

INVESTMENT POLICY FOR TRUST BOARDS MANAGING CROWN RESERVES AND COMMONS

Version 1

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Department of Lands

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1. INTRODUCTION

There are about 33,000 Crown reserves in New South Wales. Some 750 Crown reserves are under the care, control and management of a community based trust board and approximately 250 Crown commons are managed by commons trusts.

This policy applies to Crown reserves and commons managed by a trust board. Trusts managed by a corporation should also use this policy as a guide.

1.1 Legislative Framework

The Crown Lands Act

- Section 107 (3) of the *Crown Lands Act 1989* allows reserve trusts to invest funds not immediately required for the exercise of their functions as authorised by the *Trustees Act 1925*.

The Commons Management Act

- Section 8 (2) of the *Commons Management Act 1989* allows commons trusts to invest funds not immediately required for the exercise of their functions as authorised by the [Trustee Act 1925](#).

The Trustees Act

- Division 2 of the *Trustee Act 1925* sets out the powers and duties of trustees, including their investment powers. Section 14 generally allows trustees to invest funds in any form of investment and at any time vary the investment.
- Trustees must, however, utilise care and skill and review the performance of investments at least once a year (s. 14A), investments must not be speculative and principles of law and equity must be preserved (s. 14B) and trustees must take into account a range of matters when exercising a power to invest (s. 14C).
- The Trustee Regulation 2005 (of the *Trustee Act 1925*) provides guidance to trustees on the investment of funds not exceeding \$50,000. These are essentially points (a) to (e) listed below.

The Public Authorities (Financial Arrangements) Act

- The *Public Authorities (Financial Arrangements) Act 1987* (PAFAA) sets out the investment powers of a range of public authorities. Although Crown reserve trusts and commons trusts are generally not covered by PAFAA, the investment powers described in Part 1 of Schedule 4 of the Act are generally considered appropriate for these trusts. In addition to bank deposits, these include investments in building societies, credit unions and with the Treasury Corporation, as listed in points (f) to (h) below. Treasury Corporation has indicated that it will not generally accept deposits or investment funds unless these exceed \$500,000.

2. POLICY REQUIREMENTS

2.1 Allowable Investment

If a trust has money which is not needed for normal operating expenses, the *Crown Lands Act 1989* and the *Commons Management Act 1989* provide that a trust may invest those funds in accordance with the *Trustee Act 1925*.

This is a wide investment power that may include some relatively high risk investments.

For this reason the Department of Lands requires that a trust board should only invest its funds in the investments listed below (unless as detailed in 2.2):

- (a) any public funds or Government stock or Government securities of the Commonwealth or any State,
- (b) any debentures or securities guaranteed by the Government of New South Wales,
- (c) any debentures or securities:
 - (i) issued by public or local authority, or a statutory body representing the Crown, constituted by or under any law of the Commonwealth, or of any State or Territory, and
 - (ii) guaranteed by the Commonwealth, any State or Territory,
- (d) interest-bearing deposits in a bank,
- (e) any deposit with, withdrawable shares in, or loan of money to, an authorised deposit-taking institution,
- (f) deposits with or withdrawable shares in a building society or credit union (not including certificates of deposit or other transferable securities),
- (g) deposits with the Treasury Corporation,
- (h) investments in an Hour-Glass investment facility of the Treasury Corporation, (being an investment facility where the Treasury Corporation accepts funds on behalf of government and public or other authorities for investment by fund managers that it has approved).

Treasury Corporation will generally only accept investments of over \$500,000 but may be able to assist, on a case by case basis, those trusts with funds approaching this figure.

The decision to invest money should be agreed at a trust board meeting and should be documented in the minutes.

2.2 Exceptions to the policy

Investments may be made outside of this policy if

- the investment has been endorsed by the Department of Lands, on behalf of the Minister, on the basis of independent advice provided through the trust board, or
- the Department has advised that endorsement is not required for a particular trust in specified circumstances.

2.3 Loans

All loans are required to be approved by the Department on behalf of the Minister; they must be at arms length and must not create conflicts of interest in any form.

The Department of Lands requires that trust boards not make loans (secured or otherwise) to trust board members, employees or their families, and must not provide any mortgage loans.

3. FURTHER INFORMATION

Additional information is available from Department of Lands officers, located at the offices listed in Annexure A.

ANNEXURE 'A'**CROWN LAND NSW OFFICES**

Should you require any further information regarding this matter please contact the relevant Crown Lands NSW Office of the Department of Lands.

Office	Address	Postal Address	City or Town	Contacts
Armidale	108 Faulkner Street	PO Box 199A	Armidale 2350	T (02) 6772 2308 F (02) 6772 8782
Dubbo	142 Brisbane Street	PO Box 865	Dubbo 2830	T (02) 6841 5200 F (02) 6841 5230
Goulburn	159 Auburn Street	PO Box 748	Goulburn 2580	T (02) 4828 6725 F (02) 4828 6730
Grafton	76 Victoria Street	Locked Bag 10	Grafton 2460	T (02) 6640 2020 F (02) 6640 2036
Griffith	120-130 Banna Avenue	PO Box 1030	Griffith 2680	T (02) 6962 7522 F (02) 6962 5670
Hay	126 Lachlan Street	PO Box 182	Hay 2711	T (02) 6993 1306 F (02) 6993 1135
Maitland	Cnr Newcastle Road and Banks Street	PO Box 6	East Maitland 2323	T (02) 4937 9300 F (02) 4934 2252
Moree	Cnr Frome and Heber Streets	PO Box 388	Moree 2400	T (02) 6752 5055 F (02) 6752 1707
Nowra	Level 1, 5 O'Keefe Avenue	PO Box 309	Nowra 2541	T (02) 4428 6900 F (02) 4428 6988
Orange	92 Kite Street	PO Box 2146	Orange 2800	T (02) 6393 4333 F (02) 6362 3896
Parramatta	Level 12, 10 Valentine Avenue	PO Box 3935	Parramatta 2124	T (02) 9895 6275 F (02) 9895 6227
Tamworth	25-27 Fitzroy Street	PO Box 535	Tamworth 2340	T (02) 6764 5100 F (02) 6766 3805
Taree	98 Victoria Street	PO Box 440	Taree 2430	T (02) 6552 2788 F (02) 6552 2816
Wagga Wagga	Cnr Johnston and Tarcutta Streets	PO Box 60	Wagga Wagga 2650	T (02) 6937 2700 F (02) 6921 1851