

## Crown Land Compliance and Enforcement

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ISSUED BY:	Department of Planning, Industry and Environment – Crown Lands	EFFECTIVE DATE:	01/07/2018
CATEGORY:	Operations and Industry	REVIEW DATE	01/07/2021

### Policy Statement

This policy applies to the NSW Department of Planning, Industry and Environment–Crown Lands (the department).

This policy provides for how the department will undertake compliance activities in accordance with the *Crown Land Management Act 2016* (the Act), the *Crown Land Management Regulation 2018* (the Regulations) and other statutes for which employees of the department are authorised.

Compliance and enforcement is important to ensure the integrity of our legislative and land management responsibilities which support the economic, social, cultural and environmental values of Crown land for the community. Our approach to compliance and enforcement provides clarity and confidence to stakeholders that they will receive consistent and fair treatment.

### Scope

This policy provides the department's approach to compliance and enforcement as it applies to the use and occupation of Crown land as defined in the Act, including tenured, untenured or reserved lands. The policy sets out the principles adopted by the department to achieve compliance with the Act.

The purpose of compliance is defined in Section 10.2 of the Act. The department will undertake compliance and enforcement activities in a manner consistent with the objects, the principles of Crown land management and compliance as set out in the Act and this policy.

### Requirements

The framework for ensuring compliance with the Act is comprised of the following steps:

#### 1. *Promote voluntary compliance*

The department encourages compliance through education and awareness activities including:

- promotion of the benefits of compliance, and the potential consequences of non-compliance, during interactions with stakeholders, including Crown land managers
- the provision of information on the department's website

#### 2. *Monitor*

The department undertakes a range of compliance monitoring activities appropriate to specific sites and situations. These activities include:

- gathering of information from departmental staff, staff of other agencies, land holders, users and members of the public
- receiving complaints or reports
- property inspections
- tenure audits
- the use of technology such as aerial photography and satellite images

### 3. *Assess and prioritise*

The department will evaluate all instances of suspected non-compliance, of which it becomes aware, against the provisions of the Act and the Regulations.

Where the department determines that non-compliance has, is or is about to occur, a priority assessment will be undertaken in respect to the actual or potential impact on:

- a. achieving the objects of the Act (including the principles of Crown land management)
- b. public health and safety
- c. the environment
- d. the capacity of the Crown land manager (if any) to respond to non-compliance
- e. any other risks as deemed relevant in the circumstances

Departmental resources will be prioritised to investigate suspected instances of non-compliance.

### 4. *Investigate*

Departmental staff will gather evidence in respect to the suspected instance of non-compliance. The investigation is to determine if a contravention has or is about to occur, the seriousness of the breach, and the identity of the person(s) who may be responsible.

The department will train and appoint Authorised Officers to investigate instances of non-compliance using statutory provisions and other methodologies to facilitate appropriate outcomes. Participation in an investigation is not limited to Authorised Officers and could involve any staff from the department or any other state or commonwealth agency.

### 5. *Review*

When an offence has occurred or is about to occur, the department will determine the appropriate regulatory response using a risk based approach, having considered the principles of compliance, the objects of the Act (including the principles of Crown land management) and any aggravating or mitigating factors.

The applicability and weight to be given to each consideration will depend on the circumstances of each particular case.

### 6. *Regulatory responses*

The department has a range of regulatory actions available and these are provided by the Act, the Regulations, other relevant legislation, this policy and associated guidelines. Actions may include:

- a. advisory letters
- b. warning letters
- c. termination or non-renewal of lease or licence
- d. penalty infringement notices
- e. statutory directions such as stop work orders and remediation notices
- f. court orders
- g. prosecution or civil proceedings

Actions may be taken in cases where unsafe or unlawful activity is occurring or is about to occur to protect public safety or the environment.

The land and/or person subject to enforcement action may be subsequently monitored by the department to ensure compliance with the action and to prevent future non-compliance.

### 7. *Evaluate*

The department will assess its compliance and enforcement activities to ensure effectiveness in managing Crown land.

## **Guidelines**

Crown Land Compliance and Enforcement Policy Guideline provides further information to stakeholders to assist them in understanding and complying with this policy.

## Roles and responsibilities

### 1. The department:

- encourage and support compliance by land holders and users of Crown land
- monitor and report on compliance
- apply a risk based approach to compliance
- investigate instances of suspected non-compliance
- take appropriate action to address non-compliance

### 2. Tenure holders and users of Crown land:

- ensure compliance with the requirements of the Act and the Regulations, including tenure conditions
- report actual or suspected instances of non-compliance
- assist any investigation
- comply with any enforcement action taken under the Act

## Safety considerations

All departmental staff undertaking compliance and enforcement related functions must adhere to the NSW Department of Industry Work Health and Safety Policy IND-P-185.

## Delegations

This policy does not change, remove or add delegation to any officer. Specific delegations exist for the Act and financial decisions also apply. Certain delegations under the Act and Regulations are restricted to appropriately Authorised Officers.

## Definitions

This document uses the definitions contained within the Act and the Regulations.

Aggravating factors	Anything that makes the matter more serious
Mitigating factors	Anything that makes the matter less serious
Objects of the Act	As set out in section 1.3 of the Act
Person	An individual and/or corporation
Principles of compliance	Any compliance decision will be made in consideration of factors including but not limited to: <ul style="list-style-type: none"><li>• promotion of voluntary compliance</li><li>• public interest</li><li>• sufficiency of evidence</li><li>• lawful and reasonable actions</li><li>• duty of care</li></ul>
Principles of Crown land management	As defined at section 1.4 of the Act

## Legislation

This policy is relevant to:

- *Crown Land Management Act 2016*
- *Roads Act 1993*
- *Commons Management Act 1989*
- *Crown Land Management Regulation 2018*

## Related policies

- Delegations of Authority for Crown Land Policy IND-O-179

- Work Health and Safety Policy IND-P-185
- Department of Industry Regulatory Policy IND-0-233

**Other related documents**

- Guidelines – Crown Land Compliance and Enforcement

**Superseded documents**

This policy replaces:

- DPI – Lands Compliance and Enforcement Policy [DOC16/061020]

**Revision history**

<b>Version</b>	<b>Date issued</b>	<b>Notes</b>	<b>By</b>
1.0	May 2016	DPI – Lands Compliance and Enforcement Policy	Executive Director – DPI Lands
2.0	01/07/2018	Updated to support the <i>Crown Land Management Act 2016</i>	Manager Natural Resource Services, DoI – Lands & Water
3.0	22/02/2020	Policy updated to reflect machinery of government changes	Policy Team

**Contact**

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