

**Submission
No 169**

INQUIRY INTO CROWN LAND IN NEW SOUTH WALES

Organisation: St Albans Common Trust

Date received: 22 July 2016

**Submissions by the Trustees of St Albans Common
to
The NSW Parliamentary Enquiry into Crown Land in
New South Wales**

This submission is made by the Trustees of the St Albans Common Trust (**"the Trustees"**).

The Trustees have previously provided a submission in response to the Government's White Paper arising from the Crown Lands Management Review. Much of what was set out in that submission, we believe, remains relevant. Rather than repeat what has been previously submitted, a copy of that submission is appended for ease of reference by the present Enquiry.

Events subsequent to our earlier submission

At the time of our earlier submission, title to the land which constitutes the Common administered by the Trustees was common law title.

The Office of Land and Property Information Services, initiated action for the conversion of the title to the land from Old System, to qualified title under the Real Property Act.

That title has now been created and stands in the name of the Trustees of St Albans Common. Initially, the title was created standing in the name of the state of New South Wales (appropriate to Crown Land) but following representations made on behalf of the Trustees that title was cancelled and replaced by the title now standing in the name of the Trustees.

That event having occurred, it is unnecessary for the Trustees to press the earlier submission at paragraph 6 (e).

The issue addressed by that submission has been satisfactorily addressed by the Registrar General.

The second major event, of course, is the publication of the Government's Response to the White Paper.

Commons are briefly dealt with as part of an identified genus comprising Reserve Trusts, Commons, and Schools of Arts.

The position of the Trustees, is that it is an error to regard those three types of holdings as a discrete class without recognising the distinguishing individual features of each of them, and further without recognising singular characteristics of individual holdings within one of the members of that group.

Indeed, having grouped Commons (and Reserve Trusts) with Schools of Arts, the Government's response is to provide greater autonomy to Schools of Arts, where trustees are the legal owners of the land.

The basis for that differential treatment, is not given or apparent.

General observations relevant to Commons

The Trustees recognise that the issue of Commons is a relatively small component in the overall management of Crown Estates (assuming, for the present, that the Commons at large are properly described as part of the Crown Estate).

That is not, in the submission of the Trustees, a sufficient reason to adopt a "one size fits all" approach.

Not all Commons, (and certainly not all Commons, Reserve Trusts and Schools of Arts as a group) have the same intrinsic value or importance to the local community or in heritage terms.

In the submission of the Trustees, the number of Commons is not so great, and the task not so large, that an assessment on merit cannot be undertaken at an administrative level.

We noted in our earlier submission that heritage considerations appeared to form no part of the terms of reference of the initial review, and no part of the reasoning in the White Paper.

We do note that it is dealt with in passing, in the Government's Response Paper, as a matter of concern raised by a number of those who made submissions.

The St Albans Common, for the reasons set out in our earlier submission paper, has practical and iconic importance to the community of the area.

It provides a direct and continuous link to the first settlement of the area, and is an important part of the Macquarie heritage.

There may be other commons with similar characteristics, but it is not part of our role to seek to make the case for other Commons.

Where Commons are in the ownership of trustees, and there are significant heritage links, and important community links, it does seem to us that those considerations should be honoured by continuing the existing arrangements.

The Trustees do not consider, in case of StAlbans, with its unique attributes, any sound case can be made out to:-

- 1.Convert it from a Common to a Crown Reserve;**
- 2.Remove the ownership from the Trustees; and**
- 3. in place of the title vested in Trustees to substitute a mere licence of an unknown and uncertain quality.**

The government's response in relation to Schools of Arts, which stand on private land and in the ownership of trustees (namely that those trustees should continue to administer the trust and the administration of the property) accords with the submission we put previously for the future stewardship of St Albans Common and which we now reiterate.

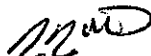
The Response to the White Paper suggests that where Commons are under the stewardship or ownership of trustees or other community representatives, the trustees will be entitled to continue that stewardship or administration but as licensees.

Quite what that means is not spelled out. Clearly the terms of the licence contemplated would be important.


What can be said, is that on any view, to convert the present holding of the St Albans Common to a licence without reference to the terms of the Trust contained in the Crown Grant, diminishes the involvement of the local community, the autonomy of the Trustees, and the historical record.

Summary

The Trustees submit that the St Albans Common should remain in the ownership of the Trustees, be administered by them in accordance with the terms of the Trust Deed, and the Trustee Act 1925.

Dated  July 2016

Signed on behalf of the Trustees of St Albans Common:


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