THE GUIDELINES

The Guidelines provide guidance to Main Roads and local government officers in their discussions regarding the transfer of management responsibility for roads proposed for proclamation as highways or main roads, or deproclamation. (Transfers of former ‘highways’ or ‘main roads’ to local government are usually referred to as “deproclamations”.)

The Guidelines are applicable to all transactions involving the proposed transfer of whole or significant lengths of road<sup>1</sup> between Main Roads and local government.

## 2 STATEMENT OF INTENT

Main Roads and local government will work together to agree the roads that should be declared as ‘highways’ or as ‘main roads’ in keeping with the provisions of the *Main Roads Act*. This will be done in accordance with the *Road Responsibility Guidelines (Policy and Guidelines for Determining and Assigning Administrative Responsibility for Roads in Western Australia)* developed through the Road Classification Review process undertaken in conjunction with local government.

When it is determined that a local road meets the criteria for classification as a ‘highway’ or a ‘main road’, or an existing ‘highway’ or ‘main road’ should cease to be classified as such, Main Roads, in consultation with local government, will undertake the administrative formalities necessary to give effect to the determination.

Main Roads and local government will liaise with the aim of reaching agreement on conditions, if any, relating to transfers.

## 3 APPLICATION OF THE GUIDELINES

### 3.1 All transfers

#### 3.1.1 Department of Treasury and Finance Approval

As road transfers have an impact on the whole of government accounts, all Proclamations and Deproclamations will be subject to Main Roads receiving prior approval from the Department of Treasury and Finance for the transfer, including the timing of the transfer. Section 13 of the *Main Roads Act* also says in part “The Commissioner shall take into account the moneys available or likely to be available for main roads or highways”. This further enforces the need for approval by the Department of Treasury and Finance.

#### 3.1.2 Time limit

Unless extenuating circumstances prevent an agreement on proclamation / deproclamation being reached within one year of the commencement of negotiations, the provisions of Section 13A (2) of the *Main Roads Act* may be invoked to bring the matter to a conclusion.

#### 3.1.3 Appeal rights

Section 13 of the *Main Roads Act* sets out statutory requirements for proclamations and deproclamations that must be complied with. If agreement can not be reached, the Act provides local government with a right of appeal initially to the Commissioner of Main Roads and further to the Minister for Transport who may vary or disallow the proposed recommendation.

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<sup>1</sup> Any bridges along affected roads are part of the overall asset and responsibility for them will transfer along with the road pavement and verges. However, where a bridge spans an existing State Administered road responsibility may remain with Main Roads.

### 3.1.4 Grant Adjustment

The State Road Funds to Local Government Agreement makes provision for an adjustment to be made to the total pool of Direct Grant funding when a road is transferred. Federal grants to local government will also be adjusted.

It should be noted that there is an impact on all local governments within the same Regional Road Group (RRG) when a road is transferred, as the Road Grant pool for each RRG depends on the total length of road within it.

### 3.1.5 Routine Maintenance

The transferring body will undertake routine maintenance activities<sup>2</sup> up until the date of transfer. The road is to be inspected the day prior to the transfer and defects, if any, are to be repaired. Defects detected after the date of transfer will be the responsibility of the receiving agency. Parties may wish to have a written agreement on any works or maintenance to be done by the transferring body, and over a specified time frame.

### 3.1.6 Bridges

Bridges are an integral part of the road and responsibility for them will automatically transfer with the road. However, in exceptional circumstances, where there is a major bridge which is clearly beyond the technical and financial capacity of local government to manage<sup>3</sup>, Main Roads may enter into a separate written agreement regarding future management and funding arrangements for the bridge after the associated road is deproclaimed. Where a bridge spans an existing State Administered road or State rail, responsibility may remain with Main Roads.

### 3.1.7 Road Reserves

Where it cannot be readily confirmed the road is within a dedicated road reserve, the party responsible for the road will be required to indemnify the receiving agency against survey costs and claims for compensation from affected land owners. Alternatively, in special circumstances, agreement may be reached between the parties on action and funding required to create a dedicated road reserve.

### 3.1.8 Road data

The transferring party will provide to the receiving agency whatever electronic data it has on the construction, condition and configuration of the road(s) being transferred.

### 3.1.9 Administrative Processes

Main Roads will undertake all administrative actions necessary to give effect to the transfer.

Following proclamation or deproclamation, Main Roads will notify affected local government(s) and relevant agencies<sup>4</sup> of the transfer of responsibility.

## 3.2 Transfers from Local Government to Main Roads

### 3.2.1 Transfer conditions

In addition to Department of Treasury and Finance approval for the transfer, the transfer of local government roads to Main Roads will further be subject to the road being in an acceptable condition i.e. without a backlog of maintenance works or other works the council could reasonably be expected to undertake in meeting its obligation to properly manage the assets.

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<sup>2</sup> i.e. minor maintenance work identified and repaired through routine patrols.

<sup>3</sup> e.g. a substantial timber bridge

<sup>4</sup> Western Australian Local Government Grants Commission; Landgate; WALGA; Department for Planning Lands and Heritage, and others.

### Acceptable Condition

As the future asset owner, Main Roads' Regional Manager, in consultation with local government officers, is best placed to decide whether a road is in an acceptable condition. A road will not be deemed acceptable if it has a major backlog of maintenance works. Factors which need to be considered include;

- age of seal;
- level of roughness and rutting;
- condition of structures;
- culverts and drains;
- serviceability of roadside furniture; and
- vegetation control.

The existing design of the road is not to be a consideration in deciding whether it is acceptable for transfer. For example, major deficiencies identified in a road safety audit that will require extensive capital works to rectify, will not be an impediment to the transfer.

### Funding

Funding for any improvement (capital) works will be considered as part of Main Roads annual investment planning process. The transfer will not be subject to obtaining funding to meet the cost of these works.

## **3.2.2 Delegated Areas and Other Responsibilities**

Clarification of the management responsibilities of each party associated with a road transfer is to be resolved once agreement in principle has been reached regarding the transfer. Items to be considered and where applicable, included in correspondence with local government, include:

- the extent of Delegated Areas and responsibility for all features within those areas in rural townsites or urban areas. (A standard paragraph is already included in Main Roads' letter to local government seeking formal endorsement of proclamation drawings. The applicability of items in the standard letter are to be confirmed or deleted by Main Roads' Regional Manager);
- any other delegated responsibilities Main Roads expects local government to be responsible for. Also see the following section regarding footpaths;
- clarification of maintenance responsibilities at intersections;
- confirmation of arrangements regarding the cost of providing and operating street lighting in rural townsites or urban areas; and
- responsibility for other assets such as drainage, entry statements, public art, rest areas, information bays etc.

## **3.2.3 Footpaths**

In accordance with Section 13 (1) of the *Main Roads Act*, footpaths may or may not be excluded from a proclamation.

In more recent years, Main Roads has provided paths for use by cyclists and pedestrians moving over longer distances. These paths have been known by different names as the commuter cycling concept has evolved. They are presently known as Principle Shared Paths (PSPs) and are generally located adjacent to proclaimed urban 'highways', although there are several which follow railway lines. These and other footpaths deemed the responsibility of Main Roads are referred to as "Main Roads Controlled Paths".

Main Roads accepts management responsibility for Main Roads Controlled Paths (including PSPs) and they are now being shown on proclamation drawings to confirm their location and to facilitate delineation of responsibility between Main Roads and the relevant local government.

Paths other than PSPs will remain the responsibility of local government unless specified as a Main Roads Controlled Path.

### **3.3 Transfers from Main Roads to Local Government**

#### **3.3.1 Transfer conditions**

##### Road Design

If the existing design of the ‘highway’ or ‘main road’ has been sufficient to meet the needs of a State Road, it is likely to be above the standard generally necessary to serve the needs of a local government road. It should therefore not require any improvement works (e.g. widening of pavement or shoulders, realignment, kerbing, dualling, etc.) before a Council agrees to accept responsibility for the road and as a general principle, Main Roads will not fund any such works.

The formula used by the Western Australian Local Government Grants Commission to distribute road funding to local government takes a road’s width into account as it uses the road’s total sealed area to calculate lane kilometres being managed.

##### Acceptable Condition

Main Roads’ Regional Managers, in consultation with local government officers, are best placed to ascertain what is an ‘acceptable’ condition for a road and is expected to remain so for a period of at least two years, Main Roads will not as a matter of course, commit to undertaking, or funding, any un-programmed maintenance works on the road. Any proposed deviation from this position is to be approved by Main Roads’ Executive Director responsible for the Region prior to being offered to local government.

Resurfacing works likely to be essential within five years of the transfer are to be discussed by the Regional Manager with Main Roads Executive Director responsible for the Region to ascertain whether Main Roads would be prepared to offer to contribute to the cost of the work. Before agreeing to contribute, a source of funding must be identified.

##### Planned Maintenance

As a matter of course, Main Roads will undertake planned maintenance works such as resurfacing, pavement rehabilitation and shoulder reconditioning already allocated funding in the financial year of the transfer. Alternatively, Main Roads will provide to the local government, the amount already allocated for any such work not completed prior to the transfer.

#### **3.3.2 Bypasses**

Construction of bypasses usually means the previous route no longer meets the criteria for classification as a ‘highway’ or ‘main road’. It should therefore become a local government road.

Discussions should be held with local government at the earliest possible opportunity to clarify the future of the existing alignment. Ideally this should occur when the bypass is originally proposed i.e. as part of the planning phase. If that is not possible or practical, formal agreement should be reached with Council(s) when funding is being programmed, or at the very latest, prior to construction of the bypass commencing.

Handover of the former state route should be pre-arranged to occur on the opening of the bypass, subject of course to Main Roads having received Department of Treasury and Finance’s approval for the transfer. Formal deproclamation will follow in due course.

Note – Where a substantial length (more than 20kms) of road is being bypassed and it is unclear that the road should become the responsibility of Local Government it should remain the responsibility of Main Roads for a period of two years following the opening of the Bypass Road. At which time a further full assessment will be undertaken to determine administrative responsibility.

### 3.3.3 Footpaths

In accordance with Section 13 (1) of the *Main Roads Act*, footpaths may or may not be excluded from a proclamation.

Deproclamation of a road will generally not affect the management arrangements for paths as they were most unlikely to have been included in the original proclamation. If any PSPs<sup>5</sup> are associated with a road proposed for deproclamation, it will be necessary to deal with future management arrangements on a case by case basis.

## 4 SUPPORT

The Road Classification Manager (RCM) in the Road Planning Branch at Main Roads has primary responsibility to ensure that all the necessary approvals have been obtained and processes have been correctly followed for all proclamations and deproclamations.

The RCM (or an appropriate designated staff member) is available to provide assistance and offer advice to Main Roads regional staff and local government officers to facilitate all reclassification actions. Contact can be made by telephoning 138 138 or emailing [enquiries@mainroads.wa.gov.au](mailto:enquiries@mainroads.wa.gov.au).

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<sup>5</sup> Principal Shared Paths