



## 12. Crown land management

Approximately 93% of Western Australia's land area is Crown land (that is, not private land). The majority of this comprises pastoral leases, areas set aside for aboriginal persons and "unallocated" Crown land. Approximately 6% of the State is set aside for conservation purposes.

With such a large area managed by public authorities, the laws applying to the use and administration of Crown lands are of great importance in Western Australia. This Fact Sheet examines the different types of use of Crown land, and the controls that apply to their management.

For information on management of terrestrial conservation reserves, see **Fact Sheet 11: Conservation reserves**, State forests, see **Fact Sheet 10: State forests and timber reserves** and for marine reserves, **Fact Sheet 17: Marine reserves**.



### What is Crown land?

"Crown land" refers to all land in Western Australia that is not private (or "freehold") land. As Crown land occupies 93% of the State, its sustainable management is essential for the effective protection of biodiversity and heritage.



### General controls applying to Crown land

Under the *Land Administration Act 1997* it is an offence for a person to do any of the following things on Crown land without approval of the Minister for Lands or "reasonable excuse":

- (a) reside on Crown land;
- (b) construct roads or tracks, or erect any structure, on Crown land;
- (c) clear, enclose, cultivate or cause or allow stock to graze on Crown land;
- (d) excavate Crown land or reclaim Crown land below high water mark;
- (e) collect, drill for or store water on, or take water from, Crown land;
- (f) remove from Crown land any plant (whether alive or dead) or such other thing of any kind as is prescribed;
- (g) deposit or leave any thing of any kind on Crown land; or
- (h) discharge any firearm or other weapon on Crown land.

"Reasonable excuse" would likely include actions that are approved under another written law or which are the result of a genuine accident or mistake.

A person committing one of these offences is liable to a maximum fine of \$10,000 and a daily penalty of \$200 for continuing offences.



### Controls applying to reserved land

#### What are reserves?

"Reserves" are areas of Crown land that have been set aside for a particular public purpose or use. Approximately 15% of the State is held under a reserve of some description.

#### Important disclaimer:

This Fact Sheet is for general information purposes. Important legal details have been omitted to provide a brief overview of this area of the law. If you require legal advice relating to your specific circumstances you should contact the Environmental Defender's Office WA (Inc) or your solicitor. The EDO takes no responsibility for any loss or damage resulting from any error in this Fact Sheet.

## How are reserves created?

Most reserves are created by an order of the Minister for Lands under the *Land Administration Act*. Reserves may also be created under other statutes: for example, soil conservation reserves can be created by proclamation of the Governor under the *Soil and Land Conservation Act 1945*. Note also that areas may be designated as reserves under the Metropolitan Region Scheme or a local town planning scheme, and special controls may apply (for example, development only permitted where it is consistent with the purpose of the reserve – see [Fact Sheet 3: Planning law](#) and [Fact Sheet 4: Development controls](#)).

The Minister for Lands may by order classify a reserve as a “class A reserve”. Special rules apply to class A reserves and certain other reserves, and these will be considered below. When creating a reserve under the *Land Administration Act*, the Minister is required to consult with the local government within the district where the reserve is located unless it is impracticable to do so.

## How is a reserve be altered or cancelled?

For most types of reserves, the Minister for Lands can alter the boundaries, change the purpose or cancel a reserve by making an order to that effect. This order does not have to be published in the *Government Gazette*, and simply becomes effective when it is registered on the Crown Land Title Register.

Before altering or cancelling a reserve, the Minister is required to:

- obtain the consent of the management body (if any); and
- where practicable, consult with the local government in whose district the reserve is located.

### Class A reserves

Before a class A reserve can be cancelled or its boundaries or purpose altered, the Minister for Lands must first present the proposal to both Houses of Parliament. Either House may vote to disallow the proposal. Before referring a proposal to Parliament, the Minister must:

- give at least 30 days notice of the proposal in a newspaper circulating throughout the State;
- where practicable, consult with the relevant local government; and
- obtain the consent of the management body (if any).

The following minor alterations to the boundaries of a class A reserve can be undertaken without the proposal having to be considered by Parliament:

- adding Crown land to the reserve;
- correcting one or more unsurveyed boundaries *provided* that the reduction in area (if any) is not more than 5%;
- excising 5% or one hectare, whichever is the less, for the purpose of public utility services (e.g. drainage, gas, power, telecommunications, water and sewerage);
- re-describing locations or lots *provided* the external boundaries of the reserve remain unchanged; or
- amalgamating two or more class A reserves which have similar purposes and the same management body.

### Class B reserves under repealed Land Act

Class B reserves created under the repealed *Land Act 1933* continue in force under the *Land Administration Act*. Under the transitional provisions to the new Act, the Minister may by order cancel a class B reserve. Once a class B reserve is cancelled, the Minister must table a report before both Houses of Parliament explaining the reasons for the cancellation and the future intended use of the land.

### Conservation areas

Special controls apply to some conservation reserves. For information on the process for creating and abolishing these reserves, refer to [Fact Sheet 11: Conservation reserves](#) and [Fact Sheet 17: Marine reserves](#).

### State forests

Special controls apply to cancelling or amending State forests or timber reserves. For further information, refer to [Fact Sheet 10: State forests and timber reserves](#).

## Swan River management area

The Minister for Lands must consult with the Swan River Trust before cancelling or altering the purpose of a reserve, or reducing the size of a reserve within the Swan River management area. The “Swan River management area” includes parts of the Swan, Avon, Helena, Southern and Canning Rivers that are reserved as “waterways” under the *Metropolitan Region Scheme*, and lands adjoining those waters that are reserved as parks and recreation areas under the *Metropolitan Region Scheme*. For further information on activities in the Swan River management area, refer to [Fact Sheet 21: Rivers and watercourses](#).

## How are reserves managed?

The way a reserve is managed is generally governed by three things: the **purpose** of the reserve; the contents of the **management order** applying to the reserve; and the contents of a relevant **management plan**.

### Purpose of the reserve

The purpose of a reserve is stated in the document that created it. This is usually a brief statement such as the land is set aside “for nature conservation” or “for the benefit and use of Aboriginal persons”. A reserve should only be used in a way which is consistent with its purpose. Copies of the document establishing a reserve are available from the Department of Planning and Infrastructure (DPI).

### Management order

Where a reserve has been placed in the care, control and management of a body, the instrument giving effect to this act is called a “management order”. A management order must be consistent with the purpose of the reserve and may include conditions on how the reserve is to be managed. Copies of the order establishing a reserve are available from the DPI.

The person or public authority responsible for managing the reserve (called a “management body”) must manage the reserve in accordance with the terms of the management order and the purpose of the reserve. Special rules can apply to some reserves, including:

- Conservation reserves and State forests managed by the Department of Conservation and Land Management (CALM) – these reserves are managed in accordance with a management plan developed by the Conservation Commission or Marine Parks and Reserves Authority (refer to [Fact Sheet 10: State forests and timber reserves](#), [Fact Sheet 11: Conservation reserves](#) and [Fact Sheet 17: Marine reserves](#)); and
- Local government reserves – local government must comply with the management order and any other laws applying to the management of the reserve (for example, land clearing laws). Otherwise, the local governments may undertake a range of activities on a reserve such as making improvements, undertaking earthworks or (subject to the approval of the Minister for Lands) granting licences for persons to run stock on the reserve.

If the land is reserved, but there is no management order in place for that reserve, it is known as an “unmanaged reserve”. Such reserves are subject only to general controls found in the *Land Administration Act* (which were considered in the previous section).

### Management plans

The Minister for Lands may request that a management body submit a management plan for a reserve. In preparing a management plan, the management body must consider any conservation, environmental or heritage issues relevant to the management or use of the reserve. Although the management plan is not legally binding, the Minister may cancel the authority of the management body if it has failed to provide a management plan when requested or does not comply with the management plan or the management order. Copies of management plans are available from the DPI.

### Other laws applying to the reserve

Laws relating to management of the environment apply to activities on all Crown land, including reserved land. Refer to our other fact sheets for information on these laws.

## Can a management body enter into a lease or licence over a reserve?

A management body may require the approval of the Minister for Lands before entering into a lease or licence in a reserve. However, approval is not required where it is authorised under the management order or the management body is permitted to enter into such arrangements under another Act.

A lease or licence granted by a management body must be consistent with the purpose of the reserve. For unmanaged reserves, the Minister for Lands may grant a lease, licence or profit a pendre (a type of right to take produce from the land) which is inconsistent with the purpose of the unmanaged reserve, *provided* the grant is consistent with or ancillary to the current use or future use of the reserve.

## Access to reserves

As a general rule, a person may enter and use reserves in a manner which is consistent with the purpose of that reserve. However, access can be restricted in certain circumstances, including:

- conservation reserves or State forests can be closed to the public for a variety of reasons, including for the prevention of forest diseases and protection of habitats (refer to [Fact Sheet 10: State forests and timber reserves](#), [Fact Sheet 11: Conservation reserves](#) and [Fact Sheet 17: Marine reserves](#));
- water catchments may prohibit certain types of access to maintain water quality (see [Fact Sheet 21: Rivers and watercourses](#)); and
- it is an offence for a person (including a mining company employee) to enter land reserved for the benefit of Aboriginal people unless the person is authorised to do so (which usually means applying for a permit from the Minister for Aboriginal Affairs).



## Leased Crown land

### Pastoral leases

Pastoral activities occupy over one-third of Western Australia's land area. Overstocking of pastoral leases can cause significant erosion and loss of biodiversity. Accordingly, controls are placed on the management of leases to ensure they are operated in a sustainable way. These include restrictions on clearing land and penalties for failing to maintain a lease in an appropriate condition. For further information, see [Fact Sheet 34: Pastoral land management](#).

### Mining leases

Mining operations can cause significant localised land degradation and damage to biodiversity. This is especially so in the establishment and rehabilitation phases of a mine's life. For information on the process for objecting to (or the conditions of) a mining lease, refer to [Fact Sheet 36: Mining law](#).

### Conditional purchase leases

Conditional purpose leases are leases that allow a person to obtain the freehold to land after meeting certain conditions. This type of lease was widely used in agricultural areas in the 1950s to 1970s. A usual condition of these leases required the lease holder to clear the land within a certain time. Failure to do so would result in forfeiture of the land. Some of these leases still exist, although the DPI has exempted affected landholders from these requirements. For information on land clearing laws, refer to [Fact Sheet 7: Clearing native vegetation](#).

## How can you become involved?

### Report potentially illegal conduct

If you are concerned that Crown land is being used illegally (for example, being cleared without approval), report the matter to:

1. the management body for the land, if the land is a reserve;
2. local government of the area;
3. CALM if the action involves the destruction of native vegetation or animals;

4. Department of Environmental Protection in the case of clearing native vegetation; and/or
5. the DPI.

### Management of reserves

To ensure reserves are managed appropriately, you can undertake the following steps:

1. obtain a copy of the Crown title for the land, the management order and any applicable management plan from the DPI or the management body to ascertain the purpose of the reserve;
2. liaise with the management body to ensure the reserve is being managed in accordance with its purpose;
3. encourage the Minister for Lands to require a management plan be developed in respect of a reserve that you are concerned is being poorly managed;
4. report illegal activity on that reserve to the management body or an appropriate government body;
5. monitor newspapers for proposals to change the boundaries or purposes of certain conservation reserves and class A reserves;
6. monitor CALM's webpage for information on management of conservation reserves;
7. encourage your local members of Parliament to keep you informed of proposals to amend the boundaries of class A reserves, national parks or conservation parks.

### Management of leases

If you are concerned that Crown land held under a lease is being managed inappropriately, contact the DPI in the first instance. The DPI will be able to advise you of the name of the management body responsible for overseeing that lease.

## Contacts and further information

Department of Conservation and Land Management, Kensington  
Department of Planning and Infrastructure, Perth

Tel: (08) 9334 0333  
Tel: (08) 9264 7777

For copies of legislation considered in this fact sheet, contact the [State Law Publisher](#)

Tel: (08) 9321 7688

## The Environmental Defender's Office WA (Inc)

The Environmental Defender's Office WA (EDO) is a community legal centre specialising in public interest environmental law.

The objects of the EDO include:

- ◆ to provide community groups and individuals with legal advice and representation to help protect the environment;
- ◆ to promote law reform that improves environmental protection; and
- ◆ to provide community education about environmental law.

The EDO is a non-profit, non-government organisation. The EDO receives its principal funding from the Federal Attorney-General's Department. However, these funds are limited and donations from the public provide a vital source of funds for many of our activities. Donations over \$2 are fully tax deductible. The EDO also welcomes people with a commitment to the environment to join as members.

If you require legal advice on an environmental issue or wish to find out more about the EDO, please contact us at the following address:

Environmental Defender's Office WA (Inc)  
Second Floor, Kings New Office Tower  
533 Hay Street, PERTH WA 6000

Tel: (08) 9221 3030 Fax: (08) 9221 3070

Email: [edowa@edo.org.au](mailto:edowa@edo.org.au) Web: [www.edo.org.au/edowa](http://www.edo.org.au/edowa)

***This fact sheet was produced with the assistance of:***

