

MANAGING CROWN LANDS

An update for councils

JUNE 2017

With the new legislation coming into effect next year, this update will provide information on how we will work with you to deliver improved management of the State's vast Crown land.

Overview

Following the passing of the *Crown Land Management Act 2016* (the Act) in November 2016 and the *Crown Land Legislation Amendment Act 2017* in May 2017, a consolidated, modern piece of legislation will govern the management of Crown land in NSW.

The legislation implements reforms identified through the comprehensive review of Crown land management and follows over four years of engagement with the community on the future of Crown land.

The new framework will ensure that the Crown Estate continues to support and generate significant social, environmental and cultural benefits to the people of NSW.

What does it mean for councils?

The new Act will reduce red tape, duplication and the administrative burden on councils in their public land management role. It also provides councils with greater certainty about the legal requirements for managing Crown land.

It is anticipated that the majority of the Act will commence in early 2018.

There are no immediate changes. All current legislation remains in place until the new Act commences. Crown land and all Crown reserves will continue to be

administered in accordance with current legislation.

The Department of Industry, Lands & Forestry Division will regularly communicate with councils prior to the commencement of the Act.

Council management of Crown land

In response to concerns from councils about inconsistencies between management of Crown land and council owned land, the new Act allows councils to manage Crown land under the provisions of the *Local Government Act 1993* (LGA) for public land.

This will reduce the duplication and drain on resources experienced by councils resulting from the current dual legislative frameworks.

Categorising land use

Crown reserves managed by councils will generally be classified as community land under the LGA and categorised under the LGA, with the Minister for Lands' approval.



Figure 1. Council Crown land managers will be authorised to manage land in accordance with the *Local Government Act 1993*

With the Minister's consent councils may seek to classify Crown land which they manage as operational, where the land does fall within the categories of community land under the LGA or where classification as operational is required to allow the current land use to continue. This may be required in circumstances such as where Crown land is being used for long term residential accommodation or cemeteries.

Generally, councils will not need the Minister for Lands and Forestry's 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.

Plans of management

The requirement under the LGA to have plans of management for each reserve will be phased in over time. Additionally, financial assistance will be available to assist with the costs of preparing plans of management. Further information about the funding assistance will be provided in the coming months.

Ministerial powers

Although local councils will generally be managing land under the LGA, the Minister for Lands and Forestry 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.

Funding

To support the management and up-keep of reserves, councils will continue to be eligible to apply for grants from the Crown Reserves Improvement Fund (formerly the Public Reserve Management Fund Program).

Local ownership of Crown land

A key finding of the Crown Lands Management Review was that the NSW Government should continue to manage land of State significance. However, land of local importance should be subject to local level decision-making and this is best achieved by transferring these lands to local councils.

The new legislation allows land that is identified as being primarily land of local community value, for example local parks and sporting grounds, to be vested in councils.

The identification of land of local significance will be guided by local land criteria which is available on the website. It will also be detailed in regulations published later this year.

There are a number of safeguards associated with these legislative provisions.

- The Act explicitly requires council consent to any transfers. There will be no forced transfers of Crown land to council ownership – it will be entirely voluntary and by agreement. Councils will have the opportunity to consider the values of the land, including any resourcing implications, before agreeing to any voluntary land transfers.



Figure 2. 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.

- Any land subject to an undetermined Aboriginal land claim may only be vested in a local council with the consent of the claimant (either Local Aboriginal Land Council or the NSW Aboriginal Land Council).
- The Act allows for covenants to be placed on title to land. There may be circumstances where it is appropriate to put covenants on title to land that is vested in councils to restrict how the land is used and managed into the future. This will be considered on a case by case basis, as land is put forward for transfer of ownership, and will be subject to council agreement.

Once land is transferred, it is no longer Crown land and is held by council in freehold. Any income generated by that land will then be retained by the council.

Land negotiation program

In practice, vesting of local land to councils will be progressed through voluntary three-way negotiations involving the state, local councils and Aboriginal land councils under the Land Negotiation Program. This program is built on the findings of a Local Land Pilot program conducted in 2015.

Under the Land Negotiation Program, local councils and Aboriginal land councils will be invited to participate through an expression of interest process. Further details regarding the Land Negotiation Program will be provided as the program develops.

Upcoming updates

Our next update will include information on:

- native title
- provisions in the *Roads Act 1993* for Crown roads and council roads
- engaging the community on key decisions
- how we will engage with councils on implementation arrangements.

More information

For more information contact the Department of Industry, Lands & Forestry Division on 1300 886 235 or email legislation@crowmland.nsw.gov.au.

The Lands & Forestry Division website www.crowmland.nsw.gov.au also has updated information on the legislation.

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