

Managing devolved Crown reserves

Councils need to manage devolved Crown land differently to Crown land that they manage as a Crown land manager.

What is devolved land?

Councils manage more than 2,000 Crown reserves in NSW as a devolved manager. Crown reserves dedicated or reserved for public recreation or for a public cemetery devolve to council when they are not under control or vested in any other body or person, or under any lease. These public reserves are managed under section 48 of the *Local Government Act 1993* (LG Act).

It is also possible for a Crown reserve to be devolved under section 48 of the LG Act if the Governor, by proclamation, places the land under the control of the council, or if the Minister administering the *Crown Land Management Act 2016* (CLM Act) declares it by an order published in the Gazette.

Control under section 48 can be removed by declaration made under section 2.22 of the CLM Act.

Councils are not the appointed Crown land manager under the CLM Act for devolved land and must manage it differently to reserves where they are the appointed Crown land manager. Councils are not required to prepare a Plan of Management (PoM) for Crown reserves devolved to them.

Councils need to manage devolved reserves consistent with the reserve purpose and can undertake minor improvements, restoration work, maintenance, or works for public safety. They are unable to grant any tenures over this land.

If a council wants to develop or deal in the devolved land, they should seek to be appointed as the Crown land manager under the CLM Act. Councils can request to be appointed as Crown land manager by [emailing](#) their Regional Crown Lands office.

Difference between land managed by a council Crown land manager and devolved land

	Council Crown land manager	Crown land devolved to council
Legislation	Reserve managed under the CLM Act.	Reserve managed under section 48 of the LG Act.
Management	<p>Council is appointed as Crown land manager under section 3.3 of the CLM Act.</p> <p>Council is responsible for the care, control and management of the Crown reserve.</p> <p>Councils may undertake activities, development, and dealings in-line with an adopted PoM and the provisions of their appointment instrument.</p> <p>Councils must manage the land as if it were community land under the LG Act except as provided under section 3.22(2) and (3) of the CLM Act.</p>	<p>Council has control of the public reserve (default position).</p> <p>Council is responsible for public reserves, where they are not under the control of or vested in any other body or person or are not held under a lease from the Crown.</p> <p>Councils may install public infrastructure and improvements which are consistent with the reserve purpose.</p>
Can council deal in the land?	<p>Yes.</p> <p>Tenures can be authorised under clause 70 of the Crown Land Management Regulation or under an adopted PoM and LG Act provisions.</p> <p>Councils cannot sell the land without the consent of the Minister (section 3.22 of the CLM Act).</p>	<p>Yes, however only in limited circumstances for example for the provision of public utilities.</p> <p>If development or activity on the reserve is likely to fall outside the reserve purpose a licence from the Minister to council is required (under section 2.18 of the CLM Act).</p> <p>Councils cannot tenure or sell the land.</p>

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Is Landowners consent required for Development Applications?	<p>Only in certain circumstances where deemed consent is not provided.</p> <p>The State Environmental Planning Policy (Transport & Infrastructure) 2021 has certain provisions in which consent is not required, if that development is for the purposes of implementing an adopted PoM.</p>	Yes, for all Development Applications.
Can council issues interments?	Yes, in accordance with the <i>Cemeteries and Crematoria Act 2013</i> .	Yes, in accordance with the <i>Cemeteries and Crematoria Act 2013</i> .
Is the <i>Aboriginal Land Rights Act 1983</i> applicable?	Yes.	Yes.
Is the <i>Native Title Act 1993</i> applicable?	Yes.	Yes.
Ownership of assets on Crown land?	The land is Crown land and fixtures are owned by the Crown. Any proposal for the transfer of assets should be raised at an early stage with the Minister so any power to do so may be explored.	The land is Crown land and fixtures are owned by the Crown. Any proposal for the transfer of assets should be raised at an early stage with the Minister so any power to do so may be explored.

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Leases and licenses	<p><u>Short-term tenures</u></p> <p>Section 3.17 of the CLM Act allows councils to grant short-term licences up to 1 year under section 2.20 of the CLM Act for the purposes listed in clause 31 of the CLM Regulation.</p> <p>Council Crown land managers are also required (by section 3.21 of the CLM Act) to manage land in accordance with the LG Act.</p> <p><u>Leases/licences</u></p> <p>The LG Act sections 46 & 47 allows councils to issue a lease/licence over a Crown reserve. A lease that exceeds 5 years but is under 21 years requires Ministers consent if an objection has been received. A lease between 21 and 30 years also requires Ministers consent.</p>	Cannot be issued by a council for devolved land.

Disclaimer: This fact sheet is for general purposes and does not constitute legal advice. Therefore, councils should seek to obtain their own legal advice.