Submission No 72

INQUIRY INTO CROWN LAND IN NEW SOUTH WALES

Organisation: Sutherland Shire Council

Date received: 20 July 2016

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19 July 2016

Hon Paul Green MLC
NSW Legislative Council's General Purpose Standing Committee No.6
Parliament of New South Wales
Macquarie Street
Sydney NSW 2000

By email: gpsc6@parliament.nsw.gov.au

Dear Sir,

Re: Submission to NSW Legislative Council's inquiry into Crown Lands

At its meeting of 18 July 2016, Sutherland Shire Council endorsed via Council report CCL005-17 that Council resubmits its 2014 Submission to the Crown Lands Legislation White Paper together with its response to the terms of reference of the NSW Legislative Council's General Purpose Standing Committee No. 6 inquiry into Crown land.

Please find these documents attached for the committee's review.

Please do not hesitate to contact Lani Richardson, Acting Director Shire Services on should you wish to discuss the attached submissions.

Yours sincerely

Lani Richardson
Acting Director Shire Services

Sutherland Shire COUNCIL

CROWN LANDS LEGISLATION WHITE PAPER 2014

Submission on behalf of Sutherland Shire Council

June 2014

Introduction

1. Sutherland Shire Council ("Council") has had the opportunity to review the White Paper together with the presentations that have been provided on the Crown Lands Management Review as well as the Management Review document itself.

2. The White Paper poses a number of questions for comment but these must be answered by reference to the Crown Lands Management Review.

3. There are a number of positive changes outlined in the review and it is Council's hope that these are expeditiously legislated. The simplification of Reserve Trust management is a worthwhile improvement. This, combined with a transfer of Crown Reserve Land to local councils, will reduce red tape. Similarly, new processes on road closure are also worthwhile changes.

Submission in Detail

Overall Changes

4. Council made a number of submissions to the Department of Lands and the same entity under various names since 1989 to seek to improve the administration of Crown Land as it relates to Local Government. It is pleasing to see that some of these changes have been adopted. Council's general observation in relation to past Crown Reserve Land management has been that it has not traditionally been a predictable or punctual administration that has added value to the reserve trust management process.

Detailed Commentary

Chapter 1

5. Sutherland Shire Council is concerned that part of the context for the Crown Lands Management Review is that land surplus to the provision of core services for State Government should be sold. The great majority of Crown Land under Council's Reserve Trust management is highly valued park land and there would be very limited circumstances under which the local community would consider disposal of this land. Any proposals to dispose of Crown Land should be after consultation with the local community.

6. As communicated above and elaborated on later, the concept of local land needed for local purposes needs to be understood within the particular Local Government area. The value of open space land to the local community is not one that is measured by whether or not it is Council-owned or State Government owned.

7. It is noted that the review was carried out on the understanding that cost shifting would not occur and that any breach of the intergovernmental agreement to guide NSW State-Local Government relations on strategic partnerships would not occur by this review.

Chapter 2

8. The "key points" in Chapter 2 are supported. Council recognises that the transfer of ownership of local Crown Land reserves to Council would make management easier. However, it is in relation to the larger, more significant areas, such as several beachside or bayside Crown reserves within the Sutherland Shire, that the Shire community would have greater interest in what occurs.

9. With regards to the strategic assessment of State Government needs, Council would submit that if Crown reserves in locations such as beaches, coast and estuaries within the Shire remain under Council's management they should do so without increased control from the State. Council is quite careful in balancing community recreational values with commercial use of open space land, both under its own ownership and over Crown Land reserves, to ensure a proper balance is found.

10. In relation to the State maintaining ownership of lands within a certain distance of the Central Business District, the reasons for maintaining the land under NSW ownership needs to be tested on a case-by-case basis.

11. In terms of local land assessment, it is agreed this should occur on a site-specific project but this should not have regard to actual or potential commercial use of the site but rather "community ownership" that a park may enjoy.

12. Cronulla beachside parks are prized by the Shire community but enjoyed by others. Furthermore, where these beachside parks comprise Council-owned as well as Crown-owned land and where this occurs, the preference would be to transfer the land to Council to manage the whole park in a consistent manner.

13. An important improvement under the proposed legislation is the transfer of the fee simple Crown Land interest to local councils for those parcels of land that are designated as local land. These local land parcels will come to Council however with a caveat and the details of this caveat will need to be known. These caveats and transfer of lands to Council were used by the Department of Lands under the legislation which was the predecessor to the 1989 Act being the *Crown Lands Consolidation Act, 1913*.

14. The important thing which is acknowledged in the review is that the local land designation should be a site specific activity. There will be numerous parcels of land within the Sutherland Shire which Council will claim to be local, as indicated previously, notably in beachside areas and beside the rivers and bays, which the State may challenge as being state-significant. The value of the land in dollar terms or its commercial opportunities should not influence this designation. Council prefers local interests to be locally-managed.

15. One of the concerns that Council has is that the resolution of State Aboriginal land claims under the 1983 legislation is no further advanced by this review. While it is recognised that dealing with State Aboriginal land claims is a distinct and sensitive matter, the number of claims that exist over Crown reserves

managed by Council are numerous and require extensive background investigation to refute the presumption of entitlement by the Land Council. It would be wrong of Council not to submit as part of this Crown Lands Management Review that land reserved for public recreation prior to the date of a claim is conclusive evidence of an essential public purpose and that no claim should be made over this land. Public recreation is and has been an essential public purpose for more than a century. This simple change to the *Aboriginal Land Rights Act 1983* would recognise the practicality and save councils the time and expense of preparing extensive rebuttal arguments and also provide more certainty to the community and any commercial interest that the land being dealt with is not subject to this encumbrance, be it in the past or in the future.

16. It is recognised that, while the State Government could make this amendment to the 1983 legislation on Aboriginal land claims, it has no ability to influence the Commonwealth's *Native Title Act 1993*, but it is this Council's experience, having been a participant with the then-Federal Government to amend the *Native Title Act 1993* as part of the WIK amendments in the late 1990s that sufficient public works can be carried out on land subject to Commonwealth native title claim without major delay.

17. Applications for maintenance dredging are also caught by existing Aboriginal land claims and it is considered that navigable waterways should also be excluded from claims under the 1983 Act.

Chapter 3

18. Crown reserve management in a two-tier hierarchy is an understandable and worthwhile improvement. The issue which needs to be considered in relation to Crown reserves of a local nature that are transferred to Council is the status of any existing Crown Land plan of management. As the State Government may well be aware, plans and management under the *Crown Lands Act 1989* cannot be modified without the Minister's consent. This is quite different to plans of management under the *Local Government Act 1993* which allow for amendment modification revocation to be done by Council in consultation with its community. It is submitted that any Crown Land that is transferred to Council with a Crown Lands plan of management in place at the time of transfer should be by legislation treated as a plan of management under the *Local Government Act* and therefore subject to the same processes if Council had owned the land in the first instance. It is assumed that, as the State Government desires to reduce red tape, the Minister's consent will not be required in the future.

19. In Council's opinion, there are significant benefits in having Crown reserves under Council direct management. Most importantly, a common occurrence on larger scale leases or even smaller scale leases is the fact that where a title boundary crosses a lease plan, it is necessary to have a lease that reflects the Crown's template lease conditions as well as satisfying the particular council's interests as well. These types of leases are confusing to legal practitioners and community organisations alike.

Chapter 4 - Review of Travelling Stock Reserves

20. Council has no travelling stock routes in its areas and has no comment in relation to these reserves.

Chapter 5 – Western Lands

21. Council has no Western Lands in its areas and has no comment in relation to these reserves.

Chapter 6 - Red Tape

22. Council's submission on this point is that historically the obtaining of owner's consent on Crown Land has quite often been an inconsistent and delayed process. Council is in possession of a letter issued by the Department of Lands in 1998 which essentially allowed Council to lodge development applications where the purpose of works were consistent with the Reserve Trust and Council was the applicant for the development application. This then required Council to serve notice on the Department of Lands within a certain number of days of the application being lodged.

23. In more recent times, Council has been advised that owner's consent is either not readily obtained or may be delayed indefinitely due to matters such as an existing State Aboriginal land claim. This is a major problem. The ability to lodge fresh claims over existing Crown reserves poses a business continuity problem for community organisations or any other party wishing to develop a facility on Crown Land. It is suggested that the logical means to approach this matter is that, if the amendment referred to above relating to Aboriginal land claims is accepted and that reserves for public recreation defeat any existing or future claim, then the process of obtaining owner's consent on development applications will be streamlined.

24. Council has day-to-day management of numerous Crown reserves and the suggestion that guidelines may be developed to advise councils as to the circumstances under which Crown Lands would require to be involved does potentially appear to be a backwards step. Councils should be empowered to act within broad parameters in the public interest.

25. As indicated above, Council supports removing the inconsistency between the *Crown Lands Act 1989* restrictions on land management and leasing and similar provisions under the *Local Government Act 1993*. Council is cognisant that with foreshadowed reforms to the *Local Government Act 1993* that community land classification may be removed and an alternate means of public accountability imposed. No doubt Crown Land transferred to Council can be managed under this new legislative regime.

Chapter 7 – Legislation

26. Council supports the legislative amendment intended for Schools of Art. The resolution of this anomaly will provide greater flexibility for Council management of these facilities.

27. A very important improvement is the changes proposed for roads. Currently the *Roads Act 1993* has given the Department of Lands the powers that it previously had under the *Public Roads Act 1902* and many of the provisions from this previous legislation were incorporated into the 1993 *Act*, despite submissions from Council at the time, and these issues have continued to be a problem for both councils and the Department of Lands ever since.

28. Crown lands in the past have not assisted the road closure process for public roads. Inevitably, councils are best placed to know whether a section of public road should be legally closed and disposed of and it is considered that one issue that requires resolution as part of this legislation is the designation of unformed roads. Where a public road has been dedicated by the developer, it is considered that the application of s. 38(2) of the *Roads Act 1993* wherein the Crown receives the proceeds of any sale of an unformed public road, acts both as a tax on land which the Crown does not own and is an arrangement that encourages no council to participate in the closure of an unformed road.

29. In essence, Council's submission is that public roads have been dedicated to the Council by the registration of a deposited plan by a private party and the designation of public road is shown on this deposited plan. This became unchallengeable after the commencement of the *Local Government Act 1919* on 1 January 1920 and is considered that this should also have retrospective application for roads shown in private subdivisions prior to this date. Council argued when the *Roads Act 1993* came about that this retrospective application should have been brought into operation. The number of living individuals affected by private subdivision roads that were unformed prior to 1 January 1920 being affected is, with the passing of time, probably now nil.

30. It is appropriate that in most of these cases where a party may make claim to these unclaimed road reserves at a future time that it is unequitable that they do so when they have essentially foregone any liability for rates and taxes on that area of land for, in some cases, over one hundred years. Simply stating that all roads shown in a deposited plan are taken to be dedicated and accepted by Council prior to 1920 will remove the need for notification under the *Roads Act* under s. 16 and the removal and unnecessary expense of Council being challenged in the Land and Environment Court for these notices. This would give the public and councils much greater cadastral certainty when land information systems adopt road boundaries from deposited plans.

31. Council supports the transfer of Crown roads to Council. In a number of cases, unformed roads should be dedicated as public roads to Council, as on a number of occasions throughout the Shire these unformed crown roads, being remnants of original land grants, contain stands of native vegetation and rock outcrops which are relatively rare in the Shire. Council would prefer this approach to be adopted, particularly where Crown roads join waterways.

32. Council is not concerned about the cost of maintaining these unformed roads where there is a significant community value. On a number of occasions these roads will already be zoned for uses incompatible with any commercial use. Where unformed Crown roads are present, an alternative to public road dedication would be to create these unmade roads as Crown reserves for

public recreation. This has been done in the past on a number of occasions across the Shire. This maintains the land and the ownership of the Crown and protects the land against development and protects the natural values.

Chapter 8 – Crown Land Valuation and Dividends

33. Council's opening submission on this is a question as to what is meant by the key point of there being *"significant potential to increase cost recovery and dividends to NSW Government to fund other community services"*. Although the following key point in the document indicates that the community may be sensitive to any changes and valuational rent recovery, it would appear from Council's perspective that any attempt by the Crown to increase revenue from Crown reserves must be either met from Council as the reserve trust manager or the community occupation. There is no dispute from Council's perspective that commercial leases on Crown Land, just like leases over Council-owned land, should be at current market rates.

34. The basic underlying principle that all rentals should be calculated at a market rate and then discounted following an assessment is, in the Council's opinion for the majority of community leases, a significant waste of time. The notional loss of rent over Crown reserves is difficult to quantify and almost impossible to recover. It does not recognise the fact that a community organisation has deliberately chosen an occupation of Crown land, as it has Council community land, in order to avoid paying commercial rates for leasing. Council is concerned that any market-based rent approach for Crown reserve leases could require improvements paid for by Council, i.e. rate payers being paid back to the Crown in increased rentals without recognition of Council's capital contribution.

35. The opportunity cost for the NSW Government Associated Crown Land is not clear cut. Crown land, by its very nature, unless it is actually being used for an essential public purpose by application of the *NSW Aboriginal Land Rights Act 1983* is probably land that should be owned by the local Aboriginal Land Councils. It is the use of the land for an essential public purpose such as public recreation by Council alone or by community occupation of Crown land, which actually provides a basis for the land to remain in State Government ownership.

36. It would be difficult in Council's opinion for the Crown to argue that its land should be treated the same as any other commercial land when in fact it has such a significant encumbrance existing at any time over it due to the 1983 land rights legislation.

37. The use of a hypothetical value based on adjoining landholdings is contrary to valuation law. The Crown cannot ignore the fact that the value of its land is subject to consideration of all existing encumbrances and restrictions, including zoning. The Crown would recognise that on most occasions Crown land for public recreation is probably covered by a restrictive public recreation zoning. This has a significant diminution in the value of the land and it is a deliberate imposition to ensure that the land is not used for a variety of commercial purposes.

38. It cannot be assumed that the land is available to be used for a commercial purpose, disregarding the existing zoning. Crown land values should be based on all existing restrictions and encumbrances just the same as any other land.

39. The most important point in this chapter is the concept of all rents starting from a commercial value. The commercial value for rental is in much the same way reflected by existing encumbrances and restrictions as is the underlying unimproved capital value. As indicated previously, it is a waste of resources for Council to undertake a notional commercial rental for a community lease in the knowledge that the community tenant does not have the financial capacity to pay a commercial rental. It is noted in the documentation that it is not the State Government's intent for the community organisation to necessarily pay the market rent rebate however by inference this would mean that an organisation such as council may be expected to subsidise a community tenant from its own resources.

40. This inference needs to be eliminated by indicating that neither Council's nor community organisations shall be required to pay for rebates and that they will in fact be absorbed by the Crown. If this does not occur, this would essentially be a park tax. In relation to revenue from Crown reserves generally, Council would like to see that all revenue derived from a particular parcel of Crown land under reserve management is reinvested in the Crown Reserve Trust and should any surplus arise, used in similar reserve trusts. Council has a significant recurrent liability for the maintenance of Crown reserves and any revenue received from the use of or lease of Crown reserves does not pay for the ongoing maintenance.

Chapter 9 – Accounting Issues

41. Council agrees that improvements constructed on Crown reserves under Council Reserve Management should be treated as Council assets for the purposes of its account. In relation to accounting, it is noted that Council was noted in the review document at page 44 as having the highest rate per hectare for open space parcels at $324,000 a hectare. Although the value of the land can be treated as an asset, the ability to realise this asset through a sale is very limited.

Chapter 10 – Business Model

42. Council understands that Crown lands may become a public trading enterprise but with that it is concerned that its role as a conserver and manager of Crown land may be replaced by a commercial approach, which will be in conflict with Council as reserve trust manager and the local community. Imposing commercial ventures upon an unwilling community will alienate local communities. Further to this concern the statement that the setting up of a State-owned corporation would realise the opportunity to seek maximum economic returns for the use of Crown land does raise the fear that State-significant Crown land in high profile locations such as beaches and local retail centres could be subject to commercial development on a scale unacceptable to the local community.

43. Another point of concern is that rebates provided by the Crown will be State-budget dependent. It is clearly foreseeable that a future State Government may remove rebates effectively attempting to increase the rent paid by a community organisation. Community organisations require certainty during a term of lease and it is strongly suggested that rent rebates should not be an annual review but should be subject to a one-off assessment for the term of a particular lease.

Chapter 11

44. No comment.

Summary of Detailed Submissions

- The general direction of legislative reform is supported.
- The transfer of "local" land is supported, providing accompanying caveats are not unduly restrictive.
- The designation of State-significant land requires further definition and discussion. State significance should not be predetermined by commercial potential alone.
- Reform of the *Aboriginal Lands Rights Act 1983* is vital to the implementation of the reforms in the Crown Lands White Paper. Public reserve land and navigable waterways should be defined as an essential public purpose and excluded from claims.
- Owner or Minister consent should be delegated to reserve trust managers for most development applications and leases up to five years in term.
- Council strongly supports the delegation of road closure processes to Council.
- Council seeks all roads shown in pre-1920 deposited plans to be treated as dedicated public roads.
- Council sees that sale proceeds from unformed public roads should remain with the Roads Authority.
- Unformed Crown roads should be reserved for public recreation where environmental or recreational values are present.
- A market-based rental model for community leases is not supported. It will create uncertainty for the community organisations and concerns about ability to pay increased rental should the subsidy be reduced or eliminated.
- Although Council understands the need to operate Crown lands on a commercial basis, the great majority of landholdings in the Sutherland Shire are for community purposes.

Issues for Comments from the White Paper

1. *How would developing one piece of legislation to manage the Crown Land estate benefit the community?*

   As indicated previously, it is considered to be a significant improvement to reform the *Crown Lands Act 1989* in the general direction indicated in the review document and the White Paper.

2. *Are the objects and provisions proposed for the new legislation appropriate to support Crown land management in the 21st Century?*

   In Council's opinion, there are two very clear distinct functions for Crown land management: Significant public purpose land, i.e. recreation and commercial lands. These purposes need to be reflected going forward so that the commercial use of Crown land needs to be separated from the community use of Crown land.

3. *Do you have any comments on the proposal to allow local councils to manage Crown land under local government legislation rather than the Crown Lands Act?*

   As indicated previously, it is considered to be a significant reduction in red tape and much more efficient to have the great majority, if not all, Crown reserves for public recreation that are under Council reserve trust management transferred to councils. The removal of the inconsistencies in Crown reserve management between the *Local Government Act 1993* and the *Crown Lands Act 1989* is an improvement which should be implemented as soon as possible.

4. *What are your views about the proposed management structure for Crown reserves?*

   The two-tiered system proposed will be a positive step forward provided that the remaining Crown reserve parcels that are in reserve trust management by Councils are not subjected to extensive red tape reporting.

5. *Do you have any further suggestions to improve the governance standards for Crown reserves?*

   It is considered to be a compelling case that it is only in exceptional circumstances that the Crown should retain ownership of Crown reserve parcels that are currently managed under reserve trust arrangements by councils.

   The mixed message of public purpose and commercial intent would be best resolved by clearly indicating which parcels are intended to remain for public purposes such as public recreation. The security that can be afforded to the

Crown by caveat or other means as indicated in Council's submission indicates there is little or no risk to the Crown in those lands being transferred to Council.

6. *Are there any additional activities that should be considered as 'low impact' activities in order to streamline landowner's consent?*

   Council would submit that land owner's consent from the Crown for activities should only apply to matters where a significant impact on the State asset occurs. Development applications over Crown reserves where Council is the reserve trust manager should be able to rely on owner's consent provided by the reserve trust manager for things such as festivals and activities where there are no improvements. Owner's consent should be delegated to allow councils to provide owner's consent for additions to existing buildings and also to grant leases for a maximum period of five years.

7. *Are there any other ways to streamline arrangements between State and local governments?*

   As indicated previously, the commercialisation of Crown lands has a potential to alienate the community and the best way to avoid this occurring is for the State Government to clearly indicate which parcels of Crown land are intended to remain in community hands by reserve trust management and then deal with the remainder on a commercial basis.

8. *In addition to the suggestions provided, are there any other ways to ensure the public is notified of the proposed use or disposal of Crown land - and their views taken into account - that would be appropriate to include in the new legislation?*

   Traditional means of notification such as newspaper and gazettal are now becoming archaic. There needs to be means more reflective of modern technology to ensure that a message is broadly communicated to the community. The use of Facebook or Twitter or similar means to obtain feedback from the community needs to be recognised in legislation.

9. *Do you support the concept of consistent, market-based approach to rents, with rebates and waivers for hardship and public benefits for certain uses of Crown land applied where appropriate?*

   As per Council's submission, there are serious concerns with using a presumption of a market-based rental when the majority of leases on Crown land under Council reserve trust management are for community purposes. As indicated in Council's detailed submission, there is limited benefit in going through the exercise of calculating rebates and waivers where the prospect of rental recovery is remote.

10. *Is five years a reasonable amount of time to give tenure holders who currently pay below the statutory minimum rent to move to paying the minimum level of rent as required under the new legislation?*

    Yes.

11. *To avoid rent arrears issues for incoming tenure-holders, should the new legislation automatically transfer any rental debt to a new tenure-holder on settlement, or require any outstanding arrears to be paid prior to transfer or settlement?*

    In keeping with any other commercial lease there is an expectation that an outgoing tenant will settle any arrears prior to settlement and this would in Council's opinion be the most reasonable solution.

12. *What kinds of lease conditions should be considered 'essential' for the purposes of providing for civil penalties?*

    No submission.

13. *Should Crown land be able to be used for all forms of carbon sequestration activities?*

    In order for this to occur, Crown land would need to be set aside for that purpose virtually in perpetuity and as such this would act as a permanent encumbrance on Crown land. If this is understood by the Crown, then this is suitable to consider.

14. *What additional activities do you think should be permitted on Western Lands leases without the need for approval?*

    Council has no Western Lands in its areas and has no comment in relation to these reserves.

15. *Bearing in mind the fragile nature of much land in the Western Division, in what situations do you think it would be appropriate to allow Western Lands leases to be converted to freehold.*

    See response to question 14 above.

16. *What are your views about the proposal to strengthen the compliance framework for Crown lands?*

    No submission.

17. *Suggestions or comments*

    No submission.

18. *Do you support the repeal of the minor legislation listed?*

    These pieces of minor legislation do not significantly impact upon Council as reserve trust manager.

19. *Do you see any disadvantages that would need to be addressed?*

    See response to question 18 above.

Appendix C

INQUIRY INTO CROWN LAND

SUMMARY WITH RESPECT TO TERMS OF REFERENCE, GOVERNMENT'S RESPONSE TO CROWN LANDS LEGISLATION WHITE PAPER AND SUTHERLAND SHIRE COUNCIL'S 2014 SUBMISSION

July 2016

Terms of reference

a) The extent of Crown Land and the benefits of active use and management of that land to New South Wales.

NSW State Government Response

- Local Councils to manage reserves under the Local Government Act
- The proposed new management structure having one Crown Land Manager
- Improved governance standards
- Retaining the Public Reserves Management Fund (PRMF)
- Approval requirements amended for local councils, to operate under to LGA and Minister of Local Government's approval to be sought instead
- Reporting requirements will be relaxed for local councils, required instead to meet requirements under the LGA
- Plans of Management will become a requirement for most reserves, in particular reserves with multiple uses
- Landowner's consent to be simplified for low impact activities and reduce red tape
- Transfer of Crown roads to local councils and council to be able to close roads where they are the roads authority
- Department of Primary Industries – Land resourcing levels not proposed

SSC re-iterated key submission summary highlights are:

- The general direction of legislative reform is supported
- The transfer of 'local' land is supported, providing accompanying caveats are not unduly restrictive.
- Owner or Minister consent should be delegated to reserve trust managers for most development applications and leases up to five years in term.
- Council strongly supports the delegation of road closure processes to Council.
- Council seeks all roads shown in pre-1920 deposited plans to be treated as dedicated public roads.
- Council sees that sale proceeds from unformed public roads should remain with the Roads Authority.
- Unformed Crown roads should be reserved for public recreation where environmental or recreational values are present.
- A market-based rental model for community leases is not supported.
- Although Council understands the need to operate Crown lands on a commercial basis, the great majority of landholdings in the Sutherland Shire are for community purposes.

Terms of reference

b) Adequacy of community input and consultation regarding the commercial use and disposal of Crown land

NSW State Government Response

- Crown Land Managers established can still draw from current community trusts and local Councils will be able to establish community advisory groups
- Notification requirements reliant on local councils experience on community engagement, with a new engagement strategy
- Minor change to tenancy agreements will not require Ministerial consent
- A publically accessible register of Crown land will be developed

SSC re-iterated key submission summary highlights are:

- Following the recent 2015 King Edward Park case in Newcastle there is now a legal difference in the use of Crown Land reserved for Public Recreation and Council owned community land. This should be resolved.
- Section 34A of the Crown Lands Act 1989 is a problem in that community consultation is limited to government gazette notification. For interest to be granted under Section 34 broader consultation should occur in a manner consistent with Section 47 of the Local Government Act 1993.

Terms of reference

c) The most appropriate and effective measures for protecting crown land so that it is reserved and enhanced for future generations.

NSW State Government Response

- Land assessment to be a 'whole of government' approach combing planning framework with reserve purpose
- Introducing 'state and local land concept', to allow for the transfer of land predominantly of local interest to local councils. A pilot involving 4 councils (Warringah, Corowa, Tamworth & Tweed) has been completed.
- A criteria to be established for classifying local and state land, and a state land stock take is underway
- A phase implementation to transfer Crown land classified as 'local land' to address the financial implications for councils
- Market rent with rebates, waivers & concessions to continue to be available to community groups and not-for-profits
- Rent arrears to be paid in full prior to transfers
- Sale of Crown Land to Lessees to only occur when preserved by current rights
- New business model for Department of Primary Industries – Lands transitioning to a public trading enterprise (PTE)
- Disposal of Crown lands as part of strategically meeting current and future needs of Government and community
- Reserves Governance project to improve governance and oversight of reserve managers

SSC re-iterated key submission summary highlights are:

- The designation of State-significant land requires further definition and discussion. State significance should not be predetermined by commercial potential alone.

Terms of reference

d) The extent of Aboriginal Land Claims over Crown land and opportunities to increase Aboriginal involvement in the management of Crown land.

NSW State Government Response

- Ability to issue licences over Crown Land being used without permission by the Minister to continue
- Local Aboriginal Land Council to be consulted prior to implementing the criteria for classifying local and State land
- A scheme for native title accreditation to be developed
- Land subject to undetermined claims will not be transferred to local councils

SSC re-iterated key submission summary highlights are:

- Reform of the Aboriginal Lands Rights Act 1983 is vital to the implementation of the reforms in the Crown Lands White Paper. Public reserve land and navigable waterways should be defined as an essential public purpose and excluded from claims.
- Little benefit is obtained for any party where claims are made on existing public reserves, utilised for that purpose by the community.

Issues and government responses not relevant to the Sutherland Shire context include:

Greater flexibility for Western Lands leases

- Freehold conversion
- Access
- Flexibility measures

Travelling stock reserves