

Delegations of Authority Policy for Crown Lands

NUMBER IND-O-179

VERSION 1

AUTHORISED BY Director, Strategy & Policy

AUTHORISED DATE 24/11/2015

ISSUED BY Lands and Natural Resources

EFFECTIVE DATE 21/12/2015

1. Policy Statement

Land and Natural Resources (LNR) is committed to ensuring organisational integrity and transparency through sound corporate governance practice.

Delegations of authority are the mechanisms by which the Minister enables officers of Crown Lands, within the LNR Branch of the Department of Primary Industries (a Division of the NSW Department of Industry), to act on behalf of the Minister administering the *Crown Lands Act 1989* and other relevant legislation to manage the Crown estate.

Delegations provide formal authority for officers to carry out functions under the *Crown Lands Act 1989* and other relevant legislation on behalf of the Minister. Officers exercising delegated functions are referred to as “delegates”.

2. Scope

Crown Lands Act 1989

The Minister has the power, under section 180(1) of the *Crown Lands Act 1989* to delegate any or all of their functions under the *Crown Lands Act 1989*, other than the Minister’s power of delegation.

Existing delegations for the *Crown Lands Act 1989* have been reviewed and aligned to reflect legislative and organisational change since 2011, to support the intent of the Crown Lands Review and overall governance around the use or exercising of a delegation. This Policy describes the principles and operations of delegations of authority delegated to LNR officers in accordance with the ***Crown Lands Act 1989 Instrument of Delegation 2015*** signed by the Minister. This instrument applies to all functions carried out under the *Crown Lands Act 1989*.

The effective date of the delegations of authority from the Minister is the date shown on the instrument. All previous delegations are superseded. The current delegations do not have the effect of invalidating past acts validly performed by delegates under any previous delegations of authority.

Other Relevant Legislation

This Policy also describes the principles and operations that apply to the exercise of delegated authority under all current instruments of delegation, including the ***Crown Lands Act 1989 Instrument of Delegation 2015***, the ***Instrument of Delegation for positions within the Department of Primary Industries 2011*** signed by the Minister, the ***Director-General Authorisations 2011*** and the ***Western Lands Regulation 2004 Instrument of Delegation 2011*** signed by the Western Lands Commissioner. Note that delegations relating to the *Crown Lands Act 1989* in these earlier instruments have been superseded by the ***Crown Lands Act 1989 Instrument of Delegation 2015***.

Functional Delegations

In carrying out their functions, delegates are also limited by the NSW Department of Industry’s (the Department) Financial and Human Resources delegations. In the event of any inconsistency, the Financial and Human Resources delegations supersede this policy.

3. Procedures

In exercising a delegation of authority a delegate must ensure they comply with:

- The *Crown Lands Act 1989* (as amended), and any relevant legislation as amended from time to time.
- The Department’s policies, procedures and guidelines.

When exercising a delegated authority, delegates should:

- a. Refrain from exercising a delegation of authority if they have been closely involved in other aspects of the matter or if they are recommending that a decision be made (i.e. an officer cannot recommend an action and then “swap hats” and approve the matter). This is necessary to overcome any perception of bias and to ensure the exercise of delegation is based on an objective view. The delegation in this instance should be exercised by the officer’s immediate superior in the delegation hierarchy and should be referred to them for that purpose.
- b. Escalate controversial or sensitive matters and decisions to the Executive level (Director or above) for their review and approval or further escalation. If a delegate has any doubts relating to a decision, they should escalate the matter.
- c. Be aware that a strategic position may need to be considered and exercised. A matter that may appear routine may require broader review and analysis, for example there may be financial implications or other Agencies as stakeholder/s, and these matters should be escalated.
- d. Ensure they have adequate information to make a decision to exercise a delegation of authority.
- e. Keep adequate records of the exercise of their delegated authority. Such actions fall within the documents which must be kept under the State Records Act 1998 as they constitute a record of a business decision of LNR.

5. Roles and responsibilities

A delegate should comply with and ensure compliance with the following business rules:

- a. A delegation of authority may only be exercised by an officer of the Department. Contractors, consultants, advisers or casual staff employed through an employment agency, are prohibited from exercising a delegation of authority.
- b. Delegations of authority are hierarchical and structured in levels or bands. See Section 6 for further details.
- c. A delegation of authority applies only to a delegate’s area of accountability (the area of work or functions for which they are directly responsible) unless otherwise specified.
- d. A delegation of authority applies to the position occupied, not the individual. When a person is appointed to act in a role, that person should be given written directions as to which delegated functions they are entitled to carry out as a condition of their appointment. An acting or temporary appointment must clearly state that the appointment carries with it all delegations of authority attaching to that position. The level or band that applies to an acting appointment should be clearly stated. Once an acting or temporary appointment ceases, such delegation of authority ceases and the officer must revert to their previous level or band.
- e. A delegation of authority must not be exercised where the officer exercising the delegation of authority would personally benefit from such an exercise or is required to declare a conflict of interest in accordance with Departmental policy.
- f. In any delegation of authority for approving tenures where there is a financial limit expressed, a delegation relates to the gross rent, excluding any applicable waivers, rebates or GST.
- g. A delegation to approve rebates, waivers or hardship relief on tenures must be exercised in line with the Crown Lands Rental Rebate Policy, Crown Land Hardship Relief Policy and Crown Land Waiver, Write-off and Debt Adjustment Policy.

- h. A delegation of authority may be withdrawn or restricted at any time by the position to whom that delegate is immediately or ultimately accountable. Such restriction or withdrawal must be recorded in writing and must be notified to the officers to whom the restriction or withdrawal relates. Such restriction or withdrawal must be complied with.
- i. A delegate may seek advice from another officer about the exercise of delegated authority (including decision-making) however the delegate remains responsible and accountable for the decision or action resulting from the exercise of delegated authority.
- j. If the Instrument of Delegation is silent on a matter, then the Minister has not delegated the authority to act and it is reserved for the Minister.
- k. Any delegation to incur expenditure must be exercised within the limits of the relevant approved budget or other approved source of funds.

Where an officer purports to exercise a delegation of authority which they are not entitled to exercise, there may be serious consequences for the officer and the decision arising out of the purported exercise of a delegation of authority may be invalidated.

6. Delegations

How to sign off functions carried out under a delegation of authority

When officers exercise a delegation of authority and are communicating this action by letter, the appropriate sign off to use is:

<i>Format</i>	<i>Example</i>
Name	John Smith
Role	Property Management Project Officer
Delegated Officer	Delegated Officer
DPI - Lands	DPI - Lands

When staff seek the approval of a delegated officer through a brief or approval process, the reference to the delegation needs to be identified.

<i>Format</i>	<i>Example</i>
Name	Joe Bloggs
Role	Director
Delegated Officer under 'X' section of 'Y' Act/Regulation	Delegated officer under section 34 of the Crown Lands Act 1989

7. Definitions

Department	NSW Department of Industry
Executive level	Director or above
LNR	Land and Natural Resources

8. Legislation

Officers may access the current in force legislation through www.legislation.nsw.gov.au Relevant legislation includes, but is not limited to:

- *Commons Management Act 1989*
- *Crown Lands Act 1989*
- *Crown Lands (Continued Tenures) Act 1989*
- *Crown Lands (General Reserves) By-law 2006*
- *Crown Lands Regulations 2006*
- *Environmental Planning and Assessment Act 1979*

- *Forestry Act 1916*
- *Hay Irrigation Act 1902*
- *Hay Irrigation Regulation 2007*
- *Impounding Act 1993*
- *Irrigation Areas (Reduction of Rents) Act 1974*
- *Local Government Act 1993*
- *Noxious Weeds Act 1993*
- *Protection of the Environment Operations Act 1997*
- *Public Reserves Management Fund Act 1987*
- *Real Property Act 1900*
- *Road Act 1993*
- *Rural Fires Act 1997*
- *Rural Lands Protection Act 1998*
- *State Records Act 1998*
- *Surveying and Spatial Information Regulation 2006*
- *Trustees of Schools of Arts Enabling Act 1902*
- *Wentworth Irrigation Act 1890*
- *Wentworth Irrigation Regulation 2007*
- *Western Lands Act 1901*
- *Western Lands Regulation 2004*
- *Wilderness Act 1987*

9 Related policies

Crown Land Hardship Relief Policy
 Crown Lands Rental Rebate Policy
 Crown Land Waiver Policy
 Write-off and Debt Adjustment Policy

10. Revision history

Version	Date issued	Notes	By
1	09/01/2012	Policy providing guidance on the <i>Instrument of Delegation for positions within the Department of Primary Industries 2011</i> and the <i>Western Lands Regulation 2004 Instrument of Delegation 2011</i>	Craig Barnes (Deputy General Manager) Graham Harding (General Manager Crown Lands)
2	19/10/2015	Policy updated to reflect the <i>Crown Lands Act 1989 Instrument of Delegation 2015</i> . Existing delegations were reviewed and aligned to reflect legislative and organisational change since 2011.	Beth Taylor (Senior Project Officer)

9. Review date

21/12/2018 (or earlier if required).

10. Contact

Ilana Waldman, Director Strategy & Policy, (02) 8222 4847