

Submission
No 345

INQUIRY INTO CROWN LAND IN NEW SOUTH WALES

Organisation: Blue Mountains Conservation Society

Date received: 24 July 2016



Blue Mountains Conservation Society Inc

Nature Conservation Saves for Tomorrow

23 July 2016

**Hon Paul Green, MLC
Chair
Upper House Inquiry into Crown lands
Parliament House
Macquarie Street
SYDNEY 2000**

Dear Mr Green,

The Blue Mountains Conservation Society is a community organisation working to achieve the preservation and regeneration of the natural environment of the Greater Blue Mountains. The Society has a membership of over 800 people.

The Crown lands estate is around 42% of NSW and includes lands with significant social, environmental and cultural values. To maintain these values, crown land must remain in public ownership and management with publicly accountable management. They contain some of our most important remnant bushland, provide vital habitat for native species, important wildlife corridors and intact ecosystems in a significantly cleared landscape. Poor management practices, such as the sale of Crown roads, long-term leasing of travelling stock routes and increased commercial use of Crown lands are already threatening the important environmental, social and cultural value of these lands, which are meant to be held in trust for the people of NSW.

This Upper House inquiry is a timely initiative as the government is intending to introduce major amendments to the Crown Lands Act in Spring session of parliament. As well, the government's recently released Biodiversity Reform package will, if implemented, endanger the protection of Crown lands. Further, the NSW government's renewed effort to sell government assets will encourage more sales to achieve more capital return to NSW Treasury. Now is the time to protect crown lands for current and future generations.

Overall, the Society is totally opposed to the sale or free-holding of Crown lands, the exclusive use of Crown lands for commercial purposes, and any change which will

weaken the current level of protection of Crown lands. [The Society believes that the current protections should be strengthened.

The Society makes the following points in relation to the four Terms of Reference for the Upper House Inquiry.

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

The Crown Lands administration is responsible for the sustainable and commercial management of Crown lands, an area of approximately 36 million hectares (including western Division). It is responsible for the professional management of some 72,600 licences and permits state wide, along with 14,800 leases and 580,000 individual parcels of land. Their authorised land uses include waterfront occupations; commercial; grazing and agriculture; residential; sporting; community purposes; tourism; and industrial activities. [Audit Office, *Contaminated Lands Key findings* 2014 at p.18]

Crown land is used for a wide range of active and passive recreational activities including going to the beach, jogging, bushwalking, fishing, kayaking and bird watching. Crown land must be managed actively to ensure that public enjoyment of and access to these activities is maintained. .

Crown land often contains relatively undisturbed natural landscapes in rural, coastal and urban areas. Crown land has significant environmental values, and when properly managed, contributes enormously to the conservation of native vegetation, wildlife habitat and corridors, biodiversity and coastal environments, wetlands, rivers and estuaries in NSW. The retention and appropriate management of Crown land will provide a long-term public benefit including in the form of ecosystem services, landscape resilience and river health.

Crown land of high conservation value needs active management including control of weeds and pest animals and ensuring that its ecological value is not undermined by commercial activities such as grazing. Plans of management could provide guidance as to how this happens. However, plans of management are not compulsory.

There are approximately 33,000 crown reserves in NSW, yet according to Crown lands website only 60 Plans of Management have been completed and a further twelve are on exhibition. Rather than outline the activities allowed on the reserve arising from the legislation and the purpose for which it was reserved and how they will be managed, plans of management from Crown reserves appear to be largely to add a new purpose for the land besides the purposes it was reserved for. [*Crown Lands Act* s.112) . We believe that all Crown land areas should have plans of management along the lines of other statutory examples such as under the National Parks and Wildlife Act. This would need to be introduced over time so criteria for determining a priority should be established including high environmental values and contribution to native vegetation corridors or adjacent reserves.

Changes to Crown land management will be exacerbated by proposed changes to native vegetation laws in NSW which will see land clearing rules significantly weakened by the proposed Biodiversity Conservation Bill and Local Land Services Amendment Bill, including enabling broad-scale land clearing via the “equity code”.

There is a lack of publicly available up-to-date State-wide mapping of Crown land. Consequently, the public cannot independently verify the current extent of Crown land. As well, certain information is only made available to Trusts managing particular crown land reserves. This major failure of government record-keeping and information provision to the public needs to be addressed. Publicly available spatial information with a Crown land layer should be possible.

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

Many community groups have significant concerns with the current mismanagement of Crown land reserved for open space or public recreation, particularly in circumstances where Crown land is leased for commercial purposes, reducing public access and impacting on environmental, cultural and social values. There is also considerable concern about the carrying out of commercial activities on Crown land which are unrelated to the particular purpose for which they were originally reserved.

There has been inadequate consultation and community input on proposed changes to the future management, use and disposal of Crown lands. In particular:

- There has been no proper assessment of the environmental, social and cultural values, and public benefits of Crown land. Crown lands may contain important ecosystems and comprise habitat for resident, itinerant and migratory birds and mammals.
- This means that there is a danger that lands are disposed of for financial gain without any appreciation of their value to the people or ecosystems or biodiversity, water quality or protection of native fauna
- Public submissions on the Crown Lands Legislation White Paper were summarised but not made publicly available. Therefore, the public did not see the full range of issues raised in submissions.
- It is proposed to repeal the land management principles currently in the *Crown Lands Act 1989*. These require consideration of a number of factors including environmental matters before land can be sold or leased. It is essential that there is appropriate consideration of the social, cultural and environmental values of Crown land before land they are leased or licensed and sold to ensure that the public benefit of Crown land is preserved for future generations.
- If councils are to be increasingly responsible for Crown lands’ management, they must have sufficient capacity (including resources and training) to undertake the task. Other issues to be addressed include who or what will prevent councils from

capitalising the assets for commercial development and how community input will be handled.

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

If Crown land is to remain a valuable public resource it must stay in public ownership, held in Trust by the State on behalf of the people of NSW as was intended at the original reservation of the land. Public information about the crown estate must be more detailed and accessible in both digital and spatial formats.

It is crucial that the social, cultural or environmental values of Crown land are properly evaluated before further decisions are made about the future of Crown land.. This would also allow better identification and management of the conditions of crown land, for instance, where land has been contaminated. (see below)

One example of crown land requiring protection. The Gardens of Stone Stage 2 (GOS2) Proposal was lodged in 2005 over approximately 40,000 ha of Crown lands and State Forests extending north-westward from Medlow Bath through Newnes Plateau to Mt Airly. [Additional information may be found on the Society's website]. The Proposal was favourably assessed by the Department of Environment and Conservation (DEC) in 2006. While part of the proposal was reserved as a state conservation area in 2011, most of it remains unprotected. This includes a number of Crown land parcels (3910 ha in total) in the Western Escarpment of the Blue Mountains between Lithgow and Medlow Bath. Through a Public Lands Rationalisation process, it was decided that about 2500 ha would be managed as Council Reserve and nearly 660 ha be assigned to the Blue Mountains National Park.. These pieces of land include some of the most important environmental and heritage portions of the Western Escarpment, including the first passes used by Europeans to reach the interior of the continent. All of these lands should be protected appropriately however, this process has been stalled for several years through lack of funding. It is vital that the work undertaken to date in dealing with these important environmental and heritage assets is completed and not undermined by future changes to crown lands management and asset sales policy.

To the extent that most of the Crown lands were deemed to have environmental values meriting reservation, the Society strongly opposes any changes which might impact on their current status. This is because such changes:

- might impede the capacity of the areas to be included in the various parts of the GoS2 Proposal; and,
- might exclude such areas from GoS2 thereby limiting the continuity and size of the proposed SCAs.

The Society believes that

- Crown land must be administered in an open, transparent and accountable manner that increases public participation in their management.

- Management of Crown land throughout the State must be based on the principles of ecologically sustainable development and must be transparent to the general public.
- Agencies responsible for the administration of Crown land, including TSRs, must work co-operatively with other land managers including State Forests, NPWS and councils to promote conservation of biodiversity and protection of ecosystem services.

The Audit Office has criticised the management of crown land in relation to identifying and managing potentially contaminated lands which they own, manage or lease or sell or transfer (mainly to Aboriginal corporations). The Audit Office reports states that: “The wide scope of activities that have historically occurred on Crown lands, both lawful and unlawful, has created a potentially significant risk to human health and environment. Some examples include former gasworks sites, mine sites, waste depots, agricultural chemicals (such as cattle dips), landfills and illegal dump sites (such as asbestos). ... there are over 100 derelict mines located on Crown lands”. The Audit Office identified a number of areas to improve information about and management of contaminated lands including a central register of contaminated Crown land; assessing all instances of contamination to determine which should be reported to the EPA in compliance with Crown Lands Management Act and recording provisions for remediation. [NSW Auditor-General's Report to Parliament /Managing contaminated sites| 2014]

The 2014 report indicated progress had been made but it has not been possible to determine whether all these issues have since been adequately addressed as the publicly available information appears to have been reduced. The issue raised in 2014 are serious issues of land management and public and financial risk. The Upper House inquiry should ask the Audit Office whether they are now satisfied with Crown Lands management of possible contaminated land.

The Audit Office is due to report on the *Sale and lease of Crown land* in the current financial year. ‘This audit will assess whether the Department of Primary Industries is managing Crown land lease and sale transactions effective and examine how well the Department ensures: compliance with statutory requirements and policy; rigorous and transparent decision making and appropriate engagement with stakeholders and the community. This is to meet the State Plan Outcome Area: Restore accountability to government’ [<http://www.audit.nsw.gov.au/further-audit-information/proposed-topics-for-2016-17/sale-and-lease-of-crown-land>]

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

The Society supports increased Aboriginal involvement in the management of Crown land to conserve its cultural and heritage values as well as environmental values. It is unclear what implications the proposed changes to Crown land management will have

on pending or future Aboriginal land claim rights. In particular consideration must be given as to what effect proposals to transfer or sell land to agencies or private persons will have on future claims. It is essential that Crown land is properly managed to protect its important environmental, social and cultural values pending the resolution of any outstanding land claims.

Attached is the Society's earlier submission on the White Paper into Crown lands in 2014 which sets out our particular concerns relating to Crown lands.

Yours sincerely