



New South Wales

Crown Land Management Amendment Regulation 2018

under the

Crown Land Management Act 2016

His Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Crown Land Management Act 2016*.

PAUL TOOLE, MP
Minister for Lands and Forestry

Explanatory note

The objects of this Regulation are:

- (a) to amend the *Crown Land Management Regulation 2018*:
 - (i) to prescribe the applicable survey fees in relation to a purchase application for a purchasable lease and application fees for short-term licences, and
 - (ii) to make other minor amendments in the nature of law revision, and
- (b) to amend the savings and transitional provisions in Schedule 7 to the *Crown Land Management Act 2016* to provide for the continuation of certain reserve trusts for a 12 month transitional period after the repeal of the *Crown Lands Act 1989* and for certain other savings and transitional matters.

This Regulation is made under the *Crown Land Management Act 2016*, including sections 3.25 (2) (c) and 13.5 (the general regulation-making power) and clause 1 of Schedule 7.

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1 Name of Regulation

This Regulation is the *Crown Land Management Amendment Regulation 2018*.

2 Commencement

This Regulation commences on the day on which it is published on the NSW legislation website.

Schedule 1 Amendment of Crown Land Management Regulation 2018

[1] Clause 16 Category 1 non-council managers

Insert “Reserve” after “Cemeteries” in clause 16 (c).

[2] Clause 16 (d)

Omit the paragraph. Insert instead:

(d) Catholic Metropolitan Cemeteries Trust and, on and from its abolition by the Act, the Catholic Cemeteries Board,

[3] Clause 35 Prescribed activities prohibited on easements for public access

Omit “5.51 (5)” from clause 35 (1). Insert instead “5.51 (4)”.

[4] Schedule 1 Fees

Omit items 1 and 2 from Part 1. Insert instead:

1	Application for licence under the Act (other than an application referred to in item 2 or 2A)	\$438	\$493
2	Application for licence under the Act (domestic waterfront)	\$501	\$563
2A	Application for licence under the Act (short-term)	\$37	\$42

[5] Schedule 1, Part 1

Omit “Application for lease under Division 5.5 of the Act” from item 5.

Insert instead “Application for lease under the Act”.

[6] Schedule 1, Part 1

Insert after item 21:

21A	Applicable survey fee in relation to a purchase application of land in any Division of the State under clause 4 (2) of Schedule 4 to the Act	\$104	\$121
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[7] Schedule 1, Part 2

Omit items 1 and 2. Insert instead:

1	Application for licence under the Act (other than an application referred to in item 2 or 2A)	5.47
2	Application for licence under the Act (domestic waterfront)	6.26
2A	Application for licence under the Act (short-term)	0.47

[8] Schedule 1, Part 2

Omit “Application for lease under Division 5.5 of the Act” from item 5.

Insert instead “Application for lease under the Act”.

[9] Schedule 1, Part 2

Insert after item 21:

- 21A Applicable survey fee in relation to a purchase application of land in any 1.37
Division of the State under clause 4 (2) of Schedule 4 to the Act

Schedule 2 Amendment of savings and transitional provisions of Crown Land Management Act 2016 No 58

[1] Schedule 7 Savings, transitional and other provisions

Insert in alphabetical order in clause 2 (1):

continuation period in relation to a transitional reserve trust—see clause 10A.
transitional reserve trust—see clause 10A.

[2] Schedule 7, clause 7 (3)

Omit the subclause. Insert instead:

- (3) Any estate in fee simple of a reserve trust that is not extinguished because of subclause (2) is:
- (a) for a reserve trust whose affairs were managed by its trust board—vested instead in the successor of the reserve trust on the repeal day, or
 - (b) for a reserve trust whose affairs were managed by a corporation and that becomes a transitional reserve trust—continues to be vested in the transitional reserve trust and, on 1 July 2019, is vested in the successor of the transitional reserve trust.

[3] Schedule 7, clause 7 (6)

Omit the subclause. Insert instead:

- (6) In this clause:
- successor*, in relation to a transitional reserve trust or other reserve trust, means a person that is taken by clause 11 to have been appointed as the Crown land manager of the former trust land of the reserve trust (as defined in that clause).

[4] Schedule 7, clause 7A (8)

Omit the subclause. Insert instead:

(8) When conditional Crown land can be sold

The Minister may, by written notice given to the successor of a reserve trust in which conditional Crown land is taken to be vested by this clause (or any other person to or in which the land is subsequently transferred or vested), direct the successor (or other person) to sell the conditional Crown land if the Minister is satisfied that the Crown vesting conditions for the land are unlikely to be met.

[5] Schedule 7, clause 7A (9) and (10)

Insert “or other person” after “successor of the reserve trust” wherever occurring.

[6] Schedule 7, clause 7A (12) and (13)

Omit clause 7A (12). Insert instead:

(12) Application of clause to transitional reserve trusts

The following provisions apply in relation to a transitional reserve trust:

- (a) the Minister may make a declaration in accordance with this clause declaring land acquired by a transitional reserve trust before the repeal day to be land to which this clause applies,

- (b) conditional Crown land of a transitional reserve trust is taken to have been vested in the reserve trust on the repeal day and, if the reserve trust is dissolved before 1 July 2019, may be transferred by the Minister under clause 10A (2) (f) to a person to whom any of the assets, rights or liabilities of the dissolved reserve trust are transferred under that paragraph,
 - (c) subclause (2) (d) extends to a transitional reserve trust while it is vested with conditional Crown land and then to its successor,
 - (d) the Minister may publish a vesting notice in accordance with this clause in respect of conditional Crown land of a transitional reserve trust or former transitional reserve trust,
 - (e) the Minister may give a transitional reserve trust in which conditional Crown land is vested (or any other person to or in which the land is subsequently transferred or vested) a direction in accordance with this clause to sell the land.
- (13) **Definition**
- In this clause:
- successor** of a reserve trust means:
- (a) for a transitional reserve trust that is dissolved before 1 July 2019—the person to whom the conditional Crown land concerned is transferred under clause 10A (2) (f), or
 - (b) for any other transitional reserve trust or other reserve trust—a person that is taken by clause 11 to have been appointed as the Crown land manager of the former trust land of the reserve trust (as defined in that clause).

[7] Schedule 7, Part 2, Division 4 heading

Insert “, **reconstitution and continuation**” after “**Abolition**”.

[8] Schedule 7, clause 10A

Insert after clause 10:

10A Continuation of certain managed reserve trusts for transitional period after repeal day

- (1) This clause applies to a reserve trust the affairs of which were managed by a local council or corporation appointed under section 95 of the *Crown Lands Act 1989* immediately before the repeal day (a **transitional reserve trust**).
- (2) The following provisions apply during the continuation period to a transitional reserve trust:
 - (a) the reserve trust continues in existence as a corporation (with the same name and constitution) despite the repeal of the *Crown Lands Act 1989*,
 - (b) any trust held by the reserve trust over its transitional trust land continues in effect,
 - (c) the reserve trust is taken to have been appointed as the Crown land manager of its transitional trust land,
 - (d) if the reserve trust’s affairs are managed by a local council—the reserve trust is taken to be a council manager,
 - (e) if the reserve trust’s affairs are managed by a corporation—the reserve trust is taken to be a non-council manager,

- (f) without limiting section 3.12, the Minister may, by notice published in the Gazette, provide for specified assets, rights and liabilities of a reserve trust that is to be, or is, dissolved to be transferred to one or more of the following persons:
 - (i) a public authority,
 - (ii) any new Crown land manager of the transitional trust land.
 - (g) the old reserve trust provisions (but no other provisions of the *Crown Lands Act 1989*) continue to apply in relation to the reserve trust subject to the modifications specified by subclause (3).
- (3) The following modifications to the old reserve trust provisions apply during the continuation period:
- (a) a reference to the Minister is to be read as a reference to the Minister administering this Act,
 - (b) a reference to the *Crown Lands Act 1989* (however expressed) is to be read as reference to this Act,
 - (c) a reference to the reserve for which a reserve trust is constituted is to be read as a reference to its transitional trust land,
 - (d) the Minister cannot appoint a board for the reserve trust under the old reserve trust provisions, but the Minister may appoint another corporation or local council, or an administrator, to manage its affairs.
- (4) Schedule 6 applies to a transfer of any asset, right or liability to a person by a notice under subclause (2) (f).
- (5) To avoid doubt:
- (a) nothing in this clause (except subclause (2) (b)) affects the application or operation of Divisions 2 and 5 of this Part on and from the repeal day to the transitional trust land of a transitional reserve trust, and
 - (b) nothing in this clause prevents or limits the Minister's exercise of functions under this Act concerning the revocation of the appointment of a transitional reserve trust as a Crown land manager, or the appointment of a new Crown land manager, in respect of the whole or any part of the transitional trust land, and
 - (c) relevant conduct for the purposes of Division 8.4 of this Act is taken to include conduct during the continuation period of a transitional reserve trust whose affairs are managed by a local council in connection with any dedicated or reserved Crown land for which the reserve trust is or was a Crown land manager.
- (6) In this clause:
- continuation period** means the period:
- (a) commencing on the repeal day, and
 - (b) ending immediately before 1 July 2019.
- old reserve trust provisions** means the following provisions of the *Crown Lands Act 1989*:
- (a) section 92 (3) (a) and (b), (4), (6) (c) and (d), (6A) and (6B),
 - (b) section 95,
 - (c) section 96,
 - (d) section 97,
 - (e) section 97A,

- (f) Division 7 of Part 5,
- (g) section 121.

transitional trust land, in relation to a transitional reserve trust, means:

- (a) any land in which the reserve trust had an estate in fee simple (including because of section 100 of the *Crown Lands Act 1989*) immediately before the repeal day, and
- (b) any land acquired by the reserve trust under section 101 of that Act immediately before the repeal day, and
- (c) any other land acquired by or vested in the reserve trust in its capacity as a trust (for example, land acquired or transferred under section 14 of the *Cemeteries and Crematoria Act 2013*) immediately before the repeal day, and
- (d) any conditional Crown land vested in the reserve trust by operation of clause 7A.

[9] Schedule 7, clause 11 (1)–(1B)

Omit clause 11 (1). Insert instead:

(1) **Application**

This clause applies in relation to each of the following:

- (a) a reserve trust the affairs of which were managed by a reserve trust board immediately before the repeal day (a **board reserve trust**),
- (b) a reserve trust the affairs of which were managed by an administrator immediately before the repeal day (an **administered reserve trust**),
- (c) a transitional reserve trust in existence immediately before 1 July 2019,
- (d) any other reserve trust in existence immediately before the repeal day (a **residual reserve trust**).

(1A) **Abolition of non-reconstituted reserve trusts**

Each residual reserve trust is abolished on the repeal day.

- (1B) Each transitional reserve trust that is not reconstituted by this clause is abolished on 1 July 2019.

[10] Schedule 7, clause 11 (2)

Insert “(except a transitional reserve trust)” after “reserve trust”.

[11] Schedule 7, clause 11 (2A)

Insert after clause 11 (2):

- (2A) Any trust over the trust land of each transitional reserve trust is abolished on 1 July 2019.

[12] Schedule 7, clause 11 (4) (b)

Omit “board”. Insert instead “administered”.

[13] Schedule 7, clause 11 (5) and (5A)

Omit clause 11 (5). Insert instead:

(5) Transitional reserve trusts

The following provisions apply in relation to a transitional reserve trust on and from 1 July 2019 if a local council or corporation managed the affairs of the reserve trust immediately before that day:

- (a) the local council or corporation is taken to have been appointed as the Crown land manager of the former trust land for which the reserve trust was taken to be appointed as the Crown land manager because of clause 10A,
- (b) the assets, rights and liabilities of the reserve trust are transferred to the local council or corporation (subject to Division 2 of this Part).

(5A) The following provisions apply in relation to a transitional reserve trust on and from 1 July 2019 if an administrator managed the affairs of the reserve trust immediately before that day:

- (a) the transitional reserve trust is taken to have been reconstituted as a statutory land manager under this Act without a board,
- (b) the name of the reconstituted reserve trust is taken to be the name of the transitional reserve trust (excluding the word “Trust” if it forms part of its name) and ending with the words “Land Manager”,
- (c) the administrator of the transitional reserve trust is taken to have been appointed as the administrator of the reconstituted reserve trust,
- (d) the reconstituted reserve trust is taken for all purposes (including the rules of private international law) to be a continuation of, and the same legal entity as, the transitional reserve trust,
- (e) the reconstituted reserve trust is taken to have been appointed as the Crown land manager of the former trust land for which the transitional reserve trust was taken to be appointed as the Crown land manager because of clause 10A.

[14] Schedule 7, clause 11 (6)

Omit the subclause. Insert instead:

(6) Residual reserve trusts

The following provisions apply in relation to a residual reserve trust on and from the repeal day:

- (a) the Minister is responsible for the care, control and management of the former trust land until different provision is made under this Act,
- (b) the assets, rights and liabilities of the trust are transferred to the Crown (subject to Division 2 of this Part).

[15] Schedule 7, clause 11 (8) (a)

Omit “(3) and (4)”. Insert instead “(3), (4) and (5A)”.

[16] Schedule 7, clause 11 (8) (d)

Omit “(3) (d) and (4) (d)”. Insert instead “(3) (d), (4) (d) and (5A) (d)”.

[17] Schedule 7, clause 11 (9) (a) (i)

Omit “(3) or (4)”. Insert instead “(3), (4) or (5A)”.

[18] Schedule 7, clause 11 (9) (b)

Omit the paragraph. Insert instead:

- (b) where one or more of those reserve trust managers were local councils or corporations appointed under section 95 of the *Crown Lands Act 1989* and the reserve trust or trusts concerned become transitional reserve trusts:
 - (i) to appoint each of the transitional reserve trusts as Crown land managers for the land, and
 - (ii) if subclause (5) applies to one or more of those transitional reserve trusts, to appoint each corporation or local council concerned as Crown land managers for the land, and

[19] Schedule 7, clause 11 (10)

Omit the subclause. Insert instead:

(10) **Definition**

In this clause:

former trust land, in relation to a reconstituted or abolished reserve trust, means:

- (a) for a reserve trust that was a transitional reserve trust—any of its transitional trust land within the meaning of clause 10A immediately before 1 July 2019, and
- (b) for any other reserve trust—any of the following land of the reserve trust immediately before the repeal day:
 - (i) any land in which the reserve trust had an estate in fee simple (including because of section 100 of the *Crown Lands Act 1989*),
 - (ii) any land acquired by the reserve trust under section 101 of that Act,
 - (iii) any other land acquired by or vested in the reserve trust in its capacity as a trust (for example, land acquired or transferred under section 14 of the *Cemeteries and Crematoria Act 2013*).

[20] Schedule 7, clause 13 (7)

Omit the subclause. Insert instead:

(7) **Residual public trusts**

The following provisions apply in relation to a residual public trust on and from the repeal day:

- (a) the Minister is responsible for the care, control and management of the former trust land until different provision is made under this Act,
- (b) the assets, rights and liabilities of the residual public trust are transferred to the Crown (subject to Division 2 of this Part).

[21] Schedule 7, clause 32 (2)

Insert “reconstituted or” after “body or entity”.

[22] Schedule 7, clause 32 (2A)

Insert after clause 32 (2):

- (2A) The following provisions apply in relation to a transitional reserve trust:

- (a) any amount owing to the reserve trust under a repealed Act or repealed statutory rule continues to be owing to it under subclause (1) while the reserve trust is in existence during its continuation period,
- (b) this clause applies on 1 July 2019 to any amount continuing to be owing to the reserve trust under a repealed Act or repealed statutory rule immediately before that day as if the reference in subclause (2) to the repeal day were a reference to 1 July 2019.

[23] Schedule 7, clause 41A (2)

Insert “reconstituted or” after “successor body for the”.

[24] Schedule 7, clause 41A (6A)

Insert after clause 41A (6):

- (6A) The following provisions apply in relation to a transitional reserve trust:
 - (a) any regulatory authorisation held by or on behalf of the reserve trust immediately before the repeal day continues to be held by or on behalf of it while the reserve trust is in existence during its continuation period,
 - (b) this clause applies on 1 July 2019 to any regulatory authorisation held by or on behalf of the reserve trust immediately before that day as if the reference in subclause (2) to the repeal day were a reference to 1 July 2019.