

COMPREHENSIVE REVIEW OF NSW CROWN LANDS MANAGEMENT

Local management benefiting local communities

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.

Not all Crown land needs to be retained and managed by the NSW Government

The review found that certain types of Crown land are of state significance and need to be retained by the state government, but decisions about land of local value and interest are best managed locally.

The review found that the NSW Government added marginal value by continuing to own locally-significant Crown land. It also found that local council ownership of this land would reduce unnecessary red tape between the local and state governments and make it easier for the local council to manage its overall local land assets.

How the CLM Act deals with this issue

- The NSW Government recognises that while Crown land of state significance should be retained by the state, Crown land management arrangements could be improved to provide opportunities for local councils to better and more easily manage lands that are primarily used by local communities.
- Crown land that is considered likely to be local includes land used mainly by the local community, such as parks, gardens, local sports fields, recreation centres, community centres, swimming pools, tennis courts and libraries.
- Enabling local councils to own more local land will reduce the council's cost of managing land, simplify the approval and decision making process for the land, and enhance the benefits of that land to local communities.
- In 2015 the Local Land Pilot was conducted to explore the concept that local land should be transferred to local councils to enable better decisions about the land to be made by local communities.
- The pilot also tested the draft criteria for identifying local land as recommended by the review, negotiated hypothetical outcomes and identified implementation issues. No land was transferred to local councils as part of the pilot.
- Four local councils were involved in the pilot with the Department of Industry—Lands: Warringah Council, Tamworth Regional Council, Tweed Shire Council and Corowa Shire Council.
- The pilot found that there was support for the implementation of the local land transfer concept.



Figure 1. Crown land that is considered likely to be local land includes land used mainly by the local community, such as parks, local sports fields and recreation centres.

Implementation of the framework

- All transfers of local land to local councils will be voluntary and there will be no forced transfers.
- Crown land that is identified as state land, being land that is of significance to all the peoples of NSW, will not be transferred.
- The negotiation process will be run in partnership with both local councils and Aboriginal Land Councils. Aboriginal Land Councils will be involved given their rights and interests in Crown land under the *Aboriginal Land Rights Act 1983* and Aboriginal people's traditional and spiritual connection to the land.
- Aboriginal Land Councils will be asked to consider whether there is Crown land that could be transferred to them to achieve economic, social and cultural outcomes.
- Native title holders or registered claimants can be invited to participate in negotiations by agreement of the parties.
- Consistent with current practice, any land transferred to Local Aboriginal land Councils as part of the negotiation process will be subject to any native title rights and interests.
- The implementation commenced in the pilot local government areas in late 2016. Further rollout to other areas across the state is being considered.

Ensuring community involvement in future decisions on transferred local land

Submissions to the white paper raised concerns about future decisions that councils would take with former Crown land once it is given to them.

How the CLM Act deals with this issue

- Crown land identified as local land will generally be transferred to local councils as community land. Under the *Local Government Act 1993* (LGA) councils are not allowed to sell community land and a plan of management must be prepared for all community land.
- If local councils want to reclassify this land to operational land – allowing it to be sold – the councils are required to undertake detailed community consultation, including public hearings.
- Some limited land types will be transferred to local councils as operational land. This will be allowed only if local councils demonstrate that the land does not fall within one of the categories of community land set out in the LGA (for example land being used as a waste or night soil depot) or the current use of the land would be restricted by the community land classification (for example caravan park long-term residences).
- All land transferred out of the Crown estate will continue to be subject to the restrictions on use contained in the state's land use legislation, planning instruments and other environmental legislation.

Simplifying reserve trust management and reducing legislative duplication

Local councils play an important role in managing Crown land for their local communities by being appointed manager of Crown reserves. As manager they have care and management of Crown land.

The review, however, made clear that the current system of managing reserves is excessively complex.

Under the current system, local councils manage Crown land under Crown lands legislation, but manage reserves that local councils own under the LGA, leading to a duplication of management, administrative and reporting systems and processes, and confusion between the legislative frameworks.

How the CLM Act deals with this issue

- In order to reduce red tape and legislative duplication, under the CLM Act local councils will manage the Crown reserves they are appointed to manage under the LGA rather than under the Crown land legislation.

- Crown reserves managed by local councils will be classified (generally as community land) and categorised under the LGA, with the Minister for Lands' approval.
- Local councils will generally not be required to seek the Minister for Lands' approval for dealings on Crown reserves. Instead, in most cases local councils will manage these reserves under the requirements for community land under the LGA, with the requirement to have plans of management for each reserve phased in over time.
- Although local councils will generally be managing land under the LGA, the Minister for Lands will retain important rights and powers including the ability to:
 - make rules with which local councils must comply
 - put conditions in local councils' appointment instruments, when appointing them as reserve managers
 - remove local council managers.
- Local council Crown land managers will not be able to sell or re-categorise managed Crown land.
- Communities will be in a position to influence decisions about how Crown land is managed by local councils through the strong existing processes under the LGA.
- Local councils will be required to comply with their reporting requirements under the LGA and to provide information to the Minister for Lands, if requested.

More information

For more information contact the Department of Industry–Lands on 1300 886 235 or legislation@crowmland.nsw.gov.au

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