

COMPREHENSIVE REVIEW OF NSW CROWN LANDS MANAGEMENT

Facilitating a sustainable and prosperous Western Division

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.

Addressing inflexibility in land management

The Western Division makes up 42 per cent of the area of NSW. The vast majority of this land is Crown land, most of which is under perpetual (ongoing) leasehold from the NSW Government under the *Western Lands Act 1901* (WLA).

Most leases are granted for the purposes of grazing and agriculture. There are also leases for residence and for business, mainly in towns. Leasehold title is largely the result of the Western Division's history of settlement and the fact that it is predominantly semi-arid rangeland.

The management of the Western Division of NSW was considered by the review. It found that the current

arrangements for Western Lands Leases for grazing generally provide effective governance and cost recovery to preserve the environmental values of the mostly semi-arid rangelands.

The review also found that some existing processes were constraining greater flexibility in land management.

The white paper stated there was an opportunity to introduce greater flexibility into land management in the semi-arid parts of the Western Division, without weakening the protections provided by the leasehold system.

How the CLM Act deals with this issue

- To provide greater flexibility for land management and greater opportunities for economic development in the Western Division, certain activities will be permitted on leased land without requiring the Minister's approval.
- Additional activities are anticipated to include conservation, tourism and farm tourism, feedlots, aquaculture, sporting and leisure events, recreation, military exercises, animal breeding, running a dog kennel or cattery, film making, fishing, fossicking and small to medium scale renewable energy generation.

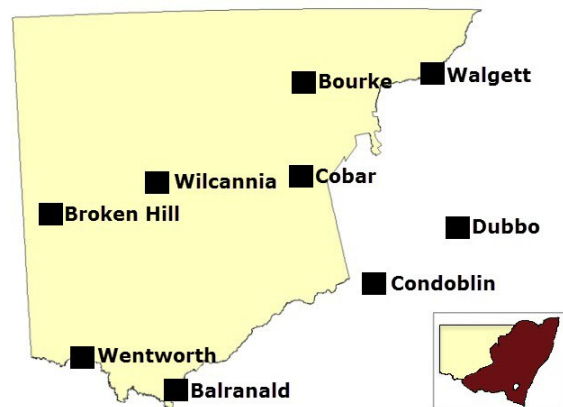


Figure 1. The Western Division of NSW

Eliminating unnecessary administrative processes

The review found there was significant overlap and duplication between the *Crown Lands Act 1989* and the WLA, resulting in inefficiencies, unnecessary requirements and lack of clarity for stakeholders and government.

How the CLM Act deals with this issue

- The CLM Act will replace the seven current pieces of legislation governing the Crown Estate, including the WLA. Where required, and of continuing relevance, provisions of the current WLA have been incorporated into the CLM Act. The WLA will be repealed.
- To ensure consistency under the consolidated legislation that will apply across the state, the Minister will be the only approving authority and the legislated position of Western Lands Commissioner under the WLA will be abolished.
- The Minister will still have the power to appoint commissioners, as required, and also delegate functions to staff of the Department of Industry—Lands.
- Re-determinations of rent for WLA leases under the new legislation will continue to be assessed using the current formulae in the WLA. The minimum rent for all Crown land tenures across the state, including WLA leases, will be a statutory minimum rent (currently \$472 per annum adjusted in line with CPI) to ensure equity between all holders of tenures over Crown land.

Easing restrictions on the purchase of perpetual leases

Some lessees of Crown land have rights under the terms of their leases and under legislation to purchase the land they lease. This right is commonly referred to as conversion and only applies under certain types of leases.

The review raised the possibility of having a single process for the conversion of leasehold land to freehold, rather than the seven existing processes.

In terms of lease conversion in the Western Division, the review found that the current arrangements for Western Lands Leases for grazing provide effective governance and cost recovery to preserve the environmental values of the mostly semi-arid rangelands.

While the review found that it was not appropriate to provide for broad-scale conversion of Western Lands Leases to freehold ownership, it determined that there was some additional scope for converting perpetual Western Lands Leases to freehold in certain circumstances, such as where the lessees already had cultivation consents. Submissions to the white paper also indicated support for broadening availability of conversion rights for pastoral leases.

In response to the review and to submissions from the community, *the Government's Response to the Crown Lands Legislation White Paper (October 2015)* proposed that Western Lands Leases for primary production purposes on land that had soil capability that could sustain cultivation, could also be considered for conversion to freehold ownership. This would balance environmental considerations with the provision of economic opportunities for leaseholders.

How the CLM Act deals with this issue

- The CLM Act simplifies the numerous existing processes for lessees to purchase leasehold land. Outside the Western Division, conversion will only be allowed where a lessee has current purchase rights under their leases or legislation. This will encourage purchase where lessees currently have rights and will minimise the number of different types and total number of tenures, reducing red tape and administrative costs to taxpayers.
- The CLM Act includes more opportunity for leaseholders of perpetual leases currently under the WLA to purchase their leases. This will support economic growth and investment in the Western Division.

- For perpetual lessees under the WLA that currently have rights in relation to purchasing their leases, those rights will continue. This includes leases for residential, business, community and certain agricultural purposes.
- The lessees of additional types of perpetual leases under the WLA will now be able to apply to purchase their leasehold land. Lessees of a lease in an urban area, rural area required for urban expansion or in proximity to an urban area, and where the purchase will contribute to the economic growth of the region, will be able to apply to purchase their leasehold land.
- Lessees of a lease for primary production where the land is currently used for, or is capable of being used for, agricultural purposes will also be able to apply to purchase their leasehold land. Capability will be determined by applying the Office of Environment and Heritage's land and soil capability assessment scheme, with lessees of land where the land contains substantial areas that have a moderate to high soil capability able to apply to purchase. Capability will also be demonstrated by a cultivation consent or other approved uses of the land for agricultural purposes such as cultivation, horticulture or viticulture.
- The Minister for Lands will consider specific factors when deciding whether to grant an application to purchase land held under a perpetual lease under the WLA. These factors will include matters related to current use, access and future public need for the land.
- Purchase prices for Western Lands perpetual leases will remain market value.
- The exception will be for pastoral leases that are predominately used for primary production, where the price will be three per cent of market value. This reduced price is to ensure equity across the state. Pastoral lessees with purchase rights in the Eastern Division and Central Division have long had rights to purchase at similar concessional rates.

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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