

**Property Access (Driveway Crossover)**

**S 221 Local Government Act 1999**

**PLEASE READ THE FOLLOWING INFORMATION AND INSTRUCTIONS**

**TO ASSIST YOU IN COMPLETING YOUR APPLICATION**

Members of the public may not be aware that the creation or construction of an access point or crossover across road reserves to private property is not an automatic right, and requires permission either under a Development Approval (eg associated with the construction of a new building, dwelling, sub-division or change in land use) or otherwise approval from Council in the form of a Section 221 Authorisation under *the Local Government Act 1999.*

The creation or construction of a crossover is effectively an alteration to a public road whereby the person-

*alters the construction or arrangement of the road to permit or facilitate access from an adjacent property - s221(2)(a) Local Government Act 1999*

Section 221 of the Act states that a person (other than the council or a person acting under some other statutory authority) must not make an alteration to a public road unless authorised to do so by the council.

The issue of access points is in part addressed in Council’s [*Footpath Construction Policy*](https://www.kangarooisland.sa.gov.au/__data/assets/pdf_file/0032/938282/Footpath-Construction-Policy.pdf) which indicates:

* Where physically and legally possible, every property is entitled to at least a single driveway crossover
* The number and width of driveway crossovers should be minimised where practicable
* Other than where required to provide access to an approved development, double crossover and/or second crossover units, will only be permitted in certain circumstances
* Design and construction specifications for crossovers are detailed in separate specification documents (Infrastructure Guidelines SA)

If you are developing your land, you are required to include the proposed property access point in your Development Application under the *Planning, Development and Infrastructure Act 2016*, and not pursue a Section 221 Authorisation under *the Local Government Act 1999.* Note: *development* includes a new residence or building; sub-division of land for residential purposes, as well as a change in use of the land.

Failure to do this may result in a subsequent native vegetation clearance consent application being required at additional expense to you if the property access is associated with a development, but not included as part of your Development Application.

If you are about to or have already lodged a Development Application for a development on your land under the *Planning, Development and Infrastructure Act 2016*, it is recommended that you include the property access in your Application (or lodge a variation to your Application to include it) so as to consolidate the Application and include the entire development footprint.

As part of the Development Application, you will be required to include a Data Report prepared by a Native Vegetation Council Accredited Specialist which identifies all areas to be developed (ie complete footprint of land impacted, including associated infrastructure including driveways and property access point on the adjacent road reserve). It is further likely that a Significant Environmental Benefit Offset, will be levied against you in accordance with the Native Vegetation Act 1991.

The Native Vegetation Council (telephone 08 8303 977 or email NVC@sa.gov.au) are happy to receive enquiries as to the requirements and content of the Data Report, as well as provide a list of Accredited Specialists.

There are a number of accredited NV consultants and earthmovers who work on Kangaroo Island. We recommend that you contact these service providers to discuss your property access needs and to provide you with an estimate of the costs.

**Second or Additional Property Access Points**

As indicated above, other than where required to provide access to an approved development, double crossover and/or second crossover units, will only be permitted in certain circumstances.

If you are seeking an additional access point you will need to include in your Application the specific circumstances as to why the additional access point is required.

Further, the construction of any additional property access points beyond one, on a land parcel (regardless of any internal fencing or access), now triggers the need for Native Vegetation Council (NVC) clearance application and approval under Schedule 1, Part 6, Clause 34 (1)(b) **Infrastructure**, in accordance with Regulation 12 of the *Native Vegetation Regulations 2017.*

This is a regulatory requirement outside of Council’s control.

As such, even if no development of the land is planned, Council cannot approve an Application for any additional property access point without the requisite NVC clearance approval.

You will be required to include a Data Report as part of your NVC Clearance Application prepared by a Native Vegetation Council Accredited Specialist which identifies the road reserve, benefitting property and all exiting property access points and the proposed new property access point. It is further likely that a Significant Environmental Benefit Offset, will be levied against you in accordance with the Native Vegetation Act 1991.

The Native Vegetation Council (telephone 08 8303 977 or email NVC@sa.gov.au) are happy to receive enquiries as to the requirements and content of the Data Report, as well as provide a list of Accredited Specialists.

There are a number of accredited NV consultants who work on Kangaroo Island. We recommend that you contact these service providers to discuss the required report and to provide you with an estimate of the costs.

**Property Access via Unmade Road**

Council is unable to approve the construction of a property access if the adjacent road is unmade and not open to traffic – i.e. where there is no edge of the travelled way to construct the property access from. As such, in these circumstances, Council cannot provide an Authorisation under sections 221(1) and 221(2)(a) of the *Local Government Act 1999*.

However it has recently been determined that Council is willing to consider the opening of sections of unmade roads to traffic and the construction of property accesses in accordance with Council’s [Road Network Extension and Upgrade Policy](https://www.kangarooisland.sa.gov.au/__data/assets/pdf_file/0011/313400/Road-Network-Extension-and-Upgrade-Policy.pdf), **on the proviso** of the Applicant meeting the full costs of providing an earth road formation.

Construction of the road and associated property access is deemed a development under the *Planning, Development and Infrastructure Act 2016* and will require the lodgement of a Development Application.

As part of the Development Application, you will be required to include a Data Report prepared by a Native Vegetation Council Accredited Specialist which identifies all areas to be developed (ie complete footprint of land impacted, including associated infrastructure including driveways and construction of a road on a currently unmade road reserve). It is further likely that a Significant Environmental Benefit Offset, will be levied against you in accordance with the Native Vegetation Act 1991.

The Native Vegetation Council (telephone 08 8303 977 or email NVC@sa.gov.au) are happy to receive enquiries as to the requirements and content of the Data Report, as well as provide a list of Accredited Specialists.

There are a number of accredited NV consultants and earthmovers who work on Kangaroo Island. We recommend that you contact these service providers to discuss your needs and to provide you with an estimate of the costs.

If you are about to or have already lodged a Development Application for a development on your land, it is recommended that you include the road construction and property access in your Application (or lodge a variation to your Application to include them both) so as to consolidate the Application and include the entire development footprint.

Following construction and unless otherwise required by a Condition of the Development Approval or other Agreement, in most cases Council will maintain the road after it is constructed and after any applicable defects’ liability periods, at Council’s cost, in accordance with the applicable category within Council’s adopted Road Hierarchy. If you would like further details on this aspect of your Application, please contact Council's Property Management Team.

If you have already received approval for the development on your land and it does not include the road construction you will need to enquire as to whether you can vary your Application/Approval, or otherwise a new Development Application for the road construction and property access will be required.

In assessing an Application or a DA for an access point, council is required to assess:

* road safety- (including [*AustRoads Guide to Road Design Part 4 Intersection and Crossings: General*](https://austroads.com.au/publications/road-design/agrd04), and [*AustRoads Guide to Road Design Part 4A Unsignalised and Signalised Intersections*](https://austroads.com.au/publications/road-design/agrd04a)) and to refer and consult with the Department for Infrastructure and Transport (DIT) if the road is a [State Maintained Road](https://www.sa.gov.au/__data/assets/pdf_file/0018/12654/state_dpti_maintained_road.pdf); and
* clearance of native vegetation - in order to determine if the mitigation hierarchy has been applied, and if any proposed or otherwise unforeseen native vegetation clearance is allowed to be approved by Council or is conditional under the native vegetation legislation or otherwise requires [Native Vegetation Council Clearance](https://www.environment.sa.gov.au/topics/native-vegetation/clearing) approval (as identified in the situations above). Additionally, we need to consider if there are any threatened species in the proposed location.

**Council cannot arbitrarily approve the alteration of a road reserve for property access and Applications may require the consent of external bodies (any external fees are payable by the Applicant).**

*Note:*

* *Your application may be rejected or returned to you for further information if all questions and information is not provided or refused on the basis that a development application or variation of an existing development application is required under the Planning, Development and Infrastructure Act 2016.*
* *Fees may be payable in relation to this process, depending on its complexity and any ultimate consents required.*

**SECTION 1 – Applicant Details**

Please ensure that you include the ABN details and contact details for a person if the Applicant is a company or community/sporting group.

If you are not owner of the land, evidence of Landowner consent or authority is required.

**SECTION 2 – Benefitting Property Details**

So that we can confirm that the location of activity or works is located on Council managed roads, we require the Land Title Details of the benefitting property including allotment or section number, Deposited Plan number and Certificate of Title Volume and Folio number details, in addition to the physical address. These can be found on <https://sappa.plan.sa.gov.au/>.

If the land title number commences with CR then the land is actually crown land and owned by the Crown, not Council. Council has care, control and management of some of these lands on Kangaroo Island. In these cases Council is required to manage the land consistently with its dedicated purpose and any conditions imposed by the Crown as part of council’s custodianship of the land, which may include referring certain applications to the Crown for approval.

If more than one parcel of land is to be benefitted, details for every parcel are required.

**SECTION 3 – Proposed Property Access Details**

Please be as detailed as possible in answering all question and providing the requested supporting documentation.

Council Officers will be undertaking a desktop assessment of your application and if all necessary information and supporting documentation is supplied, should be able to make an assessment without the need to visit the proposed location. Site inspections (time spent on-site and travelling) as determined necessary due to missing or conflicting information may result in additional charges in accordance with the prescribed

[Fees & Charges Schedule.](https://www.kangarooisland.sa.gov.au/services/forms)

The standard requirement for a single access point properties is to utilise the shortest distance (right angles) from boundary to the made road. If 2 or more sides of the property are adjacent to the road , the access point is not to pass in front of adjoining properties.

**SECTION 4 – Other Existing Legislative Approvals**

Please provide details of all development applications or approvals made or received under the *Planning, Development and Infrastructure Act 2016* for the benefitting property during the last 2 years.

Please provide details of all applications made for the clearance of native vegetation or clearance consents or exemptions that have been granted under the *Native Vegetation Act* *1991* and its subordinate legislation for the benefitting property during the last 2 years.

**SECTION 5 – Applicant’s Statement**

Please sign and date the acknowledgement.

**CHECKLIST**

Once you have completed the Application – please use the Checklist below to confirm that you have completed all necessary Sections and attached the necessary supporting documentation.

**Checklist of information required from Applicant**

**Have you answered all of the Questions:**

 Applicant Details

 Benefitting Property Details

 Proposed Property Access Details

 Other Legislative Approvals

 Applicant’s Statement

**Have you included the required attachments:**

 Map of the property showing street names and all existing and the new access point

 Satellite image (SAPPA or Google) of the property showing street names and all existing and the new access point

 Photos x 4 minimum (refer Sec 3)

 Copy of Native Vegetation Council Conditional Consent or Exemption



**Application to Construct or Modify**

**Property Access (Driveway Crossover)**

**S 221 Local Government Act 1999**

**Please complete Sections 1 – 5 and send them plus the required supporting documentation to Council:**

In Person: Kangaroo Island Council, 43 Dauncey Street, Kingscote

Penneshaw Community Business Centre, 99 Middle Terrace, Penneshaw

By Post: PO Box 121, Kingscote SA 5223

Fax: 08 8553 2885

Email: kicouncil@kicouncil.sa.gov.au

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| **Section 1 - APPLICANT DETAILS** | |
| **Applicant/ Organisation Name** |  |
| **ABN (if applicable)** |  |
| **Contact Person  (if applicant is a business or organisation)** |  |
| **Address** |  |
| **Postal Address (if different to above)** |  |
| **Telephone No** |  |
| **Email** |  |

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| **Section 2 – BENEFITTING PROPERTY DETAILS**  **(details and imagery can be found by searching** [**https://sappa.plan.sa.gov.au/**](https://sappa.plan.sa.gov.au/)**)** | | |
| **Street Address** |  | |
| **Land Title Details**   * **CT/CR No** * **Allotment No** * **Plan**   *Note*   * *If more than one parcel of land is involved please provide details for all parcels* |  | |
| **Is the Applicant the registered proprietor of the land to be benefited** |  | **Yes**  **No**  **Council Owns or is Custodian of the Land (Applicant is a Lessee/Licence/Permit Holder)**  **Council Owns or is Custodian of the Land (Applicant is a not a Lessee/Licence/Permit Holder)**  **Name of Proprietor:** |
| **If the Applicant is not the registered proprietor, please provide either evidence of the Applicant’s capacity to lodge the Application on behalf of the owner, or alternatively evidence of the owners written support and consent to the Application** |  | **Documents attached:**  **Landowner authority**  **Landowner consent** |
| **Description of the property’s intended use following installation of the property access** |  | **Township Residential Dwelling**  **Rural Residential Dwelling**  **Primary Production**  **Commercial**  **Industrial**  **Tourism**  **Other :** |
| **Is the current use of the property consistent with it zoning** |  | **Yes**  **No**  **Don’t Know** |
| **Is the intended use of the property consistent with it zoning** |  | **Yes**  **No**  **No change in use proposed**  **Don’t Know** |

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| **Section 3 - PROPOSED PROPERTY ACCESS DETAILS** | | |
| **Name of Road to which the proposed property access directly faces ( ie this may not be the same as the Street Address)** |  |  |
| **Is the Road immediately adjacent to the property boundary at the location of the proposed access point made or unmade** |  | **Sealed**  **Unsealed (dirt)**  **Unmade (no road constructed)** |
| **How many property access points currently exist on the property** |  |  |
| **Please attach to your application**   1. **A map of the property showing street names and the location of all existing property access points and the proposed new access point marked** 2. **A satellite image (from SAPPA or Google) of the property showing the location of all existing property access points and the proposed new access point marked** |  | **Map attached**  **Satellite Image attached** |
| **The maximum number of property access points allowed per township property is 1 and rural properties 2.**  **If the maximum number already exists, do you seek to surrender the (or one of) existing property access point**  **Where more than one current access points exist, which one (or more) is proposed to be removed/ decommissioned (*please also mark on map and satellite image).***  **If the answer is no, please provide details of the exceptional circumstances to support your application for the new property access point.** |  | **Not Applicable**  **Yes**  **Details**      **No**  **Exceptional Circumstances** |
| **What is the specific purpose of the proposed access point**  ***(eg to provide access to X paddock for ….)*** |  |  |
| **What is the proposed width of the property access point where it meets the boundary (in metres)** |  |  |
| **What is the proposed width of the property access point where it meets the made road edge (in metres)** |  |  |
| **What is the approximate depth of the property access point from the boundary to where it meets the made road edge**  **(in metres)** |  |  |
| **Please attach to your Application**  **photos of the proposed new access point [which minimises the removal of the native vegetation] with markers showing the width and location of the proposed 'opening' on the boundary line from:**  **• opposite edge of carriageway looking at 90 degrees to carriageway towards proposed access point (driveway/crossover)**  **• property boundary 'opening' looking back towards road**  **• edge of carriageway looking to the road and roadside veg 50m to the left**  **• edge of carriageway looking to the road and roadside veg 50m to the right** |  | **Photos Attached** |
| **Is a Gate setback from the boundary within the property proposed, if so at what distance ( in metres)** |  | **Yes**    **No** |
| **Is the proposed access point to be used regularly by semi-trailers or B-double vehicles** |  | **Yes**  **No**  **Don’t know** |
| **Is *any* native vegetation (including frangible vegetation such as native grasses and flowers) present within the proposed access point footprint** |  | **Yes**  **Details**    **No**  **Don’t know** |
| **Is the location identified as containing threatened species (endangered, vulnerable, rare) of flora or fauna**  **Refer** [**Nature Maps**](http://spatialwebapps.environment.sa.gov.au/naturemaps/?locale=en-us&viewer=naturemaps) ***(select layers: Fauna and Flora/Rated Species/select all)*** |  | **Yes**  **Details**    **No**  **Don’t know** |
| **Any additional information you would like to submit in support of your application** |  | **Yes**  **Attached**  **Details**    **No** |

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| **Section 4 – OTHER EXISTING LEGISLATIVE APPROVALS** | | |
| **Have you (or a previous owner) applied for or been granted a Development Approval under the *Planning, Development and Infrastructure Act* 2016 for the benefitting property during the last 2 years** |  | **Yes**  **Application Number:**  **Details**    **No** |
| **Was the proposed property access point or associated connecting driveway on the land identified as part of the Development Application** |  | **Yes**  **No**  **Don’t know** |
| **Have you (or a previous owner) applied for or been granted clearance consents or exemptions under the *Native Vegetation Act 1991* (or subordinate legislation) for the proposed property access point** |  | **Yes**  **Application Number:**  **Details**    **Outcome (*attach copy of Conditional Consent or Exemption*)**  **No** |
| **Have you (or a previous owner) applied for or been granted any other clearance consents or exemptions under the *Native Vegetation Act 1991* (or subordinate legislation) for the benefitting property during the last 2 years** |  | **Yes**  **Application Number**  **Details**    **Outcome (*attach copy of Conditional Consent or Exemption*)**  **No**  **Don’t know** |

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| **Section 5 – APPLICANT’S STATEMENT** | |
| **I//we acknowledge and declare that the particulars provided by me/us with regard to the proposed alteration of the road that is the subject of this Application are true and correct and that the person signing this Application on behalf of the Applicant warrants that he/she has the authority to do so.** | |
| **Signature** |  |
| **Full Name** |  |
| **Relationship to Applicant if not the Applicant (eg Company Director/)** |  |
| **Date** |  |