

Submission  
No 135

## INQUIRY INTO CROWN LAND IN NEW SOUTH WALES

**Organisation:** Jervis Bay Regional Alliance

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# ***Jervis Bay Regional Alliance***

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## **Jervis Bay Regional Alliance Submission to the Inquiry into Crown Land**

**23<sup>rd</sup> July 2016**

The Jervis Bay Regional Alliance (JBRA) is an environmental advocacy group covering the coast from Culburra Beach to Sussex Inlet and the catchments and ecosystems of Lake Wollumboola, Jervis Bay and St Georges Basin. The JBRA's charter includes advocacy for environmental, social and cultural heritage, as well as visual quality of the coast. Sound planning decisions at all levels of government are key areas of concern for our group. The JBRA appreciates the chance to comment on the Inquiry into Crown Land, and we have made 15 recommendations for consideration by the NSW government.

### **Obtaining accurate information on Crown Land**

We would like to express how difficult it is to obtain information on Crown Land and how this has hindered our ability to respond adequately to the Inquiry. In particular we have not been able to obtain a spatial (GIS) dataset of Crown Land with information on leasehold, management responsibility, vegetation type, ecological condition and status of Aboriginal land claims. This makes it very difficult to comment in anything but a general way on Crown Land management, beyond those areas about which our members have some personal knowledge.

We note that the absence of publically available data is not consistent with the Crown Lands Act (Part 3), where Section 30 states that:

- (1) The Minister shall cause to be instituted a programme for the assessment of Crown land.
- (2) The assessment shall consist of:
  - (a) the preparation of an inventory of Crown land,
  - (b) an assessment of the capabilities of the land, and
  - (c) the identification of suitable uses for the land and, where practicable, the preferred use or uses.

And Section 31 states that:

- 1) The inventory of Crown land shall contain particulars of such physical characteristics of the land and such other matters affecting the land as the Minister considers necessary to assess the capabilities of the land.
- (2) The inventory shall be maintained to reflect changes in the particulars contained in it.
- (3) Information contained in the inventory may be made available to members of the public.

**Recommendation 1: the NSW government makes available to the public the above information as it pertains to Crown Lands to ensure it meets its obligations under the Crown Lands Act and to ensure ease of access to information by the public.**

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

Crown Land makes up approximately 40% of NSW. Although most of this is leasehold land in the Western Division, we note that there are also almost 33,000 Crown Reserves which cover an area of 2.5 million hectares including 18 State Parks. The extent of Crown Land in NSW means it is a huge and important resource for the citizens of NSW.

Unfortunately, consistent with the above point, evaluating the management of Crown Land is difficult. For example, the brochure on Crown Reserves<sup>1</sup> was produced in 2009 and the stated \$10.6 million management budget is therefore out of date. It is not possible to access information as to what proportion of the 33,000 Crown Reserves are council managed, and therefore to assess the adequacy of the management budget.

There is also no information available on whether the management of State Parks (and other Crown Reserves) is conducted via a Plan of Management, and it is therefore not possible to assess whether current management is ecologically sustainable and therefore likely to ensure in-perpetuity benefits to the citizens of NSW. We note too that the State Park website<sup>2</sup> contains no information on Jervis Bay State Park, due to the fact that it is a 'newly created park'. It is our information that the Jervis Bay State Park has been in existence prior to 2011, and we therefore find the updating of information in regards the Jervis Bay State Park to be seriously lacking.

**Recommendation 2: the NSW government update information on Crown Land, including information on management responsibilities, information on management budgets, information on management principles and publication of any relevant Plans of Management.**

We encourage the use of State Parks for recreation and tourism purposes, and we support the appropriate and environmentally sensitive provision of facilities to ensure public access and enjoyment is facilitated. However, the current framework and ethos directing the management of State Parks is not readily accessible and therefore it is not possible to be certain that current recreation and tourism activities in State Parks are consistent with protection of the natural values and long-term ecological sustainability.

**Recommendation 3: State Parks are managed via transparent Plans of Management to ensure that their use does not compromise their ecological values for future generations, and that important species and ecosystems present are afforded proper protection.**

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

Given the extent of Crown Land and the potential importance of Crown Land to conservation objectives in NSW, we believe that past efforts to assess the ecological importance of Crown Land prior to disposal or sale are completely inadequate. Where assessments have occurred they have in many instances been incomplete or poorly conducted.

**Recommendation 4: as a matter of priority the NSW government resource the accurate and thorough ecological assessment of Crown Land, prioritising that land subject to the greatest development pressure, to ensure that the citizens of NSW have full knowledge of the ecological value of Crown Land subject to sale or disposal.**

The JBRA has significant concerns about the transparency of the commercial use of Crown Land. For example, there is no information available to the public about how money raised from sales of Crown Land, or the leasing of Crown lands is spent. We also note that sales of undeveloped 'paper' Crown roads are increasing following their closure. There has been a lack of transparency around process.

For Crown Land that is being used for commercial purposes, the NSW government has a responsibility to ensure that the management of that land is being conducted in the public interest. However, there is no requirement to prepare a plan of management for a Crown reserve under the Crown Lands Act that clearly states permitted activities and development. It is essential

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<sup>1</sup>[http://www.crownland.nsw.gov.au/\\_\\_data/assets/pdf\\_file/0010/644293/Crown\\_reserve\\_brochure\\_lr.pdf](http://www.crownland.nsw.gov.au/__data/assets/pdf_file/0010/644293/Crown_reserve_brochure_lr.pdf)

<sup>2</sup><http://www.stateparks.nsw.gov.au/#>

that there is appropriate consideration of the social, cultural and environmental values of Crown lands before land they are leased, licensed or sold.

The JBRA is extremely concerned that the proposal in the Crown Lands Legislation White Paper that Crown Lands should become a Public Trading Enterprise means widespread sale and commercialisation of Crown lands is being actively considered. The JBRA opposes the widespread sale of Crown Lands and believes that public land is a precious resource that should be available for future generations to avail of.

**Recommendation 5: the NSW government retains the ownership of Crown Land for the citizens of NSW to ensure future generations are not disadvantaged by the loss of public land.**

c) *The most appropriate and effective measures for protecting Crown land so that it is preserved and enhanced for future generations*

The JBRA is of the view that the most effective way to protect high ecological value Crown Land in perpetuity is via transfer to the protected area network and management by a sufficiently funded NSW National Parks and Wildlife Service (NPWS). We recognise that NPWS management considerations and reservation targets may not make this practicable for all parcels of land, in which case recommendations 11 and 12 would help ensure a high management standard.

An unresolved Land Claim should not result in a lack of appropriate management for Crown Land pending the resolution of the Claim. It is important that the environmental, cultural and heritage values are preserved and properly managed pending resolution, and an adequately funded NPWS is the most appropriate body to undertake this.

Crown Land has a number of important ecological values that make it very important to achieving conservation goals in NSW. Effective conservation of natural values is in turn key to ensuring the rights of future generations to experience the unique flora and fauna of NSW. Particular conservation considerations include:

1. Under-represented ecological communities: The NSW National Parks Establishment Plan<sup>3</sup> highlights that the NSW reserve network is neither complete nor Comprehensive, Adequate or Representative (CAR) in regards the diverse array of ecological communities and bioregions found in the state. Particularly poorly represented in the reserve network are those bioregions and landscapes west of the Great Dividing Range in the planning regions Tablelands and Western Slopes, Central Western Plains and Far West.

**Recommendation 6: that the NSW government directs the NPWS to identify priority areas of Crown Land (Recommendation 4 would make this apparent) to aid completion of the CAR reserve network, and the government adequately funds the NPWS to undertake the necessary management of the reserves.**

2. Connectivity: a particularly good example of the connectivity values of Crown Land is afforded by Travelling Stock Routes (TSRs), although many TSRs are also valuable due to their supporting intact native vegetation and threatened species. TSRs are often linear and therefore provide strips of native vegetation, often in highly cleared landscapes in the sheep-wheat belt, which enable the movement of plants and animals across the landscape.

We note too that TSRs have significant cultural value: TSRs were originally set-aside approximately 170 years ago to move stock to and from properties and to sale yards. In this context, they represent some of the best examples of non-built European cultural heritage and a valuable historic link to the past in rural parts of the state.

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<sup>3</sup>New South Wales National Parks Establishment Plan 2008: directions for building a diverse and resilient system of parks and reserves under the National Parks and Wildlife Act

Because TSRs are often grassy woodland systems, we support active management of TSRs to ensure that these ecosystems do not become shrubby. To this end, we support periodic intermittent grazing of TSRs via private stock, but we oppose the granting of 5-year grazing leases that will result in the degradation of natural values as a result of too much grazing pressure and nutrient input.

**Recommendation 7: that the NSW government develop a new management model for TSRs that ensures grazing is intermittent, that fertilizer application does not occur, and that no clearing of native vegetation can occur.**

**Recommendation 8: that the NSW government investigate opportunities to increase the regional tourism potential of TSRs, including identifying potential walking routes using TSRs, potential camping locations and opportunities for cultural tourism that are consistent with long-term ecological sustainability.**

#### CASE STUDY 1: CROWN LANDS AT JERVIS BAY

The Jervis Bay area contains three particularly important parcels of Crown Land that ensure connectivity between different parcels of Jervis Bay National Park.

The largest area is situated between Callala and Myola and runs north to Forest Road. Our understanding is that it is subject to a successful Jerrinja Local Aboriginal Land Council Land Claim. The JBRA supports the rights of traditional owners to make claims on parcels of land, but we note the irreplaceable importance of this parcel of land to connectivity between Booderee National Park and the southern parcels of Jervis Bay National Park to the northern parcels of Jervis Bay National Park. It is our view that the zoning and management objectives in this parcel align closely with that of the Jervis Bay National Park.

The second parcel of land is at Abrahams Bosum on the Beecroft Peninsula. The JBRA urge that conservation outcomes and management activities are aligned between the Crown Land and the Jervis Bay National Park. The production of a Plan of Management (related to Recommendation 3) would greatly assist in identifying management goals and necessary actions.

The final, smaller, parcels are to the west of Currumbene Creek on the northern side of Huskisson. We support the E1 zoning of these parcels and their inclusion into Jervis Bay National Park as they provide valuable connectivity between the creek and parcels to the south.

**Recommendation 9: that Crown Lands in the Jervis Bay area not granted to Jerrinja Local Aboriginal Land Council should be transferred to JBNP or that the management of Crown Land be aligned with the management objectives of the protected areas.**

#### 3. Threatened species

Crown Land has huge importance in the conservation of threatened species throughout NSW. For example, the connectivity afforded by the three examples of Crown Land given above in relation to Jervis Bay are important in ensuring the north-south connectivity of Jervis Bay National Park. This connectivity is in turn important for fragmentation-sensitive species such as greater glider and yellow-bellied glider. Besides connectivity, these areas are important habitat in their own right: for example a NSW BioNet search of the parcel of Crown Land between Callala and Myola reveals records of green and gold bell frog, yellow-bellied glider, regent honeyeater and powerful owl.

**Recommendation 10: that Crown Land with known populations of threatened species be transferred to the NPWS where possible and actively managed to maintain and recover populations of these species.**

#### CASE STUDY 2: VANDALISM OF CROWN LAND AT COLLINGWOOD BEACH, JERVIS BAY

Some of the outstanding issues in relation to the management and protection of Crown Land are clearly highlighted by the ongoing vandalism of native vegetation in a council managed Crown Reserve at Collingwood Beach, Jervis Bay. This example highlights the need for state government leadership in regards expectations of local government in relation to the management of Crown Land to ensure Crown Land is managed for outcomes for the entire community. Had Shoalhaven Council prepared a Coastal Zone Management Plan under the (now superseded) Coastal Protection Act, the management of coastal Crown Reserves would have been clearer and could have given Council the legal grounds to oppose activities not listed in the plan.

The Crown Reserve at Collingwood Beach has a long history, beginning in the 1970s when the dune at the northern end of Collingwood Beach was bulldozed by a land developer to aid construction of housing. In 1974 the newly developed section was severely eroded by storms in May/June, with the reserve width narrowing to as little as 7 metres. Destabilised sand blew over houses and threatened their structural integrity.

In response, in 1978 the community, Shoalhaven Council and the Soil Conservation Service initiated a plan to restore the dune. Marram and Spinifex grasses were planted to stabilize the foreshore, fences were installed to reduce foot traffic and 2500 seedlings of local species of wattle, teatree and banksia were planted in a successful example of dune rehabilitation<sup>4</sup>.

In the 1990s and 2000s foreshore vegetation planted during the process of rehabilitation has been subject to increasing levels of vandalism, including poisoning, removal, hedging and lopping, with a muted response by Shoalhaven Council with few punitive responses implemented beyond small signs highlighting the vandalism.

A particularly blatant poisoning event in 2012 led a recently elected council to install a large trial banner to block any view that may have been gained from the poisoning. Council removed the banner before the 6-month trial ends due to lobbying from nearby residents.

In 2014 Shoalhaven Council held a community forum with speakers on dune vegetation, coastal erosion and legislative framework and established the Collingwood Beach Dune Vegetation Reference Group. The Reference Group reached a compromise position and provided recommendations to Council which were accepted and NGH Environmental engaged to establish a draft dune management plan.

NGH developed three management options for the vegetation, rejecting allowing a natural equilibrium due to a lack of cross-community support and rejecting maintaining low vegetation because it was 'unlikely to meet legal obligations for managing coastal reserves.' However, Council returned a modified plan to the Strategy and Assets Committee which proposed entrenching a management protocol initiated by illegal activity by designating as a formal Zone (5) areas that had been cut and poisoned for views, by removing illegally poisoned vegetation and vandalism signage and by removing any tall shrubs not yet vandalised in Zone 4. NGH have distanced themselves from this revised plan citing the potential for increased tree mortality and increased dune instability<sup>5</sup>

This approach was not supported by the broader community which was evident from the number of signatures collected on petitions. In addition, the plan was in direct contradiction of council's Tree Management Policy and Foreshore Reserves Policy, contradicted the NSW government's coastal dune management manual<sup>6</sup>, ignored risks to public and private assets via climate change as outlined

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<sup>4</sup>[https://www.shoalhaven.nsw.gov.au/demosite/environment/coastal/documents/Collingwood\\_Beach\\_Extract\\_from\\_Journal\\_of\\_Soil\\_Conservations\\_Service.pdf](https://www.shoalhaven.nsw.gov.au/demosite/environment/coastal/documents/Collingwood_Beach_Extract_from_Journal_of_Soil_Conservations_Service.pdf)

<sup>5</sup><http://www.southcoastregister.com.au/story/4029363/consultants-reject-one-metre-dune-prune/?cs=203>

<sup>6</sup><http://www.environment.nsw.gov.au/resources/coasts/coastal-dune-mngt-manual.pdf>

in a report by Royal HaskoningDHV<sup>7</sup> and set a dangerous precedent in regards the transparency of management of public land.

The problem of vandalism on foreshore Crown Land is not unique to the Shoalhaven. However the response from Shoalhaven Council—to legitimise the vandalism—is unique to our knowledge with other local government areas choosing instead to adopt a zero-tolerance approach via the adoption of vegetation vandalism policies and vegetation rehabilitation<sup>8,9,10,11,12</sup>.

**Recommendation 11: the NSW government mandates the timely preparation of Plans of Management for Crown Land Reserves in accordance with state legislation such as the Coastal Management Act and where necessary enforces compliance with such plans for public benefit.**

**Recommendation 12: the NSW government amends the provisions of the Crown Lands Act to mandate a higher standard of management prescriptions relating to the environmental, cultural and recreational values of Council managed Crown reserves.**

### CASE STUDY 3: THE WESTERN DIVISION

Although the management of the Western Division is outside the objectives of the JBRA, we believe that due to the area of Crown Land in the Division and requirement for management consistency across Crown Land, the Western Division is an extremely important consideration.

The Western Division accounts for almost 50% of NSW the majority of which is leasehold Crown Land. The Western Division is therefore a very important public resource and, due to the fragility of the land, requires particularly careful management.

The *Western Lands Act 1901* was an outcome of the 1901 Royal Commission to Inquire into the Condition of the Crown Tenants, Western Division of New South Wales. This Inquiry investigated the causes of severe land degradation and erosion in the Western Division and found that the overstocking of cattle and rabbits coupled with the impacts of drought has been the major issue. *The Western Lands Act* established the Western Lands Board consisting of three commissioners who could impose conditions on leases.

Despite the 2014 Crown Lands Management Review stating that “current arrangements for Western Lands grazing leases provide effective governance and cost recovery to preserve environmental values”, the Government proposes to repeal the *Western Lands Act* and remove provisions referring to ecologically sustainable development. Currently, one of objects of that Act is to “ensure that land in the Western Division is used in accordance with the principles of ecologically sustainable development (ESD)”<sup>13</sup>. The JBRA considers that, given the history of erosion and environmental degradation in the Western Division, that removing provisions relating to ESD are reckless and retrograde.

Currently, the clearing of native vegetation in the Western Division is subject to the *Native Vegetation Act 2003* (NVA). Built into the NVA as a mechanism to assess the impact of clearing

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<sup>7</sup>[http://projects.umwelt.com.au/shoalhaven-coastline/docs/rp8A0101\\_gpb\\_Collingwood\\_240213\\_Rev2.1.pdf](http://projects.umwelt.com.au/shoalhaven-coastline/docs/rp8A0101_gpb_Collingwood_240213_Rev2.1.pdf)

<sup>8</sup><http://www.abc.net.au/news/2016-01-29/environmental-vandals-nsw-mid-north-coast/7124514>

<sup>9</sup><http://www.camden Courier.com.au/story/3703962/enviro-vandals-targetted/>

<sup>10</sup><http://midcoast.greatlakes.nsw.gov.au/Environment/Plants-and-Animals>

<sup>11</sup><http://www.tweed.nsw.gov.au/Policies/Vegetation%20Vandalism%20on%20Public%20Land%20v2.1%20-%20adopted%20190516.pdf>

<sup>12</sup><http://search.gosford.nsw.gov.au/documents/00/13/01/06/0013010640.pdf>

<sup>13</sup>Section 2 *Western Lands Act 1901*

applications is the Environmental Outcomes Assessment Methodology (EOAM), which permits assessment of the impacts of clearing on soils and water as well as the extent of native vegetation. The EOAM is therefore very important in a holistic consideration of the impacts of clearing, including on farm productivity.

Recent proposals by the NSW government to repeal the NVA and to permit broad scale land clearing via self-assessable codes are a major concern in the context of the Western Division. The removal of any requirement to consider factors such as erosion in clearing decisions means there is a risk of history repeating itself in regards land degradation in the Western Division. This is not just relevant to the environment, but will have a negative impact on production too: the 2015 NSW State of Environment Report<sup>14</sup> showed that 74% of the 124 priority soil monitoring units (SMU) were rated as poor or very poor for at least one degradation hazard.

The loss of organic carbon and topsoil via sheet erosion were identified as the greatest threats across the state to soil health and productivity and are increasing. Wind erosion and salinity are also threats and we can expect erosion to increase via extreme weather due to the effects of climate change.

The report states that 'Organic carbon decline is generally a result of vegetation clearing and changes in land management leading to reduced replenishment of organic matter and greater losses to the atmosphere'. Although the report showed that topsoil loss through wind erosion is of lower concern state-wide, it is of significant concern in 3 of the western LLS regions—highlighting the vulnerability of the Western Division to any increase in land clearing.

**Recommendation 13: the NSW government retain strong clearing laws on native vegetation in the Western Division to avoid a repeat of the ecological collapse of the late 1800s.**

**Recommendation 14: the NSW government does not pursue a policy of conversion of leasehold to freehold so as to ensure that land management is ecologically sustainable in the long term.**

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

We have largely addressed this reference point relevant to the Jervis Bay area in a Case Study. In regards increasing Aboriginal involvement in Crown Land management, parcels of Crown Land that are adjacent to protected areas should either be added to (in preference), or have their management aligned with, the protected area. Increasing funding to the NPWS and Local Aboriginal Land Councils to coordinate this management could result in increased Aboriginal employment and would facilitate Aboriginal involvement in the management of Crown Land, including in areas such as traditional burning.

**Recommendation 15: the NSW government make available adequate funding for land management training for Local Aboriginal Land Councils to increase Aboriginal participation in the management of Crown Land, and for the NPWS to employ more Aboriginal personnel.**

Dr Oisín Sweeney, Chair, Jervis Bay Regional Alliance

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<sup>14</sup><http://www.epa.nsw.gov.au/soe/soe2015/index.htm>