

9 February 2022

The Hon. Robert Borsak, MLC
Chair
Select Committee on the Greater Sydney Parklands Trust Bill
NSW Legislative Council
Parliament House
Sydney, NSW 2000



EMERITUS PROFESSOR JAMES WEIRICK
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Dear Mr Borsak,

**Public Hearing on the Greater Sydney Parklands Trust Bill, 27 January 2022
Responses to 'Questions Taken on Notice'**

I thank the Select Committee for the opportunity to respond to the 'Questions Taken on Notice' during my appearance before the committee on 27 January 2022.

For clarity, I will number the questions.

- 1. Question from Mr David Shoebridge – 'Could I ask you on notice to have a look at the current community consultative trusts and the kind of powers and authorities that those trusts could be endowed with that would take us in the right direction of going towards more local management and strategic vision? (edited from Uncorrected Transcript, p.60).**

Response

- 1.1 As stated in my written submission to the Select Committee, I support the principle of decentralised, community-based control of major parklands across Greater Sydney.
- 1.2 I note this is consistent with 'Principle #2 Community focused' of the *NSW Public Space Charter* issued by the NSW Government in October 2021, which concludes with this paragraph:

Public space that is community-led, with a strong foundation of inclusive and equitable engagement, collaboration and co-design is more likely to meet the desires, expectations, traditions and needs of its community. Involving the community, including diverse, under-represented and hard-to-reach groups, in decisions about how public space is planned, designed, managed and activated builds trust and ultimately a sense of belonging and attachment to place (NSW Government 2021, p.14).

- 1.3 The Greater Sydney Parklands Trust Bill does not propose a 'community-led' structure for parkland planning, design and management. On the contrary, it proposes continuation of the administrative agency created in July 2020, with its top-down executive structure of Ministerial appointees to the Board of the Greater Sydney Parklands Trust, who have also been appointed as members of the Centennial Parklands, Parramatta Park and Western Sydney Parklands Trusts under their respective Acts of Parliament.

1.4 As pointed out in many submissions to the Select Committee, and public testimony on 27 January 2022, there is a measure of confusion in the wording of the Bill, which refers to the 'Board of the Trust' and 'Community Trustee Boards' – the former having executive authority, the latter being merely advisory. The term 'Community Consultative Committee' should be adopted, instead of 'Community Trustee Board' to overcome this confusion in the drafting of the Bill. This term will be adopted in further discussion below.

1.5 My submission proposes establishment of a Greater Sydney Parklands Council, somewhat on the model of the Heritage Council of NSW, as the coordinating body for the 'Blue-Green Grid' of public open spaces across the metropolitan area (Weirick, Submission no.107).

1.6 Thus, for the major parks of Sydney, I propose a structure comprising three bodies:

- Community Consultative Committees
- Individual Park Trusts
- Greater Sydney Parklands Council

1.7 The Centennial & Moore Park Trust Act 1983 provides a precedent for one member of the Community Consultative Committee to be appointed to the Park Trust. I understand the practice has been for that member to be elected by the members of the Community Consultative Committee.

1.8 Based on this precedent, I propose Individual Park Trusts should have 7 members, 4 appointed by the Governor on the recommendation of the Minister, 3 elected by members of the Community Consultative Committee, the overall members of the Community Consultative Committee having been appointed by the Trust in accordance with an approved consultation and engagement framework on the recommendation of the Chief Executive.

1.9 In addition, the Chair of the Park Trust should serve on the Greater Sydney Parklands Council, contributing to the strategic overview of parklands issues across Greater Sydney, as well as the local issues of the individual Trust.

1.10 Ministerial appointees to the Trusts, and Trust appointees to the Community Consultative Committees should meet selection criteria similar to those specified in Parts 38 (3) (a) & (b) of the Greater Sydney Parklands Bill, i.e. have sound knowledge of the relevant parkland including the activities carried out in the parkland; able to communicate effectively with local residents, local community groups and other persons who use the parkland; and have qualifications, experience or skills in areas relevant to park planning, design and management, community uses of public open space, and/or governance and risk.

Overall membership of the Park Trusts and Community Consultative Committees should represent a broad range of views and interests of the community and persons who use the relevant parkland, be representative of diversity in relation to gender, age and cultural background, include representation of local First Nations peoples, and include representation from local government.

1.11 Ministerial appointees to the Trusts, and Trust appointees to the Community Consultative Committees would thus be appointed under the same selection criteria, not different criteria as proposed in Parts 9 (1) and 38 (3) (a) & (b) of the Greater Sydney Parklands Bill. The purpose being to avoid a preponderance of lawyers, bankers, business executives, developers, consultants to the development industry etc at Trust level, setting up an 'us and them' hierarchy of influence and values with respect to the Community Consultative Committees.

- 1.12 Conflicts between the Community Consultative Committee and the Park Trust should be resolved by protocols in the Park's consultation and engagement framework, through community surveys, public meetings etc.
- 1.13 Conflicts between the Park Trust and the Minister should be resolved by the statutory means proposed by Dr Neil Runcie in his submission to the Select Committee, i.e. for the conflict to be stated in writing and tabled on the floor of the Legislative Assembly for a set number of days to give Parliament time to decide the issue (Dr Neil Runcie, Submission no.156, p.4).
- 1.14 The powers and functions of the individual Park Trusts and Community Consultative Committees should be similar to those proposed in the Bill for the Greater Sydney Parklands Trust and the 'Community Trustee Boards' except for stringent controls on the commercialisation and/or sale of park lands.
- 2. Question from Mr David Shoebridge - Is there a model around the rest of the world and other States and other Territories that you can point to which has been effective in delivering what we all want, which is parks that are there, protected for their natural environment, protected as places for public recreation? Is there a model you can point to? (Uncorrected Transcript, p.62).**

Response

- 2.1 As I briefly mentioned in my response to Mr Shoebridge before the Select Committee on 27 January, the 'park system' concept dates from the 19th century, notably the transformation of the parks and boulevards of Paris under Napoleon III and Baron Haussmann, 1850-1870. These works are superbly documented in the multi-volume *Les Promenades de Paris: histoire-description des embellissements-dépenses de création et d'entretien des Bois de Boulogne et de Vincennes, Champs-Élysées, parcs, squares, boulevards, places plantées* (1867) by Jean-Charles Adolphe Alphand – a full set of which is held in the Rare Book Collection, Fisher Library, University of Sydney and is well worth consulting.
- 2.2 The concept was enthusiastically adopted in the United States, beginning with the Parks & Parkway System of Buffalo, NY designed by Frederick Law Olmsted and Calvert Vaux in 1868, which in addition to a series of parks linked by tree-lined boulevards, included the grounds of a new Insane Asylum, run as a farm as part of the mental therapy of the day. Other park systems followed in Chicago, 1871; Boston, 1876; Minneapolis, 1883; Kansas City 1893 etc.
- 2.3 In 1892, the park system of Boston was expanded to include protection of an interlinked network of natural areas on the periphery of the city under the control of the Metropolitan Park Commission (today the Metropolitan District Commission). The achievement of this body in its first decade, 1892-1902, is graphically shown below:



The open spaces of Boston in 1892 and 1902 compared (Wikipedia Commons)

- 2.4 Chicago created a similar system in 1913 with State legislation establishing the Forest Preserve District of Cook County, endorsed by a public referendum in 1914, that is today a 70,000-acre (28,300 ha) network of forests, prairies, wetlands, streams and lakes around the City of Chicago, 11% of the county.
- 2.5 In Australia, we have the remarkable greenbelt in Adelaide created by the Colonel Light plan of 1837; the nineteenth century parks and tree-lined avenues in the City of Melbourne; the open space system of Canberra envisaged in the Griffin Plan of 1912 and realised in 1972 with creation of the National Capital Open Space System (divided since ACT self-government in 1989 between the Federal and Territory governments).
- 2.6 Due to its 'Greater Brisbane' structure, the City of Brisbane has the largest number of parks (2160) serving the largest local government area population in Australia (2.28 million) but the green spaces of the city are not integrated as a park system, and there are serious issues with the 'Greater Brisbane' system of governance overall, as a recent study has observed:

'In terms of democratic governance, there are challenges to community engagement partly due to the large size of the council and the top-down nature of engagement. To ensure good governance, the City of Brisbane Act 2010 requires the council to be transparent, accountable, and inclusive, and to deliver sustainable services Nevertheless, we argue that Brisbane still faces major governance challenges, which include the intervening role of politics in urban governance, the development of megaprojects, a growing dependence on the private sector for providing services, the increasing privatization of the public realm and the lack of well organised civil society in the city' (Bajracharya & Khan 2020, p.225).

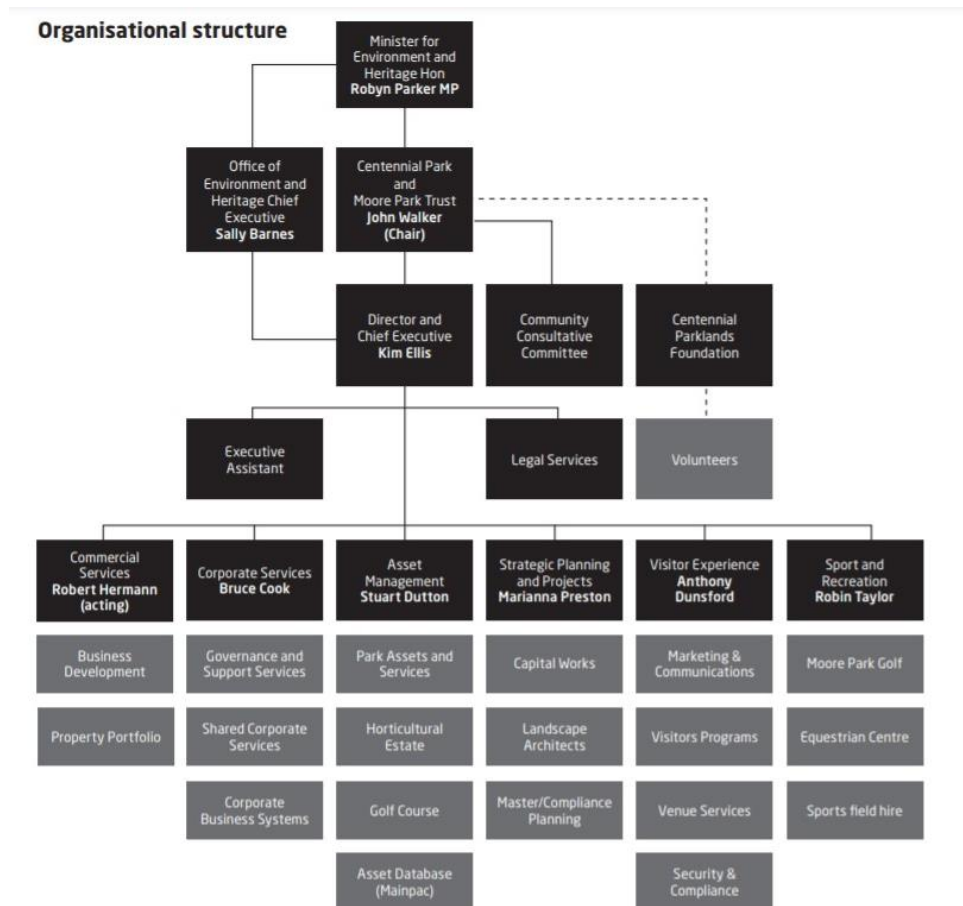
This strikes a cautionary note, as far as unified, top-down governance structures are concerned.

- 2.7 Sydney has many great parks but never adopted a 'park system' approach. Beginning with the National Park, Audley in 1879, large parks were often run on an individual basis by Trusts. In the 1960s, those parks with significant nature conservation values were incorporated in the NSW National Parks & Wildlife Service with their Trusts reduced to advisory bodies. This move was generally applauded by scientists at the time concerned by the anti-conservation prejudices of the old trustees, and convinced by the need for high-level scientific standards in the management of complex ecosystems (Burgin 1990; Whitehouse 1990a; Whitehouse 1990b).
- 2.8 Those issues do not apply to the modern Trusts set up for the grand parks of Sydney, principally managed for recreational, heritage and cultural landscape values beginning with the Centennial Park Trust established in 1983 (subsequently re-named the Centennial Park & Moore Park Trust), Parramatta Park Trust, re-established after a quarter century hiatus in 2001, and the Western Sydney Parklands Trust, established in 2006.
- 2.9 The organisational structure for Centennial Parklands from a decade ago (2011-2012) is a representative example of the clarity and efficiency with which the management of a major urban park can be handled under a modern Trust (see below).

At that time, the Centennial Park & Moore Park Trust was positioned within the Office for Environment & Heritage, Department of Premier & Cabinet and reported to the Minister for Environment & Heritage. Over the past 10 years, the Centennial Park & Moore Park Trust has reported to five Ministers in the O'Farrell/Baird/Berejiklian/Perrottet Governments,

been located in two Government Departments (Department of Premier & Cabinet, and the Department of Planning & Environment/Planning, Industry & Environment/Planning & Environment), and for the period January 2014 to July 2020 had its organisational staff integrated with the staff of the Royal Botanic Gardens & Domain Trust.

The value of the individual Park Trusts in Greater Sydney should be judged by what they achieved over the past 10 years despite the turmoil in governance and administration to which they have been submitted.



Administrative Structure of the Centennial Park & Moore Park Trust, 2011-2012, indicating the clarity and efficiency with which individual Park Trusts can be organised (Source: Centennial Park & Moore Park Trust 2012, p.65).

2.10 In summary, overseas examples dating back to the 19th century demonstrate the value of park systems, however, Sydney has never had such an integrated network of public open spaces. Since the 1980s, we have had modern Park Trusts administering three of the great parks of the metropolitan region. Their governance structures, powers and systems of administrative organisation, in the years before the current period of policy confusion, provide a model for decentralised, community-based control of major parklands across Greater Sydney – a model that can be strengthened by the ‘community-led’ governance arrangements recommended above in accordance with Principle #2 of the NSW Government’s Public Spaces Charter, 2021.

To achieve the linkages of the Blue-Green Grid envisaged for Greater Sydney, we need a system to coordinate open spaces held in many ownerships, as I recommended in my submission to the Select Committee, not the poorly-conceived mega-agency proposed in the Bill.

- 3. Question from Mr David Shoebridge - One of the matters the bill does not deal with is that income base. One of the offers that has been put forward is hypothecating a proportion of stamp duty or other land taxes towards parklands. Again, if you have got any examples of that outside of Chicago where that works, I would appreciate that on notice. (Uncorrected Transcript, p.62).**

Response

- 3.1 As I mentioned in testimony before the Select Committee, the City of Chicago has a specific property tax that is the major recurring revenue source for the Chicago Park District.
- 3.2 The Chicago Park District owns more than 8,800 acres (3,600 ha) of green space, making it the largest municipal park manager in the United States. It serves a population of 2.7 million in a metropolitan region of 9.5 million extending to Wisconsin in the north and Indiana in the south-east, a region that contains large areas of parkland, including the Cook County Forest Preserves previously mentioned. Within the boundaries of the City of Chicago, however, the public parks are placed under immense pressure due to racial segregation, uneven development, poverty, corruption and crime, the like of which we have not seen in Australia - not to mention the severe winter climate of a lakefront city in Midwest USA.
- 3.3 Chicago is therefore not relevant as a precedent for park management and funding in Greater Sydney on socio-economic, cultural and climatic grounds. It is also not relevant on fiscal grounds, as property taxes are raised on the basis of improved capital values unlike rates in Sydney based on unimproved capital values. City property taxes fund services covered by the States in Australia, such as public schools and the police. As a result, property taxes are generally in the tens of thousands but can also be non-existent in blighted neighbourhoods, the blight being caused by the above factors.
- 3.4 The one advantage of the Chicago funding model dependent on a specific property tax is simply that the cost of funding the Park District is known by every property taxpayer. Setting the budget for the Park District and the associated tax rate each year, therefore involves intense community consultation. Priorities, values and interests become relatively explicit in the process.
- 3.5 A similar level of community engagement in appropriation bids, funding mechanisms and spending priorities could be achieved in Sydney if the Greater Sydney Parklands Council proposed in my submission to the Select Committee becomes the forum for determining funding policies for recurrent expenses, parkland expansion and one-off community grants.
- 3.6 Within a decentralised system, each major park would have its own budget with no cross-subsidies between the parks. Recurrent expenses would be met from the general fund and appropriate commercial operations. The differing income from commercial operations and differing recurrent expenses among the major parks would be reconciled by differing appropriation rates from the general fund, overseen in a transparent way by the Greater Sydney Parklands Council.
- 3.7 Commercial operations could take two forms, development within the parks subservient to public open space values, and development outside the park on publicly-owned land generating rents on a leasehold basis to support the park. The latter would be similar to the centuries-old precedent of 'glebe lands' supporting parish churches in the Anglo-Norman tradition of estate management in Britain.

The key to ensuring public endorsement of the 'glebe' strategy would be to ensure that the publicly-owned lands are not excised from public open space, as is the case of the

Entertainment Quarter, Moore Park excised from Governor Macquarie's Sydney Common, for example.

The 'glebe' lands would also have to be held in public ownership in perpetuity, not converted to freehold and sold by a future government.

- 3.8 With respect to appropriations from the general fund, it may be possible to hypothecate certain State taxes to support the parks, as has been suggested in evidence before the Select Committee. If a general Land Tax is introduced to replace Stamp Duty, an idea canvassed by Premier Perrottet during his term as Treasurer, an hypothecated proportion, if not the full amount, to fund Community Development including parks would be a logical commitment in the public interest.
- 3.9 Funding parklands expansion, however, presents formidable difficulties. There is a pressing need to secure public open space across the Cumberland Plain in the North West and South West Growth Areas, the Aerotropolis/'Parkland' City at Badgery's Creek/South Creek, and at Penrith Lakes.
- 3.10 Although this need has been known for decades, successive State Governments have not purchased sufficient land at rural prices ahead of development, creating the current 'Leppington Triangle' situation of land acquisition only being possible at urban prices. The dire consequences of this situation, both for the State and small landowners in Western Sydney, has been documented in the recent report on the Western Sydney Aerotropolis by Independent Community Commissioner Professor Roberta Ryan (Ryan 2021). The power of large landholders in the situation is demonstrated by the 'Leppington Triangle' case at Federal level, currently the subject of an inquiry before the Joint Committee of Public Accounts & Audit of the Australian Parliament (Australian National Audit Office, 2020; Mizen 2022).
- 3.11 Mechanisms to acquire private land for parks in an orderly manner through the process of urban development are available overseas but not in Australia due to our property laws and property rights. These mechanisms include:

- 'Land Readjustment' – practised in Germany, Japan, the Netherlands and other nations in which a Land Readjustment Boundary is determined through community consultation. Once set, individual landowners cannot 'hold out' from the redevelopment process but are compulsorily incorporated in a property development entity with a share in proportion to the area and pre-development value of their landholding determining their share in future profits from upzoning and development. The old property boundaries are eliminated or readjusted in relation to the development master plan, with the cost of public open space excision shared among all landowners. In this way, a landowner whose property is zoned 'public open space' under the master plan is not disadvantaged, and all benefit equitably from the higher land values of new land parcels overlooking parks (there is extensive literature on this topic, Louwsma & others 2017 is a representative example).

The greatest reform to urban development in Australia would be to adopt this mechanism.

- 'Transfer of Development Rights' – practised extensively in the United States in which landowners of rural land in designated 'sending areas' sever the right to develop that land from other property rights. The

severed rights become a tradable commodity that can be bought and sold. A conservation easement is applied to the rural land with severed development rights -protecting it as open space - while those rights are sold to developers building in designated 'receiving areas' to increase density above 'as-of-right' controls. The rural land with its conservation easement can be retained as 'privately owned public space' or sold to the State at rural prices (Nelson & others 2012, pp.3-5).

Both mechanisms are more powerful than Section 94 Contributions and open space components of Voluntary Planning Agreements possible under the NSW Environment Planning & Assessment Act 1979.

3.12 In the absence of more powerful mechanisms to address the problem of high land values in the remaining rural lands across the Cumberland Plain, there would appear to be only three ways to purchase land for new parks in Western Sydney:

- pay the high price;
- declare the extensive floodplains of the stream systems within the Hawkesbury River catchment, and the floodplain of the river itself, to be undevelopable and purchase these lands at rural prices as at least initial elements of the riparian corridors needed for the Sydney Blue-Green Grid;
- zone the developable land in the growth areas of the Cumberland Plain to very high densities so some land can be acquired for public parks through Section 94 Contributions and Voluntary Planning Agreements (creating a highly problematic pattern of high density development on the periphery of the city with many other costs).

3.13 There is serious concern in the community that the provisions of the Greater Sydney Parklands Trust Bill are aimed at large-scale commercialisation of public parks to not only make the great parks of Sydney 'self-funding' but to also raise funds to pay the high price for new parks in Western Sydney, the legacy of poor public policy over decades.

3.14 The funding implications of the Bill most certainly need full disclosure.

I thank the Select Committee for its inquiry into the Greater Sydney Parklands Trust Bill, and hope the above responses adequately address the 'Questions Taken on Notice' from my testimony on 27 January 2022.

Yours sincerely,

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attach.

References

- Australian National Audit Office 2020, *Purchase of the 'Leppington Triangle' Land for the Future Development of Western Sydney Airport - Department of Infrastructure, Transport, Regional Development & Communications*, Auditor-General Report no.9 2020-21 (Performance Audit), ANAO, Canberra, September 2020.
- Bajracharya, B. & Khan, S. 2020, 'Urban governance in Australia: a case study of Brisbane City,' in: Dahiya, B. & Das, A. (eds) *New Urban Agenda in Asia-Pacific: governance for sustainable and inclusive cities*, Springer, Singapore, pp.225-250.
- Burgin, S. 1990, 'National Parks & Wildlife: conservationists or political puppets?' *Australian Zoologist*, vol.26 no.2, p.119.
- Centennial Park & Moore Park Trust 2012, *Annual Report, 2011-2012*, The Trust, Sydney.
- Louwsma, M., Lemmen, C., Hartvigsen, M., Hiironen, J., Du Plessis, J., Chen, M. & Laarakker, P. 2017, 'Land consolidation and land readjustment for sustainable development - the issues to be addressed,' in: *Proceedings of the International Federation of Surveyors Symposium on Land Readjustment for Sustainable Development*, Apeldoorn, The Netherlands, 9-11 November 2016, pp.1-16.
- Mizen, R. 2022, 'Bureaucrat's letter reignites Leppington Triangle scandal,' *Australian Financial Review*, 20 January 2022.
- Nelson, A.C., Pruetz, R. & Woodruff, D. 2012, *The TDR Handbook: designing and implementing Transfer of Development Rights programs*, Island Press, Washington, DC.
- NSW Government 2021, *NSW Public Spaces Charter: ten principles for public space in NSW*, NSW Department of Planning, Industry & Environment, Sydney. October 2021.
- Ryan, R. 2021, *Western Sydney Aerotropolis: recommendations for a fair and equitable way forward for small landowners in the Western Sydney Aerotropolis*, Report of the Independent Community Commissioner, Sydney, August 2021.
- Whitehouse, J.F. 1990a, 'Conserving what? – the basis for nature conservation reserves in New South Wales, 1967-1989,' *Australian Zoologist*, vol.26 no.1, pp.11-21..
- Whitehouse, J.F. 1990b, 'The future of nature conservation reserve establishment programmes,' *Australian Zoologist*, vol.26 no.2, pp.96-100.