



Crown Land Management

An introduction to 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, reserves and "unallocated" Crown land. Approximately 7.6% 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 law in relation to Crown Land. It covers controls and management over unallocated Crown land, and reserves other than conservation reserves.

For information on management of terrestrial conservation reserves, see [Fact Sheet 11: Conservation reserves](#), for State forests, see [Fact Sheet 10: State forests and timber reserves](#), for marine reserves, [Fact Sheet 17: Marine parks and reserves](#), and for pastoral leases, see [Fact Sheet 34: Pastoral land management](#).

What is Crown land?

"Crown land" refers to all land in Western Australia that is not alienated from the Crown (the State). In other words, Crown land is any land that is not freehold (private) land. This includes land leased from the Crown and all land below high water mark.

As Crown land occupies 93% of the State, its sustainable management is essential for the effective protection of biodiversity and heritage.

Approximate usage of Crown land in Western Australia

Conservation Reserves	7.6%
Other Reserves	10 %
Pastoral Leases	36 %
Other Leases	3 %
Unallocated Crown Land	38%

General controls applying to Crown land

Under the *Land Administration Act 1997* (WA) (the "LAA"), it is an offence for a person to do any of the following things without the permission of the Department of Regional Development and Lands ("DRDL")

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or a "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.

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

"Reasonable excuse" would likely include actions that are approved under another written law, are allowed as part of a lease agreement, or which are the result of accident or mistake.

Licences on Crown land

Section 91 of the LAA gives DRDL the power to grant a licence or profit à prendre over Crown land for any purpose.

A licence is a personal right granted to another person, authorizing the doing of a certain act, for example, granting the right to enter land. A profit à prendre is a right to take a natural resource or produce of the land, for example, the right to plant a forest on someone else's land, with the profits from the timber being shared between the profit à prendre holder and the land owner.

The DRDL may grant the licence or profit à prendre subject to any conditions, fix the duration, review, or subject to the consent of its holder, amend the provisions of the licence or profit à prendre. If the licence holder breaches any of the conditions of the licence, the DRDL may terminate the licence.

Mining, petroleum and geothermal energy rights and a profit à prendre can exist simultaneously, if the Minister for Mines approves of the area being used for both purposes.

Section 48 of the LAA also gives the DRDL the power to grant leases, licences and profits à prendre over Crown land in unmanaged reserves for a purpose that is compatible with or ancillary to the current use of the reserve or the intended future use of the land.

A management body usually needs the approval of the Minister for Lands before entering into a lease, licence or profit à prendre in a reserve. However, approval is not required where the action is authorised under the management order or the management body is permitted to enter into such arrangements under another Act.

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Leases and easements on Crown Land

Under the LAA, the Minister for Lands can grant leases and easements over Crown land. The most common type of lease that can be granted under the LAA is a pastoral lease. For more detail on pastoral leases, see [Fact Sheet 34: Pastoral Land Management](#).

Reserves

“Reserves” are areas of Crown land that have been set aside for a particular public purpose. Approximately 17% of the State is held under a reserve of some description.

Most reserves are created by an order of the Minister for Lands under the LAA. Reserves may also be created under other statutes: for example, soil conservation reserves can be created by proclamation under the *Soil and Land Conservation Act 1945* (WA). Areas may also be designated as reserves under the Metropolitan Region Scheme or a local town planning scheme, and special controls may apply (see [Fact Sheet 3: Planning law](#)).

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”. The Minister for Lands can only place management in another person, or grant a lease or licence over the reserve for the same purpose for which the reserve was created, or purposes ancillary or beneficial to that purpose. Copies of the document establishing a reserve are available from DRDL.

When creating a reserve under the LAA, the Minister is required to consult with the local government within the district where the reserve is located.

The Minister for Lands may by order classify a reserve as a “class A reserve”. Special rules apply to creating, altering and managing class A reserves and reserves with certain purposes (see [Fact Sheet 11: Conservation reserves](#), and [Fact Sheet 10: State forests and timber reserves](#)).

Altering or canceling a reserve

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 canceling a reserve, the Minister is required to obtain the consent of the management body (if any), and consult with the local government in whose district the reserve is located.

For reserves within the 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 management area (see [Fact Sheet 21: Rivers, Watercourses and Groundwater](#)).

Management of Reserves

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.

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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 DRDL.

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.

The management body in which conservation reserves and State forests are vested is the Conservation Commission, with the management responsibility held by the Department of Environment and Conservation ("DEC") (see [Fact Sheet 10: State forests and timber reserves](#), and [Fact Sheet 11: Conservation reserves](#)).

For the management of local government reserves, local government must comply with the management order and any other laws that apply, for example, land clearing laws. Otherwise, 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 a person to run stock on the reserve.

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 DRDL.

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 the general controls found in the LAA. Certain management responsibilities are also now the subject of a Memorandum of Understanding between the DRDL and DEC.

Unallocated Crown land

Unallocated crown land is land in which no proprietary interest other than native title is known to exist, and which is not reserved, declared or otherwise dedicated under the LAA. Unallocated Crown land comprises 936,286 km² or 38% of Western Australia's 2,527,620 km² area.

Management responsibility for this land falls on DRDL, although for the most part it is largely unmanaged. DRDL does however make inspections to ensure that there is no illegal occupation, illegal structures built, or any other offences under the LAA being committed on unallocated Crown land, and also tries to attend to hazards that may exist on the land. Certain management responsibilities are also now the subject of a Memorandum of Understanding between DRDL and DEC.

DEC management on unmanaged reserves and unallocated crown land

Since July 2003, management of fire and declared plants and animals on unmanaged reserves and unallocated Crown land outside the metropolitan area, regional centers and townsites has become the responsibility of DEC via a Memorandum of Understanding between the DRDL and DEC. DEC's management role in these specific areas is supported by the *Conservation and Land Management Act 1984 (WA)*, which allows the Governor to place any Crown land under the management of DEC upon the recommendation of the Minister for Environment and the Minister for Lands.

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Access to Crown Land

As a general rule, a person may enter and use reserves in a manner which is consistent with the purpose of that reserve, and have access to unallocated Crown land. 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 (see [Fact Sheet 11: Conservation reserves](#), [Fact Sheet 17: Marine parks and reserves](#) and [Fact Sheet 10: State forests and timber reserves](#));
- water catchments may prohibit certain types of access to maintain water quality (see [Fact Sheet 21: Rivers, watercourses and groundwater](#));
- 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 authorized;
- access into specific reserves can be restricted, such as Quaramup (Albany) Point Peron (Rockingham), Woodman Point (Munster), and Tone River (Strachan) reserves, with fines for entry in contravention of the restriction; and
- access to unallocated crown land and unmanaged reserves by vehicle is limited to roads, tracks and designated parking areas, and people are only permitted to camp in an area designated for camping.

Opportunities for public involvement

There are a number of opportunities for public involvement in the administration and management of Crown land, including:

- if you are concerned that Crown land is being used illegally, you can report the matter to the management body for the land, the local government of the area, or DRDL;
- if you are concerned that Crown land held under a lease is being managed inappropriately, contact DRDL in the first instance;
- if you are concerned about the management of fire or declared species on unallocated Crown land or an unmanaged reserve, contact DEC;
- to ascertain the relevant management body for a reserve, you can obtain a copy of the Crown title, management plan and management order for the land from State Land Services (part of DRDL); and
- you can 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.

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Contacts and further information

Department of Regional Development and Lands, State Land Services, Tel: (08) 9347 5000, www.lands.rdl.wa.gov.au

Department of Environment and Conservation, Tel: (08) 6467 5000, www.dec.wa.gov.au

For copies of legislation, contact the State Law Publisher (Western Australian legislation), Tel: (08) 9426 0000, www.slp.wa.gov.au

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 and State Attorney-General's Departments.

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:

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