

Draft Crown Land Management Regulations 2024

Consultation report



Government
of South Australia

Department for
Environment and Water

OFFICIAL

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Introduction

The *Crown Land Management Regulations 2010* were due to expire on 1 September 2021. The expiry was postponed allowing for a review and development of new regulations to further support the administration and management of Crown land.

During the review the Crown Lands Program considered:

- sections of the *Crown Land Management Act 2009* (the Act) which contemplate regulations;
- equivalent interstate legislation; and
- issues which had arisen where regulations would have been of assistance.

The review aimed to develop regulations that are customer focused and do not impose unnecessary red tape.

One of the objects of the Act is “to provide a system for the management of Crown land that achieves a balance between the social, economic and environmental needs of the community”. New regulations to support this object were a priority.

No changes were proposed to the existing regulations¹.

Community consultation process

The formal public consultation was undertaken using the SA Government YourSAy public engagement website. The consultation period commenced on 8 April and concluded on 6 May 2024. An extension until 16 May 2024 was granted to one stakeholder so the regulations could be discussed at a scheduled meeting.

The YourSAy page included the draft regulations and an explanatory guide. A survey was available for the public to provide feedback on specific proposed regulations and/or the regulations generally. Written submissions via email or post were also encouraged.

The consultation process was promoted via social media and on the Crown Lands section of the Department for Environment and Water’s website.

Emails were sent to stakeholder groups including local councils, Landscape Boards, environmental and recreational groups and native title Prescribed Bodies Corporate advising of the consultation process. Relevant government agencies were also advised of the consultation process by email.

During the community consultation process:

- 2060 participants visited the Regulations consultation YourSAy page
- 492 participants downloaded a Regulations consultation document from the YourSAy page
- 49 YourSAy surveys were completed; and
- 13 email submissions were received.

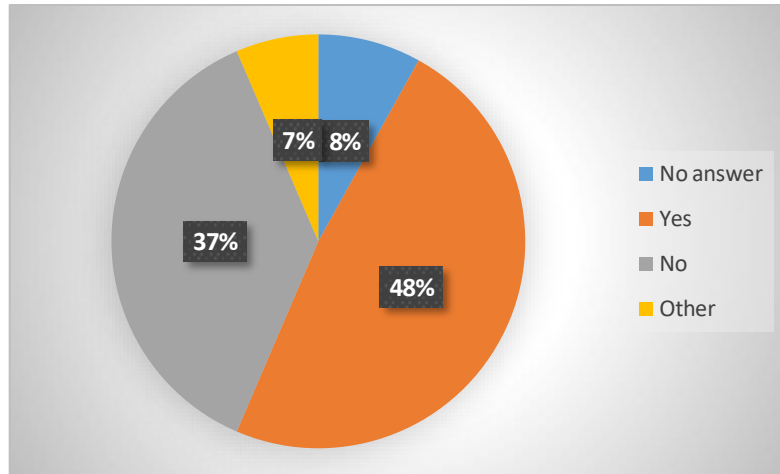
Feedback was received from 45 individuals and 17 organisations/groups (see Appendix).

Most respondents (40%) were based in the Greater Adelaide region. Contributions from respondents on Yorke Peninsula were particularly high and accounted for 23% of the total responses.

¹ Regulation 5(1)(a), 5(1)(b), 6 and Schedule 1, Part 2 in the draft regulations are in the existing regulations and were not part of the consultation.

Overall response to the draft regulations

The survey included a non-mandatory question to determine whether respondents agreed with the proposed regulations. The email submissions were reviewed to determine their level of agreement.



Almost half of the respondents clearly agree with the draft regulations overall, while over one third do not agree.

The 'Other' responses included:

- questions which didn't indicate agreement or disagreement with the draft regulations; and
- comments regarding native title or the potential impacts on cultural activities. Crown Solicitor's Office advice was sought following the consultation period to ensure the proposed regulations did not have unintended native title consequences.

Response to proposed regulations

The feedback received about specific proposed regulations is represented below.

Proposed Regulation 4 – Prescribed amount – section 25(1)(d)

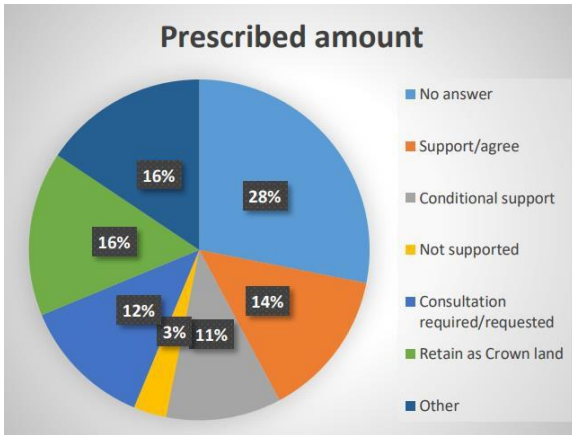
Regulation description

The disposal of surplus Crown land must be via an open, competitive process such as an auction or real estate agent sale unless one of the exemptions in section 25(1) of the CLMA applies.

Section 25(1)(d) of the CLMA provides an exemption to an open, competitive process if the land is valued at less than an amount prescribed by regulation. A value was not prescribed in the 2010 Regulations.

The Office of the Valuer-General supported a prescribed value of \$25,000.

Consultation Response



The peak body representing South Australian real estate professionals, the Real Estate Institute of South Australia, was emailed regarding the regulations consultation but did not complete a survey or provide a submission.

Recommendation

Proceed with the proposed regulation as drafted, with \$25,000 as the prescribed value for the purposes of section 25(1)(d) of the Act.

Proposed Regulation 5 – Prescribed circumstances – section 25(1)(e)

(1)(c) where land that falls within the area of a regional council is disposed of to that council

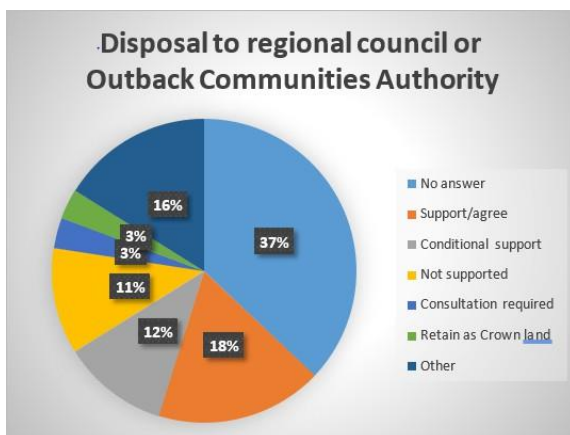
(1)(d) where land that falls within the outback is disposed of to the Outback Communities Authority

Regulation description

Section 25(1)(e) of the Act provides an exemption to an open competitive process if the land is disposed of in circumstances prescribed by regulation.

Additional prescribed circumstances were included in the draft *Crown Land Management Regulations 2024* to support regional development and activities.

Consultation Response



All councils were directly emailed and invited to participate in the public consultation process however the response rate was low. Two regional councils provided submissions, though one did not provide feedback on proposed regulation 5(1)(c)

and the other indicated that it is not currently in the position to increase its landholdings and does not expect this situation to change.

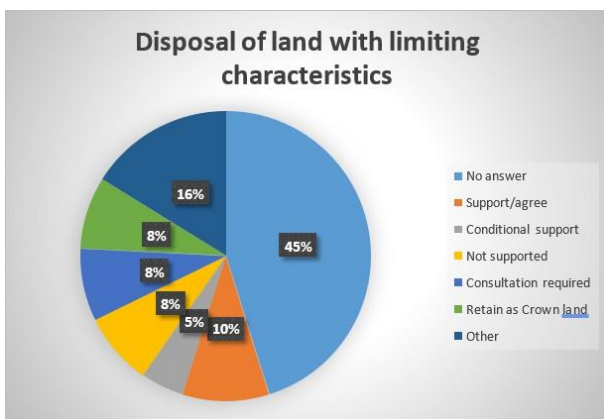
Recommendation

Proceed with the proposed regulation as drafted with prescribed circumstances which support the future disposal of Crown land for regional development and activities.

Proposed Regulation 5 – Prescribed circumstances – section 25(1)(e)

(1)(e) where land is disposed of following a determination by the Minister that there is likely to be low demand for the land due to a limiting characteristic of the land, and it would be unreasonable to incur the expenses associated with a public auction, public tender or such other open competitive process

Consultation Response



Further consideration by the Crown Lands Program has determined that this circumstance is adequately addressed by the Act and Proposed Regulation 4. Disposal to the owner of adjacent land to be merged with the adjacent land (section 25(1)(a) of the Act) and disposal of land valued at less than an amount prescribed by regulation (section 25(1)(d) of the Act) are preferable disposal exemptions.

Recommendation

Do not proceed with this proposed regulation.

Proposed Regulation 7 – Occupation of Crown land – section 61(1)(a)

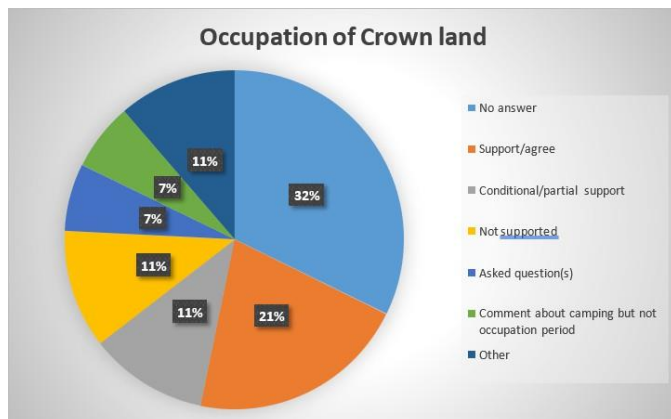
Regulation description

Under the 2010 regulations, occupying unalienated Crown land for more than three consecutive weeks without lawful authority constitutes misuse of the land, as outlined in section 61(1)(a) of the Act.

This proposed regulation allows for the Minister to determine that the time period for the occupation of some unalienated Crown land, without lawful authority, is longer or shorter than the standard 21 consecutive days. Signage will be placed on the Crown land and/or a notice will be published in the Government Gazette to advise of the time period.

The prescribed period for all other unalienated will be 21 consecutive days (3 weeks).

Consultation Response



Recommendation

Proceed with the proposed regulation as drafted relating to the occupation of Crown land.

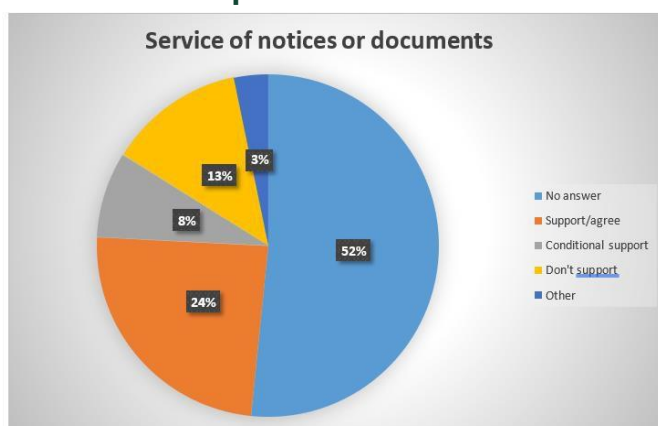
Proposed Regulation 8 – Service – section 75

Regulation description

The Act lists various ways that notices or documents required or authorised by the Act may be given to a person, including in a manner prescribed by regulation. It is proposed to prescribe sending a notice or document via email to an address provided by or known to be used by the recipient as a service option. Delivery will be deemed to have taken place at the time the email is sent.

The electronic service of notices and documents is efficient and aligns the Act with other South Australian legislation, including the *Heritage Places Act 1993*, the *Aquaculture Act 2001* and *Labour Hire Licensing Act 2017*.

Consultation Response



Those providing conditional support suggested that delivery and read receipts should be used or that email should be combined with posted mail.

Recommendation

Proceed with the proposed regulation as drafted relating to the service of notices or documents.

Proposed Regulation 9 – Setting aside unalienated Crown land for specified activities

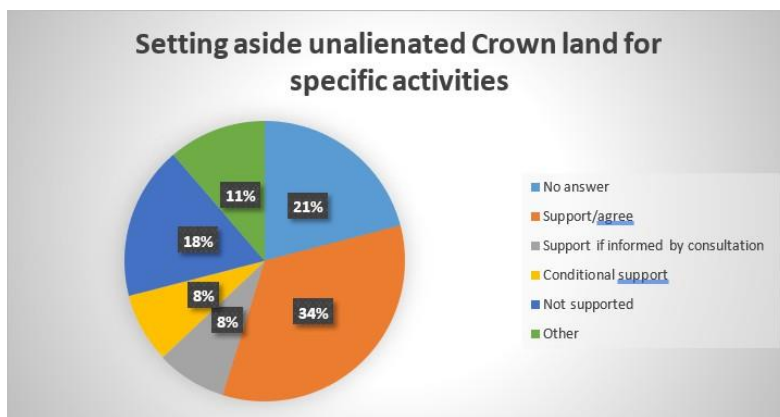
Regulation description

This proposed regulation will allow the Minister to make decisions about designated areas of unalienated Crown land and the activities that may occur there. The Minister may place conditions and restrictions on access to, and use of, the land.

The explanatory guide gave camping as one example of a specified activity. This proposed regulation would allow access to designated Crown land for camping to be restricted to those who hold a permit issued by DEW. Additional conditions, such as limits on the duration of camping stays, may also be established by the Minister.

Failure to adhere to any conditions or restrictions set by the Minister for the designated land will be considered an offence.

Consultation Response



Recommendation

Request that Parliamentary Counsel add a reference to consultation to the proposed regulation to allow designated areas of unalienated Crown land to be set aside for specific activities.

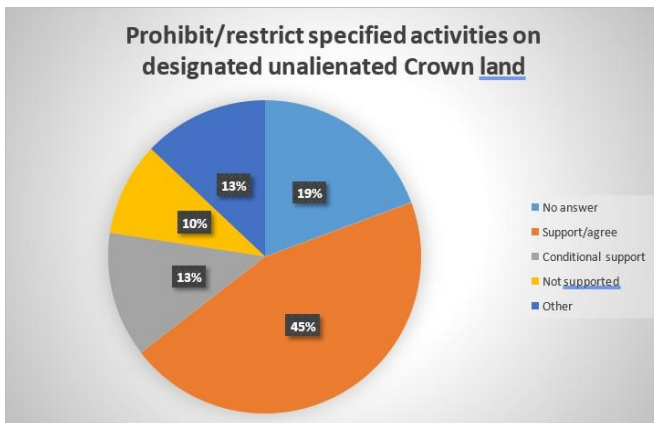
Proposed Regulation 10 – Prohibition and restriction of specified activities on designated unalienated Crown land

Regulation description

The high demand for the use of some unalienated Crown land may have a negative impact and it may be appropriate to restrict or prohibit access to the land. This proposed regulation directly relates to the object of the Act seeking to achieve a balance of the social, economic and environmental needs of the community.

The explanatory guide provided camping as an example of an activity that the Minister may restrict or prohibit on a designated area of unalienated Crown land for a period of time to allow the land to regenerate.

Consultation Response



This regulation gained the most support of all of the proposed regulations.

Recommendation

Request that Parliamentary Counsel add a reference to consultation to the proposed regulation to allow specified activities to be prohibited or restricted on designated unalienated Crown land.

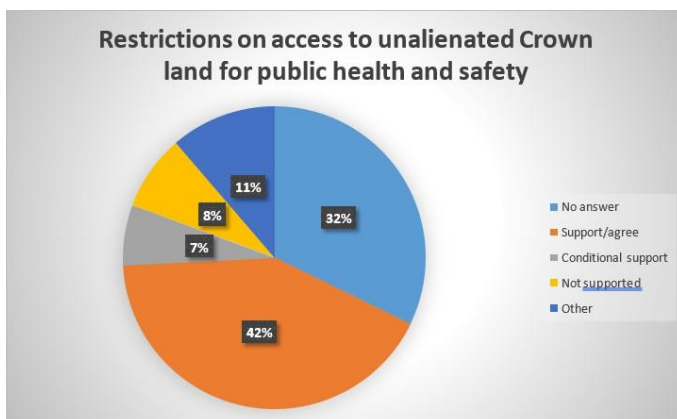
Proposed Regulation 11 – Restrictions on access to unalienated Crown land for public health and safety

Regulation description

This proposed regulation aims to reduce risks to people's health and safety by providing the Minister with the authority to limit access to certain areas of unalienated Crown land during events like fires, floods, or storms. It may also be applied in other situations where there are risks to public well-being, for example, during declarations under legislation such as the *Emergency Management Act 2004*.

It will be considered an offence to disregard any prohibition, restriction, or condition imposed by the Minister on specific areas of unalienated Crown land to safeguard public health and safety.

Consultation Response



Recommendation

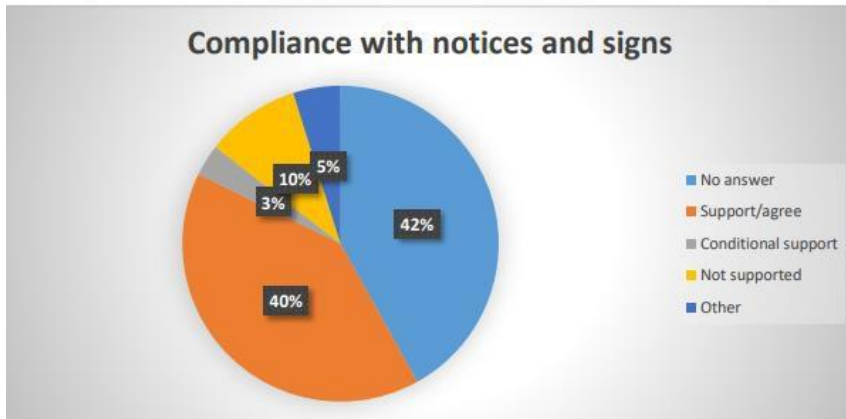
Request that Parliamentary Counsel add a reference to consultation to the proposed regulation to allow restrictions on access to unalienated Crown land for public health and safety.

Proposed Regulation 12 – Compliance with notices and signs

Regulation description

This proposed regulation requires persons to follow directions on signs or notices on unalienated Crown land and not doing so will be considered an offence.

Consultation Response



Recommendation

Request that Parliamentary Counsel consider amending the proposed regulation requiring compliance with notices and signs on unalienated Crown land based on Crown Solicitor's Office advice.

General comments on the proposed regulations

Respondents had the option to provide comments in the General Feedback section of the survey. Email submissions also included general comments. Some key themes were observed, and a sample of comments are detailed below.

Compliance

- *An increased investment in management and on-ground staff by the state government is required if the new regulations are to be effectively implemented.*
- *Compliance will be minimal without adequate staffing resources to educate and enforce a change in community behaviour.*
- *Compliance activity is going to be extremely important if these regulations are adopted. Resourcing a combined education and compliance program will result in behaviour change.*

Camping

- *Total ban or closure of crown land access is not justified. The benefits of allowing campers to enjoy the crown land if managed appropriately brings a multitude of benefits to the local community. Fees to obtain a permit to stay on crown land need to be used to improve the infrastructure and resources to manage the crown land rather than increasing rate payers' taxes to cover the increased costs associated with the influx of tourists.*
- *It is reasonable to pay a fee for camping if specific amenities and services are being provided. If there are no amenities or services being provided, a fee is not reasonable. If the land is remote and if there is no internet service, permits are just bothersome...Crown land should be enjoyed by the public without having to apply for unreasonable permits and paying additional fees (in addition to our taxes).*
- *There needs to be designated spots where people can and can't camp, keeping the numbers of people/vehicles to a number that can be effectively patrolled and the rules enforced.*

Off road vehicles

- *The increase in off-road vehicles (ORVs) including campervans and an increase in people camping has put enormous pressure on coastal habitats.*
- *I would urge that Crown Lands and the South Australian Government acknowledge the severe and widespread environmental impacts of ORV and unmanaged camping in coastal and other environmentally sensitive areas.*
- *Strongly support the new regulations and the identification of off-road vehicle driving as a specified activity, to address the impacts, to remove the ambiguity [of the Act], and to enable associated compliance activity.*

Public access to public land

- *I do not agree with all of the proposed amendments as I believe any further restrictions on the use of what is essentially public land is not in the best interests of the public.*
- *"Some" (very few) of these proposals seem quite reasonable. The rest are an attempt to prevent reasonable people from using what is PUBLIC LAND, for reasonable, recreational activities.*

Opposition to the sale of Crown land

- *Existing custodianship of Crown land should be maintained. My concerns are primarily relating to public management of our sand dunes. Public control of our dunes and coastline should be maintained.*
- *Crown land should be protected and not sold off especially to businesses. What makes SA great is the lower density housing. We don't want SA to become like the eastern states.*
- *I can empathise with regional towns surrounded by crown land and wanting to expand, however as a society, we are not yet limited on land supply.... There is no need to sell the land other than for the cost reduction of maintenance.*
- *This proposal is a quick cash grab which will impose on the lifestyle and enjoyment of everyone.*

Conclusion

The public consultation process was well promoted via social media and direct email to stakeholders, resulting in over 2000 hits on the YourSAy page.

Support for the proposed regulations collectively and individually was observed in the 62 responses which were received.

What we did

Minor amendments to the draft regulations were made following the public consultation, including the recommendations in this report. Incorporating consultation into some of the proposed regulations to inform the Minister's decision making is directly related to feedback provided.

What we will do

Implementation of the proposed regulations will include communications and engagement planning to ensure the community is aware of conditions and/or restrictions which have been applied to specific unalienated Crown land.

Appendix

Responses were received from (or on behalf of) the following organisations/groups:

Adelaide Bushwalkers Club/Walking SA
Barnjarla Determination Aboriginal Corporation
Birdlife Australia
City of Onkaparinga
DEW Water Infrastructure and Recovery
Eyre Peninsula Landscape Board
Far West Coast Aboriginal Corporation
Green Adelaide
Hills and Fleurieu Landscape Board
Kangaroo Island Council
Murraylands and Riverland Landscape Board
Northern and Yorke Landscape Board
Outback Communities Authority
Parsons Beach Community Association
Rural Communities Australia
Wauraltee Beach Action Group
Yorke Peninsula Council

Report prepared by:
Department for Environment and Water
Tourism and Commercial Services Branch
National Parks and Wildlife Service

www.environment.sa.gov.au



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