



THE LAW SOCIETY  
OF NEW SOUTH WALES

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15 March 2024

Statutory Review of the *Crown Land Management Act 2016*  
NSW Department of Planning, Housing and Infrastructure

[By email: cl.enquiries@crowland.nsw.gov.au](mailto:cl.enquiries@crowland.nsw.gov.au)

Dear Sir/Madam,

**Discussion paper – Statutory Review of the *Crown Land Management Act 2016***

Thank you for the opportunity to provide feedback on the Statutory Review of the *Crown Land Management Act 2016* Discussion Paper. The Law Society's Indigenous Issues, Property Law, Rural Issues and Environmental Planning and Development Committees have contributed to this submission.

Our feedback on relevant questions in the Discussion Paper is provided in the attached comments table.

Any questions in relation to this letter should be directed to Gabrielle Lea, Senior Policy Lawyer on 9926 0375 or [gabrielle.lea@lawsociety.com.au](mailto:gabrielle.lea@lawsociety.com.au).

Yours faithfully,

Brett McGrath  
President



No.	Question	Law Society comments
<b>Objects and principles</b>		
1.	Should the objects of the CLM Act be updated? If so, how should they change?	<p>In our view, the objects of the <i>Crown Land Management Act 2016</i> (CLM Act) remain valid and do not require updating.</p> <p>However, our members report that object 1(e) - to effectively increase the participation of Aboriginal people in Crown lands use and management - has not been borne out in practice. We suggest that more needs to be done to increase the uptake of appointing Aboriginal people as Crown land managers. This might include targeted engagement and training initiatives for Aboriginal communities, perhaps in partnership with Aboriginal community-controlled organisations.</p>
2.	Are the principles of Crown land management still relevant, and is it appropriate to continue to include them in the CLM Act? Or should they be located outside of the Act, where they can be more easily maintained?	<p>Yes, in our view the principles of Crown land management are still relevant, and it is appropriate that they remain in the CLM Act. It would not be appropriate, in our view, to locate the principles anywhere other than the CLM Act. The principles are, by nature, high level and should not require frequent amendment. The review of the principles every five years as part of the statutory review process is sufficient in our view.</p>
<b>Crown Land Transactions</b>		
4.	Are the conditions that must be met before Crown land in the Western Division of NSW can be purchased and converted to freehold land still appropriate? If not, what should change?	<p>In our members' experience, the conditions that must be met before Crown land in the Western Division of NSW can be purchased and converted to freehold land are still appropriate, but we note that significant procedural difficulties can be encountered when acting for clients seeking to purchase and convert Crown land in the Western Division of NSW, including:</p> <ul style="list-style-type: none"> <li>• reduced information included in the Information certificate obtained from Crown Lands NSW;</li> <li>• issues in contacting Crown Lands NSW staff with sufficient local knowledge, due to apparent increased centralisation of staff; and</li> <li>• finding the relevant Gazette notice to ascertain details of the relevant Crown Lands NSW manager.</li> </ul> <p>Consideration could be given to greater digitisation of information relating to Crown land in the Western Division of NSW, and Crown land holdings more generally.</p>
5.	What are your views on granting all perpetual leaseholders the same rights to apply to purchase their leases, including holders of special leases in perpetuity?	<p>We support granting all perpetual leaseholders the same rights to apply to purchase their leases, including holders of special leases in perpetuity, to remedy the current inequitable distinction, as identified in the Discussion Paper on page 13.</p>



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6.	<p>What changes could be considered to the CLM Act to make it easier to submit an application for certain development of dedicated or reserved Crown land? For example, could the kinds of development where the Minister is taken to have already given consent be expanded?</p>	<p>We support consideration being given to expanding the kinds of development where the Minister is deemed to have granted consent. The difficulty is balancing any expansion without undermining the principles of the CLM Act.</p> <p>Consideration could be given to the analogous conceptual approach of the complying development consent framework under the <i>Environmental Planning and Assessment Act 1979</i>, but mindful of the different objects of that Act.</p> <p>The Paper identifies a lack of awareness of section 2.23 of the CLM Act: current development for which the Minister is deemed to have given consent. Whether the section is further expanded or not, consideration should be given to educative steps that could be taken to increase public awareness and understanding of the section.</p>
7.	<p>What is the best way to notify people about events, activities or changes that may have an impact on Crown land in their local area?</p>	<p>The question of sufficient notification is an issue that arises in many contexts, in line with the decreased circulation, or existence, of locally based newspapers. Consideration could be given to utilising online newspapers, Local Government websites and/or the Planning Portal.</p>
<p><b>Management of Crown land</b></p>		
10.	<p>What are your views about expanding or introducing new land manager categories or clarifying the scope of the existing categories?</p>	<p>Noting the significant difference in the powers and obligations of Category 1 and Category 2 land managers, in our view, there is scope for a third category of land manager that could, for example, enter into:</p> <ul style="list-style-type: none"> <li>a. leases for a period of three years or less;</li> <li>b. longer term licences for grazing and farming; and</li> <li>c. licences for farming where the land has previously been farmed.</li> </ul> <p>Consideration could also be given to a different category of land manager for small areas of crown reserves in rural areas. Currently the same rules apply to managers of reserves, regardless of the size or financial capacity of the reserve. Many small reserves are managed by volunteers, who were previously trustees, who can find the obligations burdensome and overwhelming.</p>
11.	<p>What are your views on Crown land managers and council land managers having more flexibility to grant longer-term leases and licences on Crown land without ministerial consent? Should the powers of category 1 land managers to grant tenures be aligned with council land managers, given that their native title obligations are aligned?</p>	<p>In our view, Category 2 land managers should be able to enter into leases and licences that are consistent with the purpose of the Crown Reserve. For example, a land manager of a showground should be able to enter into a lease of the showground with the local incorporated association that operates the show without being required to obtain the consent of the Minister.</p>



No.	Question	Law Society comments
<b>Other matters</b>		
26.	Do you have comments on any other matters or issues, or any feedback about how the CLM Act interacts with other relevant legislation?	As mentioned earlier, in our members' experience, difficulties are encountered when dealing with Crown Lands NSW from a more practical or operational perspective, such as the inability to speak to a local Crown Lands NSW representative directly, and the delay in response times. We acknowledge that these issues are not legislation based, but nonetheless are important considerations from the perspective of whether the legislative framework is working.