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# Crown Land Management Act 2016 No 58

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Part 3 > Division 3.4

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## Division 3.4 Crown land managed by councils

**Note.** Part 8 includes provisions that are applicable to council managers concerning the management of land over which there may be native title rights and interests.

### 3.20 Application of Division

- (1) This Division applies in relation to any local council that is a Crown land manager of dedicated or reserved Crown land (a *council manager*).

**Note.** See Division 4.2 in relation to the powers and other functions of councils in which Crown land is vested under that Division.

- (2) This Division applies despite anything in the *Local Government Act 1993*.
- (3) The regulations may make provision for or with respect to the modification of the provisions of the *Local Government Act 1993* applicable under this Division to council managers.

### 3.21 Management in accordance with Local Government Act 1993

- (1) A council manager is authorised to classify and manage its dedicated or reserved Crown land as if it were public land within the meaning of the *Local Government Act 1993*, subject to this Division.

**Note.** The term *public land* (as defined by the *Local Government Act 1993*) excludes land to which this Act applies even if it is vested in or under the control of a local council. The Act also requires local councils to classify their public lands as either community land or operational land and manage the land accordingly.

- (2) Accordingly, a council manager is also authorised to manage its dedicated or reserved Crown land as if it were community land or operational land, but only as permitted or required by this Division.

**Note.** For example, requirements relating to reporting and plans of management will generally be as provided by the *Local Government Act 1993* rather than this Act.

### 3.22 Functions of council managers

- (1) Except as provided by subsection (2) or (3), a council manager of dedicated or reserved Crown land:

- (a) must manage the land as if it were community land under the *Local Government Act 1993*, and

- (b) has for that purpose all the functions that a local council has under that Act in relation to community land (including in relation to the leasing and licensing of community land).

- (2) A council manager of dedicated or reserved Crown land that is a public reserve (as defined in the *Local Government Act 1993*):

- (a) must manage the land as a public reserve under that Act, and

- (b) has for that purpose all the functions that a local council has under that Act in relation to a public reserve.

**Note.** Section 2.22 enables the Minister to assume responsibility from a local council for the care, control and management of dedicated or reserved Crown land that is a public reserve.

- (3) A council manager of dedicated or reserved Crown land that is classified, with the written consent of the Minister under this section, as operational land under the *Local Government Act 1993*:
  - (a) must manage the land as if it were operational land under that Act, and
  - (b) has for that purpose all the functions that a local council has under that Act in relation to operational land.
- (4) However, a council manager of dedicated or reserved Crown land cannot:
  - (a) sell or dispose of the land in any other way unless the Minister gives written consent for it, or
  - (b) classify the land as operational land under the *Local Government Act 1993* unless the Minister gives written consent for it, or
  - (c) do any other thing under the *Local Government Act 1993* that would involve a contravention of a provision of this Act that applies to council managers, or
  - (d) do anything that contravenes:
    - (i) any limitations or other restrictions specified by the provisions of the manager's appointment instrument, or
    - (ii) the regulations, or
    - (iii) any applicable Crown land management rules, or
    - (iv) any applicable plan of management under Division 3.6 (if there is no requirement for a plan of management under the *Local Government Act 1993*).
- (5) The Minister may give written consent under subsection (4) (b) for the classification of land as operational land only if the council manager satisfies the Minister that:
  - (a) the land does not fall within any of the categories for community land under the *Local Government Act 1993*, or
  - (b) the land could not continue to be used and dealt with as it currently can if it were required to be used and dealt with as community land.

### **3.23 Management of land as community land**

#### **(1) Application**

This section applies to a council manager that is required by this Division to manage dedicated or reserved Crown land as if it were community land under the *Local Government Act 1993*.

**(2) Initial assignment of categories**

The council manager must, as soon as practicable after it becomes the manager of the dedicated or reserved Crown land (including because of the operation of Schedule 7), assign the land to one or more categories of community land referred to in section 36 of the *Local Government Act 1993*.

**Note.** Section 36 (4) of the *Local Government Act 1993* requires a draft plan of management for community land to categorise the land by reference to one or more of the following categories:

- (a) a natural area,
- (b) a sportsground,
- (c) a park,
- (d) an area of cultural significance,
- (e) general community use.

It also enables land that is categorised as a natural area to be further categorised as bushland, wetland, escarpment, watercourse, foreshore or a category prescribed by the regulations under that Act (or a combination of these).

- (3) The assigned category or categories must be those that the council considers to be the category or categories that are most closely related to the purposes for which the land is dedicated or reserved.
- (4) The council manager must give written notice to the Minister of the categories to which it has assigned the land as soon as practicable after assigning them.
- (5) The Minister may, by written notice given to the council manager, require the manager to alter an assigned category if the Minister considers that:
  - (a) the assigned category is not the most closely related to the purposes for which the land is dedicated or reserved, or
  - (b) the management of the land by reference to the assigned category is likely to materially harm the use of the land for any of the purposes for which it is dedicated or reserved.

**(6) Adoption of plans of management**

Plans of management for the land are to be prepared and adopted in accordance with the provisions of Division 2 of Part 2 of Chapter 6 of the *Local Government Act 1993*, subject to this section.

- (7) The following provisions apply during the period of 3 years after the commencement of this section (the *initial period*):
  - (a) a council manager must ensure that the first plan of management applicable to the land is adopted as soon as practicable within the initial period,
  - (b) the first plan of management may be prepared and adopted under Division 2 of Part 2 of Chapter 6 of the *Local Government Act 1993* by:
    - (i) amending an existing plan of management so that it applies to the land, or
    - (ii) adopting a new plan of management for, or that includes, the land,

- (c) if the draft first plan of management results in the land being categorised by reference to categories assigned as provided by this section, the council manager will not be required to hold public hearings under section 40A of the *Local Government Act 1993*, but must give public notice of it as required by section 38 of that Act,
  - (d) if the draft first plan of management alters the categories assigned as provided by this section, the council manager must:
    - (i) obtain the written consent of the Minister to adopt the plan if the re-categorisation would require an addition to the purposes for which the land is dedicated or reserved, and
    - (ii) hold public hearings under section 40A of the *Local Government Act 1993*,
  - (e) section 37 (b), (c) and (d) of the *Local Government Act 1993* do not apply to the first plan of management,
  - (f) section 44 of the *Local Government Act 1993* applies to the land pending the adoption of a plan of management,
  - (g) this subsection does not apply to any further plans of management (or amendments to plans of management) made during the initial period.
- (8) To avoid doubt, Chapter 6 of the *Local Government Act 1993* (except section 37 (b), (c) and (d)) will apply to plans of management made after the first plan of management is made during the initial period.
- (9) Alteration of land categorisation**  
The categorisation of land by a plan of management cannot be altered by a further plan of management unless the Minister has given written consent for the further plan to alter it.
- (10) The Minister cannot give written consent to the alteration of the categorisation of land if the Minister considers that the alteration is likely to materially harm the use of the land for any of the purposes for which it is dedicated or reserved.
- (11) A written consent given by the Minister to the alteration of the categorisation of land operates as if the Minister had authorised the land to be used for additional purposes under section 2.14 that correspond to the purposes for which community land of that category can be used.
- (12) An additional purpose taken to be authorised by subsection (11) does not cease to be an authorised purpose for which the land is dedicated or reserved if the council manager concerned ceases to be the Crown land manager of the land.