

Submission
No 223

INQUIRY INTO CROWN LAND IN NEW SOUTH WALES

Organisation: Wollongong City Council

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The Director
General Purpose Standing Committee No 6
Legislative Council
Parliament of New South Wales
Macquarie Street
SYDNEY NSW 2000

By email to: gpsc6@parliament.nsw.gov.au

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Dear Director

INQUIRY INTO CROWN LAND

In June of 2014, Wollongong City Council provided a submission on the White Paper on Crown Lands Management Review. In general, Council supported the recommendations of the review and in particular:

- The devolvement of Crown lands under either Trust or Care and Control by Council to Council as Community Lands where they are being used to deliver services to the community;
- Streamlining the process in obtaining landowner's approval relating to activities and proposals on Crown land;
- Consistent market based approach in determining rents for leases and licences on Crown lands; and
- Council having the authority to open and close public roads and undertake full administrative process for closure of public roads.

Council is pleased to provide the attached submission to the Standing Committee in respect to the Inquiry into Crown Land.

Yours faithfully

David Farmer
General Manager
Wollongong City Council
Telephone: (

Attach

**WOLLONGONG CITY COUNCIL
SUBMISSION TO GENERAL PURPOSE STANDING COMMITTEE NO.6
INQUIRY INTO CROWN LAND**



Wollongong City is an area of 709 square kilometres with a coast line of 54 kilometres. The City's northern interface with Sutherland Shire is the Royal National Park with Helensburgh the northernmost township. It extends to the south where the Haywards Bay development area interfaces with Shellharbour.

The City is developed along the coastal strip below the Illawarra escarpment, with lands on the escarpment dominated by State owned lands as follows:

- National Parks 10.3 km²
- NSW Water [formerly Sydney Catchment Authority] 355 km²
- Other NSW Government agencies 39 km²

Council has responsibility for the management of 675 hectares of land either as Trustee under 49 separate trusts, or care and control under Section 48 of the Local Government Act as recreation lands. Council spends a net \$7 million dollars per annum after income received on the management of these lands. The lands service not only the local Wollongong residents but are also heavily used by residents of the Southern Highlands and Western Sydney for recreation, particularly in the summer months.

In respect to the specific matters being inquired on by the Standing Committee, the following is provided:

Extent of Crown Land and the Benefits of Active Use and Management of That Land to New South Wales

Crown Lands form an essential part of the physical infrastructure within the City and delivers and supports social, environmental and economic benefits to Wollongong residents and a wide range of visitors to the City, especially from the Southern Highlands and Western Sydney. As the South-Western urban development continues, this demand on Wollongong infrastructure will continue. As stated, State lands cover over half of the City and Wollongong City Council actively manages 675 hectares of Crown Land at a net cost of \$7 million per annum to the City. Crown Lands in Wollongong City have a variety of different active uses and contribute to the City in a range of different ways:

- **Parks and Foreshore Reserves**

These provide the opportunity to deliver essential active and passive recreation opportunities to residents of and visitors to the City. As the City continues its movement from an industrial based economy reliant on coal mining and steel production to a service based economy, the Crown Reserves managed by Council become more important to the ability of the City to undertake this transformation. The ability to introduce tourism product such as eco-tourism and adventure tourism needs to be recognised and accommodated. The extent of that change is evidenced under Economic Analysis, later in this submission. Trust documentation needs to facilitate rather than hinder and leasing and licensing process needs to also reflect this economic opportunity. That does not mean that probity through competitive process needs to be avoided or commercial returns avoided. A range of commercial opportunities exist along the foreshore parks by way of restaurants and kiosk, which generate rental income to assist defray the overall cost of Crown Lands management. The lands managed by Council as Trustee are often under a trust that was established 50-100 years ago. These trusts can be somewhat simplistic and do not always represent a contemporary view and can create conflict between the Trustee [Council] and residents or parties interested in the reserve. Council's community lands are managed under Plans of Management which are reviewed on a regular basis with community consultation and input to ensure they are contemporary.

- Sports Fields

Council's 65 sports fields include a number of Crown Land reserves which provide active recreation for the City's residents. On the data captured from active organised participation 45-50,000 residents participate in organised sport in the City. These sports fields are essential to Council's Community Goal "We are a healthy community in a liveable city".

- Cemeteries

Wollongong City Council manages five Crown cemeteries (Bulli, Helensburgh, Scarborough, Waterfall [Garrawarra] and Wollongong). Apart from Helensburgh, these cemeteries are closed to burials other than reserved sites and are essentially cost centres for the City.

- Tourist Parks

Council manages three tourist parks that both provide tourism product to support the local economy and net profit to assist defray the overall cost of Crown Lands management. Council has invested substantially [\$9 million] over the last 10 years into building these investments and providing a range of full time, part time and casual employment in the City.

Care and Control is devolved to councils through Section 48 of the Local Government Act where Crown Lands are classified as being for recreation use. Councils are then required to obtain a licence from the Crown Lands Division to undertake maintenance and repairs of those lands and assets thereon. This is a key issue and a most inefficient method of management for both councils and the Crown. The small licence fee collected by the Crown would not cover the cost of administration. Councils are devolved the responsibility of maintenance without any financial support and then required to have a licence to carry out the works it needs to undertake.

The Crown Lands Division has its own legislation and procedures for the disposal of Crown Lands. While there is no doubt some consultation with Local Government in this process, it is not extensive as evidenced in the recent transfer of Lake Illawarra Lands to Property NSW for development and sale.

The Adequacy of Community Input and Consultation Regarding the Commercial Use and Disposal of Crown Lands

In respect to commercial use, there are a number of ways that the community is consulted and has the opportunity to provide input in Wollongong City:

- The Wollongong Local Environment Plan 2010 provides a basis for development throughout the City under the zoning of lands for a range of uses. The community has been widely consulted in the development of this plan and any amendments.
- The Development Application process. When a commercial use is proposed on Crown Lands a Development Consent is required. This process requires community consultation and input and is conducted in a number of ways depending on the complexity of the application.
- Wollongong Council supports Neighbourhood Forums, which are community based and led. Council consults with these groups on matters that are arising within their boundaries.
- Plans of Management – Crown Lands legislation, where a Trust Deed determines the appropriate uses the Crown Reserve is set aside for, does not require a Plan of Management. However, Wollongong Council prepares Plans of Management for Crown Lands on the same basis as it does for its Community Lands under the Local Government Act. This provides opportunity for community consultation and input along with certainty of uses and, in particular, commercial operations proposed in the reserve.
- Landscape Master Planning – Landscape master plans are generally informed by a Plan of Management and provide the detailed development of a reserve. This also provides guidance and certainty in respect to form and use. The community is given opportunity to provide input and comment on the draft master plans which are exhibited for public consultation.

Again, the Government has its own legislation and procedures around consultation on Community Lands, which is undertaken in addition to that conducted by Council as Trustee.

The Most Appropriate and Effective Measures for Protecting Crown Land so that it is Preserved and Enhanced for Future Generations

Local Government holds lands in two categories - Operational and Community Lands. The use of and disposal/acquisition of Operational Land by its very name is less restricted in the NSW Local Government Act 1993 and allows councils to deal with these lands in a commercial manner. However, Community Land is protected and preserved in the manner in which councils can deal with it either through use, lease or sale. This process provides a high level of community input into the use and lease or licence of Community Lands and provides an appropriate mechanism to protect it for future generations. Sale of Community Land can only be achieved by first reclassification to Operational Land which requires extensive community consultation including an independently facilitated public meeting and the preparation of a Planning Proposal which then requires approval by the Minister for Planning. If those lands have a real or perceived trust over them, then they also require the consent of the Governor to remove that trust. This appears to be a very robust mechanism to protect those lands while allowing genuine and community supported transactions to proceed.

There are two proposals in the White Paper that lead to effective measures of protecting Crown Land, and they are:

- Devolving of Crown Lands where those lands are currently managed by a Council and used for a community purpose. Councils currently manage a large portion of the Crown Land portfolio and the cost of management is borne by the community through rates. Much of the land managed is used in delivery of services directly to visitors and residents of a City. The devolution of those lands to the councils as community land would provide consistent management practices and effective preservation. During the consultation in respect to the White Paper, the devolution was qualified to exclude foreshore and CBD lands. The foreshore lands are highly valued and important to the City in terms of the role they play in the repositioning of the City as a service economy and in providing opportunity for passive and active recreation for residents and visitors to the City; and
- Management of Crown Lands along similar manner to management of Community Lands in the Local Government Act 1993. The management of Crown Lands and Community Lands can mean that adjoining blocks of land similarly zoned can be managed in a different manner creating different approaches to the land management. A recent example is the management of leasing and licensing of surf clubs. Wollongong has 17 surf clubs along its coastline with half on Crown Lands and half on Community Lands. The management of these properties can be quite different under the different legislation and the precedent lease provided recently through the Crown Lands Division is substantially different to the precedent lease used by Council. The major differences are in the requirement by Crown for the surf clubs to be affiliated with Surf Life Saving NSW, the requirements in respect to responsibility for maintenance and the consents to commercial activities on site. These matters are currently being negotiated with the Crown but if there was harmonised legislation in this area would encourage a more efficient process in managing lease/licences for surf clubs. Also as mentioned earlier, the use of Plans of Management to identify contemporary uses for community lands is a more effective mechanism than simply relying on aged trust declarations.

The move towards management principles in line with the Local Government Act will require establishment of Plans of Management where they do exist and the review of those already in place. This will involve considerable resourcing and there should be financial support if it is to be Local Government who is tasked to undertake this role. In the longer term this should reduce the need for the onerous level of annual reporting on Crown Lands income and expenditure, which for Wollongong Council require 49 individual returns.

The Extent of Aboriginal Land Claims over Crown Land and Opportunities to Increase Aboriginal Involvement in the Management of Crown Land

Wollongong City Council recognises the value of the Aboriginal community in its Community Strategic Plan Wollongong 2022 under the Community Goal of "We are a Connected and Engaged Community".

Council does maintain a record of Aboriginal Land Claims over Crown Lands in the City but understands there are some 29,000 outstanding land claims across the State. The resolution of these claims in a timely manner would go a long way towards increased opportunities social, economic and environmental for Aboriginal communities. The successful resolution of the Batabah Land Council claims in Lake Macquarie is a great example of using a filtering process to achieve resolution and should be encouraged as a model for other claims.

Outside of land claims, there is evidence that particularly international visitors to New South Wales wish to enjoy an Indigenous cultural experience. The research undertaken suggest that visitors are looking for a genuine experience, which can be provided for the by the local community adding significant cultural experience to the broader community, a valuable economic product particularly in the Tourism Sector and gainful employment for the local Aboriginal community. The Muru Mittigar Centre at Penrith NSW is a great example of business returning lands to the local Aboriginal community, which could also be achieved on Crown lands.

CONCLUSIONS

Crown Lands contribute benefit to the City's residents and visitors by providing opportunity for passive and active recreation and contributing to the economic growth of the City. However, that comes at a cost to the City in terms of the cost of managing those Crown lands.

The age and intent of the Trusts that Crown Land Trustees are required to manage under can be restrictive and create conflict with the community. They do not present a contemporary view of the use of the land or its capacity to contribute to the community. A system similar to Plans of Management which is regularly reviewed with the community appears to be a better management process.

The use of a legislation similar to Community Lands legislation to manage Crown Lands would provide an adequate mechanism to protect Crown Lands for future generations. It will also provide a consistent approach to management of community lands in the broader sense. This is supported on the basis that there is financial support provided for implementation.

The devolution of Crown Lands being managed by Local Government to deliver service should be pursued but should not exclude foreshore lands which have enormous capacity to add to the social, environmental and economic benefits for communities.

The early resolution of outstanding Aboriginal Land claims should be pursued and innovative outcomes as achieved in the Batabah Land Council claim are worthy of further review for application in other claims.

Economic Analysis – Manufacturing vs Tourism

Wollongong is an economy in transition, renowned for its world class steel making and coal mining industries. Today the City is emerging as a key knowledge services centre and Tourism hub. The Wollongong economic transformation started in the early 1980s, when BHP began to downsize its workforce at Port Kembla steelworks. Today, BlueScope Steel (formerly BHP) employs 3,500 people making them still the largest private employer in the region. However, as demonstrated in Figure 1 below, the Manufacturing sector in the region is experiencing heavy losses, whilst conversely the accommodation and food services sectors are experiencing significant growth off the back of Tourism. It must also be noted that Figure 1 information is based on the latest census data from 2011, and the real impacts of manufacturing losses are anticipated to be far worse.

Wollongong

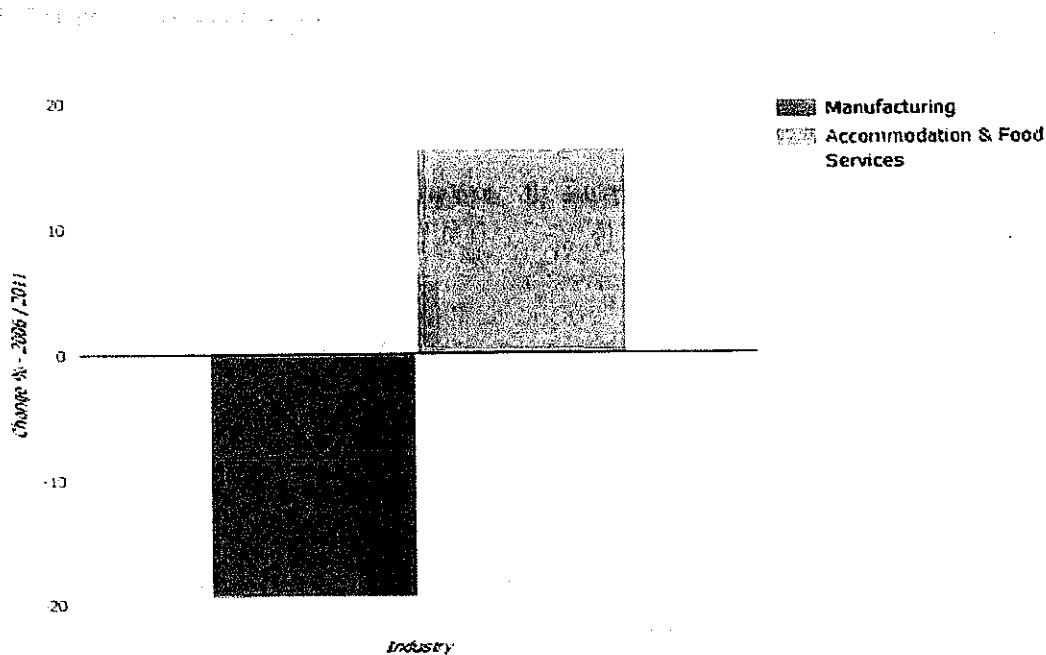


Figure 1: % Change in jobs manufacturing vs Accommodation (source REMPLAN July 2018)

Today, Wollongong's economic growth is being delivered by all facets of the services sector, and the City is home to a number of Australia's leading institutions in this regard. The Tourism sector is proving to be a key component of this growth in our City, assisted by the investment in key infrastructure, including the \$multimillion Blue Mile foreshore project and the key adventure tourism businesses located in that area. A further burgeoning market in the region is the growth of food based businesses with the Wollongong City area experiencing 60 new boutique small bars and cafés in the past 3 years.

Figures 2 and 3 below present data from the overnight Tourism market to the South Coast region. The figures show modest growth in overnight visitors to the region over the past 5 years. However, the number of nights those visitors have stayed has increased more noticeably, with 12% increase in domestic nights stayed and a 35% increase in International night stays.

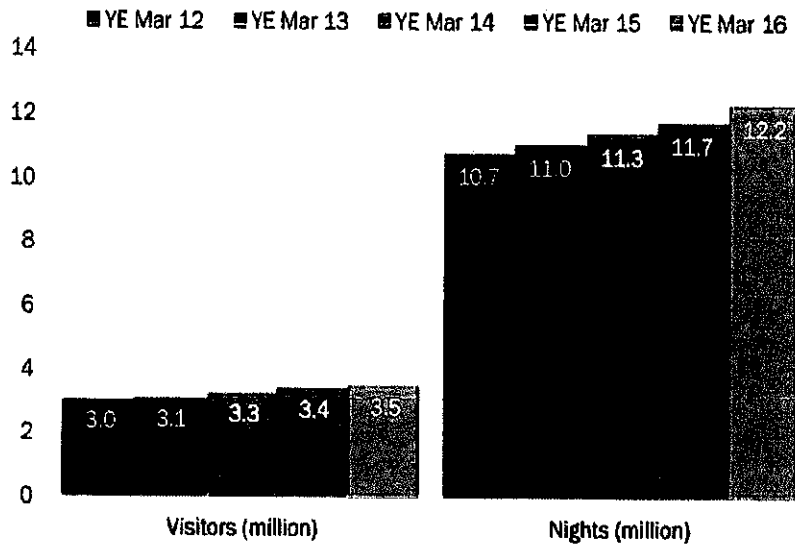


Figure 2: Domestic Overnight Tourism Market (south Coast)

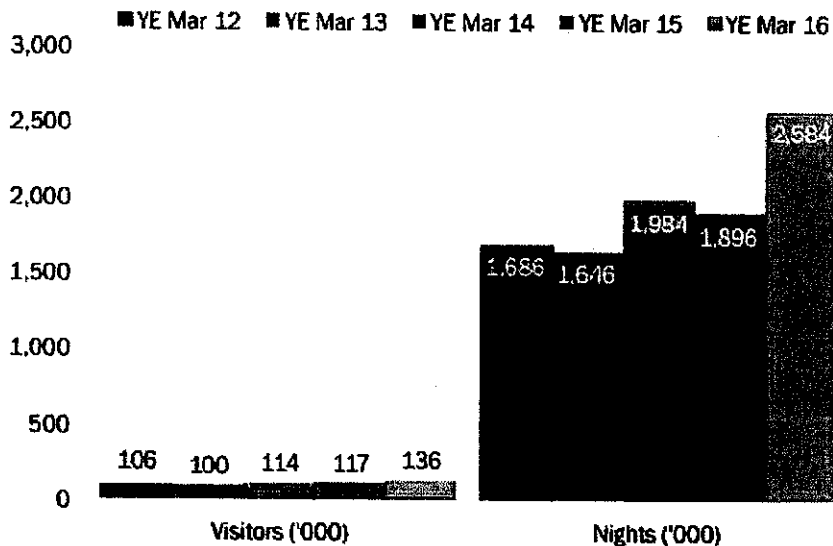


Figure 3: International Overnight Tourism Market (South Coast)

These figures indicate that the investment in Tourism infrastructure and services on offer are having a real effect on the Tourism market. With more 'things to do' in the region, the product packaging opportunities are increasing and the noticeable trend is for visitors to stay in the region longer than they previously were. More nights directly correlates to increased spend and this growth in the economy. A very important factor in a region that consistently trends above the state and national unemployment average as shown in Figure 4 below.

	Wollongong	Illawarra	NSW	Australia
March Qtr	6.90%	8.0%	5.70%	6.20%

Figure 4 – Unemployment Comparison (source: Department of Employment Small Area Labour Markets (SALM) ABS) May 2016

The highest concentration of Hotels and Tourism Infrastructure in the South Coast region is Wollongong, and this area is a key driver of the South Coast Tourism Economy.