

Submission
No 225

INQUIRY INTO CROWN LAND IN NEW SOUTH WALES

Organisation: Central NSW Councils (Centroc)

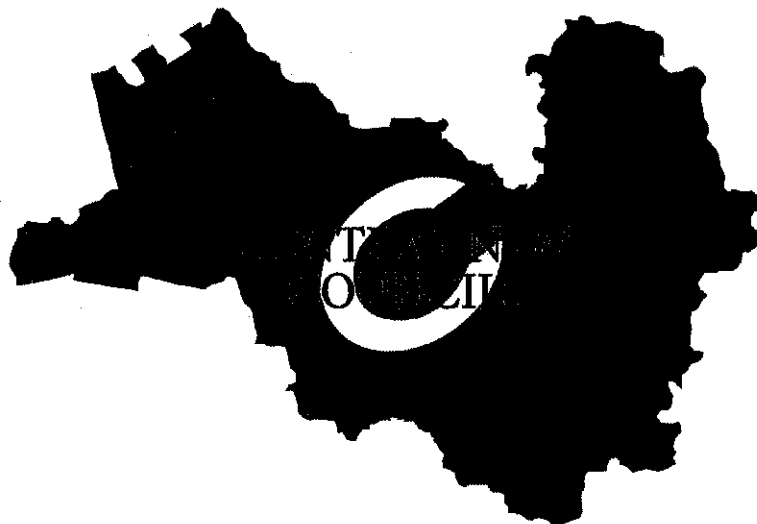
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Crown Lands Inquiry

July 2016



CENTRAL NSW
COUNCILS



Centroc's Mission is to be recognised as the lead organisation advocating on agreed regional positions and priorities for Central NSW whilst providing a forum for facilitating regional co-operation and sharing of knowledge, expertise and resources; effectively nurturing sustainable investment and infrastructure development.

www.centroc.com.au

29 July 2016

The Hon. Paul Green
Chair
General Purpose Standing Committee No 6.
Macquarie Street
Sydney NSW 2000

Dear Mr Green,

Re: Crown Land Inquiry

Central NSW Councils (Centroc) represents over 243,000 people covering an area of more than 72,500sq kms comprising the Local Government Areas of Bathurst, Blayney, Cabonne, Cowra, Forbes, Hilltops, Lachlan, Lithgow, Mid-Western, Oberon, Orange, Parkes, Upper Lachlan, Weddin, and Central Tablelands Water.

It is about the same size as Tasmania with half the population and a similar GDP.

Centroc's vision is to be recognised as vital to the sustainable future of NSW and Australia.

Its mission is to be recognised as the lead organisation advocating on agreed regional positions and priorities for Central NSW whilst providing a forum for facilitating regional cooperation and sharing of knowledge, expertise and resources.

Centroc has two core objectives:

1. **Regional Sustainability** - Encourage and nurture suitable investment and infrastructure development throughout the region and support members in their action to seek from Governments financial assistance, legislative and/or policy changes and additional resources required by the Region.
2. **Regional Cooperation and Resource Sharing** – Contribute to measurable improvement in the operational efficiency and effectiveness of Member Councils through facilitation of the sharing of knowledge, expertise and resources and, where appropriate, the aggregation of demand and buying power.

Fit for the  Future

Centroc was selected as one of five regional pilot Joint Organisations to assist the NSW Government strengthen and reform local government.

The Centroc Board is made up of the 30 Mayors and General Managers of its member Councils who determine priority for the region. These priorities are then progressed via sponsoring Councils. For more advice on Centroc programming and priorities, please go to our website <http://www.centroc.com.au>

As a Pilot Joint Organisation Centroc has for the past twelve months, had the task of regional planning and prioritisation. We base our comments on this work, and feedback from members.

Thank you for the opportunity to provide feedback to the Inquiry into Crown land.

Centroc understands the Terms of reference to be

- (a) the extent of Crown land and the benefits of active use and management of that land to New South Wales,*
- (b) the adequacy of community input and consultation regarding the commercial use and disposal of Crown land,*
- (c) the most appropriate and effective measures for protecting Crown land so that it is preserved and enhanced for future generations, and*
- (d) the extent of Aboriginal Land Claims over Crown land and opportunities to increase Aboriginal involvement in the management of Crown land.*

In the first instance the Centroc Board would like to acknowledge the efforts the NSW Government is going to in undertaking regional planning. While there are challenges, taking consideration of the regions and their potential to do more in building the economy and liveability of NSW is a very worthwhile activity. Activating Crown Land is an important element to regional development.

Overall we believe that there is an opportunity to be more effective through taking a regional strategic approach and looking at regional planning with new eyes. Therefore Centroc generally supports reform that streamlines legislation in relation to the management of Crown Lands. However, it is imperative that the full impacts of any changes to existing users is disclosed and honest, open consultation is undertaken with local communities.

For consultation where a community use has been identified, a local consultation forum is recommended.

- If it is an Aboriginal heritage issue, consultation with the Aboriginal Land Council and other key Aboriginal representative organisations along with Councils.
- If it is a local community use issue, then consultation with the local group involved in managing the area along with the Council.

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

Traditionally Crown land has been a valuable community asset providing opportunity to establish infrastructure or open space to benefit the surrounding locality. It is our opinion that this is no longer the case, or at best has been extensively diminished.

Crown land currently appears to be managed to maximise revenue to the State Government with scant regard for the need of the locality in which it is situated. Clause 1(a) in the ToR epitomises the issue, which is about the "benefit to the State" rather than for example, the benefit to the locality, the benefit to the people of the locality, or the benefit to future people of the locality. These items should be a key component in crown land management decisions. That is, the management philosophy for Crown land needs to be decided.

Crown land management is currently managed by order according to the system as no regard is given to the benefit of the Crown Lands Department is required.

Under the current arrangements, acquisition of crown land can take from months to years. Additionally, requests are scrutinised by the Crown lands department as to the exact extent etc of the acquisition. This then forces the need to subdivide adding considerable additional cost and complexity to the process. Residual land then can remain unmanaged and unused.

The management of Aboriginal Land Claims is variable. Some members report good outcomes through the use of good relationships with Local Aboriginal Land Councils while others see an adversarial approach used by Crown land as problematic. An adversarial process serves only to build ill-will between the aboriginal community and the Crown. A better approach may be required which may for example mandate negotiated outcomes.

Crown land management is hampered by under resourcing. If the system is to be repaired more resourcing for the Crown lands department is required.

Councils manage Crown lands for a variety of functional areas including a wide range of sporting and recreational activities, both passive and active, used and disused, such as swimming pools, caravan parks, racecourses, showgrounds, landfills and cemeteries. The active use and community support and desire to retain these spaces is demonstrated in the Community Strategic Plans of Councils, with many of these documents containing plans for the continued improvement, active use and management of these areas. However, in managing these areas Councils bear the responsibility for maintenance of grounds and the infrastructure contained thereon, any lease arrangements such as telecommunications towers are made directly with the Crown and no substantial funds are returned to Councils. Additionally, Councils experience problems where the tenure and/or care and control of the land is unclear which gives rise to community expectations that Councils will manage these lands when they are not being maintained by the state government.

Much of the Crown land that is not actively managed contains areas of Endangered Ecological Community (EEC), sometimes intact but more commonly in a heavily modified state, such examples are crown roads, travelling stock routes and disjointed crown reserves. Whilst some of these areas contain substantial ecological values, they are also subject to noxious weed and pest invasion and as a result of this their condition can be very poor. The authority responsible for the management of these areas can be unclear and consequently the expectation falls to the Council to follow through on the control and management with the relevant authority to negotiate improvement to the reserves condition.

Similarly, where the Local Land Services (LLS) is involved in managing TSR areas, the lack of consultation with Councils in relation to leasing, fencing and stock movement can lead to damage to Council infrastructure or create road safety issues which the Council must correct. In instances where a fee is paid to LLS for the use of this land, no fee is provided to Council to make good any damage or public safety issues, particularly when local roads are being used to gain access to the TSR. Council has invested considerable funds on roadside vegetation surveys for roads located within TSR's and within Crown Road reserves and development of management plans for these corridors. The movement of stock in these areas can significantly undo the valuable ecological restoration work being undertaken.

The LLS policy of leasing TSRs to neighbouring land owners through 'Active Use and Management' raises significant concerns due to inadequate staff resources to instigate an effective management plan or undertake periodic monitoring of the site to ensure native plants are rested to enable seed set throughout the year. A management plan and periodic monitoring is imperative to address the risk of overstocking, either through poor land management or used as a strategy to prevent travelling stock from using the site.

Since the loss of LHPA rangers, there is a clear lack of LLS staff resources allocated to monitor the reserves to ensure they are not further degraded. The local opinion of many neighbours to Crown land and TSR's is that it will only be a matter of time before the EEC and their associated values are destroyed.

It is noted that the Government has indicated there will be no forced transfer of reserves to councils. Central NSW Councils believes it is important that Local Government retain the right to decline acceptance of individual parcels of Crown land, particularly if issues such as contamination are identified. Local Government would need to assess parcels against community need and maintenance affordability requirements, and must retain the right to decline to take ownership over certain parcels.

In relation to roads, as councils are responsible for the planning, construction and maintenance of road infrastructure, it is recommended that all road reserves be transferred to local councils at no cost. Determinations of applications for the closing of old or unconstructed roads should also rest with Local Government for applications in their area, however transfer of this responsibility should only be undertaken following the finalisation of the current backlog of road closure requests it is understood is currently with Land and Property Information. It would be an unfair burden on Local Government for this backlog to be transferred.

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

The difficulties with acquiring Crown land have largely prevented commercial use. As the Crown Lands Department is under resourced they have not been able to efficiently process land dealings. In the recent past there have been instances where significant parcels of Crown land that contain items of Aboriginal, cultural or ecological significance have been sold privately without any consultation with Councils. This raises conflict when an incoming purchaser has visions for the ultimate use of the property only to come up against "problems with Council" during the development application process.

Similarly, when Crown roads are proposed to be closed, inadequate time is given to permit Councils to consult locally about future development plans of adjoining owners about their need to maintain legal and practical access to the site, which may be dependent upon access from the Crown Roads that are proposed to be closed. Once again this slows or creates problems with property owners wishing to develop their land.

In many locations Crown land is not actively managed as it is unclear as to its tenure or management arrangements, these areas becoming dumping grounds for rubbish or fenced without consultation and assumed to be private land and taken over by residents. There does not appear to be a clear, publically accessible register for Crown land that is managed privately or by Councils and this gives rise to unlawful and inappropriate use or total lack of management. It is recommended that these areas be clearly identified in the Councils' property registers and on zoning maps as Crown land.

The Local Government Act 1993 sets out requirements in relation to the management, use and disposal of land owned by Councils. There are particular restrictions over land classified as community land, and there is a robust process that includes community consultation in relation to any proposal to re-classify community land. It is considered the process set out in the Local Government Act provides sufficient community input and consultation.

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

The best mechanism to preserve Crown land for beneficial future use is to facilitate the transfer to Local Government. Crown land is currently unmanaged and often of little use to anyone. Many Council assets currently reside on Crown land and development is hampered as a consequence.

Where Crown land is not actively managed it can give rise to noxious weeds, feral pests, dumping of rubbish and habitat destruction. The management of Crown Lands cannot be undertaken as a State-wide blanket arrangements and there needs to be more local input into the management of these lands. A variety of options are put forward for consideration:

- Where Crown lands contain areas of Aboriginal and ecological significance, the NSW Office of Environment and Heritage are best placed to record, map and manage such lands as knowledge banks for future generations.
- Where Crown lands are used for active and passive recreation or other community benefits as managed by Councils such as those indicated above or contain areas of cultural significance, negotiations should be undertaken with a view of transfer to Council with any lease arrangements in place also transferred.
- Where Crown lands are not actively managed and do not fall into either of the above, wide ranging community consultation should be undertaken to ascertain the most appropriate use of the land and who is best placed to manage the land for that use.

Land of local significance needs local input into its management and ultimate ownership, however in doing determining the ultimate ownership it is important that this is not just another cost shifting exercise from the State Government to Councils and a genuine partnership is created. Genuine, honest consultation and disclosure is required to reform the system effectively.

The suggestion that a Crown Reserve manager be appointed, without the support of a strategic plan, is not supported. There are many instances where a reserve trust has become dysfunctional and the asset being protected has fallen to disrepair as a result. There is a need for a Plan of Management for each site and periodic monitoring against the plans objectives. As for all private land active intervention is required to ensure that the land is not subject to degradation of its condition.

It is considered that a full stocktake and land assessment of each parcel should be undertaken to firstly correctly identify all Crown land, and secondly to understand what factors may be impacting each parcel. These factors could include contamination, heritage factors, safety issues, leasing arrangements, Aboriginal land Claims and more.

In undertaking a land assessment, it is submitted that Councils, and their local communities, should have a say in determining those parcels of Crown land that should be divested to the Council and further, that should be retained for future generations. This strategic level review ensures that the acquisition of Crown land, and ongoing management, aligns with the community's strategic plan and vision for the future for the LGA.

For those parcels that are accepted by the Council and the community, measures such as classifying the land as community, or registering some restriction on the title for these parcels could provide a

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mechanism for securing the use of the land. Plans of Management provide another mechanism for managing the use of this land.

Of critical concern is to ensure that the community have input into determining those parcels of Crown land that should be retained. It would be important that Local Government not be forced to retain and manage a parcel that is costly to maintain and not in the community's interests to retain.

The extent of Aboriginal Land Claims over Crown land and opportunities to increase Aboriginal involvement in the management of Crown land.

Aboriginal Land Claims are extensive, mostly due to the lack of land management of crown land parcels. As stated above the process of determining land claims creates long adversarial processes. A method to negotiate outcomes would be a far better process than working through the court system, which is where many end up.

Arguable the process is currently neither helpful nor respectful to the aboriginal community and much improved processes could be implemented.

It is acknowledged that a faster process is required for the resolution of Crown Land claims. The most recent advice is there are over 28,000 claims outstanding with barely enough staff to process the worst/oldest 1000 claims and any that are deemed as high priority awaiting the Ministers decision, let alone to have any capacity to deal with any backlog! It is imperative that these decisions be returned to the local Aboriginal Community who are best placed to have knowledge and attachment to the area and resolved quickly. Perhaps the LALC can become active partners to develop and manage the land, in consultation with all stakeholders, to realise the most appropriate use for the land and its full value and potential.

Arguable the process is currently neither helpful nor respectful to the aboriginal community and much improved processes could be implemented.

Conclusion

Once again, thank you for the opportunity to provide feedback to this process. This region is aware that the government is seeking to change and improve regional governance with a view to improving outcomes for our communities. We are very supportive and seek to work with the government in any way we can. Please contact Executive Officer Jennifer Bennett on [redacted] if you wish to discuss further.

Yours sincerely

Cr Bill West
Chair
Central NSW Councils (Centroc)

