

## **INQUIRY INTO CROWN LAND IN NEW SOUTH WALES**

**Organisation:** Inner West Council (formerly Leichhardt Council)

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ABN: 92 379 942 845  
7-15 Wetherill Street, Leichhardt NSW 2040  
PO Box 45, Leichhardt NSW 2040  
Phone: (02) 9367 9222 Fax: (02) 9367 9111  
TTY: 9568 6758  
Email: leichhardt@lmc.nsw.gov.au  
[www.leichhardt.nsw.gov.au](http://www.leichhardt.nsw.gov.au)

Crown Lands Management Review  
By email: [crownlands.whitepaper@trade.nsw.gov.au](mailto:crownlands.whitepaper@trade.nsw.gov.au)

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### **Crown Lands White Paper - Submission**

While recognising a desire for consistency for all crown land, there are many aspects including the assessment of community use and public benefit, sale to the lessee and leasing where an urban crown reserve for public recreation cannot be under the same rules as a Western Lands Lease for a farming business.

Leichhardt Council is in the inner west of the Sydney metropolitan area. Our comments are directed at crown land dedicated or reserved for public recreation, community facilities and other public purposes.

Therefore, our comments relate principally, but not exclusively, to sections 4-6 and questions 3-8 in the White Paper. Many of our comments are in response to more than one question.

- a) The white paper refers to social, economic and environmental considerations of decisions. In the exercise of powers relating to a crown reserve for public recreation and in determining what is for the public benefit, economic considerations and financial returns should not override social and community benefits. The provision of public open space and other community facilities are core roles of governments, and there should not be any cost shifting to councils nor any requirement for crown reserves for public recreation to be self-funding.
- b) We generally support a two level ownership and management structure rather than a three level structure provided that there is the same level of protection and no increase in liability or costs to councils.
- c) Generally speaking, we support the proposal to allow councils to manage the crown reserves in their LGA in accordance with the Local Government Act provisions for the management of "community land." This will lead to consistencies and efficiencies by allowing all parkland (for example) to be governed and managed by the same provisions.

There are some considerations and concerns.



- d) The purpose for which the land was dedicated or reserved should still be relevant. This may, for example, require the new crown lands legislation to provide for an addition or variation to Division 2 of the Local Government Act to include or make the management and use subject to the purpose for which the crown land was dedicated or reserved.
- e) It is stated that approval processes will be streamlined. If crown reserves are being managed in accordance with Local Government Act and in accordance with a Plan of Management under the Local Government Act, then there should be no need to seek any consent from the Crown Lands section for leases and licences granted in accordance with that Act and the Plan of Management. This administrative burden of councils having to refer leases and licenses to the crown lands section for approval can be removed entirely from both government bodies.
- f) Similarly, if a lessee of part of a crown reserve wishes to lodge a Development Application, "owner's consent" from Council as manager of the land to lodge the DA should be sufficient without a requirement for separate owner's consent to lodge from crown lands. The new legislation could state this for the purposes for the EP&A Act and Regulations.
- g) It should also be easier to register leases at LPI in situations where the registered proprietor is The State of New South Wales and the lessor is the reserve trust, and the certificate of title has not issued. This is relevant for a 5 year lease of a kiosk in a crown reserve for public recreation, for example.
- h) If crown reserves are to be transferred into councils' names as registered proprietors, the basic position should be that the local council has the option to take, or reject, any and all the crown lands in its local government area including crown reserves which are now under the management of the Ministerial Corporation.
- The Department or Minister or Ministerial Corporation should not be entitled to retain an income producing reserve, or part of a reserve, if the council calls for it to be transferred.
  - A council should not be forced to accept title if amongst other things, this may expose the council to serious risks and financial burdens, for example if the crown reserve requires extensive remediation of contamination or if a crown reserves is used by more people than the residents of that local government area (eg beaches.)
- i) Any legislation allowing crown reserves to be transferred to a council in fee simple should state that it is classified as community land for the purposes of the Local Government Act and s. 31(2) if that Act does not apply, that is that the land cannot be reclassified as operational land within 3 months by Council resolution without an LEP.



- j) The White Paper states that the new legislation will retain the 2005 amendments to the Crown Lands Act allowing the Minister to grant leases and licences. The 2005 amendments went too far and are of more concern with the proposed added changes.
- k) Any lease or licence should only be able to be granted by the Minister (1) if it is compatible with the purpose for which the land was dedicated or reserved and (2) with the consent of the local council which is managing the crown reserve and/or the local council as representatives of the local community.
- The Minister should only use this power for unusual things such as site access and fee agreements for telecommunication towers (governed by Commonwealth legislation) and for SES headquarters (required under legislation to be provided somewhere in the LGA) and similarly where there is a gap that sensibly needs to be filled.
  - The Minister should not have the power to grant leases of parts of crown reserves to private interests to run commercial businesses when this is against the wishes of the local community.
- l) All rent, licence fees, site access fees or similar, whether from leases and licences granted by the council, reserve trust, reserve manager or Minister, should be paid to the local council which has the major financial burden of looking after that reserve and other reserves in its area.
- m) In this connection, fees for telecommunication towers, which the Department of Lands directed the telecommunication companies to pay directly to it from 1 July 2012 (in Leichhardt's case), should be returned to being paid directly to the local council as reserve trust manager. It is unreasonable to expect the local council to take the primary financial burden but lose the income being derived from that crown reserve in situations where the overall costs far exceed the income.
- n) In a similar vein, income yielding parts of a crown reserve should not be split off and taken away from the council's management and transferred to the management of the corporation (as happened with what is now lot 6641 DP1137633 in Leichhardt Park (D500207) Reserve, which should be transferred back to Leichhardt Council as reserve trust manager.)
- o) We do not support the commercialisation of crown reserves and value them for public open space and facilities, but any income that is received from commercial uses should be paid to the council which has the financial burden of maintaining that crown reserve and others in its area.
- p) We reiterate one of our opening comments, that economic and financial returns should not override the public purposes of public recreation or community facilities for which a crown reserve was dedicated or reserved.

The White Paper refers to sales to lessees.



- q) It needs to be clarified that this is referring to Western Lands Leases and similar. A lessee of part of a crown reserve for public recreation should not be entitled to ask for the land to be sold to it. The Minister, and the Ministerial Corporation, should not have the power to sell parts of a crown reserve for public recreation to a lessee without the express consent of the local council.
- r) If parts of a crown reserve are sold, the sale proceeds should be paid to that council which has the financial burden of managing the balance of that crown reserve or other crown reserves in its area.

Yours faithfully

Lyn Gerathy  
**Manager Property and Commercial Services**