

**Submission
No 128**

INQUIRY INTO CROWN LAND IN NEW SOUTH WALES

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Inquiry into Crown land – NSW Government Submission

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Contents

Contents	2
Executive Summary	3
Part 1: About Crown land	5
What is Crown land?	5
What types of Crown land are there and who manages them?	6
Crown reserves	6
Crown leases and licences	8
What benefits does Crown land provide to NSW?	8
Sale and leasing of Crown land	9
Part 2: Aboriginal involvement in the management of Crown Land	10
Involving and supporting Aboriginal people in managing Crown land	10
Native Title	11
Aboriginal Land Claims	11
A new approach to Aboriginal land claims	12
New Crown land Legislation	13
Part 3: Improving the management of Crown land	14
New, consolidated legislation	14
Local ownership and management	15
Local land and state land	15
Transferring land to Aboriginal Land Councils and Local Councils	16
Management of Crown reserves by local councils	16
Enhanced community involvement in Crown land	16
Protecting environmental, heritage, economic and social values	17
Protecting Crown land through enhanced governance	17
Managing land in the Western Division	18
Travelling Stock Routes	18
Bringing it all together	18

Executive Summary

Crown land is owned and managed by the State for the people of NSW both now and for the future. NSW's Crown lands estate covers some 42 per cent of the State and has a total value of \$11 billion.

It is a rich and diverse portfolio – ranging from vast tracts of agricultural leases in Western NSW, through to thousands of parks and reserves in rural and regional areas and beaches, waterways and the seabed in coastal areas.

It should not be confused with other forms of Government-owned lands such as National Parks, State Forests, State Rail property and community lands owned by local councils.

A wide range of stakeholders actively use, seek rights to, or access to Crown land. This includes community organisations and sporting groups, Aboriginal Land Councils and native title holders, tourists, recreational clubs, businesses, farmers and general community members.

The management of Crown lands has been one of the NSW Government's most important tasks since the formation of the colony. The NSW Government currently has a wide range of mechanisms to manage this land, including direct State management, the issuing of licences, permits, long-term leases or delegating care, control and management to councils or trusts.

As has happened since colonial times, some Crown land is also sold if it is no longer required for government or broader community purposes and in doing so can benefit the State's economy. In addition, the *Aboriginal Land Rights Act 1983* provides that certain Crown land not needed by government can be claimed by and transferred to Aboriginal Land Councils for economic or cultural purposes.

However, it is clear there is a need for significant reform of Crown lands management in NSW. The legislative framework which underpins Crown land management is unnecessarily complex – comprising eight different pieces of legislation – some of which dates back to the late 19th century. What's more, there has been a view that the community – including Aboriginal groups – is not effectively engaged in Crown land management and decisions.

Recent years have also seen a range of improvements in related legislation (for example, the *Cemeteries and Crematoria Act 2013*) and oversight bodies (for example Independent Commission Against Corruption, NSW Ombudsman) which supports the need to modernise the legislative basis for Crown land management in NSW.

It is for these reasons that the NSW Government in 2012 began the first major review of Crown lands in 25 years. This review has been conducted in a highly open and consultative manner – including the publication of a White Paper in 2014 and a series of ongoing consultations with key stakeholder groups.

The NSW Government will be introducing a new single Crown Land Management Bill into Parliament during 2016 to replace the existing range of legislation regulating Crown lands. This new bill will deal with a number of the issues being examined under the terms of reference of this inquiry. For instance, it will:

- protect the environmental, social, cultural heritage and economic values of Crown land by ensuring these values are considered when decisions are made about Crown land – these considerations will be explicitly recognised in the objects of the proposed new legislation

- reduce complexity and duplication when it comes to managing Crown land, including by removing multiple layers of decision-making and improving alignment with existing environmental and planning legislation
- support greater local decision-making by allowing locally-significant Crown land to be devolved to a local level of ownership and management
- strengthen opportunities for community involvement, including by requiring a community engagement strategy to be prepared
- increase opportunities for Aboriginal involvement in the management of Crown land, including by making it possible for Aboriginal groups, such as Aboriginal Land Councils, to be appointed as managers of Crown reserves.

The underlying driver is to manage Crown land in such a way that it continues to provide significant benefits to the people of NSW.

Separately, work is underway to more strategically deliver social and economic outcomes to Aboriginal people and communities under the requirements of the *Native Title Act 1993* (Cth) and the *Aboriginal Land Rights Act 1983*. This includes implementing a more strategic and streamlined approach to resolving land and native title claims and building capacity in Aboriginal communities for land management.

Part 1: About Crown land

What is Crown land?

Crown land is land that belongs to the State of NSW. It is owned and managed by the State for the people of NSW both now and for the future. Crown land should not be confused with other forms of Government-owned lands such as National Parks, State Forests, State Rail property and community lands owned by local councils.

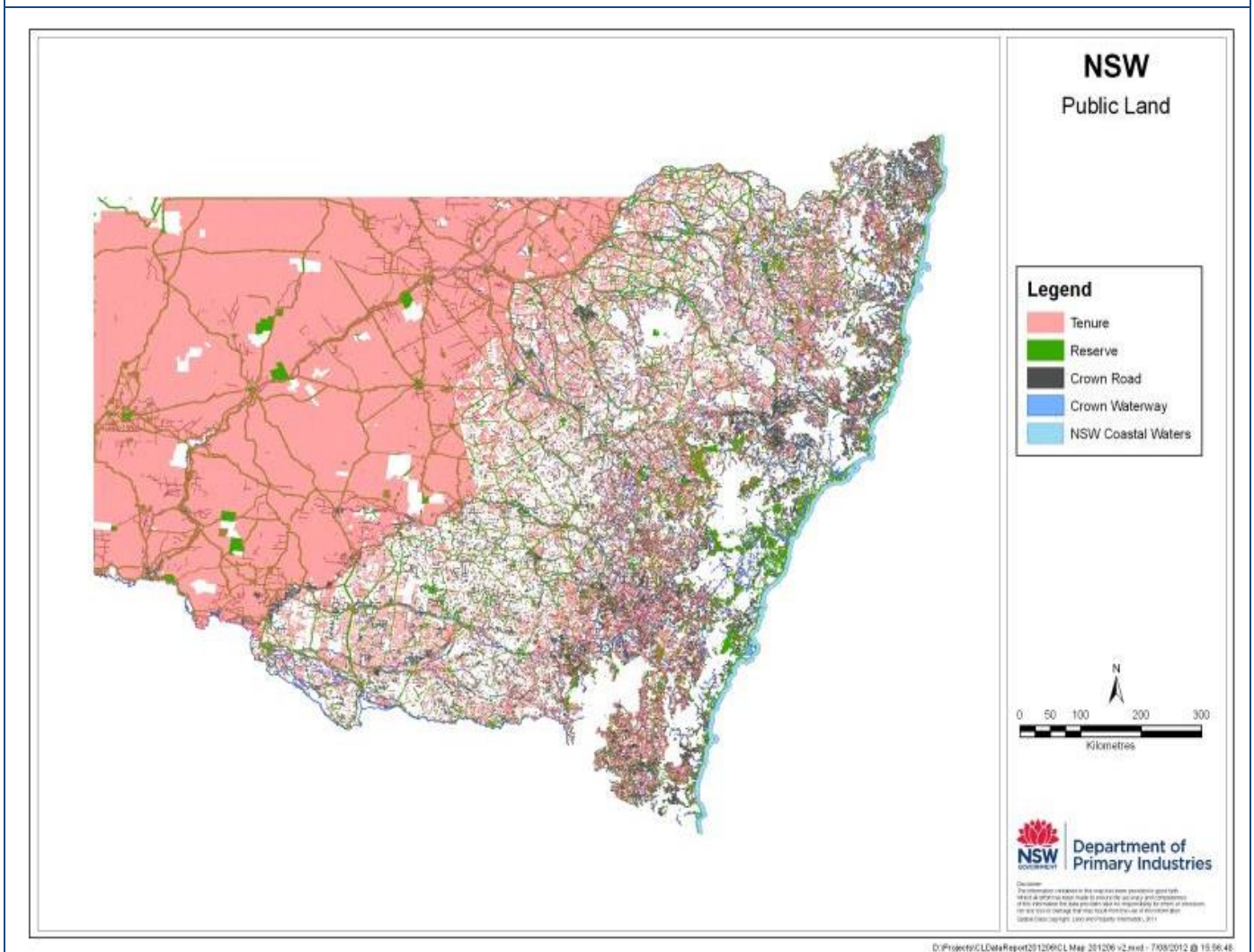
The Crown land estate is vast and diverse. Crown land covers around 42 per cent or 33.5 million hectares of NSW. It spans the majority of farming land in Western NSW, thousands of parks, reserves and other community spaces in and around rural and regional towns, through to beaches, waterways and seabeds.

The majority (96 per cent or approximately 29 million hectares) of land is in Western NSW and is held under more than 6,000 Western land leases which are vital for agriculture and grazing in the Western Division.

The remaining Crown land (4 per cent or approximately 3.5 million hectares) is made up of roads, reserves and land held in almost every community and part of the State. This includes rivers, estuaries, beaches and the seabed to three nautical miles from the coast, which covers around 0.4 million hectares. The map in [Figure 1](#) outlines the vast and diverse Crown estate.

The NSW Government is committed to managing this valuable public asset for the benefit of the people of NSW and will continue to work with the community to maximise social, economic and environmental outcomes for current and future generations.

Figure 1: Distribution of Crown lands by tenures, reserves, Crown roads, waterways and coastal waters



What types of Crown land are there and who manages them?

The *Crown Lands Act 1989* (CL Act) is the principal legislation governing the use, management and administration of Crown land in NSW.

There are two broad types of Crown land – land that has been set aside for a public purpose (known as a Crown reserve) and land that has been leased or licensed to a third party (known as tenured Crown land).

Crown land is principally managed by third parties – either through the issuing of leases or licences or under a system of Crown reserve management.

In addition to complying with the CL Act, all managers of Crown land must also comply with all other relevant legislation.

Crown reserves

The CL Act allows the Minister for Lands and Water to dedicate or reserve Crown land for a public purpose, including, for example, recreation, cemeteries, environmental protection, holiday accommodation, infrastructure or government services.

There are approximately 34,000 Crown reserves. These are managed by a number of different entities, including local councils, community organisations, volunteer and professional trust managers and NSW Government agencies.

Every local council in NSW acts as reserve manager for Crown land reserves in their local government area. Local councils manage around 116,000 hectares of Crown reserves.

In addition, more than 700 community volunteer reserve trusts, run by more than 3,000 dedicated volunteers, look after individual Crown reserves containing showgrounds, racecourses, local parks and other important community facilities and public areas.

A small number of professional reserve trusts manage significant Crown reserves, including holiday parks (e.g. NSW Crown Holiday Parks Trust) and cemeteries and crematoria (e.g. Southern Metropolitan Cemeteries Reserve Trust). These professional trusts are skills based, with paid board members, Chief Executive Officers and staff and extensive assets.

Hundreds of incorporated community groups such as Scouts, Girl Guides, and Police Citizen and Youth Clubs are appointed as corporate reserve trusts to manage community facilities.

Most of these reserves are funded through fundraising and volunteer effort, and low-key commercial activities (e.g. kiosks) and Government grants, particularly the Public Reserve Management Fund.

Significant controls are built into the CL Act so that entities appointed to manage Crown reserves require approval if any significant change or development is proposed on that land.

Plans of management are often prepared under the CL Act to guide the use and management of significant reserves. Plans of management include consultation with the community. Visit http://www.crownland.nsw.gov.au/crown_land/crown_reserves/management to find out more about plans of management.

Public Reserve Management Fund

The Public Reserve Management Fund provides financial support for the development, maintenance and protection of public reserves in NSW.

This funding supports the maintenance of showgrounds, community halls, local parks and reserves, as well as improvements to recreational attractions such as holiday and caravan parks, State parks and walking trails which are important contributors to local and regional economies.

Over the last 5 years, more than \$95 million has been allocated to support Crown reserves. In 2014-2015 alone, almost \$23 million was disbursed by the Public Reserve Management Fund across 532 projects. Visit

http://www.crownland.nsw.gov.au/crown_land/crown_reserves/funding/PRMFP for an overview of the funding program and its achievements, and case studies of select projects.

NSW Government agencies also directly manage some Crown reserves. Local Land Services (LLS) manage around 500,000 hectares of Travelling Stock Reserves (TSRs) for use by travelling or grazing stock. The Department of Industry – Lands (Dol – Lands), as a default manager of Crown reserves, manages some 18,300 Crown reserves.

Crown leases and licences

There are around 53,000 tenures (leases or licences) granted over Crown land for a variety of private and community purposes. These comprise approximately 8,600 leases (including more than 6,000 Western land leases), 18,400 licences and permissive occupancies, and 26,000 permits to enclose Crown roads.

Crown leases give rights to exclusive use of Crown land for a specified term and purpose. A lease creates an interest in land and can be registered on title. Generally, leases are sought over Crown land where longer-term security of tenure is an important factor, such as where commercial uses are proposed and major financial outlay is required. Examples include agricultural activities, marinas and caravan parks, clubs and sporting facilities.

Crown licences allow the licence holder to use Crown land for a specific purpose or activity. DoI - Lands offers a number of different types of licences including but not limited to: communications, extractive industry, grazing, and domestic waterfronts (primarily jetties).

Crown land tenures are typically structured so that the tenure holder is responsible for all land management functions associated with the parcel of land. For example, the tenure holder is responsible for maintaining built assets, fire management and control of pests and weeds.

Specific controls are built into the CL Act so that tenure holders require approval if any significant change or development is proposed on that land.

What benefits does Crown land provide to NSW?

Crown land is an important public asset, and delivers widespread social, cultural, environmental and economic benefits for the people of NSW.

- **Social benefits** – Crown land contributes to the social fabric of the State. It makes up some of the best known recreational spaces in NSW, such as Sydney's Hyde Park and most beaches. Crown reserves are home to hundreds of community facilities, including showgrounds, racecourses, sporting grounds and surf lifesaving clubs, and are managed by an army of community-minded volunteers.
- **Cultural benefits** – Access to Crown land, including TSRs, enables Aboriginal people to maintain connections to Country. It provides opportunities for Aboriginal people to undertake cultural practices including culture camps, hunting, fishing and gathering bush foods and bush medicines. Crown land also contains numerous historic heritage places, including heritage showgrounds and historic houses and sites.
- **Economic benefits** – Crown land provides a direct economic return to the NSW Government through rents, licensing fees and the proceeds of land sales. Some proceeds from rents collected from leases and licences on Crown land are directed into the Public Reserve Management Fund to support management of the rest of the Crown estate. Crown land is also an engine room for economic activity, including in the agricultural, tourism and hospitality sectors.
- **Environmental benefits** – The Crown land estate contains areas of high environmental values, including significant remnants of relatively undisturbed natural landscapes in rural, coastal and urban areas, and key habitat for threatened species and populations.

The NSW Government will continue to invest in Crown lands and work with the community to optimise these benefits for current and future generations. In 2014-15, the NSW Government's investments in Crown land included:¹

- \$23.8 million in grants and loans for managing Crown reserves (Public Reserves Management Fund).
- \$15.6 million in coastal infrastructure as part of a \$45 million program over four years, including for breakwaters and training walls, coastal harbours and river entrances, linkages to the foreshore, commercial fishing fleets, recreational boating, fishing and diving.
- \$1.5 million in dredging of priority waterways on the north coast as part of a \$10 million program over four years.
- \$2.8 million in dredging of navigational channels, including Swansea Channel and the Rescuing our Waterways program.
- \$4.4 million in bushfire mitigation works.

Sale and leasing of Crown land

Since colonial times, the NSW economy has been facilitated through the sale, leasing and licensing of Crown land. All land in NSW that is currently held in freehold for residential, community and business purposes was previously Crown land. Proceeds from the sale, lease and licensing of Crown land are reinvested into managing the Crown land estate or used to fund other NSW Government programs.

In the 2014-15 financial year, only a modest amount of Crown Land was sold – 40 properties returning \$5.2 million to the NSW Government. This compares to the \$11 billion value of the Crown estate.

The sale of Crown land is provided for under Part 4 of the CL Act. Crown land can only be sold if the sale is in the best interest of the State, consistent with the principles of CL Act. When it has been determined that a parcel of Crown land is no longer required for broader community purposes or by the NSW Government, sale of that land is considered through an investigation process, including public notification, set out in the CL Act. In addition, some existing tenure holders have rights in their tenure agreements to purchase the land leased to them. Information about land sales is reported in the Department of Industry's annual report.

A suite of operational policies, such as 'Direct Negotiations for the Sale and Lease of Crown Land' (2016)² guide DoI-Lands in its decision making about selling, leasing and licensing Crown land. The initiatives outlined later in this submission will have a practical impact on the NSW Government's existing sales process, including the proposed new requirement that Crown land identified of State significance be retained by the State for the people of NSW and that improved community engagement be undertaken for any changes to the use of Crown land.

¹ All figures are approximate as at February 2016.

² See <http://www.industry.nsw.gov.au/policies>

Conversion of Crown roads and leases into freehold land

Dol – Lands administers over 500,000 hectares of Crown roads worth around \$300-\$400 million.

Crown public roads provide lawful access to many privately owned and leasehold lands where little or no subdivision has occurred since the early nineteenth century. These roads are part of the State's public road network. They are often referred to as 'paper roads' as the majority have not been formed or constructed.

Where Crown roads are not required for public or legal access to freehold land, applications can be made to close and purchase the roads. This program has been in place since 2004 and allows adjoining freehold landholders to consolidate their holdings and provides security of tenure over land that is often fenced in with their properties and used for grazing purposes.

Currently around 1700 applications to close Crown roads and convert them into freehold land are processed each year. The process involves public consultation and assessment of whether the roads are required for public access to land or waterways and should remain as part of the public road network. If not required for public purposes these roads are closed and sold, which reduces costs associated with managing this land for the State and reduces red tape for affected property owners. All proposed road closures are publicly advertised. This program returns in excess of \$17 million in sales each year to the NSW Government.

Transferring Crown land into the National Parks estate

Crown land with a high conservation value can be transferred into the National Park estate through the Reserve Referral Process. Since 2005, 210 parcels of Crown land have been transferred. For example, Cape Byron National Park was previously Crown land managed by a community trust.

Part 2: Aboriginal involvement in the management of Crown Land

The NSW Government is committed to increasing opportunities for Aboriginal involvement in the management of Crown land.

The NSW Government has a range of programs and initiatives in place that aim to build capacity in Aboriginal communities in land management and a range of other agricultural and primary industries related work.

In addition, Aboriginal involvement in the management of Crown land will be embedded in the new Crown lands legislation. A more strategic and streamlined approach to resolving land claims under the *Aboriginal Land Rights Act 1983* (ALRA) is also being implemented.

Involving and supporting Aboriginal people in managing Crown land

Dol has an active Aboriginal support network and includes Aboriginal staff involved in the management of Crown land. The purpose of the network is to provide support, career development opportunities and encourage the employment of Aboriginal and Torres Strait Islander people.

Dol is developing an Aboriginal Engagement Strategy in partnership with its Aboriginal support network to provide a more inclusive approach to attracting and retaining Aboriginal staff.

In addition to this, LLS runs a number of programs across its regions to build capacity in land management for land managers, traditional owners and Local Aboriginal Land Councils.³ These programs are run on private and Crown land. Examples of programs conducted by LLS include:

- **Traditional burning** – Traditional burning methods are being used and tested in the Riverina by LLS, NSW Rural Fire Service and the local Aboriginal community. The aim is to promote native pasture regeneration and to control weeds. Traditional burning methods will be applied over a number of seasons and used as a land management tool through ongoing involvement from the local Aboriginal community.
- **Fire management** – Hunter LLS is supporting Local Aboriginal Land Councils and land managers to develop firefighting skills and traditional burning techniques to manage their land and implement hazard reduction burns. Ten Aboriginal land management team members from the Hunter region received TAFE certificates for basic firefighting training they completed with the Rural Fire Service in April 2016.
- **Nursery project** – North West LLS has partnered with the Barwon Learning Centre to involve and educate Aboriginal youth in the collection and propagation of native plants in the region. The project aims to assist students, staff and the Aboriginal community of Moree to understand the importance of protecting, preserving and promoting native plants.

Native Title

Native Title is based on the recognition of the unique relationship, and the continuing rights and interests of Aboriginal people, to land. Native title rights are enshrined within the *Native Title Act 1993* (Cth) which binds each of the states and territories.

These rights are different to and separate from the statutory right of Aboriginal Land Councils to make claims for land under the ALRA.

Native Title exists over Crown land unless an appropriate extinguishing act is confirmed. The existence or otherwise of Native Title is considered in all dealings on Crown land. NSW currently has 17 registered Native title claims covering approximately 29 per cent of NSW's land area.

Aboriginal Land Claims

The ALRA is a statutory land rights regime that compensates Aboriginal people for historical dispossession of their lands and supports their social and economic development. ALRA recognises that land is of spiritual, social, cultural and economic importance to Aboriginal people, and is underpinned by the principle of self-determination.

Under ALRA, an Aboriginal Land Council can claim vacant Crown land. If a claim is successful, the Local Aboriginal Land Council (LALC) receives freehold title to the land, subject to any Native Title rights and interests. The intent of these provisions is to have land granted that can be used, developed, leased or sold by LALCs to bring economic, social and cultural benefits to Aboriginal communities.

³ LLS Local links publication July 2016.

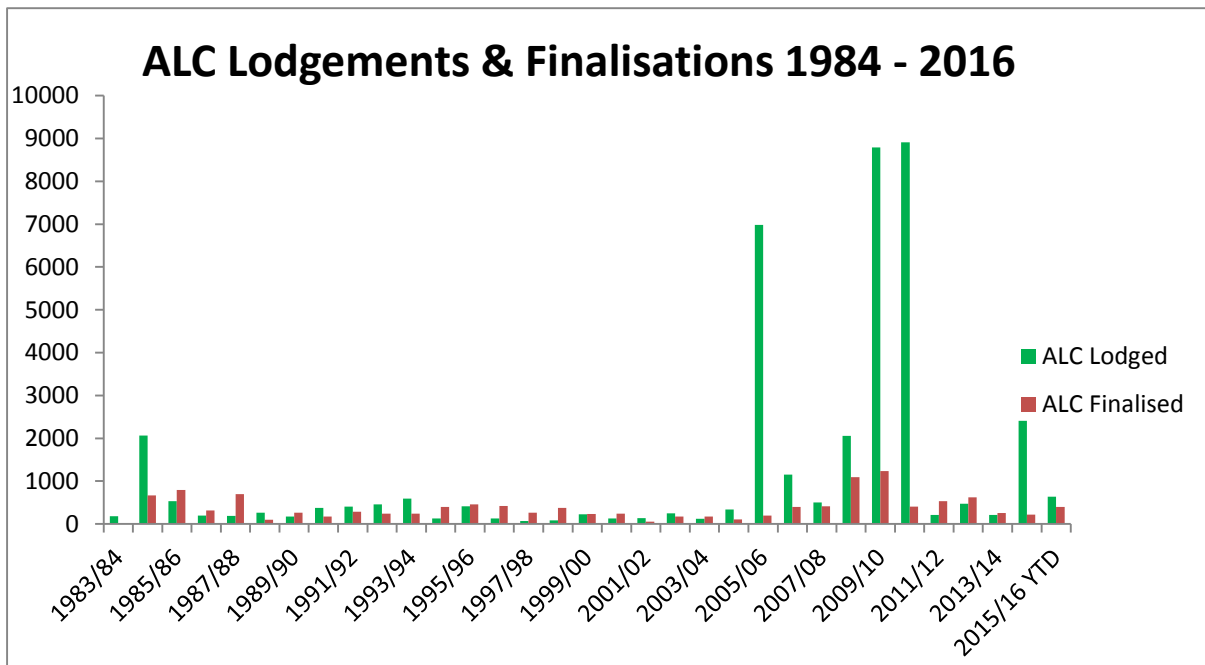
When a claim has been made over Crown land, the NSW Government is limited in how it can deal with that land – for example, leasing or licensing the land to a third party - until the claim is determined.

The Minister for Lands and Water, who administers the CL Act, is responsible for determining land claims by Aboriginal Land Councils under ALRA. DoI-Lands manages a program for investigating land claims under ALRA to inform the Minister’s determinations.

As illustrated below in Figure 2, since ALRA came into force in 1983:⁴

- NSW Aboriginal Land Council and LALCs have lodged 40,913 claims
- The Minister has granted 2,672 claims
- The Minister has refused 7,785 claims
- 29,976 claims are undetermined or partly undetermined.

Figure 2 Aboriginal land claims which have been lodged and finalised: 1984 to 2016



A new approach to Aboriginal land claims

The current process for determining Aboriginal land claims under the ALRA is lengthy and costly. Currently, all land claims have to be individually assessed by the Minister for Lands and Water as to whether they meet specific statutory criteria relating to use and purpose as at the date of lodgement of the claim. There is no discretion to take into account the NSW Government's current intentions for that land, nor the Aboriginal Land Councils’ strategic aims.

⁴ As of July 2016

As a result of these delays, there are around 29,000 undetermined land claims in NSW. This has resulted in uncertainty for government, industry and the Aboriginal communities that land rights are intended to benefit. Litigation on land claim determinations also results in substantial costs and time delays for both government and Aboriginal Land Councils. Further, the legalistic approach promoted in the existing system can undermine relationship building between government and Aboriginal communities.

In recognition of this issue, in 2014, the NSW Government amended the ALRA to allow the NSW Government and Aboriginal Land Councils to enter into Aboriginal Land Agreements (ALAs) relating to land transfers and land use without having to go through the existing land claims determination process. The amendments came into force on 1 July 2015.

ALAs are negotiated agreements which allow for the strategic settlement of multiple land claims. ALAs also provide for a broad set of issues – including alternative or additional outcomes to the transfer of Crown land – to be considered and agreed to in these settlements. This will enable settlements that are better aligned with the strategic interests of government and local Aboriginal land councils

Specifically, ALAs are designed to:

- speed up the processing of outstanding NSW land claims by encouraging the simultaneous settlement of multiple claims
- allow the parties to agree on a range of alternative or additional outcomes to the transfer of Crown land in freehold
- integrate opportunities for sustainable social, cultural and economic benefits for Aboriginal people with the settlement of land claims
- provide greater certainty to all parties over Crown land.

As discussed below, the NSW Government will use the ALA provisions as part of its roll out of voluntary negotiations with local councils and LALCs in 2016.

New Crown land legislation

The proposed objects of the new Crown Lands Management Act will provide for Aboriginal use and co-management of Crown reserves, embedding Aboriginal involvement in the management of Crown land.

In addition, under the new legislation it will be possible for Aboriginal groups such as Aboriginal Land Councils to be appointed as managers of Crown reserves.

Part 3: Improving the management of Crown land

In 2012 and 2013, the NSW Government conducted the first major review of Crown land in more than 25 years – the Crown Lands Management Review. More than 600 submissions were received from a wide variety of respondents. The review recognised that the NSW Government's objectives and the needs of the community had changed markedly over that period. The NSW Government's response to the review and other materials are available at www.crownland.nsw.gov.au.

In response to the review, the Government is implementing comprehensive improvements to the way Crown land is owned and managed. These initiatives will:

- enhance community involvement in decisions about Crown land
- ensure Crown land is preserved and enhanced for future generations through harnessing economic opportunities and preserving and protecting the environmental and heritage values of Crown land.

The key elements are:

- **new consolidated legislation** – a single Crown Lands Management Act will be developed which will reduce complexity and duplication, deliver better social, environmental and economic outcomes and facilitate community involvement with Crown land.
- **local ownership and management** – land of local importance is proposed to be devolved to a local level of ownership and management to allow for greater local decision making about its use and management. The NSW Government will retain land of state significance.
- **enhanced community involvement in Crown land** – strengthened opportunities for community involvement in Crown land through a more streamlined reserve management process, enhanced governance of reserve management, and a requirement for community engagement strategies to be developed.
- **improved measures to protect the values of Crown land** – clear requirements for decision makers to consider the environmental, social, cultural and economic values of Crown land, complemented by enhanced governance and a strengthened compliance toolkit.

New, consolidated legislation

Crown land is currently administered under eight different pieces of legislation, which creates a complex web of overlapping and confusing requirements and problems such as:

- delays and backlogs resulting from multiple layers of decision-making and unnecessary consent requirements
- lack of clarity for the community about who controls particular land
- inconsistent provisions in different legislation for similar land and activities, and
- requirements duplicated in more than one Act.

To address these problems, the Government will introduce a single Crown Land Management Bill to consolidate and replace the eight existing pieces of legislation dealing with Crown land.

The objects of the new legislation will recognise the need to preserve and enhance Crown land and also clarify the roles and responsibilities for managing Crown land so that it can be understood by all.

The new Crown lands legislation will move away from a parcel by parcel land assessment, which duplicated provisions in the other legislation. Instead, the new legislation will focus on the management of Crown land, and will sit within the broad framework for planning and resource management that is set by the State's planning and environmental legislation. This will ensure a strategic, whole of Government approach to land management that is, for example, consistent with and complementary to the Department of Planning and Environment's regional plans.

The new Act will contain comprehensive provisions relating to tenures, including in relation to rents, forfeiture and surrender. The intention is to have a standardised, modern and commercial approach to tenures which recognises the importance of Crown land tenures and the businesses on Crown land underpinned by effective controls and good decision making, including effective community engagement (see below).

Simplified Crown land legislation will reduce the delays and frustration currently experienced by individuals, reserve trusts, communities and councils. In the new legislation, consent and notification requirements will be streamlined to ensure the most effective consultation mechanisms are supported and unnecessary bureaucracy is removed.

Local ownership and management

Local land and state land

The reforms will introduce the concept of "Local land" and "State land". Selling Crown land is not and has never been the priority of the reform process. Rather, the objective is to identify who is best placed to manage Crown land, which will empower local decision making over local land and identify and protect Crown land that is important to the State and local communities.

The NSW Government will retain Crown land that is of State significance (State land) and will consider devolving land of local significance (Local land) to a local level of ownership and management on a voluntary basis.

Transferring Local land to councils will allow local interests and needs to be managed locally. Communities will be in a position to influence decisions about how Crown land is managed through the strong existing processes under the *Local Government Act 1993* (LG Act). In many cases, councils already manage and maintain Crown land, in which case there would be no new expenses.

To ensure that land transferred to local councils is used for an appropriate purpose that reflects the wishes of the community, safeguards under the LG Act will apply. Land of primarily local community value, for example parks and other public spaces, will be made available through voluntary negotiations to councils as 'community land' under the LG Act. Limited parcels of land that councils can demonstrate are used for operational purposes, such as land used for works depots or waste sites will be able to be transferred as 'operational land' consistent with the LG Act.

The amount and type of Crown land that is likely to be identified as Local land was explored through a Local Land Pilot which was conducted with four councils in 2015 – Tweed, Tamworth, Corowa (now Federation) and Warringah (now Northern Beaches).

Based on the Pilot it is anticipated that Local land will generally be:

- land that is already managed by Councils as reserve trust manager
- land that is currently actively used by the local community (e.g. parks, recreation reserves, community centres and cemeteries) or contains council operated facilities (e.g. waste facilities and bus depots).

Transferring land to Aboriginal Land Councils and Local Councils

The NSW Government will commence voluntary land transfer negotiations with four local councils, NSWALC and LALCs.

Land will only be transferred where there is agreement between the NSW Government, local council and Aboriginal Land Council. All negotiations will be voluntary.

Management of Crown reserves by local councils

Local councils will be enabled, under the proposed legislation, to manage Crown reserves under the LG Act. Local councils already manage a great deal of Crown land effectively for a variety of purposes. For example, most local councils manage local parks, sporting and recreation areas located on Crown reserves, including some high profile and iconic areas such as beaches, foreshore, riverside precincts and nature reserves.

Councils will be able to manage Crown reserves under the LG Act using the same procedures that apply to community land already owned by councils. This will result in Crown land being managed by the most appropriate level of government and will ensure that Crown land is protected by a comprehensive management regime. It will also reduce complexity and red tape for councils and allow local communities to have a greater say in how public land in their local area is managed.

Enhanced community involvement in Crown land

The proposed new legislation will enhance community engagement and involvement in Crown land management.

The objects of the new legislation will recognise the need to:

- provide for the consistent, efficient, fair and transparent management of Crown land for the benefit of the people of New South Wales
- facilitate the use of Crown land by the Aboriginal people of NSW and, where appropriate, to enable the co-management of dedicated or reserved Crown land.

The new legislation will introduce a requirement for a community engagement strategy for dealings with Crown land, including disposals and changes in use. The strategy will focus on meaningful community consultation, including community meetings where appropriate.

The strategy will be approved by the Minister for Lands and Water and will be legally enforceable. The strategy will set out the principles for engagement with the community in relation to relevant proposals/dealings. For example:

- Community engagement will be required where it is proposed to change the use of Crown land that is commonly available to the general public; this includes not only Crown reserves but also tenured land used by the public as a function of a permitted use under a lease.
- Particular emphasis on public consultation will be given to changes of use that would mean that Crown land currently used by the general public would no longer be available for public use. This would include all disposals of Crown land that is used by the community.

- Consultation under the strategy will generally not be required where a proposal will be subject to some other public process (for example, a development application under the *Environmental Planning & Assessment Act 1979*).
- Where consultation is not required, as outlined above, information about any significant dealings with Crown land will be displayed on the DoI - Lands website once those dealings have been finalised.

It will be a requirement for DoI – Lands and reserve trust managers (other than Councils who, as above, will address community engagement via the LG Act) to comply with the Strategy.

The NSW Government recognises community involvement is essential to the ongoing management of Crown reserves. To strengthen the management of reserves, under the new legislation, the Crown reserve management framework will allow for a simpler and more streamlined approach to managing Crown reserves that encourages ongoing community involvement and also introduces new options, such as the appointment of specific community engagement groups.

Protecting environmental, heritage, economic and social values

The objects of the new legislation will explicitly recognise the need to integrate environmental, social, cultural heritage and economic considerations in decision-making about Crown land.

Crown land will continue to be subject to restrictions on use provided for in environmental and planning legislation which is designed to protect the environmental and heritage values of all land in NSW.

The new legislation will include a bigger ‘compliance toolbox’ to enable action to be taken to more easily protect Crown land and to remediate any damage. This will include provisions for remediation and removal orders, and stop-work orders. Appropriate offences and penalties for damage to and unlawful use of Crown land will be included, as well as more effective powers of investigation for authorised officers and more appropriate provisions for commencing court action.

Protecting Crown land through enhanced governance

DoI – Lands is developing a series of improvements to the governance and oversight of reserves to ensure effective ongoing management of reserves. For example, capacity building training workshops is proposed to be delivered to reserve trusts in late 2016.

The new legislation will also include detailed governance provisions. These provisions are an important new protection that recognises that managers of Crown land reserves are stewards of that land and that their care, control and management powers need to be exercised appropriately to ensure land is preserved and enhanced.

The legislation will also take a risk based approach to the level of Ministerial oversight, providing incentives for managers of Crown reserves to develop enhanced capacity and governance abilities.

Ministerial oversight of Crown land will continue, with new powers to ensure that there can be quick and appropriate responses to any issues on Crown land. In addition to broad auditing powers, the Minister will be able to make rules that will apply to one, some or all reserves. This will ensure the Minister is able to respond to changing State and community needs.

Managing land in the Western Division

The new legislation will enable lessees of certain perpetual leases in the Western Division to apply to purchase their leasehold land as freehold. This will balance environmental considerations with the provision of economic opportunities to Western Lands leaseholders.

The new legislation will also remove unnecessary approval requirements for certain activities on Western Lands leases. These activities may include conservation, tourism and farm tourism, feedlots, aquaculture, sporting and leisure events. However conditions may apply to the way these activities are undertaken to ensure environmental risks are managed.

A draft Productivity Commission report⁵ released in July 2016 highlights that restrictions on the use of Crown land place unnecessary burdens on farm businesses that lease Crown land.

Travelling Stock Routes

TSRs are parcels of Crown land set aside for use by travelling or grazing stock. They are also used for a range of other uses including public recreation, apiary sites and for conservation uses and can have significant environmental and cultural heritage values.

The Crown Lands Management Review noted that many TSRs are no longer used for their original purpose for travelling stock. As outlined in the government's response to the Crown Land Legislation White Paper, the NSW Government will be conducting a review of TSRs to collect a strong evidence base on the use of travelling stock routes.

The majority of TSRs outside the Western division are managed by LLS.

LLS is developing a TSR state planning framework. It will set out the principles and framework for how LLS will manage the TSRs under their care, control and management. The TSR state planning framework will guide the development of Regional TSR Plans setting up a mechanism for LLS to identify the values associated with local TSRs and manage the land in a way that preserves those values.

Consultation on the draft TSR state planning framework was held over a 10 week period to December 2015. Over 600 submissions were received, all of which are now being carefully considered before the TSR planning framework is finalised.

Bringing it all together

The Crown estate comprises almost half of NSW. Hundreds of thousands of people, businesses and community organisations depend on Crown land as an important part of their local community, environment and economy.

However, there is only one Crown estate.

Any decisions made about the future use and management of Crown land must also consider any competing interests on the land and the broader context.

⁵ See <http://www.pc.gov.au/inquiries/current/agriculture/draft>

Together, the proposed reforms to the Crown estate will:

- significantly improve the management of Crown land in NSW
- ensure ongoing community input and involvement in Crown land in NSW
- set the State up to implement effective, transparent, efficient and outcomes based processes for Crown land management
- more strategically address the interests of Aboriginal people, empower communities and support the economic outcomes for Aboriginal people in NSW.

These improvements are considered the most appropriate and effective measures for protecting and enhancing the Crown estate, both now and into the future.