

The Council of The Shire of Bourke

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Please address all
communications to
the General Manager

Our Ref: RE-KH

20th June 2014

The Chairperson
Crown Lands Review
New South Wales Trade and Investment
PO Box 2185
DANGAR NSW 2309

Dear Sir,

Re: Submission in Relation to the White Paper dealing with the Review of Crown Lands Legislation New South Wales

I attach a brief submission in relation to the Review of Crown Lands within New South Wales.

The review was much needed as the of legislation that is the subject of the review, has in some instances, been in operation for a considerable period of time and does not reflect contemporary needs and practices.

Given that the Crown Land makes up 42% of New South Wales it is critical that the review "gets it right" and that the opportunity to pilot some of the potential changes may result in unexpected consequences to be identified and corrected.

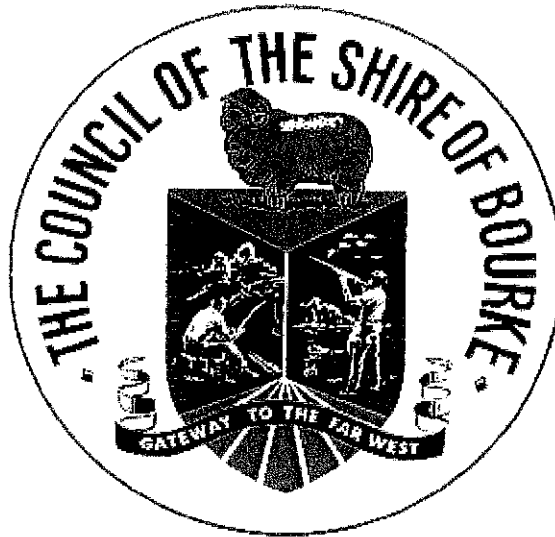
One of the primary concerns to Council is the potential for Local Government to have a greater responsibility for the management of what is existing Crown Land and not receive corresponding resources to undertake the role, which may be seen by some as yet another example of cost shifting.

With large tracts of land within Bourke Shire Council being subject to Western Lands Leases it is critical that the views of the Western Lands Advisory Council be sought, as the tenure and regulation of this land is critical to the landowners holding such leases and that Advisory Council is well equipped to highlight the issues and concerns of those landowners.

Thank you for the opportunity to present a submission relating to the above and Council trusts you are able take into consideration Council's comments.

Yours Faithfully

Ross Earl
General Manager



SUBMISSION

BY

BOURKE SHIRE COUNCIL

IN RELATION TO THE

WHITE PAPER

ON THE REVIEW OF CROWN LANDS

LEGISLATION IN NSW 2014

Bourke Shire Council

Bourke Shire Council is located in North West New South Wales some 800 kilometres from Sydney. The Shire is the third largest in area in New South Wales covering an area of around 43000 square kilometres. The Shire has a population of approximately 3000 people with major centre of the Shire being the iconic town of Bourke.

In addition to Bourke there are several other population centres within the shire including, Wanaaring, Louth, Enngonia, Byrock and Ford's Bridge all of which have been established for many years.

The shire has numerous tracts of land that are subject to the Crown Lands legislation, including Western Lands Leases, Commons and Reserves for Sporting, Community and Recreational uses and as such the proposed changes to the legislation will have a significant impact.

Alignment of any changes to Crowns Lands Legislation with changes to Local Government Legislation

The White Paper makes reference to the fact that some of the lands currently administered and controlled under the Crowns Land may in fact be better able to be managed under the Local Government Act. The Local Governments Acts Taskforce has recently completed a preliminary report of proposed changes to the Local Government Act 1993 and there are still a number of recommended changes to be finalised pending the Governments response to the Independent Local Government Review Panel.

If there is to be any changes that result in the devolvement of responsibility for some of the lands currently administered by the Crowns Land Act to Local Government the new Local Government Act should readily be able to cope with the transition and more importantly changes into the future. The current system of classification of land into either **operational** or **community** land would be an impediment to the thought that the transfer of land to be under Local Government management would result in a much easier management process. This particularly relates to both the need to reclassify land and the fact that community land needs to have a plan of management.

The size of Bourke Shire Council coupled with the low population base and disparate locations of the towns and villages within the shire would make the task extremely onerous and cost prohibitive.

The proposed legislation cannot be a "one size fits all" situation which has been articulated to all levels of government on numerous occasions

Community Trusts

Communities such as Bourke and other towns and villages within the shire are very much reliant of volunteerism for the undertaking of a number of functions within the Shire and this is very much the case in the administering of a number of reserves particularly those used for recreational purposes.

The lack of resources to assist the existing trusts combined with increased compliance and regulatory requirements have combined to see the demise or lack of functionality of a number of trusts.

The devolving of responsibility of a number of the existing trusts to Local Government has the potential to see the community expectation in relation to the administration of a number of facilities become part of the core responsibilities of Council.

This will place additional costs and strain on both the physical and financial resources of Councils, both of which are in most councils are stretched to breaking point.

Public Reserves Management Fund (PRMF)

According to the fact sheets \$13 million dollars annually is channelled from this fund for grants and loans to assistance with the maintenance with Public Reserves.

Effectively this has been made possible by the allocation of rentals and income from valuable and income producing reserves primarily on the coast to other areas throughout the state where reserves are without a similar income generating capacity.

The cessation of this source of income will have a disastrous effect on the smaller communities and associated facilities including showgrounds and sporting ovals.

It is important that the funding continue to be made available from the PRMF, or similar, with the access to this source of funding being increased in line with increased costs and any transfer of responsibility to Councils. Councils will need additional sources of revenue if they are to be able accept responsibility for additional reserves.

Value of Crown Reserves to Local Communities

Many halls, sporting and recreational facilities in smaller towns with New South Wales are located on Crown Reserves and these provide the glue that bind together the social fabric of these towns and it is essential for the social wellbeing of many towns that these are maintained.

Councils' ability to undertake control of the additional local land.

Irrespective of how it is put the devolving of responsibility for local reserves to Councils will come at a cost.

There is an obvious and strong argument that Councils are better placed to undertake the control of these lands and make decisions on a local basis, however, this argument has to be tempered by the additional resources required to undertake control of these facilities and provide a standard that meets the level of community expectation, which will no doubt only increase given the greater access by the community to the decision makers.

The fact sheet states that *"in many cases councils already managing land that would be classified as local land so there would be no additional expense for example Waverly Council already manages the iconic Bondi Beach and Newcastle Council the Newcastle Harbour Foreshore."*

It is ludicrous in the extreme to use these two examples with their ability to both generate income coupled with their obvious benefits to the commercial operations of both Councils as examples of typical reserves. A typical reserve in a country town or country location would already be maintained at a cost to Council with limited income generating capacity and increased community expectation. Still, as I have said earlier these reserves play an extremely important role in the maintaining of an improved quality of life for the persons in the area.

Clearly the responsibility for the control of additional reserves needs to come with additional funding.

Consideration in relation to this additional funding should be considered in light of the *Intergovernmental Agreement to Guide State- Local Relations on Strategic Partnerships*, particularly in relation to cost-shifting.

Western Lands Leases

As detailed in the covering letter, vast tracts of land in Bourke Shire are subject to Western Lands Leases and it would be hoped that those charged with the consultation aspect of the review process will liaise with the Western Lands Advisory Councils, whose membership and administrative arm are well equipped to provide comment on any proposed changes to the way in which Western Lands Leases are managed.

Travelling Stock Routes

The responsibility for the administration of travelling stock routes has now fallen under the newly established Local Land Services and they together with organisations such as National Farmers are best placed to provide a response to any proposed changes.

Again, I would like to highlight that the consultation should not be solely with the peak bodies, as the state of New South Wales is extremely diverse in its makeup and at the risk of being repetitive there is not "a one size fits all" solution on a state wide basis and those in Western NSW will have different needs and expectations to those closer to the eastern seaboard.

Commons

Whilst acknowledging that commons are for the most part an anachronistic entity and many not functioning in accordance with the original intent they still represent significant land holding.

The concept of developing a more contemporary management framework seems to be a practical approach with an increased community involvement.

Consideration should be given to providing the ability of Councils, if they so wish to assume control of these lands. Commons as it has been pointed out are located close to urban areas and are at times utilised for public recreational facilities and this usage could possibly be expanded.

Increase in consultation with a particular emphasis on functional types of reserves.

The variety and complexity of the various types of reserves that are currently under review would suggest that the consultation process should be narrowed so that the review does not adopt a broad brush approach but looks at say commons as a separate issue and travelling stock routes as another.

The splitting of the review process will allow a greater participation and input from those who are actively and currently involved in the utilisation or administration of each type of reserve and/or crown land.

Given the impact that the proposed changes are likely to have on individuals and communities this more intensive consultation would be both warranted and beneficial.

Selection of Pilot Councils should reflect the impact on a range of Councils

In the selection of the pilot Councils to evaluate the success or otherwise of the devolvement of responsibility of a variety of Crown Land to Councils, consideration should be given to the wide range of Councils within the state, the individual financial capacities of those Councils, the revenue raising capacity of the reserves to be devolved and the geographic area of the Councils to mention but a few criteria that should be considered.

Insurance and Risk Management

Any increase in the number of reserves to be administered by Councils will see the responsibility for risk management and insurance transfer with that responsibility which will place Councils at risk of higher premiums.

Many of the reserves which are intended for transfer to Councils would no doubt be covered for all types of insurance by the Treasury Managed Fund as would any potential liability to the current trust members. The cost involved would again transfer to Council with little or no chance for any cost recovery.

Need for Legislative Review

Clearly the need to review the legislation is timely and given the historic reasons behind the establishment of a number of reserves ect possibility overdue.

The review will have potential ramifications for a number of people and needs to be undertaken carefully and with a high level of consultation to ensure unwanted consequences don't result.

While the utilisation of pilot councils is aimed at identifying these unwanted consequences for Councils in particular, there are others in the various communities who will also be possibly the subject to adverse impacts and these also need to be identified and rectified.

Ability for Councils to accept or reject the transfer of Crown Land

Will councils be able to pick and choose which local land they want?

This has obviously not been determined completely with the fact sheet 3 stating "*this concept will be explored as part of the local land pilot, in consultation with local government. There will be no forced transfer of land.*"

This seems to be a little contradictory.

Clearly the decision for a Council to accept or reject the opportunity to take land will involve a numbers of factors including community needs, current use and potential costs. Councils will not want to accept land which will result in any unwanted legacy due to the condition of the land.

Clearly there is still considerable work to be undertaken in relation to this point as no Council currently struggling with an infrastructure backlog would be keen to add to that problem without adequate and sustainable financial assistance.