

## COMPREHENSIVE REVIEW OF NSW CROWN LANDS MANAGEMENT

# Continuing community involvement in the management of Crown reserves

APRIL 2017

*To deliver modern, streamlined and transparent management of the state's vast Crown land, the NSW Parliament passed the Crown Land Management Act 2016 (CLM Act). It is anticipated the majority of the CLM Act will commence in early 2018, implementing reforms identified in the white paper and comprehensive review of Crown land management. This fact sheet describes some of the issues found and how the CLM Act addresses them.*

### Ensuring continued community management of Crown Land

The review found strong support for the new legislation to maintain management of Crown reserves by local communities. Submissions in response to the White Paper also emphasised the valuable role communities play in volunteering as Crown managers and helping to look after Crown reserves.

A key aim of the review was to cement the role of local communities in Crown land management.

### How the CLM Act deals with this issue

- Community involvement is an essential principle of Crown land management and will continue in the new legislation.
- Community members and groups will continue managing Crown reserves under a more streamlined reserve management framework.
- Existing protections from liability afforded to community members will be retained.
- Crown reserves will also continue to be managed by local councils. Currently local councils manage around 7,800 reserves.
- Local councils will be able to manage Crown land under the *Local Government Act 1993* (LG Act) using the same procedures that apply to community land owned by councils. This will significantly cut red tape for local councils as they will be able to manage community land and Crown reserves under the same legislative framework.
- LG Act procedures for managing community land are robust and will ensure the protection of Crown reserves and that their management is in the best interests of the community.
- Local councils will also be able to establish community advisory groups to ensure continuing community involvement in the management of reserves.

### Simplifying the system of reserve trust management

The review made clear that the trust system of reserve management is complex and reduces transparency.

In particular, each Crown reserve requires both an actual trust and a trust manager to be appointed. Most other states simply require a trust manager to be appointed.

There are multiple layers of rules and administrative processes which make community management of Crown land difficult and confusing.

### How the CLM Act deals with this issue

- The CLM Act allows for a simpler and more streamlined approach to managing Crown reserves.
- The complicated three-tier structure of reserves, reserve trusts and reserve trust managers is being replaced with a simpler two tier management system of reserves and Crown land managers, which will result in the removal of a layer of unnecessary bureaucracy.
- Crown land managers that are already a corporation, including local councils, will simply be appointed as the manager of a Crown reserve.
- Existing community reserve trusts will continue, with the existing board members staying on as board members of a new Statutory Land Manager entity. In practice this means existing Crown land managers will continue to undertake the care, control and management of the reserves they are appointed to, consistent with the purpose of the reserve and any adopted plans of management.

### Improving governance and ensuring a risk-based approach to Ministerial oversight

The review found there was strong support for stronger governance requirements for Crown land managers.

#### How the CLM Act deals with this issue

- The CLM Act includes detailed governance provisions.
- Governance provisions are an important new protection that recognises that managers of Crown land reserves are stewards of that land and their care, control and management powers need to be exercised appropriately to ensure land is preserved and enhanced.
- Ministerial oversight of Crown land will continue, with new powers to ensure that there can be quick and appropriate responses to any issues on Crown land.
- Plans of management will be required for many reserves, particularly reserves that provide a number of different facilities and uses.
- In addition to broad auditing powers, the Minister will be able to make rules that will apply to one, some or all reserves. This will ensure that the Minister is able to respond to changing state and community needs.
- The CLM Act takes a risk-based approach to the level of Ministerial oversight, providing incentives for managers of Crown reserves to develop enhanced capacity and governance abilities.
- There will be two categories of Crown land managers with different approval requirements. All managers will initially be categorised in category two, with the Minister having the power to designate category one managers.
- Managers in the first category will be professional bodies with higher levels of capabilities. Category one managers will only need to see Minister's approval for significant activities. For example, Ministerial approval will not be required for leases or licenses entered into by category one managers for terms of 10 years or less.
- The second category will be for all other managers including, for example, voluntary community boards and organisations. Category two managers will continue to require the Minister's approval for all matters for which reserve trusts must currently seek approval.

### Reducing duplication of processes and red tape on reserves

The white paper recommended a number of streamlining measures for the management of Crown reserves, including proposals to enable landowner's consent to be given more quickly.

Changes to landowner's consent from the Minister were proposed for low impact proposals, for example maintenance activities, shade sails over playgrounds, and rainwater tanks, and where detailed assessments of a development proposal are already carried out by councils or other government agencies as part of the consent process.

### How the CLM Act deals with this issue

- Under the CLM Act landowner's consent will be taken to be given for certain lower impact development in Crown reserves, such as repairs and maintenance.
- The landowner's consent will also be taken to have been given for all development that is consistent with an approved plan of management for a Crown reserve.
- Unless consent has been deemed given as outlined above, managers of Crown reserves must obtain the Minister's consent to a development application in relation to the reserve.

### Determining the best approach for schools of arts

The review found that schools of arts do not need to be regulated under their own legislation.

### How the CLM Act deals with this issue

- The CLM Act repeals the *Trustees of Schools of Arts Enabling Act 1902* and where a school of arts is on public land, that land will be reserved under the CLM Act for the purposes of providing the school of arts and for community purposes. A new Statutory Land Manager will be constituted as the Crown land manager of the land and the trustees will continue on as board members.
- Where a school of arts is on private land, the trustees will remain the legal owners of the land and will be free to manage and deal with the land subject to any trust deed and the *Trustee Act 1925*.
- The Department of Industry–Lands will provide assistance to ensure appropriate deeds and appointments of trustees are in place

### More information

For more information contact the Department of Industry–Lands on 1300 886 235 or [legislation@crowmland.nsw.gov.au](mailto:legislation@crowmland.nsw.gov.au)

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