

Delegations of Authority for Crown Lands (Interim)

POLICY NUMBER: IND-O-179	VERSION: 3.0
AUTHORISED BY: Executive Director Crown Lands	AUTHORISED DATE: 09/03/2018
ISSUED BY: Dol – Lands & Water	EFFECTIVE DATE: 19/03/2018
CATEGORY: Operations and Industry	REVIEW DATE: 01/07/2018

Policy Statement

This interim policy provides direction to ensure the proper exercise of delegated functions performed under the instruments of delegation in force from 19 March 2018.

This interim policy will be replaced on commencement of the *Crown Land Management Act 2016*.

Where a function is exercised without a delegation, or made outside of delegated authority, there may be a legal challenge to the exercise of that function. If a court finds a decision invalid, this is likely to have cost and reputational consequences for the Department of Industry—Lands & Water (the department). Therefore it is crucial that staff ensure they have the appropriate delegation to act.

Scope

The following instruments of delegation apply:

- *Crown Land Management (Minister) Instrument of Delegation 2018* and *Crown Land Management (Secretary) Instrument of Delegation 2018*, but only in relation to functions in connection with the conversion of a Western Lands lease and:
 - the following sections of the *Crown Land Management Act 2016*:
 - sections 5.9, 12.3 and 13.2
 - Divisions 5.10. 7.4, 12.3 and 12.7
 - Division 2 of Part 2 of Schedule 3
 - Schedule 4, and
 - Clause 40 and 61 of the *Crown Land Management Regulation 2018*
- *Department of Primary Industries Instrument of Delegation (Minister and Lands Administration Ministerial Corporation) 2016*
- *Public Reserves Management Fund Act 1987 Instrument of Delegation 2015*
- *NSW Department of Industry, Lands instrument of delegation for the WLA 1901*
- *Public Finance and Audit (Special Delegations) Instrument of Delegation 2016 under the Public Finance and Audit Act 1983.*

If an Instrument is silent on a matter that is in an Act or Regulation, the Minister for Lands & Forestry or Secretary (as relevant) has not delegated that function and it is reserved for the Minister.

Requirements

In exercising a delegation under an Instrument of delegation, a delegate must:

1. Ensure they are aware of and apply the current delegations that apply to their role by referencing the Instrument and the Schedule of Delegate Levels (**Annexure A** to this policy). This fundamental consideration applies:
 - whether this role is permanent or temporary, and
 - to all decisions within the scope of this policy, including decisions made through the department's official information systems (such as the Crown land information database).
2. Comply with the requirements of relevant legislation as well as guidance issued by the department such as policies and procedures.
3. Ensure they have adequate information in order to properly exercise their delegation, and that the delegated decision they are making is consistent with the duties of their role and the requirements in 2, above.
4. Ensure that the recommendation for a decision and the final decision made under delegation are done by different people.
5. Examine the circumstances of the matter when considering exercise of a delegation to ensure no conflict of interest exists or appears to exist. The department's Conflicts of Interest Policy must be observed.
6. Ensure the decision complies with the department's financial and human resources delegations. In the event of any inconsistency in respect to a specific decision, the financial and human resources delegations supersede the Instrument.
7. Record the specific section of the Act under which the function was exercised and retain it with any other documentation relating to the decision.
8. Keep adequate written records of the exercise of their delegated authority as detailed in the relevant policies of the department.

Roles and responsibilities

- 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.
- While a delegate may seek advice from another officer about the exercise of delegated authority, the delegate remains responsible and accountable for any decision they make.
- *Managers:*
 - arrange for the completion and filing of the Crown Lands Delegation of Authority Acknowledgement form in the event of any team changes involving staff with active delegations
 - promptly take steps to correct any inconsistencies that may arise between actual staff delegation level, and the assigned delegation level in Crown Land information systems, and
 - alert the Crown Lands Executive if they consider any amendment is required to the Crown Lands Delegation of Authority or legal advice regarding delegations is required.
- *Crown Lands Executive:* must monitor and ensure conformance with the Instrument, including through the conduct of an annual review of delegated decisions.

Definitions

- **Function:** function includes a power, authority or duty; and exercise a function includes perform a duty.

Legislation

Relevant legislation includes, but is not limited to:

- Relevant sections of the *Crown Land Management Act 2016*, as specified in the Scope of this policy
- Relevant sections of the *Crown Land Management Regulation 2018*, as specified in the Scope of this policy
- *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*

Instruments of delegation and authorisation

- *Crown Land Management Act 2016 Instrument of Delegation 2018*
- *Department of Primary Industries Instrument of Delegation (Minister and Lands Administration Ministerial Corporation) 2016*
- *Public Reserves Management Fund Act 1987 Instrument of Delegation 2015*
- *NSW Department of Industry, Lands instrument of delegation for the Western Lands Act 1901*
- *Public Finance and Audit (Special Delegations) Instrument of Delegation 2016 under the Public Finance and Audit Act 1983*
- *Department of Primary Industries Instrument of Authorisation (Minister and Lands Administration Ministerial Corporation) 2016*

- *Department of Primary Industries Instrument of Appointment (under the Impounding Act 1993) 2016*

Related policies

- Department of Industry Records Management Policy (IND-I-177)
- Department of Industry Conflicts of Interest Policy (IND-P-183)

Other related documents

- Crown Lands Delegation of Functions Acknowledgement Form (DOC18/022342)
- Schedule of Delegate Levels (**Annexure A** to this policy)
- Department of Industry Human Resources Manual of Authority (INT17/214877)
- Delegations for other departmental functions are in place for procurement, briefing and correspondence, Local Land Services and Operations. Refer to <https://intranet.industry.nsw.gov.au/know-the-department/governance/delegations>. Seek guidance from your manager if there is an inconsistency between the Instrument and one of these delegations.
- Guidance on delegations, refer to <https://intranet.industry.nsw.gov.au/support-and-services/legal/delegations>

Superseded documents

This policy replaces *Delegations of Authority Policy for Crown Lands (2015)*, policy number IND-O-179 Version 3.0.

Revision history

Version	Date Issued	Notes	By
1.0	09/01/2012	Policy providing guidance on the Instrument of Delegation for positions within the Department of Primary Industries 2011 and the Western Lands Regulation 2004 Instrument of Delegation 2011	Craig Barnes (Deputy General Manager) Graham Harding (General Manager Crown Lands)
2.0	19/10/2015	Policy updated to reflect the Crown Lands Act 1989 Instrument of Delegation 2015. Existing delegations were reviewed and aligned to reflect legislative and organisational change since 2011.	Beth Taylor (Senior Project Officer)
3.0	19/03/2018	Policy updated to ensure the proper exercise of delegated functions performed under the instruments of delegation in force from 19 March 2018	Ilana Waldman, Director Strategy & Policy

Contact

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Annexure A

Schedule of Delegate Levels for the *Crown Land Management (Minister) Instrument of Delegation 2018* and *Crown Land Management (Secretary) Instrument of Delegation 2018*

This Schedule only applies for the commenced provisions of the *Crown Land Management Act 2016*.

Positions able to exercise functions delegated under the Crown Land Management Instruments of Delegation 2018

Level	Position	Has responsibilities for the administration of monies payable under the <i>Crown Land Management Act 2018</i>
Level 1	SECRETARY OF THE DEPARTMENT OF INDUSTRY	Yes
	DEPUTY SECRETARY CROWN LANDS AND WATER DIVISION NSW DEPARTMENT OF INDUSTRY	Yes
	EXECUTIVE DIRECTOR CROWN LANDS	Yes
Level 2	GROUP DIRECTOR REGIONAL SERVICES	
	GROUP DIRECTOR GOVERNANCE & STRATEGY	
	DIRECTOR TENURE & BUSINESS PROGRAMS	Yes
	DIRECTOR INFRASTRUCTURE AND LAND MANAGEMENT	
	DIRECTOR CROWN PROPERTY SERVICES	
Level 3	DIRECTOR REGIONAL OPERATIONS - EAST	
	DIRECTOR REGIONAL OPERATIONS - WEST	
	CHIEF EXECUTIVE OFFICER CEMETERIES & CREMATORIA NSW	
	SENIOR PROJECT MANAGER - STATE PARKS	
	DIRECTOR NATIVE TITLE OPERATIONS	
	MANAGER BUSINESS CENTRE	Yes
	MANAGER ABORIGINAL LAND CLAIMS	
	SENIOR GROUP LEADER STATUS BRANCH	
	MANAGER, NATURAL RESOURCE SERVICES	
	MANAGER STRATEGIC SALES & DSPOSALS	
	SENIOR PROJECT MANAGER COMMERCIAL PROJECTS	
	VALUATION SERVICES MANAGER	
Level 4	AREA MANAGER SYDNEY/SOUTH COAST	
	AREA MANAGER HUNTER	
	AREA MANAGER NORTH COAST	
	AREA MANAGER SOUTH WEST	
	AREA MANAGER NORTH WEST	
	AREA MANAGER FAR WEST	
	SENIOR PROJECT OFFICER CUSTOMER SERVICE	
	SENIOR PROJECT OFFICER CROWN RESERVES	
	COORDINATOR FUNDING PROGRAMS	
	SENIOR GROUP LEADER ROADS	
	SENIOR GROUP LEADER ROADS AND TELCO'S	
	SENIOR GROUP LEADER RESERVES AND LICENCES	

	GROUP LEADER WATERFRONT TENURES AND PERMITS	
	GROUP LEADER REVENUE	Yes
	COORDINATOR CASE MANAGEMENT	
	SENIOR COORDINATOR BUSHFIRE	
	GROUP LEADER LANDSCAPE SERVICES	
	LAND RESOURCING SPECIALIST	
	NATURAL RESOURCES COMPLIANCE SPECIALIST	
	PROJECT MANAGER REGIONAL PROJECTS	
	GROUP LEADER CUSTOMER & PROPERTY SERVICE	
	SENIOR VALUER	
Level 5	GROUP LEADER PROPERTY MANAGEMENT	
	SENIOR GROUP LEADER PROPERTY AND PROJECTS	
	SENIOR REGISTERED SURVEYOR	
	PROJECT OFFICER ROADS	
	SUPERVISOR BUSINESS CENTRE	
	TELCO PROJECT OFFICER	
	PROJECT OFFICER COMPLEX DEALINGS	
	SENIOR REVENUE OFFICER	Yes
	REVENUE PROJECT OFFICER	Yes
	REVENUE OFFICER	Yes
	SENIOR COMPLIANCE SYSTEMS OFFICER	
	COMPLIANCE PROJECT OFFICER	
	SENIOR PROPERTY DEVELOPMENT OFFICER	
	PROPERTY MANAGEMENT PROJECT OFFICER	
	PROPERTY DEVELOPMENT PROJECT OFFICER	
	NRM PROJECT OFFICER (POSITION NUMBER 50028553)	
	SENIOR PROPERTY DEVELOPMENT PROJECT OFFICER	
Level 6	NRM PROJECT OFFICER	
	SENIOR PROPERTY MANAGEMENT OFFICER	
	SENIOR NRM OFFICER	
	PROPERTY MANAGEMENT PROJECT OFFICER	
	SENIOR BUSHFIRE OFFICER	
	SENIOR BUSINESS CENTRE OFFICER	
	SENIOR BUSINESS SERVICES OFFICER	
	BUSINESS CENTRE OFFICER	
	BUSINESS SERVICES OFFICER	