

**Submission
No 2**

**INQUIRY INTO INTEGRITY, EFFICACY AND VALUE FOR
MONEY OF NSW GOVERNMENT GRANT PROGRAMS**

Name: Cathy Merchant

Date Received: 10 August 2020

Mr Stewart Smith,
Committee Director
Integrity, efficacy and value for money of NSW Government grant programs
public.accountability@parliament.nsw.gov.au
10 August 2020.

Dear Mr Smith,

Thank you for an opportunity to forward comment to this Inquiry which I became aware of via an article in last Friday's SMH.

I have little insight into the broader processes of NSW Government grant programs but wish to draw to your attention my specific concerns about a \$1 million grant received by Hunters Hill Council for a Rugby/Community Facility on Boronia Park a Crown Reserve in Hunters Hill LGA.

The community has attempted unsuccessfully to understand how this grant was secured and its exact purpose under any funding agreement HHC has entered into. No grant guidelines could be found with the only information available via media announcement by the local member Minister Roberts and a Mayoral Minute in the Council papers around six months later.

I found this very unsatisfactory especially as the community was involved in a protracted Plan of Management process for Boronia Park, the third in the last 20 years.

I placed a GIPA with HHC to better understand the grant purpose. Not being satisfied with the response I received from Council I referred the matter to the Privacy Commissioner who requested that Council review my application.

Council presumably refused to do this as I have received no further correspondence. I have not pursued HHC regards the matter any further.

I have attached the responses from HHC and the Privacy Commissioner to this letter.

I did consider a referral to the NSW Civil and Administrative Tribunal as I understand that, unlike the Privacy Commissioner, the Tribunal can order HHC to undertake a review of my GIPA rather than just suggest. However, as a matter of principle I was not prepared to pay the fee attached to the application to the Tribunal as I felt, and still do feel, that my concerns were in the public interest and should not require a fee.

I am pleased that government processes are able to review the state funding received by HHC for Boronia Park as part of a bigger picture review of "the integrity, efficacy and value for money of NSW Government grant programs".

The specific Terms of Reference I wish to address are:

1 (a) the range and availability of funding programs, including but not limited to:...

(ii) local government funding such as the Stronger Communities Fund and Stronger

1 (c) measures necessary to ensure the integrity of grants schemes and public confidence in the allocation of public money, and

1 (d) any other related matter.

ToR 1 (a) ii

Boronia Park has had three Plans of Management prepared and adopted within the last 20 years, all of which have attracted government funding support in their preparation. The most recent was undertaken last year. HHC stated it was necessary for a new PoM primarily because of the recent changes to Crown land management.

However, this is debatable as it is arguable that the PoM 2015 could have been amended slightly to ensure its consistency with the new Crown land legislative regime introduced in 2018. Under these changes the local Council assumed greater responsibility of most Crown land reserves within their boundary.

The community was aware of two sports grants received for Boronia Park from local media reports. Both were primarily directed to rugby and cricket interests though there was confusion at the time who actually had received the funding.

The \$1 million State grant was announced by Minister Anthony Roberts on 7 August 2018 at the annual community fair but did not include information about the funding round or the specific recipient.

The \$500,000 Commonwealth grant was announced via social media on April 2019 by the Federal local member Mr Trent Zimmerman again with no clear statement about the funding round but indicating the grant was direct to the Hunters Hill Rugby Club. The Commonwealth grant funding round is currently under Senate enquiry.

At the time there was significant community confusion regards the source, purpose and recipients of the \$1.5 million. There was a general community consensus amongst those who had followed the last 20 years of plan making at Boronia Park that the new sports money was driving the Council decision to commence a new PoM 2019.

My personal reasoning being that there was no express authorisation for a lease or licence in the PoM 2015 which was required for the new sports facility in the preferred location of the Rugby Club. A new PoM was required to legally facilitate these interests. The broader community generally understood that the sectional interests of the Rugby Club were supported by HHC.

I have attached my submission to the draft PoM 2019.

I provide an extract below which expresses my concern at what I felt was driving the need for a new PoM:

“Drivers for the draft PoM 2019

A significant driver of the need for a revised 2015 Plan, adopted as a ten year management plan at the time, appears to be recent government funding. This driver absolutely skews any attempt by Council at genuine consultation as part of this revision.

These grant applications presumably by Council or the Clubs were supported by (the) existing... ..Boronia Park Plan of Management 2015 which identified the need for extension and upgrade of the grandstand to meet sporting and community needs.

At no stage have the grant applications been made available to the broader community nor the exact details of how and where the public grant monies are to be spent.”

In response to an email I forwarded to Minister Roberts 5 December requesting more information about the State grant, I received the following reply (extract) on 17 January 2020.

“There is strong support to upgrade Boronia Park grandstand and sporting facilities for which a grant has been provided through the Stronger Communities Fund, established by the NSW Government to support councils subject to a merger proposal and their communities. Minister Roberts does not have a copy of the grant application.”

Unable to find any information about the Stronger Communities Fund I continued to attempt to better understand the funding round guidelines and purpose of the State \$1 million and contacted the Premier and various Ministers with requests for more information.

The following as an example was sent 21 January 2020:

Dear Minister Hancock,

I understand from my local member Minister Roberts that Hunters Hill Council has received \$1 mill grant funding from the Stronger Communities Fund, established by the NSW Government to support councils subject to a merger proposal and their communities. Minister Roberts does not have a copy of the grant application.

I am attempting to GIPA information from HHC regards the grant and its purpose. There is nothing on the Local Government Dept's website to explain this funding round and its purpose and guidelines though I have gleaned information from other Council websites that suggest it has two components: Major Infrastructure and Community grants.

Overall though it is very shrouded and lacking transparency.

Could you please send me information about the grant and its guidelines, requirements, purpose, recipients etc.?

Thanking you,

On March 5 I received the following response via email:

Dear Ms Merchant

Thank you for your email of 17 and 29 January 2020 to the NSW Premier, the Hon. Gladys Berejiklian MP regarding the Stronger Communities Fund (SCF). The Office of Local Government (OLG) administers the grant monies on behalf of the Government, as such your correspondence has been referred to the OLG.

In 2017, the Government announced that it would provide funding not only to merged councils, but also to those councils that were subject to a merger proposal. This second round of tied use SCF was disbursed to councils between 2017 and 2019. The SCF was established to provide funding for the delivery of projects that improve community infrastructure and services and demonstrate social and /or economic benefits for the community.

I can confirm that the Council of the Municipality of Hunters Hill (Council) received tied funding of \$1 million in 2018 for a project titled Upgrade of Boronia Park grandstand and sporting fields.

The conditions contained within the SCF Funding Agreement (Funding Agreement) require Council to report to the OLG about the expenditure of the funds and the progress of the agreed project.

Council may seek variations to the identified project in the Funding Agreement. To date OLG has not received any correspondence from the Council requesting any variations.

I am aware that Council currently has a draft Plan of Management in relation to Boronia Park on exhibit, with public comment invited until the 6 March 2020. Please view Council's website for further information on participating in this process.

If you have any further concerns, you may wish to raise them in writing with Council's General Manager or alternatively with your local councillors. Ultimately, they are responsible for bringing community concerns before Council and, where possible, resolving those concerns.

Yours sincerely

Chris Allen

Director Sector Performance and Intervention

Office of Local Government | Department of Planning, Industry and Environment

By this time I had commenced my unsuccessful GIPA process with HHC about the funding round and guidelines in particular seeking information as to whether Council had signed off as land owner in the application and the business case for the development.

SUMMARY OF CONCERN:

My search for information about the Stronger Communities Fund grant funding attached to public land at Boronia Park has convinced me strongly that there must be greater transparency, accountability and justification for any tax payer monies received by a local Council especially given their increased management powers over development on local Crown land.

My specific experience with the Boronia Park grant has clearly demonstrated to me a serious failure in how public grants can be administered. When such funding is linked to public land which should be managed openly and transparently there is potential for alienation by sectional interests that may not be in the longer term public interest.

ToR 1 (c)

The prescriptive community land management provisions of the local Government Act should ensure effective community engagement and consultation and a degree of transparency in how public land is managed. The categorisation process, undertaken by a genuinely independent facilitator should result in the identification of the core values of all public land, including Crown Reserves.

The robust and transparent preparation of Plans of Management for public land will ensure that any proposed project is consistent with the core values of the public land. Effective community engagement facilitates identification of the genuine community interest and benefit from any proposed development, recognising there will be competing community interest at times and the principle of multiuse of public land as required under the Crown Land Management Act. 2016.

Whilst there has been a recent erosion of the Crown estate across the State the objects and principles within the Crown Lands Management Act 2016 are basically consistent with the provisions of community land management under the Local Government Act - most notably for me in the protection of the environmental values of public land and conservation of natural resources.

A Public Hearing did occur for Boronia Park that recategorised the car park to General Community Use and the grandstand from General Community Use to park/sportground category. In my opinion it was well run and fair but Council did not release the report on time and it is unclear whether any changes were made by Council to the original report.

The community has not had the benefit of independent decision making in all three Boronia Park PoMs where significant changes have been made post exhibition by Councillors.

One of the complex matters related to the Boronia Park PoM saga is the influence and perceived preferential treatment of rugby organisations in future on-park development proposals: the demographic group with an interest in rugby union presumably has a certain synergy with the demographic of the municipality and its elected Councillors.

Whilst there is probably nothing unusual about such relationships within all communities the reality is that Sydney doesn't have enough public land to meet recreational demands and also ensure green suburbs both able to support native species habitat corridors and mitigate the surface urban island heat effect increasing with a changing climate.

Further young people and adults aren't that interested in playing rugby union with many parents concerned about the risks and the rising popularity of soccer/football amongst male and female participants.

There is a critical need for public open space to be managed transparently for its multiuse values to meet genuine community need both in the immediate and longer term. Public grant funding provides an important mechanism in meeting future social but it must be via measures that are equitable and accountable.

I feel that this is not apparent in the way public money has been secured at Boronia Park and a broader community perception that it is mostly for the benefit of sectional interests.

RECOMMENDATION:

Plans of Management for public land should always support grant applications. They must be prepared transparently, independently and rigorously to identify genuine current and future social needs fairly and openly. Plans should also take account of considerations of the land parcel within a broader strategic context.

Grant guidelines should be clearly stated on dedicated websites that are accessible to the public.

Grant applications must mandatory. Processing of applications should be against advertised criteria and at arms length of politicians.

If successful the application and subsequent information on the progress of the grant project should be public information, especially when public land is involved. This public information should include the grant purpose, the milestones achieved and if and why any changes have been made.

1 (d)

One matter that has become evident to me with the Boronia Park saga is how "Public Interest" is identified with administrative review processes available to the community.

Both HHC and the Privacy Commissioner appeared to have different interpretation on how the public interest is balanced regards disclosure of documents.

My request was aimed at information of how my local council had been involved in grant applications for public money to be used on local public land.

It did not include request for information from third parties but did request whether Council had given land-owner's approval, the business case undertaken, where/when Councillors had discussed the grant applications etc.

Based on HHC's interpretation of item 4 in section 14 of the GIPA Act, I was refused information about Council documents related to:

- any grant or Expression of interest applications,
- business cases for funding arrangements, on grounds,
- funding agreements or conditions of spending purposes
- council reporting to the OLG in administration of grants

It is arguable that much of the above activities also relates to how Council intends to spend ratepayers' monies in conjunction with the received grant monies. It must be noted that none of Council's financial reporting provided public information about Council's future financial commitments to the proposed development on Boronia Park.

Whilst it is critical that public grant money is subjected to transparent, rigorous and fair administrative processes, there is also a need I feel for members of the community to be able to request and access information about such grants where they feel there is a lack of openness etc.

This assists in the protection of the genuine public interest and mitigation of risks associated with conflicts of interest, partiality etc.

RECOMMENDATION:

That the Privacy Commissioner be able to direct a review of GIPA requests where an applicant is not satisfied with the original review response by the agency.

That referral to the NSW Civil and Administrative Tribunal not require a fee when a review of a GIPA determination is requested in the public interest.

Thank you for an opportunity to provide a submission to the Inquiry into the integrity, efficacy and value for money of NSW Government grant program based on my specific concerns with a Stronger Communities Fund grant tied to Boronia Park.

Yours sincerely,

Cathy Merchant