

CROWN LAND MANAGEMENT ACT 2016

Transition guide for Crown land managers—local councils

Published by NSW Department of Industry

Transition guide for Crown land managers—local councils

First published September 2018.

More information

Department of Industry—Lands & Water

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DOC18/181900

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Introduction

Commencing 1 July 2018, the new *Crown Land Management Act 2016* (the CLM Act) provides a revised management structure for Crown Reserves that recognises the diversity and capability of Crown land managers. While many aspects of Crown land management remain the same, the new CLM Act provides improved transparency, enabling the community to have confidence that Crown reserves are managed appropriately for the benefit of the people of NSW, including through good governance.

On commencement of the CLM Act, all current reserve trust managers appointed under the *Crown Lands Act 1989* will automatically transition, so they will continue to have the care, control and management responsibility for their Crown reserves.

Local councils will also continue to manage Crown reserves. How local councils manage Crown reserves under the CLM Act is different from other Crown land managers, as they will principally manage their Crown reserves under the public land provisions of the *Local Government Act 1993* (LG Act). Local councils should refer to the Office of Local Government website for information on their new requirements:

www.olg.nsw.gov.au/crownland.

Existing trust boards, administrators and non-council corporations appointed to manage reserve trusts will be known as non-council Crown land managers under the CLM Act.

Background

In 2012, the NSW Government began the first major review of Crown land in 25 years, prompting a comprehensive consultation process with community and other interested parties about the future management of Crown land.

This extensive review process culminated in the NSW Parliament passing the CLM Act in November 2016 and the *Crown Land Legislation Amendment Act* in May 2017.

This new legislation commenced on 1 July 2018 and ensures the Crown estate is managed efficiently and effectively and continues to support and generate social, environmental and cultural benefits for the people of NSW.

In NSW, Crown land is managed by the Department of Industry—Lands & Water (the department). Previous Crown land legislation was complex and included eight different pieces of legislation.

The new CLM Act will:

- reduce red tape and duplication in managing Crown land
- improve certainty and clarity about legal requirements
- support greater community involvement in local decisions made about Crown land
- formalise opportunities and processes for community involvement and engagement
- recognise and support Aboriginal involvement in the management of Crown land.

About this guide

The department has partnered with the NSW Office of Local Government (OLG) to support councils in transitioning to the new arrangements, including through the provision of resources, training and engagement.

For access to, and use of, comprehensive resources to support council Crown land management, OLG has established Crown land legislation and resources webpages, available at www.olg.nsw.gov.au/crownland. This site is a single repository for advice, guidance notes and required forms, webcast recordings, as well as a range of other resources including FAQs, circulars and an interactive council officer Facebook page. Guidance

and support for the new management arrangements includes classification, categorisation, preparation of plans of management, Native Title, lease and licences.

The purpose of this document is to help local councils currently appointed to manage reserve trusts understand the changes for trusts and how to make any required corporate transition to the new arrangements.

Included in this document are:

- **Understanding the changes:** an overview of the transition changes and requirements for managers
- **Transition checklist:** a step-by-step checklist with supporting templates to help managers implement the transition activities. The checklist is provided as a guidance tool only and is not compulsory.

The CLM Act will impact reserve trusts differently depending on what type of manager is appointed. Managers should ensure they refer to the transition guide that is **applicable to their manager type**:

- *Transition guide for Crown land managers—local councils* (this guide)
- *Transition guide for Crown land managers—corporations*
- *Transition guide for Crown land managers—boards and administrators*
- *Transition guide for Crown land managers—schools of arts and other institutions.*

New terminology

The CLM Act introduces new terminology referred to in this guide. The following summary will help you understand key terms.

- **Appointment instrument:** a document that sets out the term and conditions of a Crown land manager's appointment
- **Category 1 non-council Crown land manager** or **Category 1 manager:** a Crown land manager that is not a local council and has been assigned as a Category 1 manager, having demonstrated advanced governance and expertise in Crown land management
- **Category 2 non-council Crown land manager** or **Category 2 manager:** a Crown land manager that is not a local council and is not assigned as a category 1 manager
- **Community engagement strategy:** a document approved by the Minister for Lands and Forestry that sets out the minimum requirements for engaging with the community on certain proposed activities on Crown land such as sale, leasing and licensing
- **Crown land manager** or **CLM:** the name given to a legal entity appointed to manage a Crown reserve
- **Crown Reserves Improvement Fund:** the name of the funding program that replaces the Public Reserves Management Fund to provide financial support for the development, maintenance and improvement of Crown reserves and freehold showgrounds
- **Council Crown land manager:** a local government council appointed as a Crown land manager for Crown reserves
- **Devolved Crown land management:** local government council management of Crown reserves subject to section 48 of the LG Act
- **Initial period:** the time between the commencement of the CLM Act and council adoption of the first community land plan of management prepared for the Crown reserve in accordance with the LG Act, or the land is classified as operational, whichever occurs first
- **Native title manager:** a person who has undertaken approved training and is employed or engaged by either a local council or category 1 non-council Crown land manager to ensure dealings with their Crown reserves comply with native title legislation.
- **Statutory land manager:** a legal entity established by the CLM Act so that individuals as members of a board and administrators can manage Crown reserves.

Understanding the changes

Managing Crown land

The CLM Act enables local councils who manage Crown reserves to do so from 1 July generally under the *Local Government Act 1993* (LG Act). This provides a more consistent and streamlined approach for council management of Crown reserves and responds to feedback from councils during the review into Crown lands in 2014.

Crown reserves will remain Crown land with councils able to manage the land, where it was a trust manager, as if it were 'public land' in accordance with the LG Act. Crown land managed by councils under section 48 of the LG Act (devolved management) remains available for leases or licences only with the consent of the Minister for Lands and Forestry.

New management structure

Local councils are authorised to manage Crown reserves (those where council was trust manager) under the LG Act—generally as 'community land'.

Management as community land requires council to:

- assign a community land 'category' to the reserve that aligns with the reserve purpose
- prepare and adopt a compliant LG Act plan of management (PoM) for the land within three years of the commencement of the CLM Act.

In certain appropriate circumstances, the Minister for Lands and Forestry may consent to council management as 'operational land'.

Councils will generally not be required to seek the minister's approval for dealings on Crown reserves, and councils will not have to lodge annual reports to the NSW Department of Industry—Lands & Water (the department).

Councils are required to employ or engage an accredited native title manager to ensure compliance with native title obligations when managing Crown reserves.

Over time, the department's engagement with councils is expected to diminish as a result of the new streamlined arrangements to council management of Crown reserves.

Transitional trusts

Under former arrangements, councils were appointed to manage a reserve trust entity that was established as a statutory entity under existing *Crown Lands Act 1989*. The reserve trust was responsible for the care, control and management of Crown reserves.

Whilst councils and non-council Crown land managers operating a corporate entity commenced their roles as Crown land managers on 1 July 2018, the reserve trust corporate entity has been extended until 30 June 2019. The extension provides an opportunity for councils, as corporations, to undertake any accounting and employment that may be required in the transition.

Appointed council managers

Under the CLM Act, any reserve trust entity currently being managed by a local council:

- on the day the CLM Act commences on 1 July 2018, is appointed as the Crown land manager for the same land
- will remain in place as a reserve trust for a period of 12 months only

- will then be abolished 12 months after commencement (on 30 June 2019), at which point the council will be directly appointed as Crown land manager for the same Crown reserves
- will then manage the same Crown reserves as the Crown land manager.

The additional 12-month period recognises the operational changes that may be required to wind up the reserve trust entity and transfer operations such as employment, finances, insurances, etc. to the appointed council’s entity.

In addition, aligning the abolishment of the reserve trust with the end of the financial year reduces financial reporting requirements.

All other relevant provisions of the CLM Act relating to the management of Crown reserves by Crown land managers apply from 1 July 2018 regardless of the 12-month period for entity-related changes.

The 12-month delay does not apply to reserve trusts managed by boards or administrators.

Revenue generated by a Crown land manager on the Crown reserve will only be available for expenditure on the Crown reserves under its management.

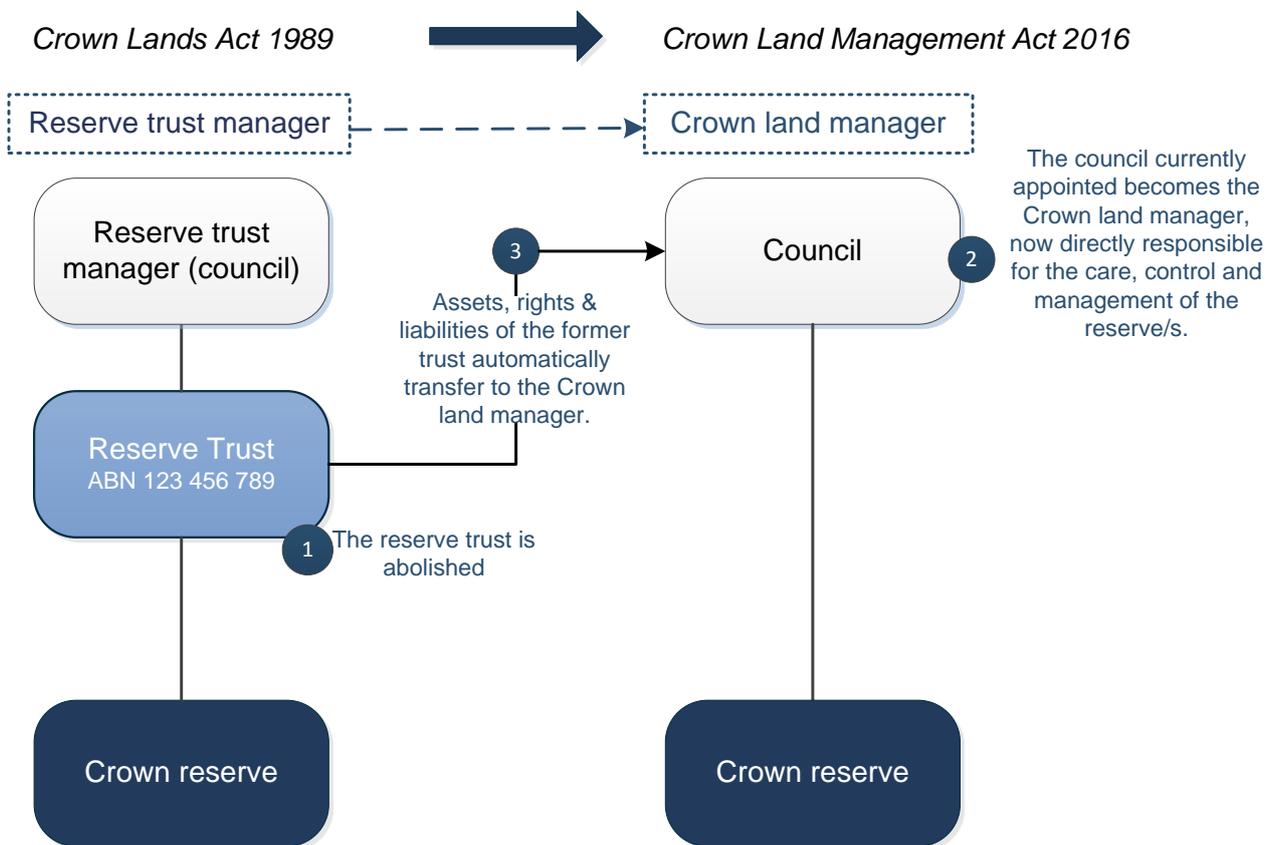


Figure 1. Transition to the CLM Act: Reserve trusts managed by councils

Transition of assets, rights and liabilities when the reserve trust is abolished

The CLM Act makes provision that all assets, liabilities, tenures and contracts of the existing reserve trust automatically transfer to the Crown land manager when the reserve trust is abolished (which will be 12 months after the CLM Act commences).

This means that any existing leases or licences issued by the trust will automatically continue under the CLM Act for their remaining term.

Leases and licences

A lease or licence is a type of tenure that gives permission to occupy and use Crown land for a specified purpose, term and subject to conditions. Council management of Crown reserves, as if the reserves were public land under the LG Act, means that councils issuing or granting tenures over the Crown reserves do so in accordance with the requirements for either community or operational land, including any other requirements arising from, or in the CLM Act.

The CLM Act enables council Crown land managers to enter into leases and licences under the LG Act during the initial period. The initial period is the period after commencement of the CLM Act and until the council adopts its first plan of management for the land or the land is classified as operational, whichever occurs first. Council is not able to enter into agreements for use, as lessor or licensor, on devolved management reserves.

NOTE: Two lease and licence fact sheets are available on the OLG resources web pages, along with standard templates for leases, licences and short-term licences to assist councils in their role as Crown land manager:

www.olg.nsw.gov.au/content/council-crown-land-managers-resources

Granting tenure during the initial period (transitional arrangements)

The Crown Land Regulation 2018 provides certain exemptions to the operation of the CLM Act and LG Act during the initial period. The CLM Act provides that, unless ministerial consent has been issued to classify and manage the land as if it were operational land, a council Crown land manager must manage Crown land as if it were community land under the LG Act. Under the LG Act, community land may not be leased or licenced until a plan of management is adopted that authorises the grant of the tenure.

The regulation introduces transitional arrangements that will enable councils to continue current authorised uses and short-term uses of Crown land whilst developing plans of management. During the initial period, and until council adopts a first plan of management for council managed Crown land, Councils are allowed to enter into a range of tenures as set out in the regulation.

Councils should review the provisions of the regulation, as amended on 15 February 2019, to review the full transitional provisions available to councils leasing and licencing during the transition period prior to finalising and adopting community land plans of management for the Crown land.

Aboriginal land rights and interests in Crown land

For the first time, Aboriginal land rights, native title rights and interests and Aboriginal people's involvement in the management of Crown land are explicitly recognised and supported in the CLM Act. Crown land has spiritual, social, cultural and economic importance and value to Aboriginal people. For many Crown reserves across the state, this traditional connection to the land remains largely intact.

Native title rights may exist over the Crown reserve you manage and councils, as reserve trust managers, previously had to consider the effect an activity could have with respect to the *Native Title Act 1993*.

Aboriginal cultural heritage places or items could also be present on Crown reserves you manage. When undertaking management activities on your Crown reserve, you must consider if these activities or works could possibly impact on Aboriginal cultural heritage places or items. The introduction of the CLM Act does not change this requirement.

A comprehensive review of Crown land management recommended that council and category 1 Crown land managers be enabled to manage Crown land with less oversight from the Minister for Lands and Forestry and the department.

The CLM Act delivers on this recommendation by authorising council and category 1 Crown land managers to manage certain land that is dedicated or reserved as Crown land under a streamlined model that reduces red-tape and departmental oversight.

The review also recognised that the Commonwealth native title legislation needed to be considered in implementing the review recommendations. The CLM Act includes specific provisions to facilitate compliance with the *Native Title Act 1993* (Cth).

Native title refers to the rights and interests in relation to land and waters held continuously by Aboriginal people under their traditional laws and customs, recognised by Australian law. It is important that Crown land managers understand their responsibilities and obligations under native title legislation when exercising Crown land management functions.

Compliance with native title legislation also means that registered native title claimants and native title holders are afforded their procedural rights under native title legislation.

Responsibility for native title

All managers of Crown reserves—including councils—are responsible for complying with the *Native Title Act 1993* (Cth).

New requirements

The CLM Act provides for councils and category 1 Crown land managers to deal with Crown land without the oversight of the Minister for Lands and Forestry or the department. This makes it essential that these groups clearly understand and comply with their native title obligations.

The CLM Act contains provisions to facilitate compliance by council and category 1 Crown land managers with the *Native Title Act 1993* (Cth). Part 8 of the CLM Act provides that council and category 1 Crown land managers must engage a qualified native title manager to oversee and approve dealings that may affect native title to ensure they are valid under native title legislation.

The role of a native title manager

Certain land management dealings require the advice and oversight of native title managers. This includes the issuing of leases, licences and permits and the approval or submission for approval of plans of management that authorise or permit certain dealings that may affect native title.

These types of dealings require written native title manager advice for Crown land managed by a council manager or category 1 non-council manager, or vested in a council under Division 4.2 of the Act, unless the land is excluded land.

Native title managers are not required to establish whether native title rights and interests have been extinguished in relation to Crown land.

Eligibility to be a native title manager

Only people who maintain qualifications or have completed training approved by the Minister for Lands and Forestry can provide advice as a native title manager, as required by Part 8 of the CLM Act.

Qualified native title managers can refer to other sources of information in generating their own advice as to whether dealings are valid under native title legislation.

Responsibility for native title liabilities for acts over Crown land

Under the CLM Act, councils and category 1 Crown land managers will be liable for any acts they carry out on Crown land that may affect native title.

Councils and category 1 Crown land managers will not be liable for any acts that preceded their management or ownership of land affected by native title. This liability will remain with the state.

Available resources

Extensive native title manager training for council native title managers was provided in 2017, and during May and June 2018. The accompanying workbook is available from the Department of Industry website: visit industry.nsw.gov.au and search 'Native Title Manager Workbook'. Several useful information sources for native title managers are detailed in the Introductory Native Title Manager training and Native Title Manager Workbook.

You can get information to guide further investigation or legal advice requests from the Australian Institute of Aboriginal and Torres Strait Islander Studies, which publishes a bi-monthly native title newsletter summarising native title cases decided in the prior two months. View the newsletters on the AIATSIS website: www.aiatsis.gov.au/news-and-events/newsletters

Construction, repairs and maintenance on Crown land

All Crown land managers are required to undertake development on Crown reserves in accordance with relevant planning legislation. Under the CLM Act, a Crown land manager is not a statutory body representing the Crown. While not giving public authority status, appointment as a Crown land manager does provide certain development pathways to recognise your public land management responsibilities.

Councils operating as Crown land managers will not be required to seek land owners consent to lodge development applications over land being managed as if public land. The Minister for Lands and Forestry is taken to have given consent for certain development applications over dedicated or reserved Crown land.

Development in relation to dedicated or reserved Crown land is for the purposes of the *Environmental Planning and Assessment Act 1979* and any instrument made under that act.

The minister is taken to have given written consent on behalf of the Crown (as the owner of dedicated or reserved Crown land) for its Crown land manager or the holder of a lease or licence over the land to make a development application relating to any of the following kinds of development:

- repair, maintenance, restoration or renovation of an existing building on the land if it will not do any of the following:
 - alter the footprint of the building by adding or removing more than one square metre (or any other area that may be prescribed by the regulations)
 - alter the existing building height by adding or removing one or more storeys
 - involve excavation of the land
- erection, repair, maintenance or replacement of any of the following on the land:
 - a building or other structure on the land permitted under the lease
 - a toilet block
 - a structure for the protection of the environment
- erection of a fence approved by the manager or the repair, maintenance or replacement of a fence erected with the manager's approval
- use of the land for any of the following purposes:
 - a purpose for which the land may be used under the CLM Act
 - a purpose for which a lease or licence has been granted under the CLM Act
- erection of signage approved by the manager or the repair, maintenance or replacement of signage erected with the manager's approval
- erection, repair, maintenance or replacement of a temporary structure on the land
- installation, repair, maintenance or replacement of services on the land
- carrying out on the land of any other development of a kind prescribed by the regulations or permitted under a plan of management for the land.

The deemed consent does not extend to any development that involves:

- the subdivision of land
- carrying out development of a kind excluded by the regulations.

Grant and loan funding

The Public Reserves Management Fund will be known as the Crown Reserves Improvement Fund under the CLM Act. While the name is new, the ability to apply for grant funding and the existing process will remain the same.

All Crown land managers are still encouraged to apply for this annual grant funding. Applications can be made online when the annual funding round is open: industry.nsw.gov.au/lands/reserves/funding.

Improving reserve governance

Crown reserves code of conduct

There has always been a requirement for reserve trust managers to prepare and adopt a written code of conduct. The introduction of the *Crown reserve code of conduct* has been timed to coincide with the start of the CLM Act. The code of conduct is the foundation of expected standards of management for the Crown reserve system, now and into the future.

The 10 standards detailed in the code of conduct outline the need to respect others; act with integrity and transparency; be responsive to our communities; and maintain an environment that has regard for the safety of volunteers, employees and reserve users. Importantly, the code of conduct will ensure that managers of Crown reserves can have the confidence to participate in an environment that is safe, respectful and enjoyable.

The code of conduct aligns with community expectations that Crown reserves will be managed with transparency, integrity and good governance—adopting consistent standards and behaviours will help to instil public trust and confidence in the integrity and professionalism of the Crown reserve system.

Appointment instruments for Crown land managers

Crown land manager appointments will be established and governed by appointment instruments that set out the terms and conditions of their management functions. The appointment instrument will generally set out the date of appointment, rules or guidelines to be complied with, adherence to the code of conduct and use of the land compatible with the reserve purpose. A standard suite of appointment instruments will be used by the Minister for Lands and Forestry when appointing Crown land managers and will be progressively issued to existing managers from commencement of the CLM Act.

Reporting requirements

Council Crown land managers are no longer required to report to the Minister for Lands and Forestry annually via the online Crown Reserves Reporting System (CRRS). However, non-council Crown land managers will still need to submit reports online via the CRRS portal.

Councils have reporting, accounting, administrative and management responsibilities through the LG Act that provide reporting to community and government as local government authorities, including audit and governance requirements.

Councils will need to ensure proper accounting and record-keeping as Crown land managers. The minister for the CLM Act may, by written direction given to a Crown land manager, require the manager to provide the minister with reports or other information on specified matters (at the times specified) concerning the exercise of the manager's management functions.

Community Engagement Strategy

As custodians of some of the most valuable land in NSW, the Minister for Lands and Forestry and Crown land managers have an obligation to current and future generations to optimise benefits from Crown reserves. Community needs and expectations change over time and engaging with the community ensures informed decision-making and better outcomes for the community that uses and enjoys Crown reserves.

The Community Engagement Strategy is a statutory requirement of the CLM Act and applies to decisions made only by the department and all non-council Crown land managers. Local councils operating as a Crown land manager are not required to comply with the strategy. Instead, the community engagement and consultation processes in the LG Act provide adequate opportunities for robust and local community engagement, including mandatory preparation of community land plans of management.

While local councils, which manage land under the LG Act, are not bound by the Community Engagement Strategy, they do have opportunities for involvement when the minister or non-council Crown land managers conduct engagement under the strategy because they are key stakeholders in development within their local communities.

The Community Engagement Strategy seeks to ensure that decisions about Crown land are made in an open and transparent way by setting out engagement requirements for certain activities such as leasing and licensing. The statutory requirement for community engagement corresponds with the expected level of impact on community use and enjoyment if a lease or licence was granted.

For a copy of the Community Engagement Strategy and more information about its requirements, visit the department's website at industry.nsw.gov.au and search 'community engagement strategy'.

Crown cemetery operators

Crown land managers that are appointed to manage a Crown cemetery continue to have legislative requirements under the *Cemeteries and Crematoria Act 2013*. In situations where the same function is covered under both the CLM Act and the *Cemeteries and Crematoria Act 2013* you should rely on the provisions within the *Cemeteries and Crematoria Act 2013*.

Transition checklist and templates

Reserve trusts managed by councils will be abolished 12 months after the CLM Act commences. This delay is to help stage the transition to the new framework for councils currently managing reserve trusts (as council corporate managers).

Whilst the CLM Act provides for any assets, rights and liabilities of a reserve trust to automatically transfer to its corporate managers when the reserve trust is abolished, there are certain things Crown land managers will need to do to complete the transition.

This will be most evident where there are business activities or undertakings in the name of the reserve trust entity. For example, if staff are employed by the reserve trust entity or there are bank accounts and other trading accounts held by the reserve trust, the council corporate manager will need to ensure these are transferred to the council.

Even if the reserve trust is not actively carrying on a business, managers will need to ensure that the reserve trust entity is wound down and any statutory obligations are met, including lodgement of final Business Activity Statements or other tax-related returns for the reserve trust.

A checklist and pro forma templates are provided to assist council managers in their transition to the two-tier management structure under the CLM Act.

You are **not** required to complete the checklist or submit it to the department—it is provided as a guidance tool only.

Checklist for winding down the reserve trust

Is this checklist relevant for my reserve trust?

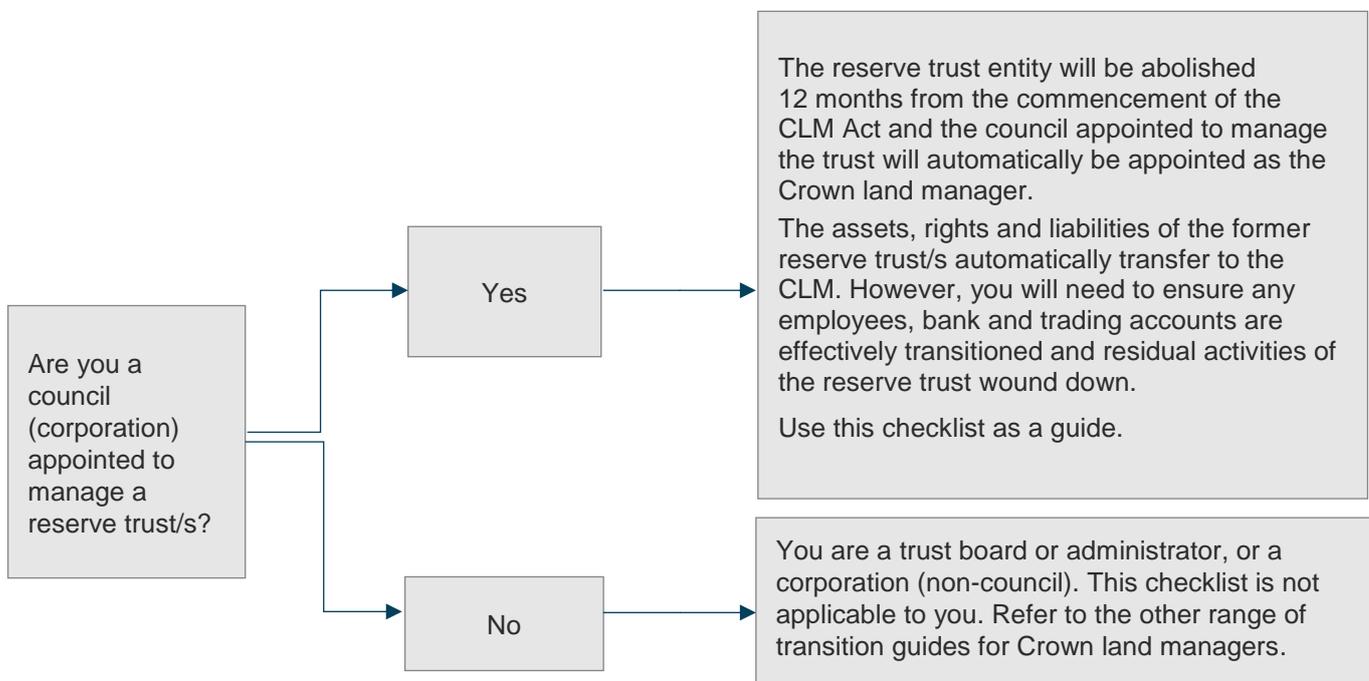


Figure 2. How to determine the relevance to you of the checklist

Understanding the transition requirements

The CLM Act provides for assets, rights and liabilities of the trust to automatically transfer to the Crown land manager 12 months after the CLM Act commences. However, there are certain activities you must do to complete the **business transfer** and **wind down** the reserve trust. You may also need to notify certain stakeholders of the changes.

A simple way to identify the business transfer or wind-down requirements is to ask:

- Are there any accounts, registrations, assets or other contractual arrangements (other than leases and licences) currently held in the name of the reserve trust?

If the answer is **yes**, you will need to take some form of action to complete the business transfer and wind down.

If **no**, and the activities or assets are instead in the name of the council, no action is likely to be required. You will still need to consider whether certain stakeholders need to be notified and ensure the reserve trust activities are effectively wound down.

Managers should be particularly careful to ensure any staff employed by the reserve trust are transferred lawfully to the Crown land manager, with transparency and with minimal disruption.

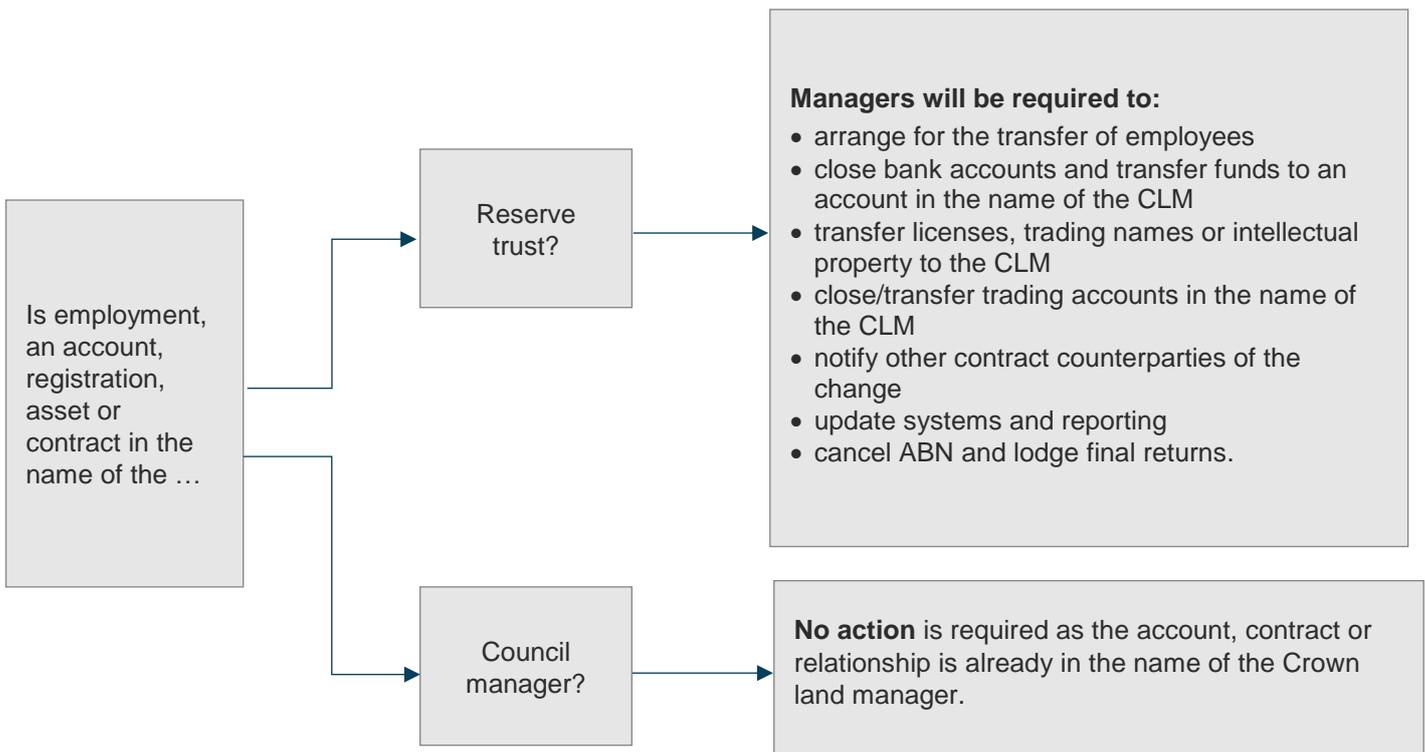


Figure 3. Transition requirements

Transition checklist

Table 1 Checklist for winding down a reserve trust

Winding down the reserve trust	Actions	Timing	Action complete?	Reference
A. Statutory authorities				
1. Does the reserve trust entity have an ABN?	<ul style="list-style-type: none"> If 'yes', the ABN will need to be cancelled and the Australian Business Register notified. The department intends to complete this on your behalf. Further information will be provided at a later date. If 'no', no action is required. 	Within 28 days of abolishment of the reserve trust i.e. 12 months from commencement of the CLM Act		n/a
2. Is the reserve trust entity registered for payroll tax?	<ul style="list-style-type: none"> If 'yes': <ul style="list-style-type: none"> notify Revenue NSW to cancel the payroll tax registration lodge a final return register for payroll tax in the name of the council (if not already registered). If 'no', no action required. 	As soon as practicable		n/a
3. Does the reserve trust entity operate in a regulated industry or hold a special operating license?	<ul style="list-style-type: none"> If 'yes', notify the regulator or licencing body to transfer the operating licence or registration from name of the reserve trust to the name of the council. If 'no', no action required. 	As soon as practicable prior to abolishment of the reserve trust i.e. 12 months from commencement of the CLM Act		n/a
4. Does the Reserve Trust have any business or trading names?	<ul style="list-style-type: none"> If 'yes', notify ASIC to transfer the business or trading name/s from the reserve trust to the name of the council. If 'no', no action required. 	As soon as practicable after abolishment of the reserve trust i.e. 12 months from commencement of the CLM Act		n/a
5. Does the Reserve Trust have any other registrations, licenses or permits with Service NSW?	<ul style="list-style-type: none"> If 'yes', you will need to visit a Service NSW centre to re-issue the registration, licences or permits from the name of the reserve trust to the name of the council. If 'no', no action required. 	As soon as practicable after abolishment of the reserve trust i.e. 12 months from commencement of the CLM Act		n/a
6. Is the reserve trust listed on a land title?	<ul style="list-style-type: none"> If 'yes', there is no action required by you. NSW Department of Industry will notify Land Registry Services on your behalf. 	n/a		n/a

Winding down the reserve trust	Actions	Timing	Action complete?	Reference
B. Insurance				
7. Does the reserve trust have insurance via the Treasury Managed Fund (TMF)?	<ul style="list-style-type: none"> If 'yes', there is no action required by you. NSW Department of Industry will notify the TMF on your behalf. If 'no', refer to question 8. 	n/a		n/a
8. Does the reserve trust have other insurance policies in place (not via the TMF)?	<ul style="list-style-type: none"> If 'yes', notify your insurer or broker to transfer the insurance policy from the name of the reserve trust in to the name of the council and request an updated Certificate of Currency If 'no', consider whether you should have insurance in place. 	As soon as practicable after abolishment of the reserve trust i.e. 12 months from commencement of the CLM Act		Template B.2: Notification to insurers
C. Banking				
9. Does the reserve trust operate a bank account, merchant facilities or credit cards?	<ul style="list-style-type: none"> If 'yes', notify your banking institution to: <ul style="list-style-type: none"> open a new bank account in the name of the council transfer the funds and any attached merchant facilities or other products, from the reserve trust account to the Crown land manager account close the reserve trust bank account. <p>You may wish to request your bank leave the reserve trust account open for a reasonable period to allow time for direct deposits and payments to be redirected.</p> <p>You should also consider any payroll or supplier payments due on or around the transition date and tailor your instructions to the bank to ensure you have facilities in place to meet these commitments.</p> <p>You can also transfer reserve trust funds to an existing bank account in the name of the council. A separate bank for reserve activities will help you separate Crown reserve funds from the funds required for any other unrelated activities.</p> <ul style="list-style-type: none"> If 'no', no action required. 	As soon as practicable after abolishment of the reserve trust i.e. 12 months from commencement of the CLM Act		Template D: Bank accounts

Winding down the reserve trust	Actions	Timing	Action complete?	Reference
D. Employees				
10. Does the reserve trust employ staff?	<ul style="list-style-type: none"> • If 'yes', you will need to notify employees of their transfer to the Crown land manager on the same terms and conditions. <p>Former reserve trust employees will continue to be covered by their existing industrial agreement/s.</p> <p>You will need to ensure that employee records are transferred to the council's systems and that original start date, period of service, pay rates and other entitlements are recognised.</p> <p>You will also need to:</p> <ul style="list-style-type: none"> ○ issue PAYG payment summaries to employees on behalf of the reserve trust ○ lodge a final PAYG tax return in the name of the reserve trust. • If 'no', no action is required.	You should notify employees as soon as possible, prior to abolishment of the reserve trust i.e. 12 months from commencement of the CLM Act		Template A: Notification to employees
11. Does the reserve trust remit superannuation on behalf of employees?	<ul style="list-style-type: none"> • If 'yes', you should notify the fund/s of the change in the employing entity from the reserve trust to the council and which employees (and applicable membership numbers) are affected. • If 'no', then no action is required. 	As soon as practicable after abolishment of the reserve trust i.e. 12 months from commencement of the CLM Act		[PF 3]
E. Other stakeholders				
12. Does the reserve trust hold utility accounts in its name? <ul style="list-style-type: none"> ▪ utilities (water, gas, electricity) ▪ telephone / mobile phone 	<ul style="list-style-type: none"> • If 'yes', you should: <ul style="list-style-type: none"> ○ notify the utility provider to close the account in the name of the reserve trust and issue a final invoice for payment ○ transfer services to an existing account in the name of the council or open a new account in the name of the council. • If 'no', then no action is required. 	As soon as practicable after abolishment of the reserve trust i.e. 12 months from commencement of the CLM Act		Template B: Notification to suppliers

Winding down the reserve trust	Actions	Timing	Action complete?	Reference
13. Does the reserve trust have other trading accounts in its name for example? <ul style="list-style-type: none"> • Suppliers • Customers • Professional advisors including accountants, lawyers, other. 	<ul style="list-style-type: none"> • If 'yes', you should notify suppliers who provide goods and services to the reserve trust to: <ul style="list-style-type: none"> ○ close the account in the name of the reserve trust and issue a final invoice for payment (payable by the council) ○ open a new account in the name of the council under the same terms and conditions. You should notify customers of the reserve trust to: <ul style="list-style-type: none"> ○ close the account in the name of the reserve trust and open a new account in the name of the council on the same terms and conditions ○ redirect payments to the council's new bank account. • If 'no', then no action is required. 	As soon as practicable after abolishment of the reserve trust i.e. 12 months from commencement of the CLM Act		Templates B and B.1: Notification to suppliers and Notification to customers
14. Are there other users of the reserve including lessees, tenants or community user groups?	The CLM Act provides for the automatic transfer of assets, rights and liabilities to the council which includes contracts and leases. You are not required to re-issue leases or contracts in the name of the council. You may wish to notify lessees and other contract counter parties of the changes.	As soon as practicable after abolishment of the reserve trust i.e. 12 months from commencement of the CLM Act		Template C: Notification to lessees and other land users
F. Systems, stationery and branding				
15. Does the reserve trust have: <ul style="list-style-type: none"> • accounting, payroll, customer database or other operating IT systems? • stationery or marketing collateral? • a website or Facebook page? 	Update systems and software to be in the name of the council or transfer licences where appropriate. Update collateral to be in the name of the council including: <ul style="list-style-type: none"> • invoices and receipts • all stationery including letterhead and email signatures • logos, signage and other marketing collateral • your website, domain name or Facebook page • communication tools including newsletters. 	As soon as practicable after abolishment of the reserve trust i.e. 12 months from commencement of the CLM Act		n/a

Template A: Notification to employees

[insert date]

[employee name]

[address line 1]

[address line 2]

Re: *Crown Land Management Act 2016* and transfer of your employment

I refer to your employment with [insert name of reserve trust].

As you may be aware, the *Crown Land Management Act 2016* (the Act) came into full effect on [insert commencement date of the CLM Act]. Under schedule 7 of the Act, the legal entity who is your current employer, [insert name of reserve trust], will be abolished on [insert date] and its assets, rights and liabilities will be transferred to [insert name of crown land manager].

As a result, from [insert commencement date], your new employer will be [insert name of crown land manager]. [insert name of crown land manager] will recognise your period of service and accrued entitlements and you can continue working on **the same terms and conditions** as your current employment. Your employment will continue to be covered by [insert applicable industrial agreement (if relevant)] and the *Fair Work Act 2009*.

You are deemed to accept employment with [insert name of crown land manager] unless you notify us otherwise by close of business on [insert date, not less than 7 days from the date of letter but before the commencement date of the CLM Act].

Please also find enclosed a copy of the Fair Work Statement relating to business transfer situations.

If you have any queries in relation to this letter or your employment, please contact [insert name] on [contact details].

Your sincerely

[name]

[position]

Note: The example letter is applicable to employees of reserve trusts managed by **corporations and councils only**. You should:

- copy and paste the body of the letter onto the reserve trust letter head
- replace all [red text]
- modify other wording as applicable.

The key message to convey to employees is that there is no change to their employment terms and conditions.

Managers should be aware that under the *Fair Work Act 2009*, employers **must** provide employees a copy of the Fair Work Statement.

Template B: Notification to suppliers

- Suppliers
- Utilities
- Other trading partners
- Advisers

[insert date]

[addressee]

[address line 1]

[address line 2]

Dear Sir/Madam

Re: Change of account

Account [or policy / license] holder: [XYZ Trust]

ABN [if registered]

Account [or policy / license] number: [insert account number/s]

I refer to the [XYZ Trust], which holds the above named accounts with you.

Please be advised that *Crown Land Management Act 2016* (the Act) came into full effect on [insert commencement date of the CLM Act]. Under schedule 7 of the Act, [XYZ Trust] is abolished effective [insert date] and the assets, rights and liabilities are transferred to the appointed Crown land manager, which is [insert name of crown land manager].

An authority letter confirming the same from the NSW Department of Industry is attached for your reference.

Could you please:

1. Open a new account in the name of [insert name of crown land manager]
2. [For utility providers only] Transfer all services from the [XYZ Trust] account to the new account. **Please ensure you do not disconnect any services.**
3. Close the account in the name of [XYZ Trust].
4. Issue a final invoice for services rendered up to [insert date].

All other contact details, including authorised persons, remain the same [strike out or amend if not accurate].

Should you have any queries, please contact [name] on [phone] or via email on [insert email].

Your sincerely

[name]

[position]

The authorised contact person or account signatory for the reserve trust should sign off.

Note: This wording is provided as an example only. You should:

- copy and paste the body of wording into your own letter head or an email
- replace all [red text]
- delete, modify or add text as relevant.

Template B.1: Notification to customers

[insert date]

Circular to customers

Dear Sir/Madam

Re: Change of account details

[XYZ Trust]

ABN [if registered]

Please be advised that *Crown Land Management Act 2016* (the Act) came into full effect on [insert commencement date]. Under schedule 7 of the Act, [XYZ Trust] is abolished effective [insert date] and the assets, rights and liabilities are transferred to the appointed Crown land manager, which is [insert name of crown land manager].

An authority letter confirming the same from the NSW Department of Industry is attached for your reference.

From [insert date], all activities associated with the [XYZ Reserve] will be in the name of [insert name of crown land manager]. Could you please update your systems and redirect all future payments to the following bank account:

Bank details

New bank details—from commencement	
Bank:	[insert bank]
BSB:	[insert BSB]
Account name:	[insert account name]
Account number:	[insert account number]

All other contact details remain the same [strike out or amend if not accurate].

Should you have any queries, please contact [name] on [phone] or via email on [insert email].

Your sincerely

[name]

[position]

The authorised contact person for the reserve trust should sign off.

Note: This wording is provided as an example only. You should:

- copy and paste the body of wording into your own letter head or an email
- replace all [red text]
- delete, modify or add text as relevant.

Template B.2: Notification to insurers

[insert date]

[addressee]

[address line 1]

[address line 2]

Dear Sir/Madam

Re: Change of policy details

Account holder: [XYZ Trust]

ABN [if registered]

Policy number/s: [insert policy description and number/s]

I refer to the [XYZ Trust] which holds the above named insurance policies with you.

Please be advised that *Crown Land Management Act 2016* (the Act) was implemented on [insert commencement date]. Under schedule 7 of the Act, [XYZ Trust] is abolished effective [insert commencement date] and the assets, rights and liabilities are transferred to the appointed Crown land manager, which is [insert name of crown land manager].

An authority letter confirming the same from the NSW Department of Industry is attached for your reference.

Could you please update all existing policies to be in the name of [insert name of crown land manager and ABN].

All other contact details, including authorised persons, remain the same [strike out or amend if not accurate].

Should you have any queries or require further information, please contact [name] on [phone] or via email on [insert email].

Your sincerely

[name]

[position]

The authorised contact person for the reserve trust should sign off.

Note: This wording is provided as an example only. You should:

- copy and paste the body of wording into your own letter head or an email
- replace all [red text]
- delete, modify or add text as relevant.

Template C: Notification to lessees and other land users

- Lessees
- Community user groups
- License holders

[insert date]

[addressee]

[address line 1]

[address line 2]

Dear Sir/Madam

Re: *Crown Land Management Act 2016* and appointment of Crown land manager

Please be advised that the *Crown Land Management Act 2016* (the Act) came into full effect on [insert commencement date of the CLM Act]. Under schedule 7 of the Act, [XYZ Trust] is abolished effective [insert date] and the assets, rights and liabilities are transferred to the appointed Crown land manager, which is [insert name of crown land manager].

The [contract / lease or license – be specific where possible] you hold with [XYZ Trust] therefore is transferred to [insert name of crown land manager]. There is otherwise no change to the terms and conditions of the agreement and all reserve contact details remain the same [strike out or amend if not accurate].

An authority letter confirming the same from the NSW Department of Industry is attached for your reference.

Should you have any queries, please contact [name] on [phone] or via email on [insert email].

Your sincerely

[name]

The authorised contact person for the reserve trust should sign off.

Note: This wording is provided as an example only. You should:

- copy and paste the body of wording into your own letter head or an email
- replace all [red text]
- delete, modify or add text as relevant.

Template D: Bank accounts

[insert date]

[addressee]

[address line 1]

[address line 2]

Dear Sir/Madam

Re: New bank account and transfer of funds

Account holder: [XYZ Trust]

ABN [if registered]

Account number: [insert account number/s]

I refer to the the above named accounts held with you of which I am a signatory.

Please be advised that *Crown Land Management Act 2016* (the Act) came into full effect on [insert commencement date]. Under schedule 7 of the Act, [XYZ Trust] is abolished effective [insert commencement date] and the assets, rights and liabilities are transferred to the appointed Crown land manager, which is [insert name of crown land manager]. Under schedule 7 of the Act, this includes funds in current bank accounts.

An authority letter confirming the same from the NSW Department of Industry is attached for your reference.

Could you please:

[Option 1] – Open new accounts

1. Open new bank account/s in the name of [insert name of crown land manager], effective [insert commencement date] (the new accounts)
2. Transfer funds from the reserve trust accounts to the new accounts
3. Allow online access to the new accounts
4. [If relevant] Transfer the merchant facilities to the new accounts
5. [If relevant] Cancel credit cards issued to [XYZ Trust] and reissue in the name of [XYZ Land Manager].
6. Transfer any direct debits from the reserve trust account/s to the new account/s
7. Please continue to allow deposits into the reserve trust accounts until further notice.

[Option 2] – Transfer to an existing CLM Account

1. Transfer funds from the reserve trust accounts to the following account:
[insert CLM account details]
2. [If relevant] Transfer the merchant facilities to the new accounts
3. [If relevant] Cancel credit cards issued to [XYZ Trust] and reissue in the name of [XYZ Land Manager].
4. Please continue to allow deposits into the reserve trust accounts until further notice.

All other contact details and signatories should remain the same [strike out if not accurate].

Should you have any queries, please contact [name] on [phone] or via email on [insert email].

Your sincerely

[name]

[position]

The authorised contact person and account signatory should sign off.

Note: This wording is provided as an example only. You should:

- copy and paste the body of wording into your own letter head or an email
- replace all [red text]
- delete, modify or add text as relevant.

You should also consider any payroll or supplier payments due on or around the transition date and tailor your instructions to the bank to ensure you have facilities in place to meet these commitments.