

Executive Summary –

Section 1: Introduction

Manual maintained for all

manual not available to people outside the MNR

Enhanced Management Areas

Existing roads would continue to be open to public use

General uses area do not have any provincial level policy related to road access.

The Bridges Act (Sec. 1.2) requires MTO approval for anyone

Local Roads Board Act - This might be an option

SFL Responsibilities on Non-Forestry Roads

A road is defined as a travel corridor that can be driven using a conventional four wheel drive pick-up truck.

Undesignated roads are normally open to public travel

Forestry versus Non-Forestry Roads

Access roads:

Common roads

Non-forestry roads:

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Compiled by - Branch Lands & Waters	Section Land Management	Date Issued February 22, 2007 Draft	
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Executive Summary – Crown Land Roads Manual

The *Crown Land Roads Manual* is a compendium of policies and procedures related to the administration and management of those roads on Crown land administered under the provisions of the Public Lands Act.

The *Manual* is comprised of a context and background section which provides an introductory overview and general context for the planning, management and administration of all roads on Crown land.

Secondly, the *Manual*, contains a series of Public Lands Act policies and procedures that guide the administration and management of roads on Crown lands, particularly for those roads that are administered and managed beyond Ontario’s forest management planning and provincial park/conservation reserve management planning processes and provisions.

In terms of its relationship to the planning and management of roads undertaken through Ontario’s forest management planning process (Crown Forest Sustainability Act) and provincial parks and conservation reserves management planning process - this *Manual*’ does not provide direct policy or procedural direction. This *Manual* does however provide valuable information and guidance on “how” various aspects of road management (e.g. dealing with road hazards, developing use management strategies, road decommissioning, closures and restrictions, etc..) may be undertaken in support of these two management planning processes.

The *Crown Land Roads Manual* replaces the Ministry’s 1992 *Access Road Manual*. The *Manual* will be maintained by the Ministry’s Land Management program as an electronic document, to provide broad public, industry and Ministry staff access to the *Manual*. Directives will be added to the *Manual* over time, as components of the 1992 *Access Road Manual* are reviewed and replaced and as new policy and procedural direction is developed.

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Crown Land Roads Manual

Introduction and Context

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Section 1: Introduction

The *Crown Land Roads Manual* is a compendium of policies and procedures related to the administration and management of those roads on Crown land administered under the provisions of the Public Lands Act.

The *Manual* is comprised of two parts: the context and background section, which provides an introductory overview and context for the planning, management and administration of roads on Crown land and a series of Public Lands Act policies and procedures that guide the administration and management of these roads, particularly for those roads that are administered and managed beyond Ontario’s forest management planning and provincial park/conservation reserve management planning processes and provisions.

The *Crown Land Roads Manual* replaces the Ministry’s 1992 *Access Road Manual*. The renewal of the *Crown Land Roads Manual* in part responds to Conclusion – 5 of the 2003 Forest Roads and Water Crossings Initiative Task Team Report:

“The Access Road Manual should be reviewed and redundant components rescinded. The remaining relevant components should be updated and embedded in the most appropriate existing manual or guideline...”

The *Crown Land Roads Manual* is not a land use or resource management planning manual for roads on Crown land. As detailed in Section 2, the development of access policies for Crown land is primarily a land use planning activity undertaken by the Ministry. While access planning and land use driven access policies are often developed on a broad, landscape level (resulting in area specific policy), road planning often occurs on a more local scale, either through proactive resource management planning (e.g. forest management planning) or through applications for roads over Crown land from private parties.

This *Manual*’ does not provide direct policy or procedural direction to the planning and management of roads undertaken through the Crown Forest Sustainability Act and the *Class Environmental Assessment Approval for Forest Management on Crown Lands in Ontario* and roads planned or managed through the Provincial Parks and Conservation Reserves Act and the *Class Environmental Assessment for Provincial Parks and Conservation Reserves*. This *Manual* does however provide valuable information and guidance on “how” various aspects of road management (e.g. dealing with road hazards, developing use management strategies, road decommissioning, closures and restrictions, etc..) may be undertaken in support of these two management planning processes.

There are over 100,000 kilometres of roads on Crown land across Ontario. While all new roads on Crown land are subject to thorough land use planning, environmental assessment and longer term use management consideration, many roads were constructed before present day requirements were enacted.

Most roads on Crown lands were constructed in the past for resource management purposes, such as forest harvesting. Roads were also constructed to provide access to private lands and to serve the needs of other businesses such as tourism and mining, as well as to provide access for public recreational use, such as hunting, fishing and camping. While this legacy of a network of roads and related works (e.g. water crossings, bridges) represents a significant capital asset to the Province of Ontario, some of these roads contain risks to public safety and the environment, which must be managed over time.

This *Manual* will be maintained by the Ministry’s Land Management Section as an electronic Internet based document, to provide broad public, industry and Ministry staff access to the *Manual*.

This *Manual* will provide Public Lands Act policy and procedural direction in support of the following:

- use management strategies;
- road management and responsibilities;

This manual never got off the ground and links to it have been diverted to inane URL to confuse and confound the Public and Elected Officials. It seems that it has been used to block access to our Crown Land. Neither it or the supposed "use management studies have any public input that I know of!

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- private forest roads;
- information management;
- engineering and environmental design standards and guidelines; and
- application and review of new road proposals on Crown land.

Directives will be added to the *Manual* over time, as components of the 1992 *Access Road Manual* are reviewed and replaced and as new policy and procedural direction is required.

Section 2: Land Use Planning and Environmental Assessment

2.1 Land Use Planning

MNR uses a hierarchical approach to land use and resource management planning in which decisions at lower levels are based on direction provided from above.

MNR's land use planning system is designed to show where and under what circumstances, specific land use activities can occur on Crown lands in Ontario. Land use plans provide this direction by outlining specific planning units, defining the land use intent and management direction for each and detailing permitted activities that may occur. Additionally, management guidelines may be included in a land use plan to reduce the conflict between permitted land uses. Activities carried out within a planning area must be consistent with the approved land use plan.

The development of access policies for Crown land is primarily a land use planning activity undertaken by the Ministry, either as a part of broad, comprehensive land use planning (e.g. Ontario's Living Legacy), or as part of area specific land use planning.

2.2 Crown Land Use Policy Atlas

The Crown Land Use Policy Atlas is the official source of information on area specific land use policy for most of Ontario, including area specific policy for road access. The Atlas is a consolidation of existing land use policies from MNR's various land use planning exercises over the past several decades. The Atlas is an interactive web-based browser that is updated periodically.

The Atlas currently covers the 1999 Land Use Strategy planning area plus Manitoulin Island, but it will be expanded eventually to include all of Ontario's Crown land. For those parts of Ontario where Atlas coverage is not complete, reference must be made to District Land Use Guidelines (DLUG's) and other land use planning documents.

The Atlas contains a number of land use designations – most of which have legislative, policy or land use direction for access road planning, management and administration. These designations include the following.

Provincial Parks

Provincial parks are managed consistent with the Provincial Parks and Conservation Reserves Act (PPCRA 2006). Broad policy direction for access road planning and management in provincial parks is contained in Ontario Provincial Parks Planning and Management policies and guidelines (OMNR 1992) and through the provisions of the *Class Environmental Assessment for Provincial Parks and Conservation Reserves*.

While some access road policies apply to all provincial parks, others apply to specific provincial park classes and zones. These policies are applied to individual provincial parks through management planning.

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Conservation Reserves

While conservation reserves were previously regulated and managed through the provisions of the Public Lands Act, conservation reserves are now managed through the provisions of the Provincial Parks and Conservation Reserves Act (PPCRA 2006). Policy direction for the planning and management of access roads in conservation reserves is in the interim, provided for through Public Lands Act Policy and Procedure PL 3.05.01 Conservation Reserves and through the provisions of the *Class Environmental Assessment for Provincial Parks and Conservation Reserves*.

These policies are applied to individual conservation reserves through management planning.

Enhanced Management Areas

Enhanced management areas (EMA's) are a land use category established to provide more detailed land use direction in areas of Crown land with special features or values. The following three types of EMA's provide specific land use direction for access, although some of the policies are quite general and more detailed direction is found at the area specific level.

Remote Access EMA's are areas whose natural values are enhanced by their remoteness. Roads for industrial and commercial use are permitted in these areas, but special guidelines apply. Existing roads would continue to be open to public use but new roads are to be closed to public use. Land use policy guidelines for these areas include:

- roads should be constructed to the lowest standard possible;
- new roads should be confined to existing access corridors, where possible;
- road location and layout should take aesthetics into account;
- road design and construction should facilitate access controls and future road closures.

Great Lakes Coastal Area EMA's also entail a “carefully considered” approach to access. Substantial new access is discouraged. Where roads are constructed to access existing development or industrial activity, they must maintain scenic, ecological, and land use values and they must retain the degree of remoteness that exists today.

Recreation EMA's are areas with high recreational use or significant recreational values. These EMA's can have a broad range of management intent that may have road access implications – depending upon the type(s) of recreational values being managed for (i.e. high intensity, road accessible recreation versus back country remote recreation). Some Recreation EMA's have been identified to protect remote recreation values that may have resource based tourism benefits or businesses.

General Use Areas

General uses area do not have any provincial level policy related to road access. At the area specific level however, there may be local land use direction that may have more detailed policy direction for access road planning and management.

2.3 Resource Management Planning

Resource management plans are not land use plans, but they often act to address conflicts over road access through public consultation.

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For example, forest management plans protect non-timber values by identifying areas of concern (AOC's) within areas planned for forestry operations, including areas planned for road construction and road decommissioning. Operational prescriptions are developed for areas of concern to prevent, minimize or mitigate any harmful effects.

Stakeholders and the public have the opportunity to provide their input into the forest management plan at five separate stages in plan preparation. In addition, a local citizens' committee representing various interests oversees the entire plan preparation and helps resolve issues. A separate consultation is done with aboriginal communities.

Resource Stewardship Agreements (RSA's) are a voluntary agreement between the sustainable forest licence (SFL) holder and a remote tourism operator. The two parties agree on how the forest company's plans might affect the tourism operator's business and how these impacts might be eliminated or mitigated.

Where the tourism industry has identified remoteness as a value to be protected, the prescriptions identified in MNR's Management Guidelines for Forestry and Resource Based Tourism are applied to maintain a reasonably similar level of remoteness as existed prior to forest management operations. The agreed upon solutions are then incorporated into the forest management plan's prescriptions for AOC's, which are then subject to public consultation and MNR approval.

2.4 Environmental Assessment

There are two separate class environmental assessment (EA's) and one Declaration Order that apply to the construction, maintenance and decommissioning of roads on public lands in Ontario, as managed by the Ministry of Natural Resources:

- *the Class Environmental Assessment for Resource Stewardship & Facility Development (Class EA-RSFD);*
- *the Class Environmental Assessment for Provincial Parks & Conservation Reserves (Class EA-PPCR) and*
- *Declaration Order MNR-71 (commonly referred to as the Forest Management Class EA).*

The *Class EA-RSFD* applies to all roads on Crown land outside of provincial parks and conservation reserves and those roads not being planned and managed through the forest management planning process.

Section 2.2 of the document lists the various project types covered by the *Class EA-RSFD* including projects related to roads and water crossings, including their planning, design, construction, operation, repair and decommissioning.

The *Class EA-RSFD* calls for projects to be screened for their potential environmental impact or public concern and treated accordingly. Category 'A' projects are projects that are considered to have a low impact or concern, such as routine roadbed or right of way maintenance. These may proceed without public review or consultation. Category 'B' projects have the potential to cause low to medium impacts or concerns and they require public notification. If no significant public or environmental concerns emerge, the project may proceed subject to the appropriate mitigation measures. Category 'C' projects have the potential to cause medium to high impacts or concerns. These projects require a more elaborate planning process and an environmental study report. Projects that are screened as Category 'D' require an individual EA.

The *Class EA-PPCR* applies to roads that are built, maintained and/or decommissioned within a provincial park or conservation reserve or, for the purposes of same. It is important to note that the *Class EA-PPCR* also applies to all recommended provincial parks and conservation reserves, that is, not yet in regulation but confirmed in an approved land use direction.

The *Class EA-PPCR* is very similar to the *Class EA-RSFD*, in that it covers a wide range of project types and uses the same screening process for environmental impact and public concern. The development or decommissioning of a road within a park or conservation reserve can occur only if specific direction for the project is provided in a

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planning document that has been developed through public consultation (i.e. a park management plan, statement of conservation interest or land use plan).

MNR's *Declaration Order MNR-71* (commonly referred to as the *Forest Management Class EA*) applies to all primary, branch and operational roads that are built, maintained and/or decommissioned as a part of a forest management undertaking. A forest management plan, including the planning of access roads, is carried out in accordance with the *Forest Management Class EA*.

The *Forest Management Class EA* is also subject to 55 conditions. Four of the 55 conditions of approval relate to roads. Three of these conditions (Conditions 12, 13 and 14) relate to access planning and are implemented through the forest management planning process. The fourth (Condition 27) calls for inspections of forest operations to ensure that they are conducted in accordance with the approved forest management plan.

In the case of forestry roads crossing linear protected areas, the *Forest Management Class EA* applies, rather than the *Provincial Parks and Conservation Reserves Class EA*.

Section 3: Legislation

This section describes the range of legislation that may apply to the administration, management or use of roads on Crown land.

Aggregate Resources Act

The Aggregate Resources Act (ARA) applies to all Crown land and to private land in areas that are designated under subsection 5(2) of the Act. Aggregate resources include sand and gravel, clay, stone, earth, shale, limestone, dolostone, sandstone, marble, granite, rock or other prescribed material.

The purpose of the ARA is to: provide for the management of the aggregate resources of Ontario; control and regulate aggregate operations on Crown and designated private lands; require the rehabilitation of land from which aggregate has been excavated and; minimize the adverse impact of aggregate extraction on the environment.

While all aggregate extraction on Crown land is subject to the permitting requirements of the ARA, the forest industry is exempt from the requirement to obtain certain aggregate permits, where the aggregate is being used for a forest access road on Crown land consistent with an approved forest management plan.

Bridges Act

The Bridges Act (Sec. 1.2) requires Ministry of Transportation approval for anyone other than a municipality or other road authority (such as MNR) to build a bridge over a river or stream where the streambed is Crown or other public land.

Approval under this legislation is not required for a person acting under the authority of a work permit or another instrument issued under the Public Lands Act or an approval under the Lakes and Rivers Improvement Act. A forest licensee acting in accordance with an approved forest management plan is also excluded, as a work permit is not required in this case under Public Lands Act Regulation 453/96, s. 2(3)).

This is actually quite curious - the water crossing on Coxeyes Landing road over Timber creek is actually under the Authority of the MTO because it lies within the 66' ROW of the Mattawa-Temisamingue colonization road.

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Crown Forest Sustainability Act

The Crown Forest Sustainability Act (CFSA) governs all aspects of forest management on Crown land. Direction and requirements for forest management planning, forest information and operations and silviculture including forest access and roads are provided in manuals regulated under this Act.

The *Forest Management Planning Manual* directs planning for existing and construction of road corridors and crossings.

The *Forest Operations and Silviculture Manual* provides standards for forest operations. A compendium of Ministry of Natural Resource policies that relate to the construction and maintenance of forest access roads is provided in the Environmental Guidelines for Access Roads and Water Crossings.

The Forest Information Manual provides the standards for collecting and recording road information.

The location and plans for the construction, maintenance, monitoring, access control and decommissioning of roads are detailed in each Forest Management Plan and the work schedules. As directed by the CFSA, all forest operations must be conducted in accordance with the approved forest management plan and a work schedule.

The CFSA and its regulated manuals apply only to roads that are part of a forest management undertaking and not to roads that are constructed by other parties or for other purposes.

The details of how forestry roads are to be planned and roadwork carried out are contained in the *Forest Management Planning Manual* for Ontario’s Crown Forests and the *Forest Operations and Silviculture Manual*, both of which are used to help prepare a forest management plan (FMP).

Environmental Assessment Act

The purpose of the Environmental Assessment Act (EA) is "...the betterment of the people of the whole or any part of Ontario by providing for the protection, conservation, and wise management in Ontario of the environment" (EA Act, s.2).

In Ontario, most “undertakings” that are carried out by government agencies, public institutions and certain sectors of private industry are subject to the EA Act, including projects to construct, maintain or decommission roads on Crown land.

Fish and Wildlife Conservation Act

The Fish and Wildlife Conservation Act (FWCA) governs hunting, trapping, fishing and related activities in Ontario. Under the Act, a licence is required to hunt or trap wildlife or to fish in Ontario and these activities must be carried out in accordance with the Act and its regulations.

The FWCA may apply to roads on Crown land, in that in cases of flooding or road washout due to beaver activity, the Act contains certain provisions to prevent damage to property (i.e. roads and culverts).

Highway Traffic Act

The Highway Traffic Act (HTA) and its regulations govern the licensing of drivers, vehicles, road dimensions, weight restrictions, speed limits, liability insurance for commercial vehicles, rules of the road and other matters pertaining to the use of public highways. The Act is administered by the Ministry of Transportation (MTO).

With a few notable exceptions, the HTA generally applies to roads on Crown land. The HTA has limited application on a road that has been designated as a “public forest road” under the Public Lands Act (Sec. 51).

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Where a designated public forest road has been closed to the public, but remains open for the hauling of forest products, certain sections of the HTA dealing with load limits do not apply (PLA, Sec. 53).

Generally the HTA does not apply at all on a private forest road. However, in situations where the public is allowed to use a private forest road, vehicles that are owned by the public must be licensed under the Act. The PLA land use permittee or other tenure document holder may operate unlicensed vehicles on a private forest road.

Occupation Health and Safety Act

Although a private forest road may, in some circumstances, be open to use by the public, a private forest road is not considered a highway within the definitions as outlined by the Highway Traffic Act. The regulations for haul roads (R.R.O. 1990 851 (117-118)), under the Occupational Health and Safety Act, may apply, however, with the necessary modifications, to specific private forest roads.

Lakes and Rivers Improvement Act

The purpose of the Lakes and Rivers Improvement Act (LRIA) is to provide protection to Ontario’s water resources, natural resources and amenities associated with them, and to provide protection for people, property, public rights and riparian interests.

The Act deals with the construction of dams, channelizations and water crossings and the repair and alteration of dams. Specific to roads on Crown land, LRIA approval is required to install a water crossing in situations where: the crossing drains an area greater than five square kilometres; the stream is to be channelized; or the stream is to be covered for more than 20 metres of its length.

LRIA approval is not required for a water crossing to which the PLA or the CFSA applies (Reg. 454/96, s. 3). Secondly, the Ministry does not require LRIA approval of water crossings or stream channelizations within the jurisdiction of a conservation authority, where the conservation authority has a suitable regulation in place.

Local Roads Board Act

Under the Local Roads Board Act (LRBA), the Minister of Transportation may establish a local roads area and designate the roads to be included, which may include roads on Crown land (LRBA, s.8).

Ten or more landowners in any area without municipal organization may, through the process described in the Act, organize themselves and petition MTO to establish a local roads board (s.2-8). Once established, a local roads board has the power to inspect roads, determine the work to be carried out and enter into contracts to carry out work in their own name (s.10). Roads may be added to or removed from the local roads area by MTO, at the request of the board.

Mining Act

The purpose of the Mining Act is to encourage prospecting, staking and exploration for mineral resources and to minimize the impact of these activities on public safety and the environment.

Under the Act, a mining claimholder has the right to occupy Crown land as necessary to exercise his or her rights under the Act (s.50(2)). This can include road construction where necessary to explore, develop and operate a mine. This right does not remove the necessity of making application to MNR for a work permit or of complying with any conditions of approval (PLA Reg. 453/96, s.2(1)(b)).

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The Provincial Parks and Conservation Reserves Act (PPCRA) outlines specific requirements related to the construction of a road or trail to mining lands surrounded by a protected area, or mining lands which can be accessed only by crossing a protected area (PPCRA, s.19).

Occupiers’ Liability Act

The Occupier’s Liability Act (OLA) sets the level of care that the occupier of premises must show to people and property while they are on the premises, for the purpose of determining legal liability. As defined in the Act, an occupier is a person who has possession of premises or who has responsibility and control over them. “Premises” means land and structures and can include a road. Since MNR deems most roads on Crown land to be public roads, Section 10(2) OLA exempts these roads from the provisions of the OLA. The OLA may apply to roads where someone has occupational authority under the PLA or some type of contract. The determination of whether or not the OLA applies should be made on a case by case basis.

Off-Road Vehicles Act

‘Off road vehicles’ describe the entire class of vehicles that must be registered in Ontario for off-road use, including ATVs, dirt bikes and dune buggies (ORVA, Reg. 863, s.3). The Off-Road Vehicles Act (ORVA) is administered by MTO and can be enforced by any peace officer.

The ORVA does not apply when operating an off-road vehicle on a road located on Crown land, other than a private forest road (s.2). When operating on a public road, off-road vehicles must comply with the HTA.

Provincial Parks and Conservation Reserves Act

The Provincial Parks and Conservation Reserves Act (PPCRA) was enacted in 2006 and once proclaimed, replaces the former Provincial Parks Act, which covered provincial parks but not conservation reserves (CR’s). The purpose of the new legislation is to permanently protect Ontario’s system of protected areas and provide opportunities for compatible forms of outdoor recreation.

The PPCRA applies to roads for parks and CR purposes, roads for mineral access within the park or CR as well as roads within the park or CR that provide access to minerals and timber located outside the protected area. It is important to note that a forestry road within a park or CR would fall under the CFSA and must be authorized through the forest management planning process.

The legislation also speaks to roads that access provincial parks and to unopened road allowances within a provincial park or conservation reserve. The Minister may, with the approval of the Lieutenant Governor in Council, enter into an agreement with a municipality to construct, reconstruct or maintain a road for the purpose of providing access to a park or CR (s.28). Despite the Municipal Act, every unopened road allowance within a provincial park that has not been closed and conveyed is deemed to be vested in the Crown rather than in the municipality. Unopened road allowances in conservation reserves established after the Act is proclaimed are deemed to be vested in the Crown rather than the municipality (s. 32) .

Public Lands Act

The Public Lands Act (PLA) gives MNR charge over the management, sale and disposition of public lands and forests, save those lands regulated as a provincial park or conservation reserve (upon proclamation of Provincial Parks and Conservation Reserves Act).

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The Act is divided into four parts:

- Part I deals with regulations, the appointment of officers, surveys, land use planning and land disposition;
- Part II deals with roads;
- Part III deals with the reservation of timber and mining rights, road reservations, water power and offences; and
- Part IV deals with dams.

Section 48 of the PLA provides definitions for Private and Public Forest Roads and section 51 gives the Minister the authority to designate roads as public forest roads. This authority has been delegated to the District Manager. Section 49 gives the public a general right of passage on roads on Crown land, other than a private forest road. Other sections of the Act allow District Managers to close a road on Crown land at their discretion (PLA, s.28, 52).

Section 50 provides liability protection to the Crown or any party to whom responsibility for a road has been assigned. Sections 53 and 54 exempt specific types of roads on Crown land from certain provisions of the HTA. This allows the use of over-size equipment, over-weight loads and coloured fuel on roads held under a land use permit. Coloured fuel may not be used in a vehicle licensed under the HTA (Fuel Tax Act, s. 27(1))

Section 2(1)(b) of Regulation 453/96 prohibits anyone from constructing a road or water crossing on Crown land except under the authority of a work permit. However, this requirement does not apply to a forestry road or to a water crossing on a forestry road where it has been authorized under the CFSA (PLA, Reg. 453/96, s. 2(2)) or to a non-forestry road within a provincial park or conservation reserve. Work permits issued under this regulation are used to authorize construction and that any conditions of approval cease on the date of expiry of the permit. If there is a need to impose ongoing conditions to satisfy road related public safety and environmental concerns, this must be done through a separate agreement. Section 2(2) of the PLA allows MNR to enter into agreements for the purpose of carrying out road responsibilities.

Public Transportation and Highway Improvement Act

The Public Transportation and Highway Improvement Act (PTHIA) governs public highway infrastructure in Ontario.

Part I of the Act allows MTO to: acquire or expropriate lands; construct, maintain and close highways, and; transfer highways to another road authority. Other parts of the Act deal with secondary highways, tertiary roads, resource roads, industrial roads and other categories of roads.

Section 42 allows MTO to designate a road as a “resource road”, in which case certain sections of the HTA dealing with load limits do not apply. Section 43 of the PTHIA allows MTO to designate a private forest road on Crown land as an “industrial road”, which then allows MTO to enter into a cost sharing road maintenance agreement with the LUP holder.

Section 117 of the Act allows the Minister to make regulations establishing highway and bridge standards. Regulation 104/97 allows some deviation from these standards where “the variation is not a marked departure from the Ministry manuals and standards” and where “the variation does not adversely affect the safety and mobility of people and goods” (PTHIA, Reg. 107/97, s.2(2)). The PTHIA and Regulation 104/97 both apply to roads on Crown land.

Trespass to Property Act

The Trespass to Property Act (TPA) is intended to give occupiers, defined in the TPA as owners or tenants, greater control over entry to and use of their premises. “Premises” means land and structures and can include a road. The TPA clearly defines the situations where trespass arises. The terms and conditions of the rental document to occupy Crown land determine whether the holder of the document is an occupier for the purposes of the TPA.

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Section 4: Forestry Roads

The purpose of this section is to provide for information purposes, an overview of planning requirements and responsibilities for forestry roads on Crown land.

Forest access roads are necessary for forest management and provide a multitude of social and economic opportunities and benefits. The Ministry and the forest industry strive to optimize road building to minimize capital investment and to reduce the potential negative effects of roads on the environment while providing good access for forest management.

Forestry roads are bound by the *Forest Management Class EA* and the planning process set out in the *Forest Management Planning Manual for Ontario’s Crown Forests (FMP Manual)*. The *FMP Manual* governs the planning process for all forestry activities, including road construction, maintenance, monitoring and decommissioning. Where there is a need to deviate from a road as planned, an approved FMP amendment is required.

Forest Management Planning Process

The Ministry minimizes the impact of forest management on the environment, on other users and land uses through the forest management planning process and a series of forest management guides. Forest management planning is a requirement of the CFSA. An approved forest management plan (FMP) must be in place before any forestry activity can occur in a Crown forest. FMP's are comprehensive planning documents that include a detailed description of the forest, the objectives of management, the specific locations where forestry activities will occur and an identification of “values” that require protection during the course of operations. FMP’s are prepared by a registered professional forester, assisted by a multi-disciplinary planning team, with input derived through a comprehensive public consultation exercise. The sustainable forest licensee and MNR share responsibility for the preparation of FMP’s.

All forest operations are subject to compliance monitoring and independent forest audits, to ensure that they are conducted as planned.

Forest Management Planning Requirements for Forestry Roads

New Roads

The planning requirements for new roads depend on the category of road being proposed – primary, branch or operational roads. Planning requirements may include an analysis of alternative corridors, buffers for areas of concern (AOC’s) as well as the need for a use management strategy and public consultation.

Existing Roads

The *FMP Manual* requires that there be a complete inventory of existing roads on the management unit using the most up to date information available. The roads inventory is to include information on the location, assigned responsibility and use management strategy for all existing roads and road networks. This information is portrayed on the value maps and used as background information during the preparation of the FMP. Part of the forest management plan, “value maps” are used to identify known natural resource features, land uses or values which may be affected by forest management activities. The inventory also provides a better understanding of the current level of forest access and help track the management of roads by the forest industry.

Each year an annual work schedule (AWS) is prepared for each management unit, showing the forestry activities that are scheduled to occur that year. For roads, the AWS identifies the maintenance, monitoring, access control or

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decommissioning activities. After an annual work schedule has been approved by MNR, it serves as the legal instrument authorizing the licensee to proceed and contains the conditions of approval against which inspectors may check for compliance.

For existing roads and water crossings that are not inventoried and documented through the forest management planning process, policy and procedural direction (including a linkage to the Ministry’s NRVIS data base) will be provided in the future through the *Crown Land Roads Manual* directives.

Use Management Strategies

The FMP Manual requires a use management strategy for new and existing forestry roads or road networks. Each use management strategy is to include provisions regarding road maintenance and monitoring, access restriction and rational for them as well as a statement of the sustainable forest licensee’s intent to transfer responsibility for the road to MNR or a third party and, if this is the case, MNR’s preliminary indication on any plans to decommission the road.

Documenting SFL Road Responsibilities in a Forest Management Plan

CLRM Policy PL 10.02 Road Management and Responsibilities requires that responsibility for all roads and water crossings be defined and described clearly, so as to eliminate any uncertainty over the legal obligations of the parties involved. In the case of forestry roads, the forest management plan acts as the legal instrument assigning road responsibility to the SFL holder. To satisfy the requirements of *CLRM* Policy PL 10.02, roads that are the responsibility of the SFL holder must be identified in the FMP and the SFL holder’s responsibilities for these roads must be documented in the forest management plan.

FMP Documentation of Roads Responsibilities

Identification of Roads that are SFL Responsibility

For management units that are identifying roads that are the SFL holder’s responsibility for the first time, the process of determining responsibility will be triggered by the assembly of roads inventory information as part of the FMP background information. The responsibility-determination key provided in *CLRM* Procedure PL 10.02.01 Determining Road Responsibility is used as the basis for the initial determination of roads that are the SFL holder’s responsibility.

Use of this key will sometimes lead to roads with segmented responsibilities, where roads have been built over time or by different parties. Water crossings may also key out to a different responsibility than the road itself. In carrying out the responsibility determination exercise, it is permissible for MNR and the SFL holder to deviate from the key and exchange road and water crossing responsibilities with each other, in order to achieve a less fragmented result.

Documenting SFL Road Responsibilities for Forestry Roads

For management units where road responsibility has been documented in a previous forest management plan, the SFL’s roads should include those roads shown as an SFL responsibility in the previous plan, plus any new roads constructed by the SFL holder or transferred from MNR, and minus any roads that have been transferred to MNR or decommissioned in the interim. This information is included in the forest management plan and added to the values maps.

Where forestry roads cross a provincial park or conservation reserve, the park or conservation reserve should be treated as an AOC, with an appropriate operational prescription.

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CLRM Procedure PL 10.02.01 states that the party responsible for a road is responsible for meeting all of the legal obligations associated with the planning, construction, maintenance and decommissioning of the road and monitoring the road for public and environmental hazards and undertaking remedial work where a hazard has been identified.

The FMP may also state what responsibilities do not go with the road. The SFL holder is under no obligation to maintain roads for the benefit of other road users, unless specified in a separate legal agreement. Similarly, there is no obligation to restore access on behalf of other users where it has been damaged or destroyed by planned or unplanned events.

Section 38 of the CFSA and Section 8 of Regulation 167/95 under the Act allow the holder of an SFL to delegate certain rights and responsibilities of its licence, such as road responsibilities, to an overlapping licensee. The use management strategies and the FMP are to state the nature of such arrangements, where they exist.

Ownership of Roads and Road Structures

The assignment of responsibility for a road does not convey any ownership in the road or in the Crown land occupied by the road or its right of way. Any culverts, bridges, signage and other structures that are stated in the FMP to be the property of the SFL holder, remain the property of the SFL holder during the term of the FMP. Any structures that remain or that are required to remain after the transfer of the road to MNR, become the property of the Crown, in accordance with Section 24 of the PLA.

Road Transfers and Decommissioning

For roads whose responsibility is to be transferred from the SFL holder to MNR during the course of the plan, the FMP must indicate the expected operating year or five year term for the transfer to occur. The actual transfer does not occur until the road is removed from the FMP, as the case may be, either in the next FMP or by a plan amendment. The same is true of decommissioned roads. For roads being transferred from MNR to the SFL holder, the transfer occurs when the road is added to the FMP and the plan or amendment is approved.

SFL Responsibilities on Non-Forestry Roads

A SFL holder may use a road that is not included in their FMP for the hauling of forest products. This may occur where an SFL holder has planned operations that are accessed by a road under MNR's or another party's authority and where the SFL holder is not the principal or priority road user, such as a cottage road or a multi purpose road.

This situation is a common occurrence, particularly on former Crown managed areas of operations and in southern Ontario. Issues over conflicting use and potential damage to non-forestry roads may surface at any stage in the FMP public consultation process. The usual concern is that a road will be damaged by heavy truck traffic and the SFL holder would be under no obligation to repair it. Conflicting use, such as between snowmobiles and truck traffic, can be another issue.

There are two options to deal with this issue. If the party(s) responsible for the road and the SFL holder can agree on a method to resolve these issues, they may formalize their agreement in a Memorandum of Understanding (MOU). An agreement of this type would not be part of the forest management plan and would not fall within the jurisdiction of the CFSA. The party responsible for the road would have to recover any damages from the SFL holder through a civil action. For more information on MOU's, refer to CLRM Procedure PL 10.02.02 Assigning Road Responsibility through an MOU.

Section 5: Road Categories

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This section provides an overview of how the category of road may affect its planning process and approval requirements.

A road is defined as a travel corridor that can be driven using a conventional four wheel drive pick-up truck. It does not include roads that have been decommissioned, roads that have deteriorated (e.g. overgrown) beyond use, or trails that were built for off-road vehicles.

MNR categorizes roads on Crown land in a number of ways. The categories recognized by the *Crown Land Roads Manual* are:

- public forest roads versus private forest roads;
- forestry versus non-forestry roads;
- primary, branch and operational roads; and
- five classes of geometric road standards.

In addition to these four categories, the Minister of Transportation may designate a private forest road on Crown land as an industrial road, if the road is used by the forest or mining sector and if the Minister of Transportation believes the road should be opened to public use. This allows Ministry to enter into a cost sharing road maintenance agreement with the party responsible for the road (HTA, s.43).

The various categorizations are applied independent of each other. For example, a road may be a public road, a forestry road, a primary road and meet the geometric standard for a Class ‘A’ road, all at the same time. However, one must not assume that a primary road is always of a Class ‘A’ standard. A road may change categories at various points throughout its length and lifespan.

Public Forest Roads, Private Forest Roads and Undesignated Roads

“Public forest roads” can be designated under the Public Lands Act (PLA) by the Minister or his delegate. If a public forest road is open to public travel then the HTA applies. If a public forest road is closed to public travel then certain sections of the Highway Traffic Act (HTA), as specified in the PLA, do not apply to the road. (PLA s. 53)

A “private forest road” is created on Crown land by issuing a document, usually a land use permit (LUP), under the PLA for the road. Private forest roads are not open to travel by the public except under certain circumstances. The HTA does not apply to these roads although certain provisions of the Occupational Health and Safety Act do apply to them. (PLA s.54(4)) While private forest roads are generally closed to public travel, the Minister may enter into an agreement with the LUP holder to open the road to public travel. Where a private forest road has been opened for public travel, the agreement may restrict its use to a certain class or classes of the public (e.g. trappers, prospectors, etc.), to certain times of the year or other conditions. Vehicles used by members of the public permitted to use a private forest road must be licensed under the HTA (PLA, s.54(2))

Most roads on Crown land are undesignated roads meaning they are neither private forest roads nor designated as public forest roads. Undesignated roads are normally open to public travel (PLA, s.49).

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Forestry versus Non-Forestry Roads

Forestry roads are the responsibility of the sustainable forest licensee. Forestry roads include roads that are identified in the forest management plan plus any other roads that key-out to a forest industry responsibility using the responsibility-determination key in CLRM Procedure PL 10.02.01 Determining Road Responsibility.

Any road on Crown land that does not meet the definition of a forestry road may be considered to be a non-forestry road. Non-forestry roads can include roads to an MNR facility, mining roads, cottage roads, communications tower access roads, recreation roads, multi purpose roads and old logging roads that are no longer the responsibility of the forest industry.

Primary, Branch and Operational Roads

Primary, branch and operational roads are forest management planning categories that are required to be assigned to new forestry roads. The forest management planning requirements differ for each of these three classes or roads; however, they are all subject to the Forest Management Class EA. For a complete description of these requirements, reference should be made to the Forest Management Planning Manual for Ontario's Crown Forests.

Road Class (Geometric Standards)

Roads on Crown land are built to varying geometric standards depending on their intended use. Road designs are categorized into five classes based on their width, gradient, sight distance, design speed and other attributes. Given that roads may deteriorate after maintenance has been curtailed, it may be necessary for old roads to be re-categorized from time to time.

Section 6: References

OMNR *Crown Land Use Policy Atlas*. URL: <http://crownlanduseatlas.mnr.gov.on.ca/>

OMNR 1990 *Environmental Guidelines for Access Roads and Water Crossings*. Queen's Printer for Ontario.

OMNR 1992 *Access Roads Manual*, August 1992.

OMNR 1992 *Ontario Provincial Parks Planning and Management Guidelines*, Ontario Parks.

OMNR 1995 *Forest Operations and Silviculture Manual*

OMNR 1999 *Ontario Living Legacy Land Use Strategy*.

OMNR 2003 *Forest Roads and Water Crossings Initiative - Task Team Report*. October 2003.

OMNR 2003 *Class Environmental Assessment for Forest Management on Crown Lands in Ontario*.

OMNR 2003 *Class Environmental Assessment for MNR Resource Stewardship and Facility Development Projects*, Environmental Assessment Report Series. Queen's Printer.

OMNR 2004 *Forest Management Planning Manual for Ontario's Crown Forests*.

OMNR 2005 *Class Environmental Assessment for Provincial Parks and Conservation Reserves*, Environmental Assessment Report Series. Queen's Printer.

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Section 7: Glossary of Terms

Abandonment:

A term used to describe a road that has fulfilled its original use and is no longer required, or when maintenance cannot be justified.

Access roads:

Roads that are not on land owned by a municipality and that are not public highways, but which serve as motor vehicle access to one or more parcels of land.

Area of concern:

A geographic area within an area of operations which is adjacent to an identified natural resource feature, land use or value that may be affected by forest management activities.

Area of operations:

A geographic area comprised of individual, groups and/or portions of forest stands selected for harvest, renewal and tending operations for the ten year period of a forest management plan. The area of operations may include areas of retention (no operations).

Biodiversity:

The variety and variability among living organisms from all sources, including among other things terrestrial, marine, and aquatic ecosystems and the ecological complexes of which they are part; this includes diversity within species, between species and of ecosystems.

Branch roads:

A term as used in forest management planning, referring to a road that is essentially a branch of a primary road, providing access to areas of operations within a management unit. These roads are not considered permanent and are not normally maintained beyond the five to 15 year period of their use.

Bridge

a structure that carries a road or trail across a watercourse, including culverts with a span of more than 3 metres, that is designed and installed per the Ontario Highway Bridge Design Code

Coloured fuel:

Refers to fuel that contains a Ministry of Transportation approved dye marker showing no fuel tax has been paid on it.

Common roads:

Access roads as described above but, in addition, public funds have been spent on their repair or maintenance.

Culvert

a soil-steel interactive structure designed to pass the flow of a watercourse under the traveled surface of a road or trail

Cross Drainage Culverts

a culvert installed under the traveled surface of a road or trail to pass the flow of surface runoff from the road or trail and the adjacent drainage area up to a maximum of 125 hectares in size.

Crown land:

Land vested in Her Majesty in right of Ontario.

Decommissioning:

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To retire, abandon, dismantle, or remove a road from active service, working order or operation.

Forest management unit:

A forest management unit or ‘management unit’, is an area of Crown forest designated under Section 7 of the CFSA. There are currently about 45 management units in the province. These were formerly referred to as Crown management units, not Crown units. A Crown unit was a management unit managed by MNR (or the Crown) as compared to a management unit managed under license or agreement to a forest company. There is one forest management plan written for each management unit.

Forest management plan:

A document, prepared for a management unit in accordance with the *Forest Management Planning Manual* and Section 8 of the Crown Forest Sustainability Act. A forest management plan contains pertinent information and prescriptions by means of which forest policy, aims and objectives are translated into a continuous sequence of specific treatments on a management unit for a specified period of years.

Forest operations prescription:

A site specific, integrated set of harvest, renewal and maintenance activities that will be used to ensure that the current forest is managed to achieve the expected forest structure and condition.

Forestry roads:

Roads that are used primarily for forestry purposes and that are the responsibility of the forest industry.

Highway:

Including a common and public highway, street, avenue, parkway, driveway, square, place, bridge, viaduct or trestle, any part of which is intended for or used by the general public for the passage of vehicles and includes the area between the lateral property lines thereof. (HTA).

Industrial road:

A road on Crown or private land used primarily for transportation by motor vehicle of natural resources.

Memorandum of understanding:

A contract that is duly executed and legally binding between two or more parties.

Non-forestry roads:

Includes roads to a MNR facility, mining roads, cottage roads, communications tower access roads, recreation roads, multi-purpose roads and old logging roads that are no longer the responsibility of the forest industry.

Operational roads:

A road that is built for short term use (i.e. up to five years), for harvest and subsequent renewal operations. Roads may be unsurfaced or thinly surfaced and are not maintained beyond the period of their use – they are often reforested.

Peace officer:

Includes a police officer, conservation officer or other person employed for the preservation and maintenance of the public peace or any officer appointed for enforcing or carrying out these responsibilities.

Primary road:

A term as used in forest management planning, referring to a road constructed, maintained and used as part of the main all weather road system that provides access to the management unit as a whole. Primary roads are essentially permanent roads, regularly maintained, with a lifespan in excess of 15 years.

Private forest roads:

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Roads on Crown land that are occupied under the authority of a land use permit or other document issued under the Public Lands Act or its regulations.

Public forest roads:

Roads other than a private forest road as defined in the Public Lands Act.

Resource road:

Provides access to Crown land for resource management.

Retired Road

A former road that no longer meets the definition of a road and is no longer classified as an active road in an inventory.

Road:

A travel corridor that is usable by a conventional four-wheel-drive pick-up truck. It does not include decommissioned roads, roads that have deteriorated beyond use or trails that were built for off-road vehicles.

Road Network

A system of new or existing roads that provides access to a distinct geographic area. A road network is defined geographically by a suitable point at the start of the network, such as the intersection of two roads or a significant water crossing and may include all roads and water crossings beyond that point.

Secondary road:

A term as used in forest management planning, referring to roads now identified as branch roads.

Tertiary road:

A term as used in forest management planning, referring to roads now identified as operational roads.

Unorganized territories:

Areas of the province that do not have municipal government. These areas mostly occur in northern Ontario where there are large tracts of Crown land and little private land.

Use Management Strategy

A statement of management intent that describes the purpose and responsibilities related to use, maintenance, access control, monitoring and decommissioning of roads or road networks on Crown land.

Water Crossing

A bridge, culvert or causeway constructed as part of a road to provide access to two points of the road separated by a watercourse.