

## INQUIRY INTO CROWN LAND IN NEW SOUTH WALES

Name: Name suppressed

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Partially  
Confidential

## Upper House Inquiry Into Crown Land

### *Terms of reference:*

- a) the extent of Crown land and the benefits of active use and management of that land to New South Wales,*
- b) the adequacy of community input and consultation regarding the commercial use and disposal of Crown land,*
- c) the most appropriate and effective measures for protecting Crown land so that it is preserved and enhanced for future generations, and*
- d) the extent of Aboriginal Land Claims over Crown land and opportunities to increase Aboriginal involvement in the management of Crown land.*

### KEY CONCERNS

#### UNMADE CROWN ROAD RESERVES

- a) Unmade / undeveloped Crown road reserves have benefits for public access and recreational use for walking and cycling. Crown road reserves also provide access to waterways and public reserves.

A key concern is the disposal of Crown road reserves that provide important links for public access. The sale of Crown land, usually to an adjoining land owner, privatises the ownership of the land and consequently prevents future public access and associated active / passive use.

The disposal of unmade Crown road reserves for economic gain is short-sighted. The sale of unmade Crown road reserves results in the long-term loss of public access and public benefits associated with their use.

- b) public consultation in relation to the disposal of Crown road reserves is inadequate. Members of the public, who use or are likely to use the land, are not given an adequate (or any) opportunity to comment on a proposal to sell Crown land.

- c) the most appropriate and effective measure to protect Crown road reserves and other Crown land is to ensure that these public assets are retained for their intended purpose i.e. public access.

Crown land that has values relating to public access and associated active or passive use should not be subject to disposal. The disposal of Crown land should only be considered when the Crown land has no actual or potential public benefit. An environmental and land use assessment should be required and put on public exhibition prior to any decision to dispose of Crown land.

Ecologically Sustainable Development (ESD) Principles, including the principle of intergenerational equity and ecological sustainability, should be applied to decisions re the future tenure of Crown land.

### **Case Studies**

#### Coastal Corridor

An undeveloped Crown road reserve traversing a steep hillside provided a pedestrian route and short cut. The natural terrain provided informal access, but had the potential to be formalised with steps, similar to a downhill segment of the corridor. Previous local plans show that a through corridor existed for many years.

In 2004 a section (one third) of the Crown road reserve was sold to an adjoining land owner. Apparently, no public consultation took place at the time. According to Council, an acquisition of land was made directly to the Department of Lands, and was not managed through Council engagement processes.

The privatisation of this section of the unmade road reserve has blocked the through corridor identified as part of the original subdivision. The privatised section has now become a barrier to pedestrian access, and prevents the use of the corridor as a convenient link to / from the beach.

#### Blue Mountains

Crown road reserves provide an important link to bushland reserves. The closure and sale of unmade Crown road reserves, usually to adjoining private land owners, means that public access is excluded. Future access

to the land is at the discretion of the private landowner, whose permission is required for members of the public to access the land. This scenario is not in the public interest.

In the Blue Mountains, walking along an unmade road reserve en route to a bushland reserve, we (a group of bushwalkers) were confronted with a gate and an attached notice providing a mobile phone number that we had to ring for permission to access. This was surprising, given that this was that this a continuation of a public road, and there was no apparent alternative route.

### **Non-Urban Land**

Non-urban land includes areas with natural landscape values and significant environmental features. In one area of non-urban land, an unmade Crown road reserve has been sold and incorporated into private land. As a consequence, public access is no longer available through the area. Public access should be retained and environmental features protected for Crown road reserves that traverse non-urban land.

### **Rural Areas**

Unmade road reserves provide public access to environmental features, such as waterways, and are available for recreational use. In NSW unmade Crown roads provide established routes for public access, including within the more remote stretches of rural land. It is important that these unmade road reserves remain in public ownership to allow continued public access across the land.

In Britain the public walking paths / routes that criss cross the countryside are well used for recreation. (I understand the public have a right of way by virtue of the historical and continuing use of these paths.) Although the laws in NSW are different, and the landscape is vast by comparison, a similar respect for the recreational values of public access routes should be applied in NSW.

### **Travelling Stock Routes (TSRs)**

Crown land is like the 'commons', or land in common, and allows for shared public use. TSRs provide corridors of Crown land across the landscape. The Crown land may be less intensively used than private land and provide a refuge for surviving remnants of the natural landscape.

The TSRs have multipurpose values for conservation, shared access for livestock, and public access. These benefits of Crown land should be recognised and protected. The sale or lease of TSRs is not in the public interest, as it allows the privatisation of land, and negates the public benefits.

## **CROWN LAND**

### **a) Benefits and management**

Crown land has many benefits, including:

- Provides for passive and active recreational use, which also relates to health
- Protects landscape values, soils, waterways and catchment areas, native flora and fauna (biodiversity)
- Complements the conservation and recreation roles of National Parks

### **b) Disposal and consultation**

There are instances where Crown land has been advertised for sale and no public consultation has taken place.

### **c) Future protection**

It is important for the public to trust that the intrinsic values of Crown Land will be protected in the long term. The sale of Crown land diminishes a finite public asset and sacrifices public benefits that should be passed on to future generations. Crown land asset is not a recyclable asset to be sold off to raise revenue. It is an investment in public land, and its associated benefits, and a resource to be protected. Crown land belongs to the people of NSW, and as such, the public interest and long term benefits of protecting the land should be paramount. In many, if not most instances, the privatisation of Crown land is not justified.

Negligible funding is available at all levels of government for the acquisition of land, particularly for environmental or recreational purposes. Exceptions are for road infrastructure (RMS) and essential public infrastructure. However, for other public uses, once Crown land is sold, there is virtually no substantive funding source available to reclaim former Crown land or to resume private land. Therefore the sale of Crown land is almost inevitably a one way process, that leads to the permanent loss of a public land asset.

A government fund could be established to acquire land for environmental protection and public recreation. At present the amount of funding allocated to this purpose Statewide is trivial. It is easy for the State Government to sell off Crown land but very difficult for anyone, including Councils and government agencies, to acquire land for similar purposes.

The public benefits of retaining the Crown land need to be taken into account and given a higher priority in the decision making process. The local and regional benefits associated with Crown land need to be acknowledged, or they will be overlooked, and potentially lost. Public input should also be invited.

### **Case Study**

#### Local Reserve

The 900 sq m Crown land site was contiguous with a former quarry that had become a public reserve. Local residents became aware that the Crown land was to be sold when a for sale sign appeared on site. Subsequently, letters were sent to the State Government to request that the Crown land be withdrawn from sale. Fortuitously, the site was saved when a native plant species growing on the site was identified as threatened.

[Apparently an assessment report on the land was done but this was an internal working document, not a public document, and was considered of no concern to Council (as it is not their land). The Dept. wrote to Council asking if they wanted to acquire the property, but Council said they did not have the money.]

### **ABORIGINAL LAND CLAIMS**

a) Land claims have been granted for a number of environmentally sensitive sites. This includes Crown land previously recommended for inclusion in adjoining National Parks i.e. Garigal and Kuring-gai. Crown land contiguous with National Parks protected natural areas and provided recreational access for walking and cycling. The Crown land contributed to the sustainable management and use of the National Park.

No community input or consultation took place in conjunction with the land claims for these sites, which subsequently have been sold to developers. This has resulted in the loss of environmental and recreational values and inappropriate development on former Crown land not suitable or intended for (residential) development.

Local communities and councils have fought valiantly to defend these natural areas and protect the environmental values of the land. However, developers have pushed the boundaries and prevailed over weak environmental legislation. Unfortunately, the environmental problems do not go away, with ongoing impacts on surrounding areas, and the exclusion of public access persists into the future.

c) Crown land with environmental values should remain in public ownership and managed to ensure the protection of conservation values. The environmental values and public benefits of Crown land need to be acknowledged and protected for future generations.

The undeveloped natural areas of Crown land have inherent cultural values associated with the Aboriginal people that once lived there. It is in the public interest that we protect these areas, as they provide the strongest link with its cultural heritage.

d) There is an opportunity to increase Aboriginal involvement in the management of Crown land. This includes education and training to manage the environmental and cultural values of the land and its sustainable use e.g. for public recreation.

## CROWN LAND and LOCAL GOVERNMENT

In State and local governments, some elected and appointed officials regard public land as an expendable asset that can be sold off to fund capital works. Decision makers at the helm of public office may be keen to fulfil ambitious building projects (the 'Taj Mahal' mentality) during their term of office. Consequently, their frame of reference for decision making is confined to the short-term.

The role of the Crown lands department should be to take a wider perspective of the issue i.e. to oversee, and if necessary to veto a decision, to ensure that the public interest and environmental issues are given adequate weighting and consideration. The Principles of Crown Land Management under the Crown Lands Act 1989 should be applied, including that '*environmental principles be observed*' and '*the natural resources of Crown Land be conserved wherever possible*'.

Environmental assessment should be the basis of land use decisions and environmental values protected, where possible. Public ownership will better protect environmental values.

Crown Lands legislation and management principles need to ensure that the public benefits of Crown land are protected in the long term and not sacrificed for short term economic gain.

### **Case Study**

#### Regional reserve

Crown land dedicated as a War Memorial Park.

Council proposal for long term lease of land is not in accordance with Plan of Management.

Conflict between proposal and protecting environmental values of Crown land.

[See attachment.]