

Submission
No 233

INQUIRY INTO CROWN LAND IN NEW SOUTH WALES

Name: Name suppressed

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Partially
Confidential

Crown Lands Submission

I am a private citizen, acting on my own behalf to express my views about matters before this inquiry. I have only recently become aware of this inquiry, and I am so alarmed by the news of what is being discussed in relation to Crown Lands that I have found it difficult to write a coherent submission. I will begin by describing my experience with local issues regarding management of Crown Lands, and then say something about the context within which this inquiry is taking place. I will confine myself to several main points which relate to the ability of the general public to have an input into decisions relating to Crown Lands.

I live in the Lake Macquarie Council Area. Over the past few years I have taken part in a movement opposed to a development planned for King Edward Park, in Newcastle. King Edward Park (KEP) is a feature of the city of Newcastle, but people across the region have ties to the park, and it is used by many thousands of people who live outside of the local council area. During this time I spoke to many people living outside the Newcastle Council area who did not know about the proposal, which would have seen a large convention centre built on this iconic parcel of land, situated within a dedicated public park. It was only a protracted battle led by concerned residents over 4 years, which stopped this inappropriate development. This went to court, and the related documents suggest that both the NSW planning authorities and the Newcastle City Council (NCC) clearly acted against the public interest, and against provisions within the Crown Lands Act in their attempts to have the development approved.

The vast majority of people I spoke to were strongly opposed to the KEP development proposal. They expressed amazement that the council would have the power to allow such a development and that Council would actively support it . **Regardless of the outcome, this demonstrates that the significance of such proposals are not always understood by people who will be affected and further, that decisions relating to Crown Lands cannot in good faith be left in the hands of local councils as they do not reflect the public's wishes.** In the case of KEP, opposition to the proposal concerned citizens outside the NCC area and there was no avenue for them to be informed or have any say on the proposal through council processes. Crown Lands belong to the general populace and control should be tightly exercised by government processes which manage their use for the public good.

Actions regarding inappropriate developments on Crown Land are typically led by special interest groups formed by those living in the local area. Opposition to the KEP development proposal was led by local residents who initially voiced objections around localised issues, such as parking and noise levels from the proposed venue. The wider community (and those of us outside of the local government area) were not alerted to the issue until this group, Friends of King Edward Park (FOKEP), came into being and the threat of a commercial development in the park was featured in the local paper, The Newcastle Herald. Even after this, and after news items on NBN television news, many people in my area still did not know about the issue. If not for the work of the FOKEP group, people throughout the region, who regard this park as their own, would have had no opportunity to have a say about this controversial proposal. In effect, it only became widely known because of the legal battle in the Land and Environment Court over the authority of the NCC and the State planning authorities to approve this development.

I submit that this circumstance, where the general population had not been invited to participate effectively in a decision which affected the entire region, has an important

bearing on the current proposals in relation to the future management of Crown Lands. In any case, local councils should not have jurisdiction over Crown Lands. Developers have a strong incentive to stand in local government elections and it only takes one person with a casting vote on a local council who favours development on Crown Lands to enable such proposals to proceed. Further, the corruption of public officers through donations by developers is now widely acknowledged and associated scandals have received wide publicity. It is now a “given”, even though the capacity for the developer lobby to influence council processes has always been common knowledge. Local councils cannot faithfully pledge to protect Crown Lands from inappropriate development. **Local councils are open to corrupt processes due to the inordinate influence of local developers, and are thus not constituted to act for the wider public good.**

This is a crucial time for our Crown Lands, as areas of environmental significance and cultural value are under threat from inappropriate developments. Locally, a housing estate in West Wallsend has been constructed by the Roche Group with the approval of Lake Macquarie City Council (LMCC). This development encroaches on a unique and highly valued site of Aboriginal cultural heritage known as the Butterfly Cave. LMCC approved this housing development with only a 20 metre buffer zone around this site to provide protection for the Butterfly Cave. This is absurd, and has caused grief and deep dismay to local indigenous women, for whom the cave represents a highly significant sacred site. The value of this unique site and the cavalier manner in which a housing development was approved in such close proximity has attracted worldwide attention (see, for instance, *Butterfly Cave at West Wallsend Must be Protected: residents* in the Newcastle Herald 15/12/2015). I cannot imagine how this site will survive without being vandalised. **This arrangement was approved by the Joint Regional Planning Panel. This shows that management of such highly significant heritage sites cannot be left in the hands of a local council and it demonstrates that our government planning authorities at present are failing to act in accordance with the provisions of the Crown Lands Acts, which require sites of such high conservation value to be properly managed and protected for the public good.**

As the case of King Edward Park and the fate of the Butterfly Cave illustrate, any move to transfer the authority in relation to Crown Lands to local government should be denied.

If the Newcastle City Council, as constituted at the time, was able to decide on development within King Edward Park, the outcome would have favoured the developer lobby and very clearly denied the wishes of the wider public, who correctly regard this park as their own – as a public facility available to all for recreation. The whole character of this extremely important site, which is at the heart of the city's heritage area, would be affected. This is the one parcel of land in Newcastle that provides an uninterrupted 360 degree view of the city, the ocean, the entire coast to the north and the south, and a panoramic view of the valley leading towards the mountains of the upper Hunter. It is hardly any wonder that a developer tried to alienate this parcel of land for a private function centre. Under the terms of this development, the public would have been allowed access to a pathway on one side of the venue leading to a kiosk. Due to this site's geographic instability and difficult access, the developer even objected to making this path wide enough for families to negotiate. Shamefully, this arrangement was regarded by most councillors as adequate public access.

I have been privately informed that one of the newly elected councillors has since expressed deep regret at their decision to support the KEP development. It is clear to everyone who has followed political events in Newcastle that it has become extremely important for certain councillors to act in ways which will favour developers, as there has

been a rush to redevelop prime real estate in the city. Councillors cannot afford to be seen to express opposition to the city's new development agenda, which is purportedly aimed at bringing prosperity and jobs. I have no doubt that you are aware of the very loud public voice being raised in opposition to the public land now being developed along the city's rail corridor. Land that was promised to be retained for public recreation is now to be lost to developers for commercial purposes. Councillors at present are under extreme pressure to accede to the wishes of the developer lobby.

Apart from the question of jurisdiction over Crown Lands, I submit that the issues you are considering are far too important to be debated in parliament at present. The use of Crown Lands potentially concerns all the citizens of NSW, and will be important to future generations. It is thus only fair and proper that a comprehensive public debate be held, initially in the context of a state government election, so that citizens have a real say in the future management of their publicly owned lands. This will allow the issue to be properly advertised through campaigning of the political parties in the lead up to the next NSW government election. The matter will then be squarely in the public eye. Once again, as I speak to neighbours and other people in my local area, they have no knowledge of the legislation being mooted regarding Crown Lands, and no idea that this inquiry is proceeding. I believe that allowing this issue to be debated in the context of an election is the only way to ensure that all citizens have a chance to consider this extremely significant development concerning the management of Crown Lands.

The influence of the developer lobby on government at all levels is now firmly in the public eye. I submit that we are now at a "tipping point", due to the extreme pressure placed on our environment by the prevailing power of commercial interests through the dictum of placing economic value above other considerations in our state planning processes. The battle of villagers and land owners in the Hunter Valley over the past 20 years against the encroachment of coal mines is evidence of how planning entities have favoured the interests of big miners over those of small communities, farmers and the environment, without providing any convincing evidence that this is for the wider public good. People, and the environment, have been the losers. Whole communities have been destroyed, and the environmental damage inflicted by our government's failure to regulate these developments is incalculable. Economic development has been given precedence over public health, the environment and the public good. For example, the NSW government failed to construct fair assessment tools to recognise agriculturally valuable land, when valuable, prime grazing properties were under threat from miners.

The mooted proposal to transfer Crown Lands to an entity which will allow them to be publicly traded shows a blanket disregard for the public, and negates the whole concept of Crown Lands belonging to the populace. In view of the recent processes allowing business interests to hold sway in planning decisions, and the corruption seen to be at the heart of these processes, I cannot fathom how this could be considered. Further, whilst the Crown Lands Legislation White Paper was released in 2014 I understand that about 600 submissions relating to the White Paper were not made public, which leads me to believe that the process now underway has already failed the test of transparency.

The entire debate around the future management of Crown Lands must be held over an extended time, in the wider public arena, with all necessary resources made available to the public to consider the ramifications of any proposed legislation. A parliamentary inquiry, in itself, is not good enough. It is simply the place for such a

process to begin. In particular, this inquiry must look to the future to ensure better management of Crown Lands in regard to the public good. The NSW Government does not own these lands, but is entrusted with managing Crown Lands on behalf of the populace.

There is undeniably a building pressure to enable the sale of Crown Lands to allow for economic development, without due regard to environmental considerations and the public good. This inquiry must faithfully consider the government's mandate to manage and protect Crown Lands for the public good, now and into the future. I can think of no other circumstance, throughout my lifetime, where an inquiry of such enormous significance have been put before the NSW parliament. I reiterate that the populace as a whole must have a clear understanding of what is being considered within this inquiry, and its outcome be given broad publicity. **Any recommendations made as a result of this inquiry should not be enacted through legislation until the general public have a chance to understand what is recommended, and the best way to do this is to allow a wide debate to proceed prior to an election. Meanwhile, there should be a moratorium on any sale, lease or planning decision which will authorise the release of Crown Lands for private or commercial purposes.**

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