

**Submission  
No 210**

## **INQUIRY INTO CROWN LAND IN NEW SOUTH WALES**

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**Date received:** 22 July 2016

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## Upper House Inquiry Into Crown Land (NSW)

I wish to submit to the inquiry the following points which address the terms of reference for the inquiry.

Under The Crown Lands Act it states '...that where appropriate, Crown Land should be used and managed in such a way that both the land and its resources are sustained in perpetuity.'

It seems that this basic principle, which lies at the heart of why we have Crown Land and how it should be managed, is now under serious threat. This has come about, in part, by the lack of clear processes for the management of Crown land. For instance, much of the Crown Land in NSW does not have a Plan of Management (POM). Like with anything, if you have no plan you don't know where you are going. Having no POM allows for the possible misuse of Crown Land, as there are no guidelines for its use. I would like to recommend to the inquiry that there be mandatory Plans of Management for a crown reserve under the Crown lands Act 1989.

Of concern is the making of local councils the Reserve Trust Manager (RTM) for Crown Lands in their area. Councils can find themselves in a conflict of interest where they are RTM, the approval authority for an activity or development on Crown land and, in some cases, the applicant for certain works to occur on Crown Land.

This very thing occurred in Byron Bay. The Council wanted to put paid car parking on the Crown Land- not to service the land, but to relieve the issues of car parking within the town centre. In this case, the Byron Council were RTM, approval authority and applicant for these works. The Council have since built a 24 space paid car park on Crown land which fronts the beach. In the Council's minutes it describes these works as ' works for the asset improvement on Crown Land reserve (R8200).' Any construction or development on Crown land must be for the utilisation/enhancement of the land. The Byron Shire Council pushed through its agenda of creating more paid car parking and did not act in its role as Reserve Trust Manager. The Council was supposed to be the trustee for the Crown Land. By constructing a Council paid carpark, it was not acting as Trustee- it was not keeping the land ' in trust' for the people of NSW. Under Crown Lands (General reserves) by-law 2006 'Members of a reserve management trust must carry out their duties in the best interest of the reserve regardless of their association with any other organisation...' This conflict of interest is occurring across all of NSW and must be addressed. Local Councils, if they take control of Crown Lands, will be eyeing them off as profit making, private enterprise ventures. As did Byron Bay's Council.

There appears to be inadequate community input and consultation regarding the commercial use and disposal of Crown Land. The NSW Government through the local councils, needs to inform

residents of where their Crown Lands are in their local area. There also needs to be information disseminated to residents to inform them about Crown Lands, their function etc. The NSW public is ill-informed when it comes to a knowledge of our Crown lands and how they work. This needs to change.

Of great concern is the environmental protection afforded to land (and sea) under The Crown Lands Act. The proper management of Crown Land will ensure that it is preserved and enhanced for future generations. As mentioned previously, a start in doing this is to ensure that each parcel of Crown land has an appropriate Plan of Management. The POM involves all concerned stakeholders in its formulation. It is a plan for the future. It gives direction as to how Crown Land is to be managed. By being involved in the POM, the people of NSW have an opportunity to experience true ownership of and interest in land which is theirs.

There has been inadequate consultation with local communities about the NSW's government proposal to devolve responsibility for Crown land management to local councils. The community also needs to be involved in the discussions around how Crown land will be determined as either State or local land.

Finally, there are clear principles under which Crown Land must be managed for the benefit and enjoyment of the people of NSW, future generations and, most importantly for the positive life of the land. These principles include:

- a) The land and its resources must, where appropriate, be used and managed in such a way that they are sustained in perpetuity.
- b) The land is for the use and enjoyment of the people of NSW. The land has a public benefit.
- c) The Crown Land's natural resources are a treasure which must be cared for and protected, for future generations.
- d) There must be clear management principles, a Plan of Management, in place to ensure Crown land is successfully managed for the people of NSW and their descendants.
- e) The NSW public should be actively encouraged to participate in the management of Crown land.

f) The NSW public must be provided with adequate information as to have an understanding of what Crown Land is and how it is managed in the state of NSW.

g) Where a conflict of interest the manager of the Crown Land's first responsibility is to the welfare of the land and the interests of the public who own it.

h) Crown Land must be held in trust by the State of NSW. The State is the custodian of the land and must see itself as this.

i) The people of NSW must be fully engaged with and informed of any move either now or in the future, to lease, sell, or change the use of Crown Land as it is their land

j) Aboriginal people/tribal groups must be fully informed of Crown Land near or within an area over which they have native title or is the subject of a native title claim by them.

k) Aboriginal people and other stakeholders must be assisted in the process of protecting the environmental and cultural significance of NSW Crown Land and provided with the appropriate tools to ensure that the cultural and environmental values of the Crown land are protected and enhanced.

I respectfully submit this submission to you for your consideration as fellow custodians of our land.

Bronwyn Morris