

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

**Organisation:** City of Sydney

**Date received:** 28 July 2016

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The Director  
General Purpose Standing Committee No.6  
Legislative Council  
By email: [gpsc6@parliament.nsw.gov.au](mailto:gpsc6@parliament.nsw.gov.au)

Dear Madam/Sir,

**NSW Legislative Council's General Purpose Standing Committee No.6  
Inquiry into Crown Land in New South Wales  
Submission by the Council of the City of Sydney**

We refer to The Hon. Paul Green MLC's email of 1 July 2016 inviting the City of Sydney to make a submission to the above inquiry, and provide this below.

**Background**

The City's management and involvement in Crown land extends only to the management of Crown reserves. As such, this submission is limited to the City's management of Crown reserves.

The *Crown Lands Act 1989* (CL Act), being the principal legislation protecting and governing how Crown lands may be used and managed for the public benefit, is currently under review. The City prepared a lengthy response to the Crown land White Paper in June 2014 that:

- identified the issues the City faces with the CL Act
- responded to the proposed changes to the CL Act as detailed in the White Paper.

**Submission**

The City notes the inquiry will be inquiring into and reporting on the following specific issues, which we comment on as follows.

**1. The extent of Crown land and the benefits of active use and management of that land to New South Wales**

**a. The extent of Crown land**

The Crown Estate makes up 42% of land ownership in NSW. The Crown Estate has a wide range of uses, including commercial ventures, residential, parks, sporting and community purposes.

The Crown administers the land through a mix of contractual arrangements, tenures, leases and devolution to local trusts managed by community groups and local councils.

The City manages and maintains 56 Crown reserves, representing 89 hectares of land. Crown reserves make up 45% of the City's total open space. The City

categorises its portfolio of parks into iconic, neighbourhood and pocket parks and streetscapes, with iconic parks being at the top of the hierarchy and considered the most significant.

To ensure the Crown reserves in our local government area (LGA) are actively managed and maintained, the City has been appointed the Reserve Trust Manager for these Crown reserves or has care, control and management under the CL Act. As Reserve Trust Manager the City is required to actively maintain and manage these reserves in the interests of the community.

Each year the City spends approximately \$3.7 million in ongoing maintenance costs for our iconic Crown reserves. The City has spent \$47 million upgrading these Crown reserves over the last five years and plans to spend a further \$43 million for additional upgrades of these Crown reserves as a part of the City's Long-Term Financial Plan.

The City is committed to achieving its vision of a green, global and connected city that involves *"a City green with trees, parks, gardens and linked open spaces, green by example and green by reputation"*. To enable us to achieve our vision we must actively upgrade and maintain our parks, including the Crown reserves in our care.

All the City's open spaces are managed in accordance with the City of Sydney Open Space and Recreational Needs Strategy 2007. This document is currently under review and will be replaced with the Open Space, Sports and Recreation Needs Study 2016.

#### **b. The benefits of active use and management of Crown land**

The City's ongoing management and maintenance of all our Crown reserves has the following benefits:

- The local community and park users enjoy a public space that suits their needs and provides them with a place to relax, to gather, to exercise and to enjoy
- The intensified use of our Crown reserves improves the amenity of the local area and encourages community engagement
- Helps the City achieve our vision of a green City
- Crown lands have a well maintained and actively used reserve that is being used for the purpose for which it was intended.

## **2. The adequacy of community input and consultation regarding the commercial use and disposal of Crown land**

### **a) Commercial use**

While the CL Act encourages community consultation, it is not to the same extent as the community consultation required under the *Local Government Act 1993* (LG Act). The City is of the view that the current community consultation required for the management of Crown land is not adequate.

Under the CL Act:

- Plans of management, which define the value, use, management practices and intent for the broad public purpose, are not mandatory
- Leases under five years require no public consultation.

This is not consistent with the LG Act and can lead to commercial use of Crown land that does not represent the highest and best use of the land.

To mitigate this issue, the City has included all our Crown reserves in either site-specific plans of management or in our Generic Plan of Management. While most of these plans have not been endorsed by the Minister, they allow the City to manage Crown reserves consistently with the way we manage our community land, with community consultation as our focus.

The highest and best use for a public reserve can only be achieved if we acknowledge the needs of the community frequenting the Crown reserve.

A plan of management allocates areas in a Crown reserve that can be used for commercial use and what types of commercial use are permitted in these spaces, such as cafes, bike hire, boat hire, etc. The use will vary dependent on the demographic using the public reserve. The appropriate use may change over time, due to changes in demographic or community need.

#### **b) Disposal**

While the City has not been involved in the disposal of Crown land, on review of the CL Act, it appears the extent of community consultation is at the discretion of the Department of Trade and Investments (Crown Division). There must be a mandatory 14-day notice period before a gazettal for the revocation of a reservation and an additional notice indicating the sale of land, followed by an approval from the Minister. This appears to be the extent of the public consultation.

The mandatory process involved in disposing of community land, as prescribed under the provisions of the LG Act, is very rigorous. It involves a Council resolution to proceed with reclassifying community land with intent to divest; an application to the Department of Planning and Infrastructure for a gateway determination; public exhibition of the proposal; a public hearing followed by another Council resolution; and lastly approval from the Department of Planning and Infrastructure. This process ensures the decision made to reclassify and sell community land meets the needs of the community.

Under the CL Act such a rigorous process is not required.

We note the City's previous comments on the Crown lands White Paper:

*"The City suggests that the new Crown legislation allows all Crown reserves managed by a council to be governed under the provisions of the local government legislation.*

*"This regime requires mandatory preparation of plans of management (or a relevant asset management plan aligning with the requirements of the local government legislation) for Crown reserves, prescriptive notification requirements, and requirements for public hearings in certain instances.*

*"Managing all of the City's public reserves under the same legislation and using the same governance standards will result in consistent management of all our public reserves. Not only will this reduce complexity but will provide a fairer, more efficient system of management to the community."...*

*"By aligning Crown legislation with planning and local government legislation, the mechanisms for engaging with the community can also be streamlined.*

*"Through a defined consultation process (possibly provided for in the Regulations), both state and local government can strategically manage Crown reserves by consulting with the community, planning and implementing changes to the reserves over time and ensuring that the intended use of Crown land aligns with Local Environmental Plans."*

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

The City considers public consultation and mandatory plans of management for public reserves are the most effective measures to ensure Crown land is protected and enhanced to meet the needs of the ever-changing community.

By seeking further appropriate community feedback by way of a community meeting on the proposed sale of Crown reserves, Crown will gain an understanding of the impact the divestment of a reserve may have on a community. This will allow the Minister to make an informed decision, considering the Crown's needs along with the community's.

The proposed changes to the CL Act look at transferring ownership of most Crown reserves to local councils and having them governed by the LG Act. These changes will allow councils to manage Crown reserves consistently with our community land. The City supports this in principle.

**4. The extent of Aboriginal land claims over Crown land and opportunities to increase Aboriginal involvement in the management of Crown land**

The City of Sydney acknowledges Aboriginal and Torres Strait Islander peoples as the traditional custodians of our land, Australia. The City acknowledges the Gadigal of the Eora Nation as the traditional custodians of this place we now call Sydney.

We currently have two Aboriginal land claims on one Crown reserve, Wentworth Park, in our LGA.

The city has been highly urbanised over the last 228 years. Despite the devastating impact of invasion on the Gadigal people there is still a strong Aboriginal spiritual and cultural tie to the land and waterways in the City.

The City works with Aboriginal and Torres Strait communities to increase understanding of Aboriginal and Torres Strait Islander cultures and histories and connection to country through our Reconciliation Action Plan and Eora Journey. For more information please refer to the City's website at [bit.ly/29rxEsl](http://bit.ly/29rxEsl). The opportunities the City currently uses to increase Aboriginal involvement in Crown reserves include:

**a. Naming**

The community strongly supports naming as a way to re-awaken Gadigal language.

Dual naming is an official designation by the Geographical Names Board to register original place names given by Aboriginal people so they sit side-by-side with existing European names. It applies to geographical features and cultural sites. Places along Sydney Harbour have dual names. Where a local Aboriginal name exists for a place, the City supports adopting this name under the dual naming policy.

The City also uses Gadigal words to name parks and land forms. Good examples are the wetlands in Sydney Park named with Gadigal words for animals in the park and the new parks and community facilities in Green Square.

#### **b. Interpretation and signage**

The City has adopted new park signage that acknowledges the traditional custodians with the words: "Bujari gamarruwa [good day]. You are on Gadigal country."

Interpretation signage is also provided for places of significance to Aboriginal and Torres Strait Islander peoples and for place names that use Gadigal words.

Tours by Aboriginal cultural guides are growing in popularity and the City is keen to support economic opportunities to share culture while exploring country in this way.

In collaboration with Aboriginal historians and the community, the City has mapped over 255 Aboriginal and Torres Strait Islander sites of significance, some of which are on Crown reserves.

#### **c. Public art**

The City supports the use of public art to recognise and celebrate Aboriginal and Torres Strait Islander cultures and histories in public areas. Seven new artworks form part of the Eora Journey. The most recent work, *Yininmadyemi, Thou didst let fall* by Tony Albert, honours Aboriginal and Torres Strait Islander people who served their country.

Hyde Park South (Crown reserve) was chosen as its location based on historical significance. The site was once a ritual contest ground, a crossroads for traditional walking trails, and an important site for ceremony, gathering and camping. It is also home to the ANZAC Memorial.

#### **d. Events and celebrations**

Events connect place with community. The City hosts NAIDOC in the City in Hyde Park each year, delivered by an Indigenous events company, creating a strong expression of Hyde Park as an Aboriginal place of significance. Another good example is Victoria Park (Crown reserve), which is the venue for Yabun, the annual festival on 26 January organised by the Aboriginal-run Gadigal Information Services.

Events allow the continuous connection to country to be acknowledged and celebrated. For example, Victoria Park is a Crown reserve with significance as a water and food source (Lake Northam), as a site of protest (Tent Embassy 2000), and today as a place of survival and cultural celebration (Yabun Festival).

#### **e. Planning and management**

The plan of management for Crown reserves should include a section acknowledging the traditional custodians and identifying places or events of significance. These plans will enable the Crown and the City to understand the significance of the land to the Aboriginal and Torres Strait Islander communities and to embed this information into the ongoing management and use of the land.

**f. Community engagement**

Decisions relating to the protection and sharing of culture are always made in consultation with our community. The City works with the Metropolitan Local Aboriginal Land Council through Principles of Cooperation (signed 2006). We have an Aboriginal and Torres Strait Islander Advisory Panel (established 2008), made up of Aboriginal and Torres Strait Islander community members with a diverse range of expertise who live, work or study in the LGA.

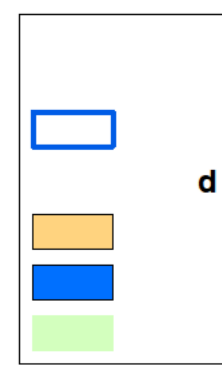
The City also employs Aboriginal and/or Torres Strait Islander Engagement Coordinators and carries out ongoing engagement with the community to inform and implement projects. This type of collaboration should be commonplace in the management of Crown reserves.

Please feel free to contact Samantha Urquhart, Property Manager, or  
at if you require further information.

Yours sincerely

**Monica Barone**  
Chief Executive Officer

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