

What's so special about Class A reserves?

Environmental Defender's Office WA (Inc)

Class A reserves are the most protected type of Crown (public) land in Western Australia. Class A reserves can be created in both land and marine areas. Existing Class A marine reserves include Marmion, Ningaloo, Rowley Shoals, Swan Estuary, Shoalwater Islands and Shark Bay. Class A reserves on land can include such areas as nature reserves, conservation parks and national parks.

Class A reserves on land are proposed by the Minister for Lands and created under the *Land Administration Act 1997*. However, marine Class A reserves are proposed by the Minister for the Environment and created under the *Conservation and Land Management Act 1984*. (Note also that marine reserves cannot be created without the consent of the Minister for Mines and the Minister for Fisheries. If there is a dispute between these Ministers, the matter is decided by Cabinet.)

Difficulties can arise because of the fact that land and marine Class A reserves are created under two different statutes. For example, marine reserves under the *Conservation and Land Management Act 1984* cannot include islands within their boundaries because marine reserves can only extend to high tide mark. Therefore if the islands within a Class A marine reserve are to be protected as well as the marine areas, the Minister for Lands must propose and classify the islands as a Class A reserve under the *Land Administration Act 1997*. Difficulties also arise because of the different laws which apply to changes to marine and terrestrial Class A reserves. This paper deals only with the laws relating to terrestrial reserves.

Class A reserves are usually created for a specific purpose. Once created, the reserve cannot be used for anything other than that specific purpose unless a proposal to change the use is advertised in a State-wide newspaper at least 30 days before the change is made. The change must then be laid before both Houses of Parliament. Either House can disallow the proposed change if a member of Parliament gives a notice of disallowance within 14 sitting days and the notice is passed within 30 sitting days.

Other protection which applies to Class A reserves includes:

- ∄ No mining activities can take place in any Class A reserve without the consent of the Minister for Mines and the Minister for the reserve. In addition, no mining leases (or general purpose leases associated with mining leases) can be granted in a Class A reserve unless the parliamentary disallowance procedure described above is followed.
- ∄ If the Minister for Lands wishes to grant an easement in a Class A reserve, a similar process operates to that which applies to a proposed change to the purpose of a reserve. However, additional protection is provided by the fact that the Minister must have the consent of every management body concerned with the

land and every other person who has a legal interest in the land before she can grant the easement.

- € Some public works which are permitted without consent on Crown land have to get consent before they are allowed on a Class A reserve.

Class A reserves on land can be slightly altered by the Minister for Lands without her having to lay the proposed change before Parliament (though she is still required to advertise the change in a State-wide newspaper at least 30 days before she makes the change). Specifically, the Minister for Lands has the power to:

- € Add land to a Class A reserve;
- € Correct an unsurveyed boundary as long as the correction does not mean more than 5% of the reserve is removed;
- € Excise 5% of the reserve or 1 hectare, whichever is less, for a “public utility” (such as telecommunications, sewerage, drainage and electricity);
- € Adjust the internal boundaries of the reserve; and
- € Amalgamate 2 or more reserves, as long as the reserves have similar purposes and are managed by the same government agency.

If the Class A reserve is a conservation park, national park or nature reserve, the Minister for Lands must have the consent of the Minister for the Environment before taking any of the actions above.

If you want to find out whether a reserve is Class A or not, and therefore whether it has special protection or not:

- € For land reserves – contact the Department of Land Information
- € For marine reserves – contact the Department of Conservation and Land Management.

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