



Department of Primary Industries, Parks, Water and Environment



- What is Crown Land?
- Searching and Crown Land.
- Crown Land Services Application to Purchase.
- Survey Instructions from OSG.
- Surveys as Instructed by Government Agencies.



WHAT IS CROWN LAND ?

Crown land is in very basic terms the "remainder" of land that has not been allocated and is still held by the Crown, or has been acquired back by the Crown.

- Grants and Location Orders
- Reserved Land
- Types of Crown land
- Common examples of assumed Crown land (that are not)

3

• Acquisition of Crown land



Grants & Location Orders

- From the time of settlement the ruling Governor as the Crown's representative granted land parcels. The details of the grants were usually documented and registered.
- Prior to leaving England, early settlers applied to the Secretary of State for permission to proceed as a settler to Van Diemans Land, and where appropriate, to receive a land grant
- Approved settlers were given a letter of introduction addressed to the Governor, which requested that a grant of land be made.
- The area of land to be granted was proportionate to the means of the settler.
- On arrival in the colony, the settler applied to the Governor for a Location Order.



Grants & Location Orders (continued)

- If satisfied that the settler would develop the land the Governor would write a letter (the "location order") instructing the Commissioner of Crown Lands to 'locate' a certain area to the settler.
- The Commissioner and the settler would then go and select a site.
- No grant was made at that time and the location order became evidence upon which title to the land was built.
- Tasmania was initially administered from Sydney, with the first grants to free settlers made in 1805.
- Grants were issued from Sydney until 1826 and could take up to four years to arrive. People dealt with the land during that time by using the original location order or letter from the Governor.



Grants & Location Orders (continued)

- Governor Macquarie (1809-21) and Governor Brisbane (1821-25) brought about the problem of void grants by "granting" land in their own names, not the Crown's.
- People who settled on 'located' land could apply for and receive a formal land grant under the provisions of the *Grants of Land Act 1835*.
- In many cases , no grant of land was ever applied for and such land is known as located land.
- Titles based on a void grant, or on a location order could be obtained under Section 16 of the *Real Property Act* 1862 (now Section 12 of the *Land Titles Act* 1980) on the basis of equity and good conscience. Proof of claim will (almost invariably) be successful.

6

• Abandoned located land or a disputed claim effectively "revert" to the Crown.



Grants & Location Orders (continued)

• Some original Location Order documents held by Archives Tasmania, (some possibly held at the Mitchell Library in Sydney).

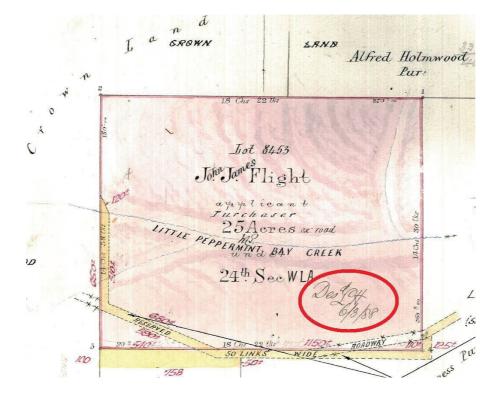


Grants

- Crown had / has the authority to grant land under Crown Land Act(s).
- A grant transits land from the ownership of the Crown to private freehold.
- Grants were (almost) always based on survey at the time of application.
- A grant could be made by an applicant making a formal approach to the Crown to purchase land.
- A grant could also be made by a purchaser entering into a contract (on a time payment financed plan). The grant had to be applied for once payment was completed.
- The date a grant was prepared is noted on charts and survey diagrams as "Described".



Example of Grant annotated with "Described"



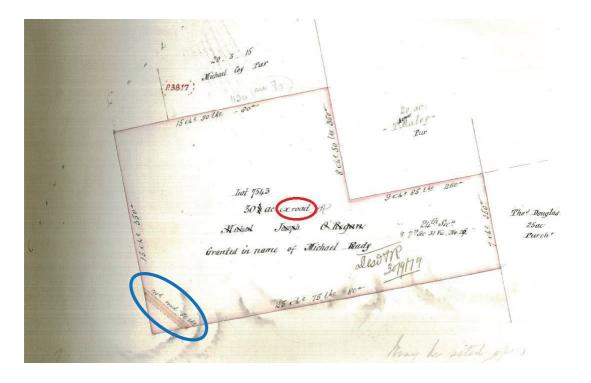


Reserved Land

- Crown land can be reserved for a particular purpose by proclamation under an Act. For example Sec 8 *Crown Lands Act 1976*.
- The restrictions over that land are specified within the enabling legislation.
- Revocation of the Reserve status may require approval of parliament eg. *Nature Conservation Act.*
- Reserves may be noted on charts or plans indicating the reason for exclusion from a grant.
- Unless also proclaimed the notation has no effect on the status of the Crown land, except under the *Limitations Act 1974* in relation to adverse possession claims.
- Reserve lot on a sealed plan creates a title in the Crown, which is surrendered and reserved for a particular purpose in accordance with Sec 98 of the Local Government (Building & Miscellaneous Provisions) Act 1993 and Schedule 5 of the Crown Lands Act 1976.

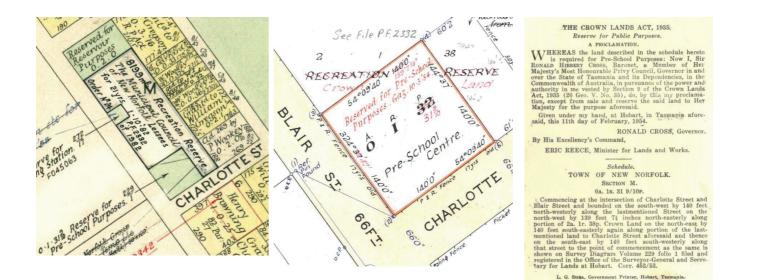


Example of "Reserved" Road excluded from a grant





Example of Proclaimed Pre-School Reserve



Town Chart

229/10 LO

Proclamation – Gazetted 10/3/1954



Types of Crown Land

- Crown fee simple title
- **Reserved Road** which has been excluded from the grant (sometimes need to check the actual grant description as well as the supporting plan).
- **Unalienated Crown** land being areas that have never been granted. Remnant land between surrounding grants (certainly applies to many road corridors).
- **Acquired** or **surrendered** Crown land for some purpose (notification of the proclamation or surrender would be gazetted).
- Location Orders that have been abandoned.



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Crown fee simple title

	PLAN OF TITLE	Registered Number
FOLIO REFERENCE A.19777	LOCATION CITY OF HOBART (SEC, U.U)	P.150203
GRANTEE	FIRST SURVEY PLAN No. 75/100 D.O.	20 14 10 2007
PART OF DA-IR-27P GTD TO GEORGE CLARKE	COMPILED BY LORB	APPROVED 20 MAR 2007
	SCALE IS 500 LENGTHS IN METRES	Alice Kawa Recorder of Titles
MAPSHEET MUNICIPAL LAST 2100 CODE No. 114 (5225-42) UPI No GJP		EXISTING SURVEY NUMBERS TO BE S REFERENCED ON THIS PLAN
(ODE No. 114 (5225-42) UPI No GJP	29 No. CROS	S REFERENCED ON THIS PLAN
PATRICC PATRICC (CTR-HTAB) (S.P.19401)	LOT 1 1905m ² 100 1 1305m ² 100 1 1305m ² 100 1 1305m ² 100 1 100 10 100 100 10 100 100 100 100 100 100 100 100 100 100	iffer.

RESULT OF SEARCH RECORDER OF TITLES Issued Pursuant to the Land Titles Act 19



SEARCH DATE : 26-Oct-2016 SEARCH TIME : 11.30 AM

DESCRIPTION OF LAND City of HOBART Lot 2 on Plan 150203 Derivation : Part of 0a-1r-27p granted to George Clarke Derived from A19777



Reservations and conditions in the Crown Grant if any

UNREGISTERED DEALINGS AND NOTATIONS

No unregistered dealings or other notations



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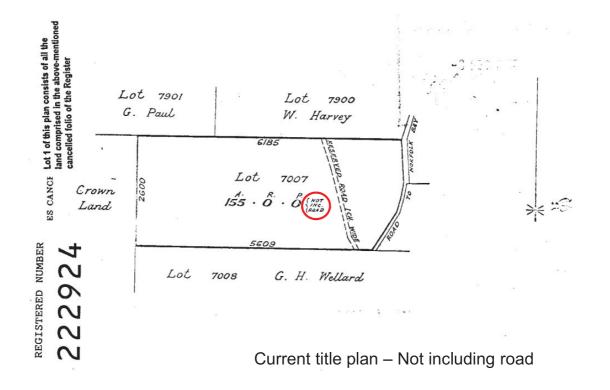


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Reserved Road excluded from grant



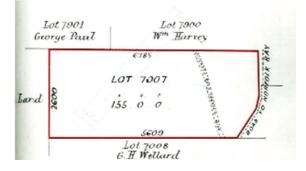


Reserved Road excluded from grant



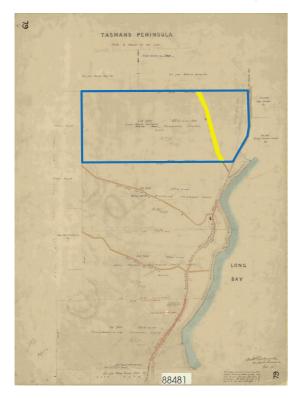
Real property purchase grants often do not state "Excluding Road" on diagram.

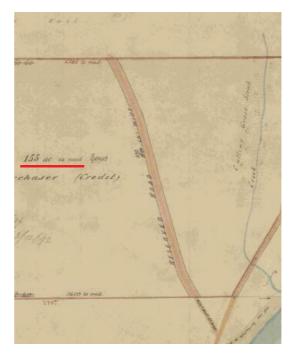
Refer to supporting survey to check perimeter dimensions are consistent.





Reserved Road excluded from grant





Grant survey – 155 Acres Excluding Road



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Acquired Crown land

Survey of land acquired by the Crown

GRAM FROM ACTUAL SUA 34 DI COUNTY DEVON OF PARISH of ALPHINGTON 173 127 Verd Myrtle . Blan DELORAINE TO MAIN ROAD CREEK RAILWA MOLE

Notification of acquisition published in the Government Gazette 21/3/1945

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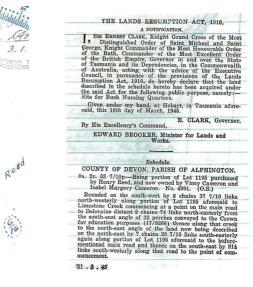
Verd Myrtle Blair

OW

Henry

274

Land Tasmania



"... acquired...for the following public purpose, namely:- Site for Bush Nursing Quarters." 22



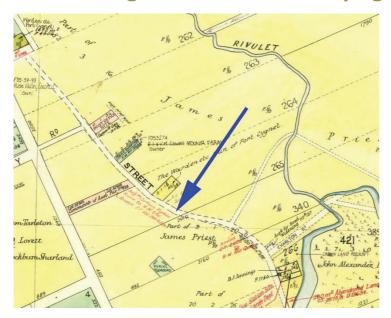
Common examples of assumed Crown land (that are not)

- User Roads especially within General Law grants
- Notations on plans such as Roadways, Laneways, etc.

Once land is in private ownership there needs to be some form of documented process to show that the land has returned to the Crown.



Road through a Town with underlying General Law grant



Query whether a Main Road through a Town was Crown land?



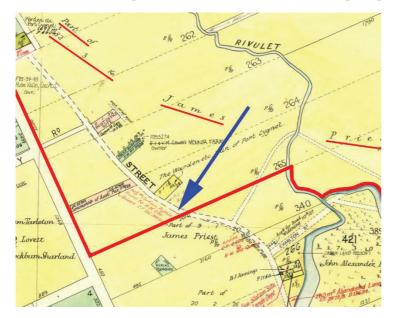
Road through a Town with underlying General Law grant



- The Town Chart indicates there was quite a large grant to James Priest.
- General Law Grant index indicates the land was granted in 1849.
- Subsequent dealings lead to a conveyance in 1886 that describes the land, not excluding the roadway.
- The trail of executors from the conveyance indicates no further dealing of the land in question.
- No evidence of any dealings by the Crown.



Road through a Town with underlying General Law grant

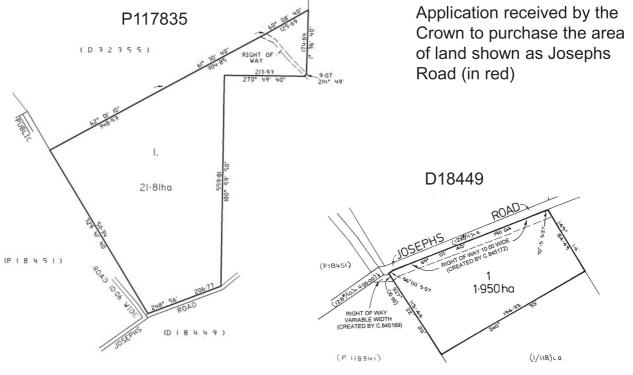


Conclusion: the land is user road with likely public highway status, but is not in the ownership of the Crown

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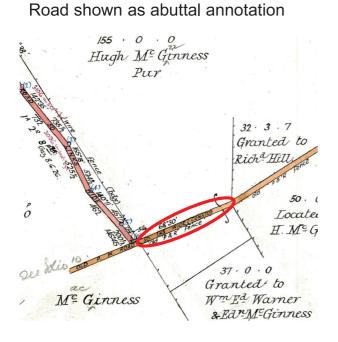


Annotated ROAD with underlying General Law grant





Annotated ROAD with underlying General Law grant



128R/11 LO

No Road shown within Grant Survey



1/118 PEM LO



Acquisition of Crown land

- Dealt with per the provisions of the Land Acquisition Act 1993.
- Usually some other Act that gives the power for the Land Acquisition Act 1993 to be used.
- Acquisitions must be "for a public purpose".
- Current legislation requires the acquisition must be proclaimed.
- Acquisition can be by: **Agreement** or by a **Compulsory** process.
- Common examples include:
 - PW Roads
 - Acquisition of user roads
 - Highway realignments.



SEARCHING AND CROWN LAND

The surveying of Crown land should not be a problem.

The greatest problem is identifying the status as to whether the land you are dealing with is Crown land.

- Where to start?
- A recent example of an application to purchase Crown land from Crown Land Services.



Where to start?

- LISTMap
 - Cadastral layer continually being upgraded to a greater accuracy.
 - Being relied on by more users to make decisions.
 - Often forgotten (or not understood) that LISTmap is only a tool to assist in gathering information and making decisions.
 - The key is understanding the accuracies of the information and associated risks in relying upon it for purposes beyond its intended use.
 - The relationship between the available imagery and cadastral boundaries should be treated with caution.
 - Attribute data particularly in relation to Crown land should be verified.
- Examples to consider



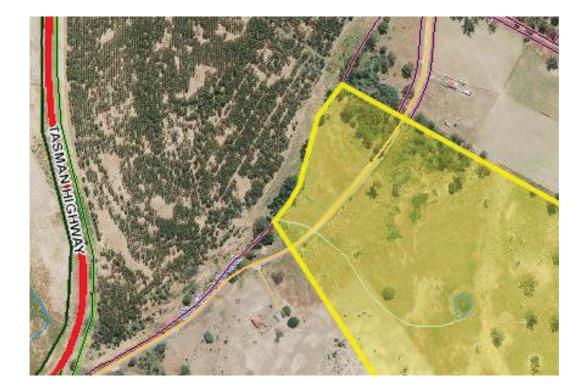




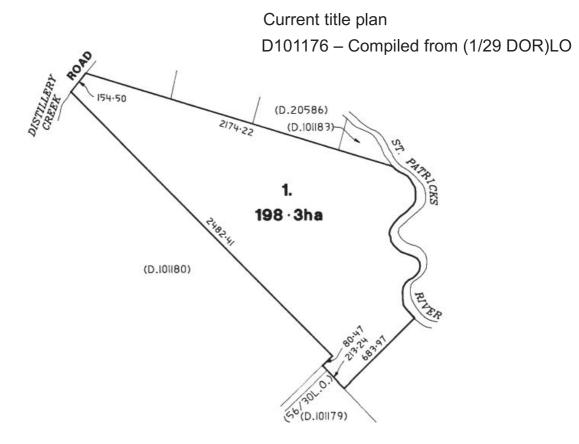






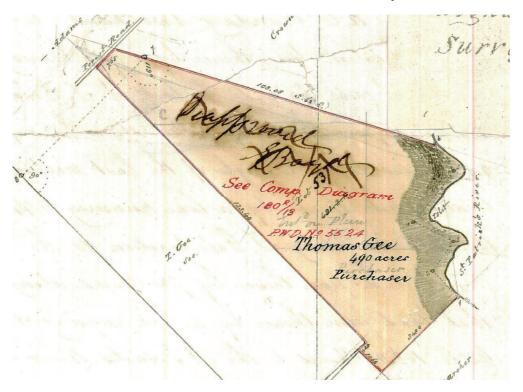








Grant Survey – DOR 1/29 LO



Land Tasmania

Purchase Grant 9/156

Wittovia by the Gree of GoD Queen of the United Kingdom of Great British and Ireland Defender of the Faith To all to whom these presents shall come Greeting KNOW YE that We in consideration of the Sum of <u>Inchangenetic and hearing here formally and here Ahillings</u> to Us duly paid have given and granted and by these presents for Ourself Our mark ministing <u>areas of land hearing free formally and here Ahillings</u> to Us duly paid have given and granted and by these presents for Ourself Our and his heirs ALL THOSE Fourth hourself of <u>Anised Free formally and here Ahillings</u> and his heirs ALL THOSE Fourth hourself Our and bounded as follows (that is to say) Un the South Castern side by thisting four chains along a lotation to Solid Marcha's estimating which they found the Sound Pachicky Klint he a great evicination made he Sound Meegedly then one only finds at the South market wide by the last much here d Grant and a small hele of Worm have evication. New Meegedly the origin and by four hourself of the South market wide to the last much here d Grant and a small hele of Worm have evication. New Meegedly the origin along the four hourself of the South market wide to the last much here d Grant and a small hele of Worm have evication. New Meegedly the origin along the four hourse of the South market wide to the last much here d Grant and a sould hele of Worm hourse evication. The sould be the source of the South market wide the South to chains of the last the South to chains of the last the South to chains of the last the source on the South to chains of the last the source of the South to chains of the last to chains of the source of the South to chains for the source of the South to chains of the last to chains of the source of the South to chains of the last to chains of the last to chains of the source of the South to chains the source of the South to chains the source of the Count of the source of the South to chains of the source of the South to chains of the source of the South to chains the source of the Count

(which said Four humbers and mines of gold and silver AND SAVING AND RESERVING ALWAYS the right of making and constructing upon the said land from time to time such and so many Roads and Bridges for the use of Us and Our subjects of such convenient with than form a may by Us or Our Successors be deemed expedient. AND ALSO the right of improving and repairing the same and of digging for and using for those and other public purposes all such and such quantities of indigenous timber stone gravel and soil as may the produce thereof and of curting quarrying and conveying as and where it may be deemed necessary all such timber stone gravel and soil respectively TO HAVE AND TO HOLD the said *Source* for the use of the said *Chemens Yue*

acres of land with their appurtenances (excepting aways and saving and locating as antenances) h is heirs and assigns for ever the same in free and common soccage tenure of Us Our Heirs and Successors to be holden YIELDING AND PAYING therefore yearly unto Us Our Heirs and Successors the Quit-rent of one poppercorn if the same shall be demanded. IN TESTIMONY WHEREOF We have caused these Our Letters to be made Patent and the Seat of Our said Island of Van Diemen's Land and its Dependencies to be hereunto affixed. WITNESS Our trusty and well-beloved Sta Jons FRANKLIN Knight Commander of the Royal Hanoverian Guelphic Order Knight of the Greek Order of the Redeemer and a Captain of Our Navy Our Lieutenant-Governor of Van Diemen's Land and its Dependencies at Hobart Town in the said Island the State of Our reign.

".....to the Road leading towards the Forests thence on the North Western side by seven chains sixty eight links along the said Road....."



Reserved Road on title is shown in LISTMap





Reserved Road within title NOT shown in LISTMap





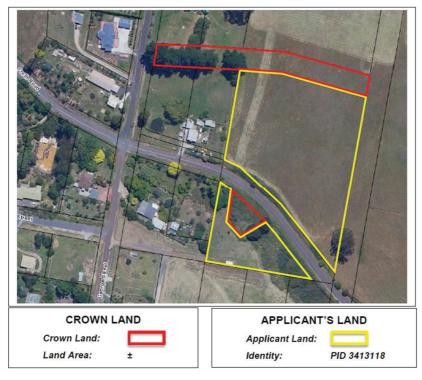


Contact

Geodata Client Services 134 Macquarie Street Hobart TAS 7000 Phone: 03 6165 4444 Email: geodata.clientservices@dpipwe.tas.gov.au

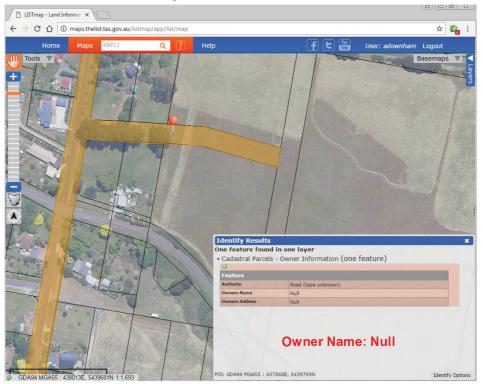


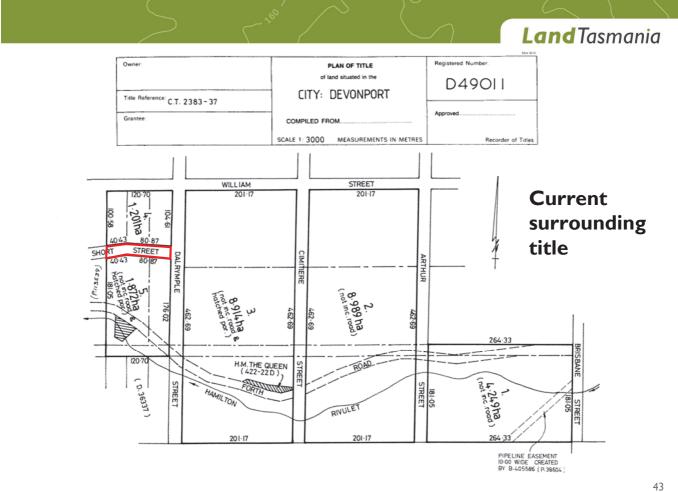
A recent example of an application to purchase Crown land received from Crown Land Services.





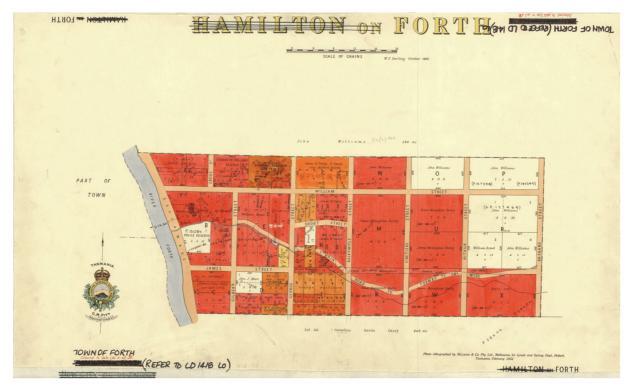
Where to start? LISTmap





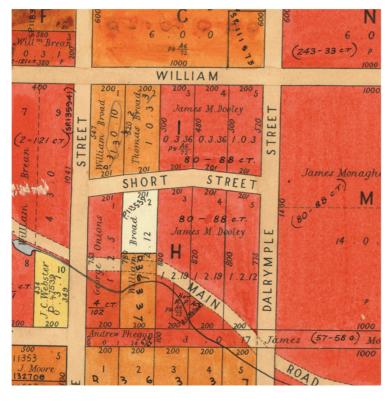


LTO Town Chart





LTO Town Chart

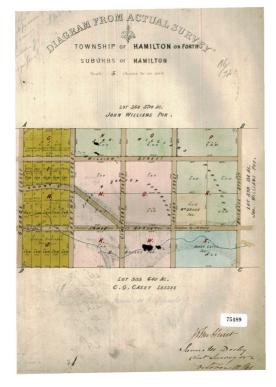


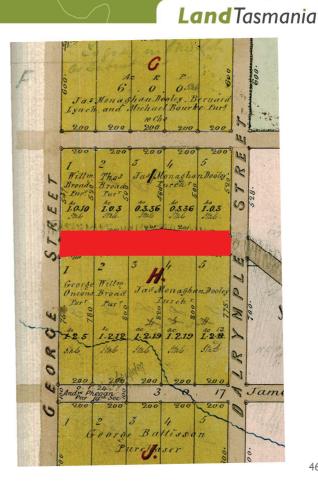
Short Street not coloured suggesting it is unalienated Crown land.

Inspect charts to ensure no reference to underlying grant.

Grant Survey

(A6/72)LO 1861 - Also indicates Short Street is unalienated Crown land.





Land Tasmania

General Law Grant Index Book

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General Law Grants can be inspected at the Tasmanian Archives Office or requested through the LTO.



General Law Grant Book 52 Page 75

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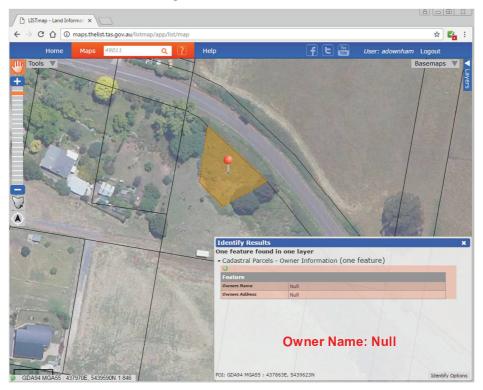
"... Easterly along Short Street ... "

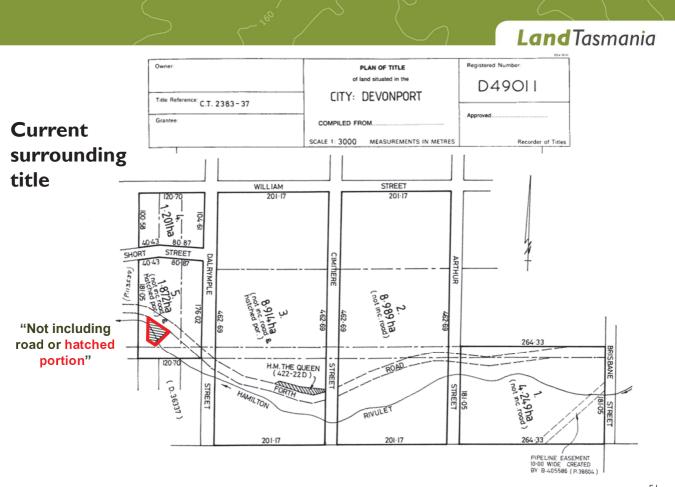
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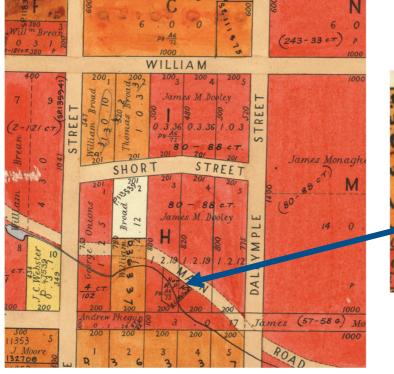
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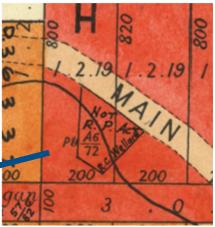






LTO Town Chart



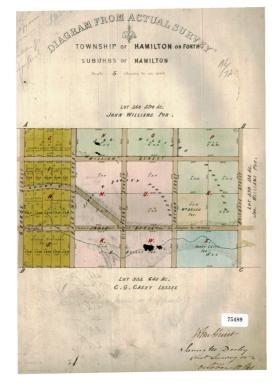


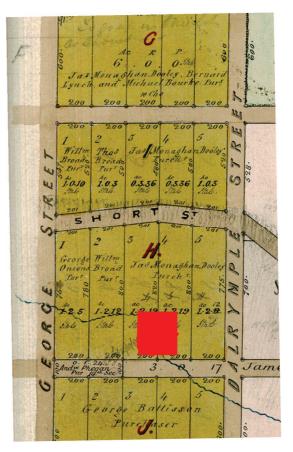
NOTE ON CHART : "Not R.P. Act R.C. Wellard"



Grant Survey

(A6/72)LO 1861 – Indicates land included in Lot 3 & 4.







What to do? General Law Search

- We know from the previous example that a General Law Grant was issued to **James M Dooley** for Lot 3 Section H (1A-2R-19P).
- Search Deeds Register Index books in the name of **James M Dooley**.
- 1885 Conveyance 7/3973 from James M Dooley to **Charles Henry Wellard** of the land in question (as shown on the LTO Town chart).
- 1922 Conveyance 15/8497 from Charles Henry Wellard to Joseph Hartwright Baulch.
- No further dealings by Joseph Hartwright Baulch in General Law or Real Property indexes.
- Search of Wills & Letters of Administration indexes reveals no registered documents in the name of Joseph Hartwright Baulch.
- No evidence on any available charts or plans indicating the land has ever returned to Crown ownership.

LandTasmania

CROWN LAND SERVICES – APPLICATION TO PURCHASE

- CLS is a section of the Parks & Wildlife Services within DPIPWE
- Tasked with managing the use and development of Crown land.
- Manages the sales, leases and licensing of Crown land.
- Provide authority to undertake works or hold events on Crown land.
- Management is in accordance with the Crown Lands Act 1976 and the Forest Management Act 2013 (for Future Potential Production Forest land).
- SI3 of the Crown Lands Act 1976 sets out how Crown land may be sold
 - Reserved price set by the Director General of Lands (Secretary of DPIPWE), having regards to the valuation and advice provided.



- Other Government agencies including the Departments of State Growth, Education and Police & Emergency Management also manage crown land.
- The Treasury Procurement and Property Branch also deal with larger Crown land sales.
- Crown land sold by application is generally land that can't be sold by public process.
- Application sales are generally consolidated with an adjoining private title.
- Surveyors can act as an agent for the applicant.



Parks & Wildlife Service

TASMANIAN WILDERNESS WORLD HERITAGE AREA

TASMANIAN NATIONAL PARKS

MACQUARIE ISLAND WORLD HERITAGE AREA

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E PARKS & RESERVES RECREATION NATURE & CONSERVATION CULTURAL HERITAGE LEARNING & DISCOVER

CLS – Application to purchase (continued)

2

NATIONAL PARKS

MARINE RESERVES

OTHER RESERVES CROWN LAND

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CLS web page has:

- Application forms
- Information sheets •
- Contact information
- FAQ's

CLS contact

cls.enquires@dpipwe.tas.gov.au or phone 6233 6413

To arrange a meeting or make an enquiry. A CLS officer will contact you to discuss within the next business day.



The purchasing of Crown land is a 4 stage process

Preliminary Review

- Check that the application form contains the required information and the necessary fees are correct.
- Advise the applicant whether the application is to be accepted, or not accepted, or requires additional information, such as assessments for aboriginal heritage, natural values, environmental impact, public benefits, or additional plans.



Detailed Investigation

- Request OSG to confirm the ownership status of the land, any survey requirements and an estimate of costs.
- Seek comment from local council, and surrounding land owners if applicable.
- Review available CLS property file records and check there are no existing agreements over all or part of the land.
- Investigate whether the land has any encroachments? Where are the location of any service infrastructure? Is legal or practical access denied? Are there any aboriginal, historical or natural values to consider? Is waterfront land involved? Is there any contamination? Other Government agencies concerns? etc.
- If application can proceed, provide market valuation and purchase cost est. to the applicant or agent.



Approval to sell and Setting up a purchase price

- Approval to sell or not forwarded to the Minister or delegate.
- The Director General of Lands determines a reserved price.
- Advise applicant of the Purchase price and Purchase costs.

Contract preparation and completion

- Office of the Crown Solicitor(OCS) prepares the sale agreement.
- OCS recovers the purchase price and costs from the applicant, on behalf of DPIPWE.
- OSG arranges survey and plan.
- OCS prepares associated lodgment documentation including possibly S27A application, title production, schedule of easements, transfers & LTO lodgment documents.



If a surveyor is advising an applicant, or lodging an application on their behalf, it is recommended that the area of the subject Crown land is clearly identified and as much relevant information as possible is provided.

This should result in an easier assessment process and preparation of a sound sale agreement leaving no room for any dispute.

Only matters relating to survey should be directed to the OSG.

If you have any queries on the process or a particular application it is best to call CLS on 6233 6413.



SURVEY INSTRUCTION FROM OSG

Please READ the instruction carefully.

If you have any queries, please read the instruction again, then by all means contact us.

- If a survey instruction is received from our office that involves surveying a portion of Crown land it is now our practice to undertake the necessary steps to confirm that the land is indeed Crown.
- If you are nominated by a client the responsibility for your fee is your concern.
- If for some reason the anticipated date of completion is not going to be achieved, please let us know.



Survey Instruction from OSG (continued)

- The instruction will usually include the following information:
 - A location map
 - A plan identifying the Crown land to be surveyed.
 - A description of the position of the surveyed boundaries, eg. Existing title boundary, a natural feature boundary, existing occupation, offset from a feature, or to comply with S9 of the Highways Act, etc.
 - The process by which the title is to be created (for non lease surveys). Most commonly by S27A Land Titles Act 1980 or S27A being consolidated with an adjoining title per the provisions of S121 of the Local Government (Building and Miscellaneous Provisons) Act 1993.
 - Requirements for the Survey plan drafting and survey notes (eg S27A area must be shown).



Survey Instruction from OSG (continued)

- A note that goes without saying that the survey must comply with the Survey Directions pursuant to the Surveyors Act 2002.
- A note to comply with the provisions of the *Electricity Wayleaves and Easements Act 2000.* This certainly applies to all unalienated Crown land for which a title is being created.
- A note to consider any service infrastructure that may require the consideration of easement creation.
- An anticipated date for completion.
- A note instructing what documentation is to be send where. Usually all information to OSG, however sometimes some documents are required directly to the Office of the Crown Solicitor.

SURVEY OF CROWN LAND INSTRUCTED DIRECTLY FROM OTHER GOVERNMENT AGENCIES.

If you have received a survey instruction directly from a Government agency (not from us), it is recommended that the following information be considered:

- Is the land definitely confirmed as Crown land?
- If so, who has undertaken the relevant searches? And can some appropriate documentation be presented, or does it appear that any such confirmation can be relied on. Do you need to check?
- By what process is the Survey Plan that you prepare being dealt with?
- Is a Local Government development application required?
- If a sealed plan is required can it be 'sealed' by the Crown or Council?
- Service infrastructure location and easement requirements?

Land Tasmania



SUMMARY

What is Crown Land?

Be aware of the types of Crown land. Different processes may apply.

Searching and Crown Land.

Be aware of LISTMap limitations. Be thorough in your searching.

Crown Land Services - Application to Purchase.

Include ALL relevant information. Queries that are not survey related – ask CLS.

Survey Instructions from OSG.

Please read thoroughly, and if you have queries contact us.

Surveys as Instructed by Government Agencies.

Caution needs to be taken to ensure you are definitely dealing with Crown land.



Thank you for your attention.

Land Tasmania



More information

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