

25 August 2016

The Director  
General Purpose Standing Committee No.6  
Legislative Council | Parliament House  
Macquarie Street  
SYDNEY NSW 2000  
E: [gpsc6@parliament.nsw.gov.au](mailto:gpsc6@parliament.nsw.gov.au)

Dear Sir

## **General Purpose Standing Committee No. 6 – Inquiry into Crown Land: Supplementary Questions**

Further to the public inquiry held on Monday 5 August 2016, by which members of the Canberra Region Joint Organisation appeared as witnesses at the Crown Land Inquiry, a number of supplementary questions were tabled. Please see attached the response to these supplementary questions. Note that Eurobodalla Shire Council has prepared their own response which is also attached to this document.

As outlined in the public hearing, the Canberra Region Joint Organisation (CBRJO) is a network of eight Councils across South East NSW and the ACT Government. The membership of Bega Valley Shire Council, Eurobodalla Shire Council, Goulburn Mulwaree Council, Hilltops Council, Queanbeyan-Palerang Regional Council, Snowy Monaro Regional Council, Upper Lachlan Shire Council and Yass Valley Council. The membership has contributed to the submission and subsequent supplementary questions, with the CBRJO providing a whole-of-region response.

The CBRJO strongly encourages the NSW Government to consider how departmental boundaries can align with that of the footprint of Joint Organisations to reflect the alignment of effort with a shared purpose to minimise duplication and promote positive long term outcomes for the residents of NSW.

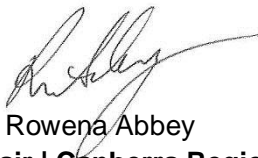
The CBRJO appreciate and acknowledge the opportunity to contribute to the discussion regarding Crown Lands across NSW and will continue to advocate and reiterate the key recommendations outlined in the original submission. These recommendations were:

- Community infrastructure assets should be divested to Councils as no cost. A management fee is paid to Councils annually to maintain and manage the community asset.
- State Agencies are adequately resourced and funded to work with Local Councils.
- Ensure good governance and transparency underpins the Government's management plans.
- Areas scheduled for sale should be notified to Council prior to any commercial advertising or sale proposal.
- State-wide Register of Crown Land is put in place that is accessible to the public.

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- The Department of Lands prepare a strategic plan in consultation with Local Government to clearly articulate and identify how effective management and maintenance of Crown Land will be undertaken and resourced.
  - A properly resourced department undertake extensive surveying and mapping of Crown Land across NSW (including social, cultural, economic and environmental values, existing infrastructure condition and intensity and type of use) and implement a recording methodology that will provide greater accuracy.
  - This strategic plan would have a series of operational plans that highlight the process, role and responsibility of maintaining Crown land into the future.
  - Appoint a Crown Lands Commissioner to oversee the implementation of the strategic plan and legislation requirements.
  - Any parcel of crown land that is to be divested to Local Government should firstly have all of its interests extinguished.
  - A dedicated department to process Aboriginal Land Claims and referred back to the Local Aboriginal Lands Councils.
  - Establish an Advisory group within the LALC, becoming a key partner in the development of a land management plan.
  - Ensure a proper consultation process is undertaken to identify the most appropriate use of the land; outlining how it will be managed for future generations.

It is critical with legislation that the framework is correct and reflects the needs of the regions and how Crown Lands will be treated going forward. This is a once in a generation opportunity and the CBRJO want to ensure it records the general consensus across the eight Councils of the CBRJO network.

Yours sincerely



Clr Rowena Abbey  
**Chair | Canberra Regional Joint Organisation**

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**GENERAL PURPOSE STANDING COMMITTEE NO. 6  
INQUIRY INTO CROWN LAND  
CANBERRA REGION JOINT ORGANISATION  
RESPONSE TO SUPPLEMENTARY QUESTIONS**

1. ***With regards to Plans of Management can you provide the following information:***

***(a) Do Plans of Management provide the best mechanism for the management of crown land?***

No. In instances where the Crown Land is small and or single use the need for a Plan of Management is questionable. How the land is used can be governed by the planning and zoning controls. Planning and zoning controls are the most appropriate mechanisms for governing the management and use of public (Council and Crown) land. However issues do arise for Crown (and other State owned land) via Section 89 of the EP & A Act 1979 which ultimately gives the power of any consent or determination for State land back to the Minister. Consideration should be given to whether there is the mechanism to empower Local Government to address issues that arise via the EP&A Act 1979.

Plans of Management do provide a tool to assist the community in managing large reserves or groups of reserves, similar to community lands plans of management developed under the Local Government Act 1993. A PoM can include specific strategic priorities for the land that are not captured through the LEP.

Similarly where the Crown Land adjoins other public land (eg Council park or reserve) and where both are managed as a single parcel. In these instances either a single Plan of Management would suffice or rely on the zoning controls.

***(b) What crown land is best served by the development of a Plan of Management?***

Plans of Management are best used for larger parcels of land with multiple uses and/or users.

***(c) What crown land does not need a mechanism such as a Plan of Management?***

Refer (1a)  
Small parcels of land can also be captured through Council's existing Community Lands PoM under the Local Government Act 1993.

***(d) What is the best consultation period for developing Plans of Management?***

Consultation should be designed as part of the process for developing a Plan of Management. Public exhibition and feedback for a plan can be done in the standard 28 day plus 14 days for lodging of submissions , however true consultation and community engagement seeking genuine input into a PoM requires more time dependant on the complexity of the reserve and its user groups.

In some instances consultation would be part of:

- Developing options for the land
- Selecting a preferred option
- Public exhibition of the Plan

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In other cases consultation could be limited to the public exhibition of the Plan of Management.

**(e) *What are the best consultation methods for developing Plans of Management?***

Consultation should be tailored to the particular circumstances not a 'one size fits all' approach.

**(f) *What are the best mechanisms to appeal a Plan of Management?***

Following the consideration of submission and the decision in relation to the issues raised.

Local Government regularly consult with the community on strategic plans, PoM, DAs etc and have sound mechanisms for managing community concerns. These same mechanisms can you used for Crown Land PoMs.

Appeals should be to a Tribunal rather than a Court. Tribunal members could be appropriately qualified experts relevant to the issues being questioned rather than legally trained persons/judges. Tribunals could be held locally in Council Chambers and run more informally (eg assessor hears from each party, no need for cross examination, issues are considered and a decision made, further appeals to a court only on a point of law) so they are less intimidating to residents than a court room.

**(g) *What are the best mechanisms to amend a Plan of Management?***

Amending a Plan of Management should be a similar approach in which the plan was prepared but only focusing on the element being amended. Could be a similar process to an amending LEP.

PoM should have a set period with regular review points along the way. Amendments are addressed at these review points and re-exhibited as required.

**(h) *Do you have suggested improvements for the development of Plans of Management?***

There should be a consistent process for developing a Plan of Management across the various pieces of legislation. The need and process for a Plan of Management over Crown Land or Council Land should be the same. There should be the need for only one Plan of Management if both Crown and Council Land is managed as a single parcel.

**(i) *Is there a better way to manage the crowns asset?***

Crown assets could be managed better by providing sufficient resources otherwise the land should be disposed of to another party.

All parcels of Crown Land, currently managed and funded by Councils as parks, playgrounds, sports fields' showgrounds or cemeteries should be transferred to Council. Other lands should be assessed on their merit.

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Following this the first step would be to determine if another public agency is in a position to take on management of the land (eg National Parks) and adding it to their portfolio of assets for management consistent with the objectives of their legislation.

If the land is not required by another public agency, and in recognition that the land was Aboriginal Land before being claimed by the Crown, the Aboriginal community should be given first option of taking on the land. If this is declined then open up the land to others.

**(j) *What community consultation should take place prior to the sale of any crown land parcel?***

A public hearing would certainly be useful, similar to the process that Council's must undertake to reclassify community land under Section 29 of the LG Act 1993 i.e.

- Consult with the community/stakeholders on proposal to sell
- Consider submissions and make a decision to sell or not
- Implement the decision

Consideration could be given to including an appeal mechanism (similar to that outlined above) before implementing any decision

**2. *How do you ensure local indigenous communities are consulted during the development of a Plan of Management?***

Mandate a requirement for consultation with local indigenous communities or simply rely on better practice consultation guidelines

**3. *How do you identify and protect sites with indigenous importance on Crown Land?***

There are already mechanisms under other legislation (eg *Environmental Planning & Assessment Act 1979, National Parks & Wildlife Act 1974*) to identify and protect sites of Aboriginal importance so there is no need to duplicate. However it is important to ensure this legislation applies to Crown Land.

**GENERAL PURPOSE STANDING COMMITTEE NO. 6**  
**INQUIRY INTO CROWN LAND**  
**EUROBODALLA RESPONSE TO SUPPLEMENTARY QUESTIONS**

**1. With regard to Plans of Management can you provide the following information:**

**a. *Do Plans of Management provide the best mechanism for the management of crown land?***

POMs are one mechanism for managing community land. They can be a valuable tool if developed in consultation with community and stakeholder, systematically implemented and updated in appropriate timeframes.

**b. *What crown land is best served by the development of a Plan of Management?***

Eurobodalla would only seek to develop POMS over Crown land which is of high community or cultural value, use, benefit or impact.

**c. *What crown land does not need a mechanism such as a Plan of Management?***

Council does not seek to develop POMs for Crown Land leased for commercial purpose such as the Batemans Bay Beach resort. This land is instead managed through asset management and business plans.

**d. *What is the best consultation period for developing Plans of Management?***

Provided appropriate engagement occurs in the drafting and development of the POM, Council is of the view that the 28 day period as determined by the Local Government Act 1993 is sufficient. Where a piece of land is of high community or cultural value or interest Council considers extending the engagement period as required.

**e. *What are the best consultation methods for developing Plans of Management?***

Council has experienced good engagement outcomes in developing POMS through the use of sunset committees, forums, workshops, targeted stakeholder mail outs and submission processes.

**f. *What are the best mechanisms to appeal a Plan of Management?***

Council is guided by the legislation in this area.

**g. *What are the best mechanisms to amend a Plan of Management?***

Council is guided by the legislation in this area.

**h. *Do you have suggested improvements for the development of Plans of Management?***

It would be of benefit for the process for development, engagement, exhibition and adoption of POMs to be streamlined and the same for Community land and Crown land under Council control. This would allow inclusion of Crown land not currently covered by any kind of management tool to be included in Council Community Land plans with similar objectives and consistency in management.

**i. *Is there a better way to manage crown assets?***

Council is positive that the review of the Local Government Act and the Crown Lands Act will find common ground and direction in managing both Community and Crown Land in the best interests of Community.

***j. What community consultation should take place prior to the sale of any crown land parcel?***

Council has no objection to the process currently in place through the Local Government Act 1993 for the reclassification and sale of community land and would support a similar process for Crown land.

***2. How do you ensure local indigenous communities are consulted during the development of a Plan of Management?***

Generally speaking, Council would engage with the Eurobodalla Aboriginal Advisory Committee and Local Aboriginal Lands Councils during the development of a draft POM and throughout the exhibition period. In previous instances where community land to be covered by the POM has included areas of cultural sensitivity or significance Council has engaged a specialised consultant from the local area with existing long standing relationships with community to run a series of interviews and forums with key Indigenous representatives, generally on-site, to ensure outcomes appropriately reflected their sentiments.

***3. How do you identify and protect sites with indigenous importance on Crown Land?***

Where sites of cultural significance are identified Council would put in place an appropriate land management regime depending on the determined location, type and importance of the site. This may include the development of a Culturally Significant POM involving associated engagement, exhibition and implementation.