

**Submission  
No 203**

**INQUIRY INTO MANAGEMENT OF PUBLIC LAND IN  
NEW SOUTH WALES**

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Please find attached a submission from the Local Government & Shires Associations of NSW. Please note that in order to meet the consultation deadline, this submission is provided in draft form, in anticipation of LGSA Executive sign off in September 2012. The Associations will advise the Committee of any amendments to the submission at that time.



<b>General Purpose Standing Committee No. 5 Inquiry into the Management of Public Land in NSW</b>	
<b>DATE</b>	<b>August 2012</b>

### Opening

The Local Government Association of NSW and Shires Association of NSW (the Associations) are the peak bodies for NSW Local Government.

Together, the Local Government Association and the Shires Association represent all the 152 NSW general-purpose councils, the special-purpose county councils and the regions of the NSW Aboriginal Land Council. The mission of the Associations is to be credible, professional organisations representing Local Government and facilitating the development of an effective community-based system of Local Government in NSW. In pursuit of this mission, the Associations represent the views of councils to NSW and Australian Governments; provide industrial relations and specialist services to councils and promote Local Government to the community.

The Associations appreciate the opportunity to make a submission to Legislative Council General Purpose Standing Committee No. 5 Inquiry into the Management of Public Land in NSW.

### Executive Summary

As the voice of local communities, and as significant public land managers in our own right, Local Government has a specific interest in the operational, economic, social and environmental impacts of public land management. As such, the Associations make the following recommendations to the Inquiry:

- That consultation with the relevant council be a legislative requirement of any conversion of Crown land, State Forests and agricultural land into national park estate or other types of conservation areas.
- That particular consideration be given to the impacts on the local economy and employment.
- That the Inquiry recognise the need for greater financial support for Local Government to manage Crown land.
- That the Inquiry recommend that the NSW Government review and remove rate exemptions for all land use for commercial or residential purposes regardless of ownership.
- That councils be compensated for the loss of rate revenue resulting from the expansion of national parks onto land that was formerly rateable.
- That the Inquiry support the appropriate resource and funding allocation to the NSW National Parks and Wildlife Service (NPWS) to ensure the long term viability of land management on the national park estate.
- That the Inquiry consults directly with the relevant councils in those regions to understand any specific impacts.
- That the Inquiry promotes the amendment of relevant legislation to ensure public authorities have the same weed management obligations as private landholders.
- That the Inquiry promotes the allocation of appropriate funding and resources for the management of weeds and pests on Crown Land.
- That the Inquiry investigates the following key principles for 'sustainable' public land management:
  - use of scientific data to determine appropriate uses of public land;
  - reasonable public funding to ensure core services are provided;
  - utilisation of private sector funding to provide value added services; and
  - use of market and non-market evaluation methods to measure the economic benefits of public land.
- That the Inquiry recognise the contribution that Local Government makes as a land owner and manager of public land, and looks for opportunities to reduce the financial constraints placed on councils that impact on public land management.
- That the Inquiry call on the NSW Government to cease the appropriation of council revenues and the encroachment on council revenue raising capacity.

### Terms of Reference

*That General Purpose Standing Committee No 5 inquire into and report on the management of public land in New South Wales, including State Forests and National Park estate, and in particular:*

1. *The conversion of Crown Land, State Forests and agricultural land into National Park estate or other types of conservation areas, including the:*
  - a) *Process of conversion and the assessment of potential operational, economic, social and environmental impacts*

- b) *Operational, economic, social and environmental impacts after conversion, and in particular, impacts upon neighbours of public land and upon Local Government*
- c) *That the following cases be considered in relation to Terms of Reference 1(a) and 1(b):*
  - *River Red Gum State Forests in the Southern Riverina,*
  - *Native Hardwood State Forests in Northern NSW,*
  - *Yanga Station in Wakool Shire, and*
  - *Toorale Station in Bourke Shire.*
2. *The adherence to management practices on all public land that are mandated for private property holders, including fire, weed and pest management practices.*
3. *Examination of models for the management of public land, including models that provide for conservation outcomes which utilise the principles of “sustainable use”.*
4. *Any other related matters.*

### **Introduction**

Depending on the purpose, the management of public land in Australia is spread across a range of agencies and/or authorities from all three spheres of government (federal, state and local). Local Government is a significant public land manager in its own right, responsible for urban parks, sporting grounds, bushland reserves, areas of cultural heritage and areas of general community use. Local Government also has an interest in the broader community implications of public land management. Therefore we are concerned with the operational, economic, social and environmental impacts of public land management.

### **Issues**

1. *The conversion of Crown Land, State Forests and agricultural land into National Park estate or other types of conservation areas, including the:*
  - a) *Process of conversion and the assessment of potential operational, economic, social and environmental impacts.*

### **Consultation with Local Government**

The Associations strongly advocate the need for full consultation with Local Government during any process of land conversion. While the conversion of land tenure and/or management may be undertaken to meet a range of state and/or national objectives and outcomes, it must not be forgotten that the land remains within a local context. Changing land use will have an impact on the local environment, local economy and the local community.

Of particular concern is the loss of local economic output and related employment resulting from the conversion of productive land into national park estate. It has been the experience of many councils that the economic activity and employment generated by the new or expanded national park does not compensate for the losses.

It is Local Government’s role to represent the interests of their local community, and ensure that there is an appropriate mix of land use to promote a healthy and viable local environment, economy and society. It is vital that any proposed land conversion that has the potential to have significant impacts at the local level (both positive and negative), be reviewed by the council. Council will not only be able to identify local priorities and issues, but also ensure that any new land use aligns with existing strategic land use and infrastructure planning.

### **Recommendation**

That consultation with the relevant council be a legislative requirement of any conversion of Crown land, State Forests and agricultural land into national park estate or other types of conservation areas.

That particular consideration be given to the impacts on the local economy and employment.

### **Crown Land Management**

While Local Government supports the long term conservation and management of public land, it does not support any future conversion of federal and/or state government managed public land to the care, control and management of Local Government, without the agreement of councils and the allocation of the necessary

resources. In this time of constrained financing for councils (e.g. rate pegging), Local Government simple does not have the resources to undertake a greater role.

Councils already own and maintain a significant quantity of community and operational land on behalf of local communities, much of which is developed as parks, sportsgrounds and public facilities such as swimming pools, libraries and community centres. In many instances, councils also contribute substantial investment to the management of Crown land as corporate managers of Crown Reserve Trusts.

If Local Government is expected to provide particular services (e.g. public access, noxious weed/pest control, etc) on Crown Land, then there should be adequate funding available from Australian / NSW government sources to pay for such services on these lands.

### **Recommendation**

That the Inquiry recognise the need for greater financial support for Local Government to manage Crown land.

- b) Operational, economic, social and environmental impacts after conversion, and in particular, impacts upon neighbours of public land and upon Local Government.*

### **Rate Exemption**

The *Local Government Act 1993* (LG Act) includes a number of provisions to exempt certain types of land from the payment of Local Government rates. The types of land exempt from all rates are included under Section 555 of the LG Act, and include: land held by the Crown (not being leased for private purposes); land within a national park, historic site, nature reserve or state game reserve; land subject to a conservation agreement; land occupied by a church; land that used as a school; land that is within a special area or controlled by a water supply authority; land that is vested in the NSW Aboriginal Land Council or a Local Aboriginal Land Council; and others.

Other types of land are also exempted from rates, except for water supply and sewerage special rates (Section 556, LG Act), including: Land that is a public place, common or public reserve; Land used as a public cemetery, public library, public hospital, etc; land that belongs to a public benevolent institution or charity; and land belonging to the Sydney Cricket and Sports Ground Trust or the Zoological Parks Board.

The Associations are not opposed to rate exemptions, where they are justified (for example, genuine benevolent institutions and charities, public lands, schools and hospitals). However, the Associations are concerned that in modern times the distinction between public and private (or commercial) use is becoming blurred in many instances.

We are especially concerned that some uses of state owned lands remain exempt from rates yet deliver direct commercial returns. This includes commercial activities within National Parks, unleased properties held by land holding agencies and the commercial forestry plantations of Forests NSW.

The Report into Local Government Financial Sustainability (Allan 2007) stated;

*“many rate exemptions are inequitable. For example, Crown Lands, National Parks and State Forests do not pay rates on land holdings other than those occupied by their commercial premises (a voluntary arrangement) even though such bodies receive significant Local Government services”.*

The NSW Farmers’ Federation submission to the Productivity Commission’s Revenue Raising Report supports these concerns with the extent of rate exemptions for others spheres of government, by stating:

*“... the Association would hypothesise that the effect of rating exemptions has a more severe effect on rural, regional and remote councils. For example, National Parks do not currently pay local council rates. With 7 per cent of the State covered by national parks it represents a significant area of land within local government areas where no rating revenue is raised ... Similarly 34 per cent of NSW land area is State forest. Forests NSW currently do not contribute towards local government rates although there are some situations where agreements between Forests NSW and local councils provide for funding of some roads and local bridges”*

For many councils rate exempt lands account for a large proportion of the Local Government Area and are a significant constraint on a council's revenue raising capacity. In many areas the amount of land benefiting from exemptions continues to expand, further eroding a council's rate base and placing a greater rate burden on the remaining ratepayers. A clear and relevant example of this is where private (rate paying) land is acquired to expand national parks.

The Allan Report supports this by stating:

*"when the State Government expands its land holdings (e.g. the creation of national parks or state forests) councils may suffer a loss of rateable property."*

The Associations maintain that all government business or trading activities, particularly those that compete with private competitors should be subject to rates. This is based on the Associations' policy principle that all lands used for residential or commercial purposes should be subject to rates regardless of ownership. This view is also underpinned by the principle of competitive neutrality.

The Associations have also called for new a new provision to be inserted in the LG Act to allow councils wider powers to charge for the commercial use of public spaces. This relates to cables, pipes and wires under or over public corridors. Limited provision is provided under section 611 of the LG Act to charge for such usage. However, this is not enforceable in most instances.

### **Recommendation**

The State Government review and remove rate exemptions for all land use for commercial or residential purposes regardless of ownership.

That councils be compensated for the loss of rate revenue resulting from the expansion of national parks onto land that was formerly rateable.

### **Environmental considerations**

Any addition to the current national park estate brings with it significant implications. With more than 860 parks and reserves, covering over 7 million hectares, the NSW National Parks and Wildlife Service (NPWS) face a significant challenge to manage such land management issues as weeds, pests, bushfire, public access, recreational facilities, and many others.

Unfortunately, all too often there are not enough rangers or field staff and not enough funding and resources to manage this broad range of land management challenges. The NPWS need to be properly resourced to manage the land under their management. The community, and especially surrounding landholders, need to have confidence in the NPWS's ability to manage the land within the public estate.

### **Recommendation**

That the Inquiry support the appropriate resource and funding allocation to the NPWS to ensure the long term viability of land management on the national park estate.

- c) *That the following cases be considered in relation to ToR 1(a) and 1(b):*
- a. *River Red Gum State Forests in the Southern Riverina,*
  - b. *Native Hardwood State Forests in Northern NSW,*
  - c. *Yanga Station in Wakool Shire, and*
  - d. *Toorale Station in Bourke Shire.*

The specific impacts of the listed cases are best known by the individual councils in those areas.

### **Recommendation**

That the Inquiry consults directly with the relevant councils in those regions to understand any specific impacts.

2. *The adherence to management practices on all public land that are mandated for private property holders, including fire, weed and pest management practices.*

### **Noxious Weeds Control**

Local Government is the primary player in the management of weeds in NSW, with statutory requirements under the *Noxious Weeds Act 1993*, including management and control; enforcement and regulation; identification and planning; and community education and awareness. Local Government spends over \$30 million every year across NSW working with the local community to control weeds.

However, the most controversial issue in weed management within the general community is the lack of weed management on public land (by state and federal government agencies) adjoining private property. This is not just National Parks, but also State Forests, Crown Lands, State Water, Roads & Maritime Services, RailCorp, and others.

During the statutory review of the *Noxious Weeds Act* last year, it was proposed that the Act be amended to give public authorities the same noxious weed control responsibilities as private land owners or occupiers for Class 1 and 2 species. Unfortunately, this proposal has not been progressed by the Government.

While the Associations supported the proposal, we called for it to cover all weed classes, as public authorities controlling Class 1 and 2 weeds will have little practical impact in the real world. The vast majority of problems relate to weeds listed in Classes 3 and 4.

The priority placed on 'High Risk Pathways' within the NSW Weeds Action Program means that certain public authorities (especially those managing transport and utility corridors) are increasingly being identified as threats to the successful implementation of regional weed programs. It is vital that these authorities play their role in reducing the 'impact' in this state of existing significant weeds.

Clarification is also required on whether councils (acting as Local Control Authorities (LCAs) under the Act) would be able to serve weed control notices on public authorities who fail to meet their control requirements. At present LCAs can only serve notices on private landholders.

### **Recommendations**

That the Inquiry promotes the amendment of relevant legislation to ensure public authorities have the same weed management obligations as private landholders.

### **Crown Land Management**

There is increasing expectation that councils will be responsible for the management of all Crown Land management, whether they are the official manager or not. We have been advised that member councils have received calls from the public stating that the Department of Finance and Services (DFS) have advised the caller that council is the responsible party for management of Crown land. While many councils may be willing to undertake this role to ensure local amenity and recreational opportunities, the provision of the appropriate funding and resources to fulfil this role is vital.

For councils, the whole process of weed management on Crown Land should be a cost neutral exercise - the investment provided by the DFS must cover the true costs borne by councils in the implementation of weed control works on their behalf.

### **Recommendations**

That the Inquiry promotes the allocation of appropriate funding and resources for the management of weeds and pests on Crown land.

3. *Examination of models for the management of public land, including models that provide for conservation outcomes which utilise the principles of "sustainable use".*

Public land in Australia is gazetted and managed for a variety of reasons under the broad banners of environmental, economic and social outcomes. Whether it be the conservation of ecosystems and wildlife habitat, the provision of recreational services and facilities, or even the development of commercial opportunities, public land management must deliver outcomes for the benefit of the broader community.



Local Government, as not only the voice of local communities, but also as a significant public land manager, is specifically interested in the various management models relating to public land management.

Policies governing the management of public land are not static, but shift according to community priorities and current government policy. However, we must be careful to not let short term political whims or community fads have a detrimental effect on the long term conservation of the public land estate. The management of public land must deliver long-term outcomes, outlined in detailed strategic plans, which are based on high quality information and data.

The triple bottom line approach that seeks to balance environmental, economic and social outcomes is seen as key principle in all government decision making, and public land management is no different. While the Associations support the appropriate use of public land to deliver resources and services for the whole community, greater detail is required on *'the principles of sustainable use'* as mentioned in the Inquiry's Terms of Reference.

### **Recommendation**

That the Inquiry investigate the following key principles for 'sustainable' public land management:

- the triple bottom line approach to balance environmental, economic and social outcomes
- use of scientific data to determine appropriate uses of public land;
- reasonable public funding to ensure appropriate services are provided;
- utilisation of private sector funding to provide value added services; and
- use of market and non-market evaluation methods to measure the economic benefits of public land.

#### *4. Any other related matters.*

### **The role of Local Government in public land management**

Although Local Government owned land may be beyond the scope of this inquiry, it is important that the Inquiry recognise the value and contribution that council owned 'community' land makes towards the active and passive enjoyment of residents and visitors, the local protection and enhancement of remnant vegetation and ecological connectivity and the contribution made to overall amount of 'public land' in NSW.

Councils deliver a broad range of functions and services for their local communities, within the context of restricted revenue that is constrained by factors such as rate pegging, an inadequate share of national tax revenue and a narrow revenue base. Competing demands for limited resources can restrict councils in delivering desired public land management and improvement services, particularly for smaller rural councils. If the Inquiry is considering increasing Local Government's role in public land management (i.e. converting management of Crown land), it must consider the resource implications that will be faced by many councils.

While many external funding opportunities available to councils look for 'innovation' and 'best practice', in many cases, basic resource support to undertake on-ground environmental management activities is of higher priority.

### **Recommendations**

That the Inquiry recognise the contribution that Local Government makes as a land owner and manager of public land, and look for opportunities to reduce the financial constraints placed on councils that impact on public land management.

### **Revenue from Crown Lands**

The Associations' oppose the growing practice of the DFS of taking over revenue streams from commercial activities on Crown lands under the care, control and management of councils.

Under the *Crown Land Act (NSW) 1989*, councils have full responsibility to maintain Crown lands under council management and are expected to subsidise shortfalls in maintenance cost from their general revenue. This is considered appropriate as the benefits from Crown lands under council management generally accrue to the local community.

However, as a result, councils should also be entitled to any current or potential revenue from Crown Lands to cover maintenance and improvement costs for all the Crown lands managed by council (e.g. revenue from refreshment facilities, telecommunication facilities and other commercial leases). It should be noted that the revenue councils raise from Crown lands is required to be reinvested in the Crown lands. As trustees of the Crown Lands, councils are prevented from diverting any such revenues to their general fund.

The former Land and Property Management Authority, and now DFS, limits or can potentially limit councils' capacity to raise revenue from Crown lands. Member councils have specifically referred to the following scenarios:

- Telecommunication facilities licences –DFS taking over council licences and directly licensing the telecommunications companies thereby appropriating existing revenue streams and denying future revenue streams to councils.
- Council refreshment facilities – Requiring councils to submit a proportion of their income from refreshment facilities on council managed Crown lands to DFS.

Any action by the NSW Government to limit councils' revenue raising capacity or require the transfer of council revenue to the NSW Government is considered cost shifting, particularly where it affects income required to cover maintenance and improvement costs.

In response to these concerns, the Associations have included this practice in their annual Cost Shifting Survey. Survey results from the 2009/10 financial year indicate that a significant number of councils are affected by this practice. Of the 93 councils that responded to the survey, 23 councils indicated a specific financial impact - ranging from around \$3,000, to over \$760,000.

The Associations strongly oppose this practice and request that the NSW Government cease the appropriation of council revenues and the encroachment on council revenue raising capacity. The loss of these revenue streams will reduce councils' ability to preserve and enhance the environmental, recreational and social values of Crown lands.

### **Recommendation**

That the NSW Government cease the appropriation of council revenues and the encroachment on council revenue raising capacity.

### **Conclusion & Recommendations**

The Associations acknowledge the significance of public land to our local communities and recognise the importance of its effective and efficient management. The conservation of our natural environment, the provision of recreational facilities, and even the opportunity for commercial return all have place on public land. However, decisions on the appropriate use of public land must be based on comprehensive strategic planning informed by high quality information and data.

**APPENDIX 1:**

Types of land exempt from all rates are included under section 555 of the LG Act:

- Land held by the Crown, not being leased for private purposes;
- Land within a national park, historic site, nature reserve or state game reserve;
- Land subject to a conservation agreement;
- Land occupied by a church or another building used or occupied for public worship;
- Land occupied by a building used or occupied with religious teaching or training, or as a residence for a minister of religion;
- Land that belongs to and is occupied and used in connection with a school;
- Land that is within a special area for the Hunter Water Corporation or other water supply authority;
- Land that is vested in the NSW Aboriginal Land Council or a Local Aboriginal Land Council and is declared under Division 5 of Part 2 of the Aboriginal Land Rights Act 1983 (this may also exempt land from all charges in some circumstances);
- Land owned by the Rail Infrastructure Corporation; and
- Land below the high water mark and used for any aquaculture relating to the cultivation of oysters.

NSW state owned corporations are generally required to pay rates under sections 9(b) and 20F (b) of the *State Owned Corporations Act (NSW) 1989*. Rates are paid directly to councils. This policy was adopted to apply competitive neutrality principles under National Competition Policy. However, as illustrated in Table 3, a number of other NSW Government businesses remain exempt.

**Table 3: NSW Government businesses exempt from council rates**

<b>Business</b>	<b>Section 555(1) LG Act exemption</b>
Sydney Catchment Authority, Sydney Water & Hunter Water	'Special Areas' and 'Controlled Areas' exempted under section 555(1)(c) and 555(1)(c1)
National Parks & Wildlife Services	Exempt from paying rates “whether or not the land is affected by a lease, license, occupancy or use” under section 555(1)(b)
State Forests of NSW	Pays no rates on unleased land under section 555(1)(a)
Rail Infrastructure Corporation	Pays no rates on unleased land under section 555(1)(g1)
State Transit Authority	Pays no rates on unleased land under section 555(1)(a)
State Rail Authority	Pays no rates on unleased land under section 555(1)(a) and 555(1)(g1)
Landcom	Pays no rates on unleased land under section 555(1)(a)
Department of Housing	Pays no rates on unleased land under section 555(1)(a)
Crown Property Portfolio	Pays no rates on unleased land under section 555(1)(a)
Department of Public Works	Pays no rates on unleased land under section 555(1)(a)
Waterways Authority	Pays no rates on unleased land under section 555(1)(a)
Sydney Harbour Foreshores Authority	Pays no rates on unleased land under section 555(1)(a)
Land & Property Information	Pays no rates on unleased land under section 555(1)(a)
Sydney Cricket Ground Trust	Pays no rates on unleased land under section 556(1m)
Wollongong Sports Trust	Pays no rates on unleased land under section 555(1)(a)
State Sports Centre Trust	Pays no rates on unleased land under section 555(1)(a)
Parramatta Stadium Trust	Pays no rates on unleased land under section 555(1)(a)
Zoological Parks Board	Pays no rates on unleased land under section 556(1)(n)
Sydney Opera House Trust	Pays no rates on unleased land under section 555(1)(a)
Fish River Water Supply Authority	Pays no rates on unleased land under section 555(1)(a)
Sydney Ports Corporation	Liable under <i>State Owned Corporation Act (NSW)1989</i>
Newcastle Port Corporation	Liable under <i>State Owned Corporation Act (NSW)1989</i>
Port Kembla Port Corporation	Liable under <i>State Owned Corporation Act (NSW)1989</i>