

Crown reserve code of conduct

For non-council Crown land managers and commons trusts

Published by NSW Department of Industry

Crown reserve code of conduct for non-council Crown land managers and commons trusts

First published May 2018.

More information

NSW Department of Industry—Lands & Water

industry.nsw.gov.au/lands

DOC18/079203

© State of New South Wales through Department of Industry 2018. You may copy, distribute, display, download and otherwise freely deal with this publication for any purpose, provided that you attribute the Department of Industry as the owner. However, you must obtain permission if you wish to charge others for access to the publication (other than at cost); include the publication in advertising or a product for sale; modify the publication; or republish the publication on a website. You may freely link to the publication on a departmental website.

Disclaimer: The information contained in this publication is based on knowledge and understanding at the time of writing (April 2018) and may not be accurate, current or complete. The State of New South Wales (including the NSW Department of Industry), the author and the publisher take no responsibility, and will accept no liability, for the accuracy, currency, reliability or correctness of any information included in the document (including material provided by third parties). Readers should make their own inquiries and rely on their own advice when making decisions related to material contained in this publication.

Introduction

The Crown reserve system is owned by the NSW Government on behalf of the people of NSW. The broader community expects that Crown reserves will be managed with transparency, integrity and good governance. The Minister for Lands & Forestry has oversight of NSW Crown reserves to ensure appropriate standards of care, control and management are provided for more than 35,000 Crown reserves across the state.

The purpose of this code of conduct is to establish the minimum standard of behaviour expected of people contributing to the management of a Crown reserve.

Application

The code of conduct applies to those who contribute to, and perform duties for, the management of Crown reserves (including commons trusts) in both paid and unpaid roles as a board member, an employee or volunteer of a board or appointed corporation, administrator, consultant or contractor. The NSW Department of Industry—Lands & Water (the department) expects all Crown reserve stakeholders to uphold these values and comply with the code of conduct in the performance of their duties.

Local councils and NSW Government agencies are exempt from complying with the code of conduct as both have specific legislative requirements relating to conduct and ethical behaviour. It is expected that council's role as a Crown land manager will be in accordance with that council's standards. Management of Crown reserves by NSW Government sector employees is expected to be in accordance with the NSW Public Service Commission standards. This code is aligned with the NSW Public Service Commission standards available at www.psc.nsw.gov.au.

This code of conduct is being implemented across NSW to assist in the governance and oversight of Crown reserves. The code of conduct should be read in conjunction with the rules, policies, procedures and guidelines relating to Crown reserve management located on the NSW Department of Industry—Lands & Water website, industry.nsw.gov.au/lands. The code of conduct cannot address every situation; individuals may need to seek additional guidance and support from the department.

About you

In NSW there are more than 1,500 Crown reserves across the state being directly managed by volunteer boards and community organisations. As a contributor to the management of Crown reserves, you have a right to participate in an environment that is respectful, safe and enjoyable.

A Crown reserve is for the benefit of the people of NSW and the department values and relies on those involved in the care, control and management of the state's Crown reserve system.

About the code of conduct

A code of conduct outlines expected standards of behaviour to ensure a shared understanding of acceptable behaviours and/or actions. This code of conduct has been introduced to improve the performance and outcomes provided by Crown reserves and complement legislative requirements. The department has developed additional information and templates to further support and guide implementation of the code of conduct.

Management of the NSW Crown reserve system

The following diagram provides an overview of how services are delivered to the community and how the code of conduct is related to the management of Crown reserves.

The Crown reserve code of conduct applies to corporations (excluding other NSW Government agencies), boards and administrators.

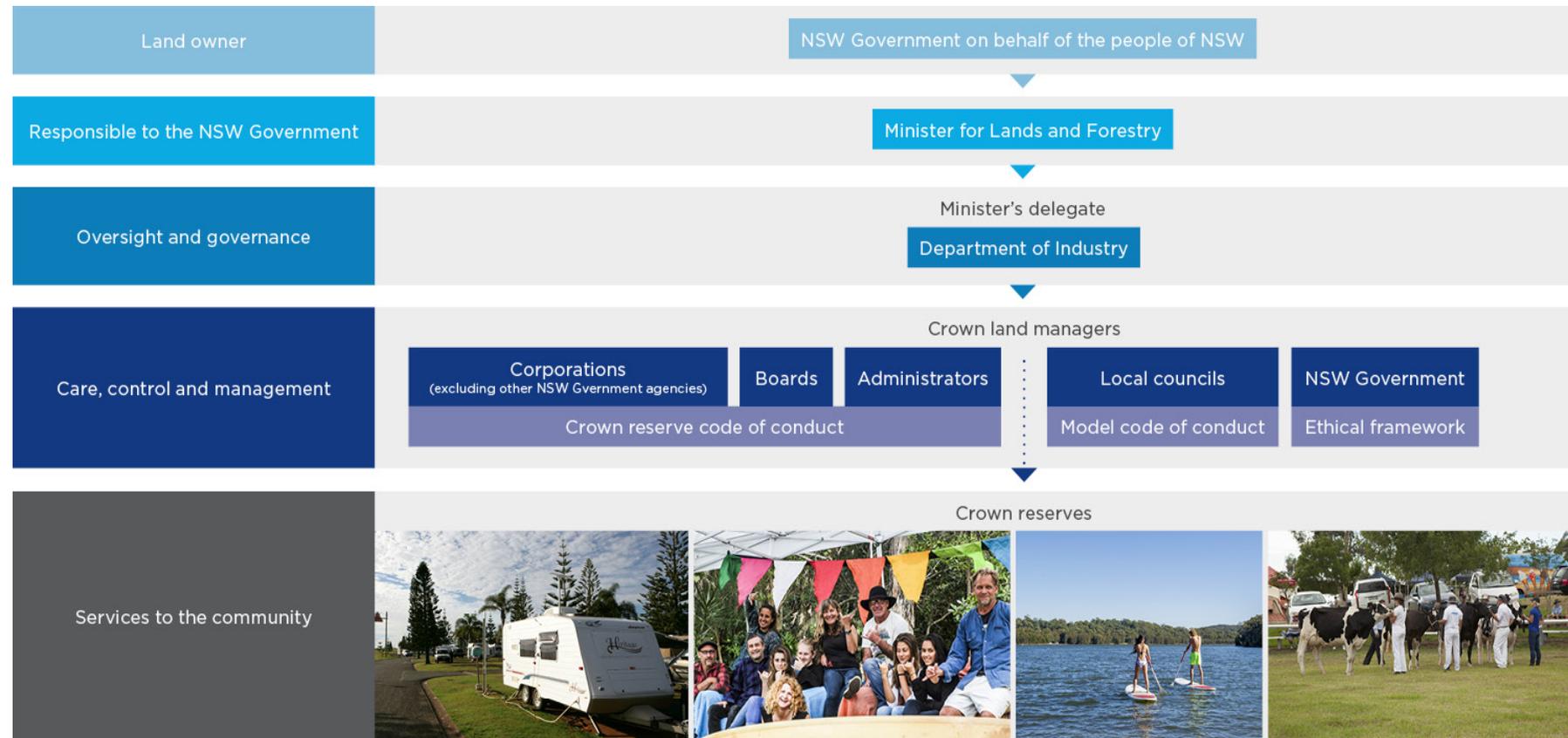


Figure 1. Delivery of services and how the code relates to Crown reserve management

Code of conduct standards

Individuals undertaking duties for the management of a Crown reserve are responsible for their own conduct. The department expects that duties performed and responsibilities undertaken will be in accordance with the following standards and key principles. Statements are provided to assist Crown reserve managers understand, administer and manage the code of conduct.

Respect for people, work as a team and value for others

Statement: We treat each other with respect and promote an environment that enables us to work as a team to deliver benefits to our communities across NSW.

All individuals in undertaking their duties have a responsibility to:

- recognise the importance of diversity and value and respect each other's differences
- ensure conduct is professional and collaborative, working as a team to achieve the best outcomes for the Crown reserve
- treat fellow board members, staff, contractors, the public and departmental staff with respect and in a non-discriminatory manner, with proper regard for their rights and obligations as well as their skills and talents
- ensure that decisions and actions are reasonable, fair, appropriate to the circumstances, based on a consideration of all the relevant facts, and supported with adequate documentation
- perform duties in a professional, courteous and responsible manner at all times
- communicate respectfully towards the diverse users and stakeholders of the Crown reserve, including all persons outlined in the box below.

The code of conduct applies to:

- appointed individuals and ex-officio members of Crown reserve boards
- Crown reserve employees and contractors
- volunteers undertaking activities on, or for the benefit of, the Crown reserve
- organisations and/or individuals with an ongoing relationship to the Crown reserve
- administrator or appointed corporations (and their employees and volunteers)
- consultants and/or those contracted to provide services to the Crown reserve.

Care for the safety of children using the reserve

Statement: We are responsible for the safety of children who participate in activities on the Crown reserve.

All individuals in undertaking their duties have a responsibility to:

- consider the level and type of interaction children have with the Crown reserve
- create a safe place where children and individuals under 18 years of age are protected from sexual, physical and emotional abuse and neglect
- ensure that all individuals performing regular tasks or duties on behalf of the Crown reserve management (paid or volunteer) understand the need to comply with the code of conduct standard

- declare if you are a prohibited person, and if you are a 'prohibited person' as described under the *Child Protection (Working with Children) Act 2012 No 51 Act*, you are not permitted to remain in child-related employment
- advise all staff, volunteers and contractors that interactions with children accessing and/or using the Crown reserve are to be protected from inappropriate behaviour.

Prevent discrimination, harassment, inappropriate behaviour and bullying

Statement: We are accountable for our behaviour and are obliged not to harass, behave inappropriately, bully, or discriminate against any Crown reserve stakeholders including members of the public using the Crown reserve.

All individuals in undertaking their duties have a responsibility to:

- ensure there is zero tolerance of bullying, harassment, unlawful discrimination or any other offensive conduct on the Crown reserve
- report and record any incidents of discrimination, harassment, inappropriate behaviour and/or bullying; this record should be kept on file as part of the Crown reserve administration
- deal with issues as they arise; it is the Crown land manager's responsibility to deal with issues surrounding discrimination, harassment, and/or bullying
- if the Crown land manager cannot resolve the issue, then contact the NSW Department of Industry—Lands & Water for further assistance
- refer any unlawful incidents to the appropriate authority at the time of the incident.

Responsive service

Statement: We are customer-focused and responsible for ensuring necessary information and assistance is communicated in a prompt, impartial and professional manner

All individuals in undertaking their duties have a responsibility to:

- provide a responsive level of customer service to Crown reserve users that include engaging with the diverse communities that use and rely on the Crown reserve
- ensure all necessary and appropriate information and assistance is provided in an accessible manner, that is; be relevant to your audience and in plain-English
- provide information in a clear, accurate and current manner and not withhold relevant information from the Crown land manager, minister or the department.
- ensure information, advice and/or assistance is provided in an honest, frank and accurate manner, without material omission; any limitations on the advice must be made clear.

Integrity and public interest

Statement: We are responsible for promoting confidence in the integrity of public administration of Crown reserves.

All individuals in undertaking their duties have a responsibility to:

- protect the reputation of the Crown reserve you are appointed to; and not engage in activities that would bring the Crown reserve or the department into disrepute
- ensure when undertaking Crown reserve business that decisions are being made first and foremost in the interest of the Crown reserve
- exercise care and diligence to ensure that any industry or professional relationship does not jeopardise or compromise integrity and objectivity.

Manage conflicts of interest

Statement: We should not participate in activities that involve a conflict of interest between our personal interests and our duties and obligations to the Crown reserve.

All individuals in undertaking their duties have a responsibility to:

- recognise when a private or professional interest may improperly influence or appear to influence the performance of official duties and responsibilities
- recognise that potential conflicts of interest can arise every day and it is important to deal with them appropriately and in a timely manner
- declare to the board/executive if there is a potential or actual conflict of interest when conducting Crown reserve business and note that a conflict has been identified in the meeting minutes or record in the administrative records
- avoid receiving or offering any gift, gratuity or hospitality relating to duties associated with the Crown reserve as this could be perceived to influence decisions or actions. It is reasonable to accept items or activities of small value, for example, an invitation to a morning tea, receiving flowers, etc.

Manage and comply with health and safety requirements

Statement: We are responsible for the health and safety of individuals working, volunteering and/or using the Crown reserve.

All individuals in undertaking their duties have a responsibility to:

- understand and comply with their responsibilities and obligations under the *Work Health and Safety Act 2011*
- ensure all individuals take responsibility for ensuring their own health and safety whilst conducting duties and using the Crown reserve
- ensure a person undertaking duties on a Crown reserve does so without being under the influence of alcohol or drugs that could impair their ability for sound decision making and/or endanger the safety of others.

Responsibility to the minister and the NSW Government

Statement: We are responsible for implementing relevant commitments, initiatives and programs of the NSW Government, adhering to decisions and directions of the department.

All Crown reserve manager/s agree that it is their responsibility to:

- follow applicable legislative, industrial and administrative requirements. Relevant information can be found on the Crown reserve manager resources webpage at www.industry.nsw.gov.au
- discuss any intention to resign from a board appointment prior to the term expiration date. In the first instance, discuss your intention with the Crown reserve board and the department. Resignations must be done in writing and provided as early as practicable to the department.
- Advise if an appointed corporation wishes to resign as manager of a Crown reserve. Immediately contact the NSW Department of Industry—Lands & Water by phone 1300 886 235 or email reserves@crowland.nsw.gov.au to discuss.

Economy and efficiency

Statement: We are accountable for the transparent and efficient use of a publicly owned asset.

All individuals in undertaking their duties have a responsibility to:

- recognise that a Crown reserve is not owned by any individual, user, or manager; including corporations. The Crown reserve is part of the Crown estate, temporarily managed by the Crown land manager on behalf of the NSW Government. The use of any public funds must represent value for money to benefit the Crown reserve.
- ensure that the Crown reserve resources and assets are only used for reserve related purposes, unless the minister directs otherwise
- ensure that decisions and actions are reasonable, fair and appropriate to the circumstances, based on a consideration of all the relevant facts
- develop and maintain accurate records of expenditure and income associated with the Crown reserve
- use any public funds in an efficient manner that represents value for money to benefit the Crown reserve, users and the people of NSW, not solely in the interests of the major users, organisations represented on the board, or Crown reserve manager
- only use the authority and resources of their position for Crown reserve-related purposes.

Accountable for our decisions and actions

Statement: We are responsible for managing and reporting breaches of this code of conduct.

Volunteers or paid workers

A Crown reserve manager is able to deal with cases of suspected breaches where the breaches involve volunteers or paid workers. Where Crown reserve managers are undertaking investigations in relation to suspected breaches of this code of conduct, they must have regard for the principles of natural justice and procedural fairness. The NSW Ombudsman provides information to support best practice investigations.

Member/s or the entire board

Where suspected breaches are related to the conduct of a board member/s or the entire board, the board does not have the authority to take action. In cases such as this, the board must consult with the department.

It is the department's role to undertake appropriate investigation and resolution. It is important to remember that a Crown reserve board and its members are representatives of the NSW Government and are conducting work on behalf of the NSW Government. For that reason, if a board or member/s of the board do not adhere to the code of conduct or are seen to display inappropriate ethical standards of behaviour, the department may take applicable action.

The decision to take action, either by the Crown reserve manager or the department, will involve the consideration of a number of relevant matters. This includes protecting the integrity of the department, maintaining public confidence and trust, and the seriousness of the misconduct. Action may include termination of your appointment as a board member, and in serious cases the matter may be referred to the police, the Independent Commission Against Corruption (ICAC) or other appropriate authorities.

Where the Crown reserve manager determines that a breach/s of the code of conduct will involve referral to another agency or other authority (that is, the NSW Police Force, ICAC, or other authorities) the department must be notified on the first available business day following the incident or following the matter being referred to other authorities.

Other considerations

Official and confidential information

Crown reserve manager/s may have access to sensitive, personal and/or commercially confidential information. Consequently, Crown reserve management documents and other in-confidence documents, emails and electronic information, must be properly and safely stored at all times.

Public comment

Public comment regarding the work of a Crown reserve and business operations is permitted; however authority to comment must be decided by Crown reserve management. Promoting the services and activities of the Crown reserve is not deemed as public comment. Public comment on the work of the minister or the department is not authorised at any time.

All media enquiries regarding the work of the department or the minister specifically must be directed to the NSW Department of Industry Media Unit. Contact mobile: 0437 504 752 or email: media@industry.nsw.gov.au

Intellectual property

All intellectual property created in the course of working with the Crown reserve is the intellectual property of the Crown reserve manager and the department, unless explicitly specified otherwise.

Assistance and further information

The code of conduct should be read in conjunction with the rules, policies, procedures and guidelines relating to Crown reserve management located on the Department of Industry—Lands & Water website www.industry.nsw.gov.au/lands. As the code of conduct cannot address every situation, individuals may need to seek additional guidance and support from the department or refer to one of the supporting guidelines, tools and/or resources.

For further assistance please phone 1300 886 235 or email reserves@crowmland.nsw.gov.au