

# Council management of compliance on Crown reserves

***Councils have all the functions of a council under the Local Government Act when managing Crown reserves.***

## Introduction

Every council participates in the management of Crown reserves. As the land manager, councils are responsible for the day-to-day management of the land including taking all necessary compliance and enforcement action to ensure it is used appropriately.

## Managing Crown reserves

Councils manage Crown land under two distinct arrangements:

- as a Crown land manager appointed under Division 3.2 of the *Crown Land Management Act 2016* (**CLM Act**) (referred to as an appointed Crown land manager or CLM)
- as a council that is a manager of a public reserve under section 48 of the *Local Government Act 1993* (**LG Act**) (referred to as a devolved manager)<sup>i</sup>

**Table 1: Summary of council management obligations and functions**

Type of Manager	Land classification	Management obligation and functions as a council under the LG Act as:
Appointed CLM	Community land	- if it were community land
Appointed CLM	Operational land	- if it were operational land
Devolved manager	Not applicable	- a public reserve

## How should appointed Crown Land Managers manage Crown land?

Councils manage more than 6,000 Crown reserves across NSW as CLMs. Appointed CLMs are authorised (by section 3.21(1) of the CLM Act) to manage dedicated or reserved Crown land as if it were public land as described by the LG Act.

Under section 3.22 of the CLM Act, an appointed CLM:

- must manage the land as it would manage community or operational land under the LG Act; and
- has for this purpose all the functions of a local council under the LG Act for that type of land.

These powers include regulatory activity and compliance action as well as the use of other Acts (such as the *Impounding Act 1993* or the *Environmental Planning and Assessment Act 1979*) where their use is permitted under the LG Act.

## How should councils manage devolved Crown land?

Councils manage more than 2,000 Crown public reserves in NSW as a devolved manager. When managing Crown public reserves under section 48 of the LG Act, councils must manage the land as a public reserve under the provisions of the LG Act. This means they can use all the same powers and functions available under the LG Act. The only difference from a compliance and enforcement perspective, is that the council does not manage the land as an appointed CLM but rather in its capacity as council.

## What should council do if someone is undertaking unlawful or unauthorised activity on Crown land that the council manages?

Council managers of Crown land should determine the appropriate compliance response depending on the circumstances and any relevant council policies as they would for council land or other public land.

Some examples of compliance and regulatory functions managed by councils include:

- prohibiting activities through signage such as camping or undertaking regulatory action to manage encroachment onto Crown land
- enforcing alcohol-free zones and alcohol prohibited areas
- regulating street vending activity
- companion animal functions, e.g. if someone was walking their dog without a leash (and it wasn't a designated off leash area)
- activity regarding water safety, e.g. rock fishing (if applicable to the council)

## Can an appointed CLM issue penalty infringement notices over Crown land under the provisions of the LG Act?

Yes, section 679 of the LG Act permits an authorised person to serve a penalty notice on a person on Crown land if the authorised person believes that the person has committed an offence under the LG Act, as prescribed by the *Local Government (General) Regulation 2005*.

## Can an appointed CLM issue orders over Crown reserves under section 124 of the LG Act?

Yes, both appointed CLMs and devolved managers can issue orders under the LG Act provided they comply with any obligation to obtain consent or consult as required under the LG Act. The council will need to determine required obligations, which will depend on the proposed action.

## Should councils notify Crown Lands when undertaking compliance action?

There is no general obligation or requirement to notify Crown Lands for day-to-day management of the land including any compliance actions undertaken. Councils should only contact Crown Lands regarding compliance action where a joint approach to an issue may be desirable.

For example, where there is unauthorised use of both Crown-managed land and neighbouring council-managed Crown land. Where appropriate, council staff can be appointed as authorised officers for Crown-managed land. If this is of interest to Council, contact Crown Lands to find out more.

## Are there any restrictions on councils when managing Crown Reserves?

Appointed CLMs and devolved managers of dedicated or reserved Crown land cannot:

- sell or dispose of the land in any other way unless the Minister gives written consent for it, or
- classify the land as operational land under the LG Act unless the Minister gives written consent for it, or
- do any other thing under the LG Act that would involve a contravention of a provision of the CLM Act that applies to council managers, or
- do anything that contravenes-
  - any limitations or other restrictions specified by the provisions of the manager's appointment instrument (for appointed CLMs)
  - the CLM Regulation
  - any applicable Crown land management rules
  - any applicable plan of management under Division 3.6 of the CLM Act (if there is no requirement for a plan of management under the LG Act).

## Are there any differences between the compliance and regulatory functions on Crown land as a devolved manager and an appointed CLM?

There are differences between the compliance and regulatory functions on Crown land as a devolved manager and an appointed CLM. For example:

- appointed CLMs can issue leases and licences expressly authorised by a plan of management or arrangements under clause 70 of the *Crown Land Management (General) Regulation 2018*
- devolved managers cannot issue leases and licences and any leases or licences over a Crown public reserve must be issued by Crown Lands. Council can request to be appointed as CLM for any reserves devolved to them under section 48 of the LG Act.

## Where can I get further information about exercising compliance functions?

Refer to the [NSW Ombudsman](#) website for *Enforcement Guidelines for Councils*. The guidelines include a model enforcement policy that can be modified or adopted by councils, as well as guidance to assist councils dealing with unlawful or unauthorised activity.

## Contact us

For more information, please get in touch with the Crown Lands Compliance, Strategy & Monitoring Team:

PO Box 2155  
DANGAR NSW 2309

Tel: 1300 886 235

Email: [cl.compliance@crownland.nsw.gov.au](mailto:cl.compliance@crownland.nsw.gov.au)

Web: [reservemanager.crownland.nsw.gov.au](http://reservemanager.crownland.nsw.gov.au)

---

<sup>i</sup> The Minister can issue a notice declaring that the public reserve is under the care, control and management of the Minister under section 2.22 of the CLM Act. In this case, section 48 of the LG Act does not apply.

*Image: Broken Hill NSW, courtesy of Destination NSW.*

---

© State of New South Wales through Department of Planning, Industry and Environment 2021. The information contained in this publication is based on knowledge and understanding at the time of writing (August 2021). However, because of advances in knowledge, users should ensure that the information upon which they rely is up to date and to check the currency of the information with the appropriate departmental officer or the user's independent adviser.