

**Submission
No 17**

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

Organisation: Sydney Harbour Association

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From examples outlined, we conclude that the NSW Government's stated policies, principles and programs for public land management, including pursuit of conservation objectives, are unreliable in content; too-readily un-done in response to the political exigencies of the moment in application, and patently unconvincing in any claimed affirmation of conservation objectives in the real world of National Parks and conservation reserves. Abandonment of consultation in the National Parks and conservation reserves armed hunting decision of 30 May 2012 reinforces our perception; it exhibits gross contempt for the views of the public - the landowner. If the Committee pursues Paragraph 3 of its Terms of Reference, we request that it recommend the provision of a compulsory, effective and meaningful public consultative process prior to change or abandonment of an established Principle, being comparable in scope and purpose to the consultative process which preceded its adoption.



Hippocampus whitei

SYDNEY HARBOUR ASSOCIATION

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NSW Legislative Council: General Purpose Standing Committee No.5 - ***Inquiry into the management of public land in New South Wales.***

1. Sydney Harbour Association is an unincorporated body of individuals interested in Sydney Harbour, having as its primary Object:

"[T]he promotion of the following principles in relation to development and change affecting Sydney Harbour:

- (a) protection and preservation of the natural heritage, assets and ecology of Sydney Harbour and its foreshores;*
- (b) primacy of the public good over private benefit in development;*
- (c) facilitation of public access to the waters and foreshores of Sydney Harbour;*
- (d) protection and enhancement of the visual and recreational amenity of the waterways and foreshores of Sydney Harbour".*

2. We note that our Objects are very similar to those stated – but not always observed - in the major NSW Government planning instruments that relate to Sydney Harbour.
3. Our interest in the present Inquiry relates primarily to the management of the public lands of Sydney Harbour, including *Sydney Harbour National Park* and the various Public Reserves and dedicated parklands that abut the Harbour waterbody, specifically including the Sydney Harbour Federation Trust lands. While the latter (SHFT) lands are outside the ambit of the Committee's Terms of Reference, we note that they abut much of the NSW National Park estate in Sydney Harbour, and so they are exposed to any flaws in its management
4. We enumerate to the Committee some examples of NSW Government management of public lands which we perceive to have been – to state it minimally – a challenge to any nominal principle of sustainability that might apply in public lands administration.
5. ***The first example*** is the over-water hotel proposal for Barangaroo. We opposed it from its inception, and so did many residents of lands in the vicinity. The approval of that proposal by the previous Government was, we think, outside the terms of proper public lands administration. The

hotel site is *outside* the area nominated for proposals to the Government for the re-development of the Barangaroo Precinct, *and* the hotel use was and is clearly *prohibited* by the relevant planning instruments, *and* the impact of the hotel building itself will be *grossly inimical* to the public amenity components of the approved Precinct concept.

6. Approval of the hotel occurred under the terms of the unlamented Part 3A provisions of the *Environmental Planning and Assessment Act 1979*. The repeal of Part 3A has achieved no obvious progress in propriety of public lands planning decision-making, because it has been replaced by a process which is not evidently any better.
7. Despite some ambiguous remarks from time to time, the overwater hotel approval has neither been rescinded nor modified by the present Government, and lies presently in a kind of political *Limbo* of uncertainty, perhaps awaiting diminution of public resistance to it. It is not a good look for the proponents of ethical, open, accountable management of public land. Or even private land!
8. In terms of paragraph 3 of the Committee's *Terms of Reference*, we discern no approach to any notion of *Sustainable use* in this (unfortunate) instance of decision-making in the Sydney Harbour context. The overwater hotel use is neither a waterfront-dependent activity, nor a maritime one in any sensible characterisation. Its intended location on a new purpose-built pier not previously identified as being needed or envisaged or utilised for maritime activity, and not realistically designated for it in the relevant application or approval, does not change that. Rather, the incremental encroachment on and alienation of the Harbour waterbody for wholly private non-maritime commercial purposes in this instance bears no relationship to the public ownership of the land other than – perhaps – the possibility of a rental level calculated, like the others related to Sydney Harbour lands, on arcane bases with more regard to occupants' attitudes to cost-minimisation than to the reality of urban land value trends in the context of private commercial use.
9. Of fundamental importance in the Barangaroo over-water hotel instance mentioned above is the failure of the Government to uphold the *Zoning Objectives and Planning Principles* set out in the Sydney Harbour Foreshores and Waterways Area lands that are included in the ambit of *Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005*.
10. It seems futile for the Committee to search in its Inquiry for - and to attempt to assess models of - *sustainable use principles for public land* as envisaged in its *Terms of Reference* unless and until there is a real commitment by the Government to the retention of the public interest in the integrity of the public estate, especially when that integrity is under constant challenge from private commercial interests.
11. But discernment and adoption of *Principles* relating to sustainable use or any other aspect of management is pointless unless the Government actually adheres to them. The issue involved is not one of a simple change-of-mind; we accept that policies and management practices may

well change as new information and circumstances evolve. The nub of the matter is the presence or absence of any effective and meaningful consultative process with the ultimate landowners – the public – prior to the abandonment of an established *Principle*, comparable in scope and purpose to the consultative process which preceded its adoption.

12. A **second example** of poor management of Sydney Harbour public lands lies in the Government's management of access to and rentals for private and exclusive use of the public lands of Sydney Harbour waterbody for domestic purposes.
13. IPART's rationale for its most recent determination of appropriate domestic lease rentals notwithstanding, it remains that the ongoing partial, fragmented, cumulative and seemingly irreversible alienation of the public lands of Sydney Harbour waterbody and foreshores is subject to no effective or competent countervailing Government activity or remit intended to ensure retention of the integrity of the *public* estate and its utilisation for *public purposes*. Rather, current management of the Harbour public lands appears to focus on the accommodation of private interests, whether or not they are embodied in commercial activity or domestic land extensions.
14. A **third example** of what we perceive to be inadequate and incompetent management of public land resides in the impacts of the public sector ferry services servicing the Parramatta River. Our predecessor body, Sydney Harbour and Foreshores Committee, was vigilant and active in directing attention to the (inevitable) damage that it said would – and in fact did and on occasion still does – result from the use of ferry vessels that, when run at normal operating speeds, generate destructive bow waves to the obvious and substantial detriment of the river foreshore stability and its flora and fauna.
15. Slowing of ferry operating speeds was a belated response, and an inefficient one in terms of the customer-related conduct of the ferry service itself. It was all the more so having regard to the nature of capital and operating expense of the (inappropriately specified) ferry fleet used for the route.
16. Those three examples illustrate our concern that management of public lands in Sydney Harbour is in need of substantial improvement in relation to the application of operating principles and practice to public land.
17. However, issues of *Principles* which might relate to sustainable use (or any other aspect of management) are themselves now further clouded by the Premier's announcement of 30 May 2012 relating to amendments to the *Game and Feral Animal Control Act 2002* intended to extend certain provisions to apply to the National Park Estate.
18. The announced extension of the present armed hunting regime operating in declared State Forests into nominated National Parks (and other conservation-oriented public lands) will, unless existing procedures are

modified substantially, extend what is actually recreational shooting into the (presently) specified Parklands and reserves.

19. That announcement is a clear and reprehensible breach of trust with the people of New South Wales, who have long understood that the National Park Estate was assembled for genuine ecological conservation purposes and compatible non-lethal recreational pursuits.
20. Despite the detailed public consultation and exhibition provisions included in the *National Parks and Wildlife Act 1974* relating to the preparation and operation of Plans of Management for National Parks and other elements of the Estate, and amendments thereof, no consultative procedure of that kind was followed prior to the May 2012 armed hunting decision.
21. The official explanation of the Premier's decision, set out in his *Media Release* of 30 May 2012 and his response in the Legislative Assembly to the QWN of Mr Ray Williams MP on the same day, was that it was intended to extend the existing State Forests armed hunting system to the National Park Estate for purposes of *conservation*.
22. The *conservation* attribution of the decision is simply not credible when the operating and reporting detail of the present armed hunting system in State Forests is assessed objectively, *unless* it is accepted that any rabbit, fox, goat, wild dog, feral cat, whatever ... that may be killed in the hunt is *a good thing*. That premise gains support from the fact that State Forest hunting global kill numbers are reported, but their impact, if any, on target pest and feral animal populations (if known, which is not clear) is not reported. Clearly, that kind of hunting, managed though it is, is not about real *conservation*; it is about officially managed and endorsed *blood sport*.
23. The precedent set by the 30 May 2012 *Game and Feral Animal Control Act 2002* announcement about the use of firearms in hunting in selected National Parks is certainly an alarming one.
24. *Sydney Harbour National Park* is a major component of our Association's activity remit from members. We do not anticipate the introduction of hunting with *firearms* in Sydney Harbour National Park; that would probably be just too outrageous! But we are genuinely alarmed at the potential now revealed for those National Parklands, too, to be subjected by political decree - *without* resort to the legislated process of consultation; *without* notice; and seemingly *without* relevant population and prevalence analysis relevant to feral and pest animal control - to activities presently not permitted and certainly not anticipated by the public. They might well include different kinds of armed hunting pursuits involving equipment and procedures of kinds that are fundamentally inimical to the conservation objectives of the Park and its safe enjoyment by the public generally.
25. Such armed hunting activities might conceivably involve spearfishing, bowie-knife hunting, commercial-scale angling, rock destruction, high-speed watercraft pursuit of prey, and other activities that are presently (in

theory at least) un-imaginable in the reaches of the Harbour located within - or adjoining - the specifically nominated conservation elements of the *Sydney Harbour National Park*.

26. In the light of the Premier's announcement of 30 May 2012, the fate of those Sydney Harbour reaches that lie *outside* the *Sydney Harbour Federation Trust lands*, and so are subject to the vagaries of the application of nominally applicable New South Wales *State Environmental Planning Policies* and particularly *Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005*, is now demonstrably and seriously unclear. It is a matter for even more serious concern than it was hitherto.
27. From the examples given above, we conclude that the NSW Government's presently stated policies, principles and programs for public land management, including pursuit of conservation objectives, are *unreliable* in content; too-readily *un-done* in response to the political exigencies of the moment in application, and patently *unconvincing* in any claimed affirmation of conservation objectives in the real world of National Parks and conservation reserves.
28. The policies and principles were already compromised by the practical aspects of armed hunting in State Forests, including what has been reported to us as an apparent failure of process in the late-2011 renewal of declarations of 39 State Forests under the *Game and Feral Animal Control Act 2002*. Some of our members have directed the attention of the Committee to this matter. The other failures to stand by declared policies (outlined above) are in the same vein.
29. The summary abandonment of consultation in the National Parks and conservation reserves decision of 30 May 2012 reinforces and extends that damage, because it again exhibits clear and gross contempt for the views of the public - the landowner.
30. If the Committee pursues the content of Paragraph 3 of its *Terms of Reference*, we hope and *request* that it might include in its recommendations the provision of a compulsory, effective and meaningful public consultative process prior to the change or abandonment of an established *Principle*, comparable in scope and purpose to the consultative process which preceded its adoption.

Michael Rolfe, President

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8 June 2012