

INQUIRY INTO CROWN LAND IN NEW SOUTH WALES

Organisation: Boating Industry Association

Date received: 12 August 2016

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The Secretary
General Purpose Standing Committee No. 6
Legislative Council of NSW
Parliament House
New South Wales

Dear Committee

I write to present the views of the Boating Industry Association on the Inquiry you are conducting into Crown Lands. I apologise for the lateness of this submission, as we only recently became aware of your Inquiry.

Executive Summary – Boating in NSW and Crown Lands

The Boating Industry Association represents the businesses which enable Australians to get onto the water. Our members directly employ approximately 8000 people. Membership comprises boat manufacturers and importers, supply-chain goods manufacturers and importers, brokers and retailers of vessels and equipment, boat storage and service facility operators (marinas, boat yards and slipways, dry-storage etc), providers of trade services to the recreational and light commercial boating industry (shipwrights, surveyors, mechanics, engineers, technicians, detailers, riggers, sail-makers and upholsterers, painters etc), and providers of travel/tourism, advisory, and incidental goods and services.

Boating, in all its forms, happens in all regions of the State. Millions of people each year enjoy many forms of recreational boating, and various industry-sectors engage in enterprises reliant on boating - as a tourist attraction, as a means of transporting goods and personnel, as the vehicle of waterborne primary production and extractive industries.

Boating in NSW is an increasingly popular form of recreation, and a significant driver of domestic tourism – the industry employs approximately 8000 people, but is assessed to support an additional 5000 jobs.

In addition to direct revenues of \$2 Billion, a further \$1.38 Billion p.a. in spending is attributed to recreational boating related travel and tourism, accounting for 4.3% of the NSW “day-trip” market and 9.7% of overnight-stays.

As a healthy recreational pursuit which draws millions of people to this State’s magnificent harbours, rivers, coastal lakes and open waters each year, and as the often overlooked underpinning of local businesses which support employment and drive economic activity in coastal regions, boating is critically reliant on key infrastructure and access through the *land-water interface*.

The majority of marine infrastructure in NSW is situated on Crown Land, and is publicly accessible. Significant social, economic, and employment benefits are derived on, and in connection with, this infrastructure, particularly in regional coastal communities.

Community input in relation to the use of land that relates to marine infrastructure can be adequately accommodated within a comprehensive planning and leasing framework. A set of draft maritime land management policies and principles negotiated between industry and government provide such a coherent framework for land management.

Lands which are suitable for future marine infrastructure should be protected and developed in cooperation between government and industry.

Aboriginal Land Claims over lands related to marine infrastructure complement an already complex leasing, planning, and development control framework. Should opportunities present to simplify this with increased Aboriginal involvement, these should be seriously considered.

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

Arrangements for the ownership and management of Crown Land are critical to the success of recreational boating. The rivers, lakes and waterways across the State are treated for ownership and management purposes as submerged land. Ownership is generally vested in Crown Lands, as well as the seabed out to three nautical miles. The major exception to this is submerged land vested in Roads and Maritime Services, being the holdings of the former NSW Maritime Authority: principally Sydney Harbour, the other major ports of Newcastle, Port Kembla and Botany Bay. There are also some comparatively smaller parcels of submerged land vested in National Parks and Property NSW.

For the purposes of this submission, we are concentrating on the submerged and adjacent dry land vested in Crown Lands.

Boating and coastal infrastructure are a key driver of regional economic growth in coastal communities.

The coastal harbours and major maritime assets owned by Crown Lands are valued at \$2 billion. The maintenance task for this asset base is extensive and includes repairs to wharves and other fixed structures, breakwater projects and dredging. These works are imperative to protect infrastructure and ensure safe access to essential harbours and waterways. Faced with limited resources and capital, maintenance tasks are currently highly prioritised.

Certainty in land management practices and policies is essential for private sector investment in maritime infrastructure. At present, the disparate ownership and management of foreshore and submerged land provides a formidable challenge for the construction of new facilities and upgrade of existing assets.

Commercial marine activity is, similarly, an important contributor to employment and economic activity - particularly in regional areas. This includes charter and cruise vessels,

fishing and aquaculture, passenger/goods transfer, regulatory and research activity, industrial service and logistical support craft.

Almost without exception, recreational and commercial marine activity is critically reliant on specific infrastructure, and access to and through the land-water interface. Provision of this infrastructure by both private sector and government stakeholders is impacted or constrained by a range of issues – many of a bureaucratic nature.

To enable the boating industry to grow and continue to deliver its significant and multi-faceted contribution to the coastal zone, the rebuilding and ongoing maintenance of publicly owned infrastructure is necessary, and streamlining reform of relevant planning, leasing, and land management practices must be undertaken.

The BIA proposes the following two priorities to secure public access and amenity in the coastal zone, and enable investment supporting the substantial community benefits of a vibrant boating culture:

1. Infrastructure Investment for Access and Safety

Crown Lands has a \$2 billion coastal asset base. Its annual budget for its capital works and maintenance program represents less than 1% of the value of the assets. This is inadequate for the maintenance task, let alone for improving coastal infrastructure. Regional coastal communities need:

- A Coastal Capital Works and Maintenance Program that is supported by adequate funding to enable the upgrade and maintenance of assets and marine structures.
- A single agency with a mandate and recurrent funding to keep the waterways open and sustained.

2. Land Certainty

Many coastal businesses need to operate where the land meets the water, and as such will be obliged to lease land from the Government. By widely supported government policy, freehold title is generally not given for submerged land and foreshore land. Certainty about the terms and conditions of property leases of waterways and waterside land is crucial to sustainable business. Without certainty, private sector operators of marine infrastructure cannot safely invest. So this means there must be:

- Policy and legislation, applied consistently across publicly-owned lands and waterways, which support business investment in infrastructure. For initial development and ongoing improvements, operators need appropriate length of tenure and certainty around end of lease renewal. Without this, there can only be limited development and reinvestment, and at some point in the lease cycle the lessee is incentivized to run down the assets.
- A single agency with the responsibility for the management of wet lands and foreshore land. Whatever bit of government is the "owner", there should be a one-stop shop for professional management – learning from successes in other parts of government, such as what Services NSW has done for licensing.
- An end to the complexity, cost and delays associated with negotiating multiple tenure agreements for a single land use, and getting supportive planning policies and a streamlined approval process.

The BIA is advocating for substantial reforms to the administration of Crown Land, based on the simple proposition:

Land certainty + Infrastructure Investment = Coastal Economic Growth

The Review of Crown Lands, chaired by Mr Michael Carapiet, considered some other important concepts, among them:

- That the ownership of land by the Crown could be separated from the management of this land.
- That policies and procedures for the leasing of submerged land should be harmonised with those of other government agencies.

Rather than Crown Lands trying to be all things to all people, the BIA believes that consideration should be given for formation of a separate agency responsible for the management of all submerged and foreshore land, and that the policies and procedures for management of all NSW Government land should be consistent, and administered professionally by one agency.

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

Before marine infrastructure can be developed, consent must be secured. Generally, for commercial use, planning laws require a full environmental impact statement. Securing of this consent by commercial users is costly and complex, and involves approval by the landowner (usually the Crown) as well as assessments by concurrent agencies and the planning consent authority (usually the local Council) to evaluate:

- potential impact on navigation (Roads and Maritime Services)
- potential impact on the environment (EPA and Department of Primary Industries)
- potential impact on vehicle traffic and land-side amenity (Council).

There is often a failure of coordination between these various agencies, leading to long delays. For example, tenure agreements can be held up waiting for planning approval, while planning approval is held up waiting for tenure agreements. Financial investment is difficult to secure without tenure agreements; tenure agreements look for agreed levels of financial investment.

Government agencies which are party to the development consent process are bound to act in the public interest, and the planning framework provides for substantial community consultation.

The BIA believes that the public interest and opportunity for input to the use of crown land as relates to marine infrastructure is generously served by the development consent process.

The input of the community resulting from robust consultation processes is comprehensive, and durable, with many success stories. In addition to the initial development consent process, private sector managers of public infrastructure are bound by ongoing statutory, consent-specific, and lease-specific conditions in relation to public access, permitted use, maintenance, and environmental performance.

However, the development of clear and transparent policies and procedures would increase public confidence in these processes.

Industry has been involved in extensive consultation with Crown Lands, Transport, and Roads and Maritime Services about the need for a clear, transparent and common set of land management policies for submerged land.

In regard to the disposal of Crown Land, we are not aware of any incidents involving private operators of marine infrastructure. However, with regard to the above-mentioned concerns on land certainty, we would expect the appetite among operators to acquire title over leased dry-land to be substantial.

The BIA considers that the sale of waterfront Crown Land carries the risk of such lands being progressively developed as high-value residential. Marine infrastructure is rarely the highest value and best use of waterfront land, yet without it, recreational industry cannot operate. Marine infrastructure can be developed in conjunction with other uses, but this needs to be planned and coordinated through an integrated development.

Should a single agency be charged with management of coastal crown lands, there would be many opportunities for better coordinated public and private development.

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

The ongoing security of public access to and through the land-water interface is pivotal to the continued growth and diversification of boating in NSW, and the significant benefits associated.

As set out above, the BIA considers the planning framework an important mechanism for balancing the many competing interests in the coastal zone. Currently NSW lacks a comprehensive strategy for the activation of coastal assets and the planning system lacks appropriate perspective and instruments to streamline the delivery of marine infrastructure. However general planning principles to provide diversity, functionality, and amenity in the urban design context, along with equity of public access.

The rapid rise of the attraction of waterfront living is of serious concern in relation to the continuation of public access and marine infrastructure. The sheer profitability of residential development – to developers, to investors, to the state treasury on account of stamp duty and land tax, and to local councils which levy rates against land valuation – continues to influence land-use decisions the world over.

Lands which are suitable for future marine infrastructure should be protected using appropriate zoning so that waterways and foreshores remain accessible, and the valuable contribution of the boating industry and associated economic activity is sustained.

Particular consideration should be given to lands in close proximity to existing or future marine infrastructure sites, as incompatible development substantially affects the viability of boat storage and maintenance facilities, as well as the viability of many commercial, tourism, and primary production stakeholders which rely critically on this infrastructure and service availability.

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

Aboriginal Land Claims over coastal and submerged land add to an already complex leasing, planning, and development control framework. They add to the uncertainty around negotiations for land tenure. The vast majority of boating infrastructure developments are through leases for low impact structures, and are not at all inconsistent with being on Aboriginal owned land. In most cases, negotiations for tenure arrangements should continue, noting that the lease may be assigned to another land owner should a claim succeed. Should opportunities present to simplify the claim process as it impacts on these leases, these should be seriously considered.

I would be happy to expand on any part of this submission should you request this.

Yours sincerely

Howard Glenn
Chief Executive Officer