

Crown Land Management Amendment (Plan of Management) Regulation 2021



Questions & Answers

The Crown Land Management Amendment (Plan of Management) Regulation 2021 (now clause 70 of the Crown Land Management Regulation 2018 – CLM Regulation) has exempted councils from the requirement to complete Plans of Management by 1 July 2021. The changes came into effect on 4 June 2021 and provide councils greater flexibility in the development of Plans of Management for Crown land which is dedicated or reserved.

What are the changes and what do they mean for councils?

These changes allow councils to prioritise resources to prepare Plans of Management for Crown land that is of high value and have multiple uses for the community.

Councils will be required to seek the Minister's written consent before the adoption of all Plans of Management for council-managed Crown land. This is to ensure that any alteration of the category or change in use of the land is not likely to materially harm the use of the land for any of the purposes for which it is dedicated or reserved.

Councils are now exempt from the need to hold public hearings for all Crown land Plans of Management. If councils are managing Crown land, as authorised under the *Crown Land Management Act 2016* (CLM Act) and managed under the *Local Government Act 1993* (LG Act), they are not required to hold a public hearing for any alteration of categorisations.

A Plan of Management is required if there is any change in the nature and use of the Crown reserve. Section 44 of the *Local Government Act 1993* provides that '*pending the adoption of a plan of management for community land, the nature and use of the land must not be changed*'.

In limited circumstances, where there is no change in the nature and use of the management of a reserve, a Plan of Management may not be required. For example, council will not require a Plan of Management for: a drainage reserve, where there is no intention of permitting additional uses, or, over a reserve categorised as an area of natural bushland or wetland, where there is no intention of permitting uses beyond passive recreational pursuits that do not materially harm the reserve.

How much more time will councils have to draft Plans of Management?

The exemption under clause 70 of the CLM Regulation means that there is no due date for the adoption of Plans of Management, however, councils are still required to submit categorisations and draft Plans of Management as soon as practicable.

Councils must continue to manage all dedicated or reserved Crown land as if it were community land under the *Local Government Act 1993* (section 3.22 of the *Crown Land Management Act 2016*).

Councils must continue to manage Crown land in-line with the gazetted reserve purpose(s).

Are public hearings for proposed Plans of Management required?

Councils are no longer required to hold a public hearing about proposed plans of management (under section 40A of the LG Act) where the proposed plan would alter the land categorisations assigned. This exemption applies to all Plans of Management for Crown land managed by Council.

Will there be an extension of existing grant funding for developing Plans of Management?

Councils that received grants under Office of Local Government Funding Agreements will be able to utilise the funding for a further two years, up until 1 July 2023 for the purpose of developing new Plans of Management. Information about grant funding is available on [the Office of Local Government website](#).

Will there be any further funding for the development of these Plans of Management?

There is currently no further funding available for the development of these plans.

What if Plans of Management for Crown land have already been adopted prior to 4 June 2021?

The CLM Regulation will not affect Crown land where a council has already adopted new Plans of Management prior to 4 June 2021 (under the CLM Act). Any future changes will require the Department's consideration of a new Plan of Management before public exhibition and approval prior to adoption by Council.

How does council manage Crown reserves until an adopted Plan of Management is in place?

Section 44 of the *Local Government Act 1993* provides that '*pending the adoption of a plan of management for community land, the nature and use of the land must not be changed*'.

To facilitate continued access to and use of the land, clause 70 of the CLM Regulation provides arrangements for the granting of certain leases and licenses. Refer to the fact sheet on *Granting leases and licences on Crown reserves* for more information.

Can leases and licences be granted without a Plan of Management in place?

Councils can still issue short term tenures or tenures for continuance of existing tenures or where required for emergency services in line with clause 70, until a Plan of Management is adopted for a reserve. Refer to the fact sheet on *Granting leases and licences on Crown reserves* for more information.

Councils will require an adopted Plan of Management for council-managed Crown land where they seek to enter into a lease or licence that is not covered by clause 70.

What happens with the Plans of Management already submitted for assessment by Crown Lands?

Crown Lands will continue to assess all applications of Initial Categorisations and draft Plans of Management received. If council would like to discuss their applications in more detail, please contact the team at council.clm@crowland.nsw.gov.au

What are the steps in the process for drafting and adopting Plans of Management?

Step 1	Drafting the plan of management <ul style="list-style-type: none">➤ The PoM should meet all the minimum requirements outlined in section 36(3) of the LG Act and identify the owner of the land (templates provided).➤ Any activities (including tenure or development) to be undertaken on the reserve must be expressly authorised in the PoM to be lawfully authorised.➤ Councils must obtain written advice from a qualified native title manager that the PoM and the activities under the PoM comply with the NT Act.
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Step 2	Notifying the landowner and seek Minister's consent to adopt <ul style="list-style-type: none">➤ The department as the landowner is to be notified of the draft PoM prior to public exhibition of the plan under s39 of the LG Act.➤ Councils are also required to seek the department's written consent to adopt the draft PoM (under clause 70B of CLM Regulation). The department's consent can be sought at the same time as notifying the landowner of the draft plan.
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Step 3	Community consultation <p>Councils are required to publicly exhibit PoM under section 38 of the LG Act</p> <ul style="list-style-type: none">➤ Councils are <u>not</u> required to hold a public hearing under section 40A of the LG Act (exemption under clause 70A of the CLM Regulation).
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Step 4	Adopting a plan of management <ul style="list-style-type: none">➤ If there are any changes to the plan following public exhibition of the draft PoM, councils must seek the department's consent to adopt the PoM.➤ Council resolution of a PoM that covers Crown land should note that the PoM is adopted pursuant to section 40 of the LG Act in accordance with 3.23(6) of the CLM Act.➤ Once a council has adopted the PoM, a copy of the adopted PoM should be forwarded to the department (council.clm@crowland.nsw.gov.au) for record purposes.
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