

Submission
No 44

INQUIRY INTO GREATER SYDNEY PARKLANDS TRUST BILL 2021

Organisation: City of Sydney
Date Received: 11 January 2022

11 January 2022

Our Ref: 2022/567596-01

The Director
Select Committee on the Greater Sydney Parklands Trust Bill 2021
Parliament House
Macquarie Street
Sydney NSW 2000

By email: parklands@parliament.nsw.gov.au

Dear Sir/Madam,

Inquiry into the Greater Sydney Parklands Trust Bill 2021

Thank you for the opportunity provide a submission for the Inquiry into the Greater Sydney Parklands Trust Bill 2021 (the "Bill").

This submission by the City of Sydney is requested to be published in full on the Inquiry website.

The amendments to the Bill passed by the Legislative Assembly relating to Moore Park carparking, community engagement, parkland protection and leasing of public land have gone some way towards addressing the concerns outlined in the City's submission and are supported by the City. It is imperative that these are not reversed in the Legislative Council and further amendments be made before the Bill proceeds.

The attachment provided for the Inquiry details the City's comments on specific sections and clauses of the Bill.

In summary the City concerns are:

Need to ensure local community representation

- The proposal that appointed board members of the Greater Sydney Parkland Trust will also form the membership of the specific park trusts including Centennial Moore Park Trust could result in the loss of local park knowledge and voice for community issues with board members potentially having no particular connection or familiarity to any of the parks that form the Parklands estate.
- The original Bill proposed that the formation of community consultation boards was not mandatory for each park managed by Greater Sydney Parklands. The requirement for a community trustee board should be mandatory. It is doubtful that one board applying to all parks in the estate would meet the stated intention of ensuring local involvement and engagement. This has been addressed in the amendments to the Bill accepted by the Legislative Assembly for some parks. This should be the case for all parks within the parklands estate.
- The requirement for a community trustee board should be mandatory with genuine influence in decision-making and outcomes at the parklands. This should not override the necessity for the Trust to formally consult the broader community and other key stakeholders such as local Councils on important issues relating to the parklands.

- The amendment allowing attendance by the Local Member of Parliament at meetings of the community trustee board is supported but clarity should be provided that this attendance is in the form of active participation (rather than as an observer).

Need to protect public parkland

- The Bill provides the ability for the resumption and acquisition of parkland for public roads and other public infrastructure projects. Moore Park has endured a history of encroachment by infrastructure projects as well as many threats by other proposals including Alexandria to Moore Park connector. The Bill provides opportunity to place strong protections for parkland and not leave use of parkland as an expedient option for other state agencies to deliver infrastructure.

Moore Park event car parking

- Amendments to the Bill provide more clarity on the timing and extent of event carparking at Moore Park East. The removal of event carparking needs to be undertaken immediately for **all** current on grass carpark areas not just the Kippax Lake area. Protection for all Moore Park green space from carparking needs to be explicit in the legislation and any future update of the plan of management.

Implications for Moore Park Showgrounds site

- The Bill seems to allow Greater Sydney Parklands to undertake or facilitate business activities across its estate. Although the funding model for Western Sydney Parklands is understood and is appropriate for that context, clarity is required on implications for other parklands such as Centennial Parklands and in particular the Moore Park Showgrounds site.
- There is concern that provisions in the Bill that relate to Greater Sydney Parklands exercising its functions through private subsidiary corporations and in partnerships/joint ventures, Ministerial powers to grant leases beyond 25 years, and capacity for the Trust to outsource management and development of its estate to agencies such as Infrastructure NSW will enable over commercialisation and facilitate consortium proposals for Moore Park Showground site and other commercial development on parklands rather than provide protection for continued public access and use.
- It needs to be made clear that the Plan of Management for Centennial parklands includes the Moore Park Showgrounds site to ensure transparency of the future use, development and leasing of the site.
- Further information is also required on any future review of planning controls for the Showgrounds site in terms of implications of additional built form, commercial and business uses and the extent of public access and use.
- There is also concern that the commercial and development potential of Moore Park Showgrounds will be maximised to support the financial sustainability of the entire parklands estate. It is important that the legislation allows transparency of financial accounts on where funds are generated and spent to ensure parkland funds are reasonably spent where generated.

Open Space strategic planning

- The City supports the legislation facilitating the requirement for co-ordination with Greater Sydney Commission open space planning activities and provision for the formation of committees to progress Sydney Green Grid metropolitan open space planning.

- However, at an individual park level more direction needs to be provided in the legislation on the content, process and preparation for plans of management to ensure these documents provide transparency on management and use of parklands estate in particular leasing and licencing requirements. Alignment with plan of management provisions in Crown Lands Management Act 2016 and Local Government Act 1993 should be undertaken for a consistent approach.

For further clarification please contact Laurie Johnson Manager Public Domain Strategy

Yours sincerely

Kim Woodbury
Acting Chief Executive Officer

Attachment: Greater Sydney Parklands Trust Bill 2021 – City of Sydney
commentary on draft sections and clauses.

Draft Greater Sydney Parks Trust Bill 2021

The below comments on specific sections and clauses of the draft legislation forms part of the City's submission to the Select Committee Inquiry on the Greater Sydney Parklands Trust Bill 2021.

Draft Greater Sydney Parklands Trust Bill 2021		
Part	Section reference	Comment
Part 1	Preliminary	No issues.
Part 2	Constitution and management of Trust	
	(8) Trust Board (9) Appointment members of Board	<p>Legislation proposes the appointed board members of the Greater Sydney Parkland Trust will also form the membership of the specific park trusts.</p> <p>Although there is merit to provide some consistency of common membership across the umbrella and specific park trusts, there is concern broader strategic matters would take precedence over local parkland issues as well as potential loss of local knowledge/familiarity with a particular park.</p> <p>Note the requirement for the Minister to have regard to the desirability of board members having "a diverse background". Apart from the amendment of including members who live in western Sydney, greater clarity is required as to what this means. There is reference in the Guide to the Bill to this including "having experience in many parts of Greater Sydney" but this is too vague and not specified in the Bill itself.</p>
	Schedule 1 Constitution and procedure of Board	<p>Provisions in Schedule 1 limits appointment period to 5 years but do not apply any upper limit on number of reappointments – there should be a cap on the number of times members can be reappointed, for example an upper limit of 10 years.</p> <p>Clause 8(3) of Schedule 1 provides that disclosures of interest made by the Board are to be kept in a book which can only be inspected by the public upon payment of a fee determined by the Board. In the interests of transparency and</p>

		probity it is more appropriate that this information be published on a public website by the Trust.
	(11) Exercise of functions through private subsidiaries, joint ventures	Section 11 provides that the Trust may exercise its functions through private subsidiary corporations and in partnerships/joint ventures. These are very broad provisions and further justification and/or clarification as to why this is required should be provided.
	(12) Committees	The creation of committees to progress regional open space / parkland planning across Greater Sydney is supported. However, the procedures and conduct of those committees is not prescribed and it is not clear whether they can be delegated functions of the Trust. It should be clarified that decisions and functions of the Trust cannot be delegated to these Committees.
Part 3	Functions of the trust	
	(15) Functions	section 15(1)(l) proposes: <i>The ability to undertake or facilitate business activities or facilities within the GSPT estate provided it is used only be to maintain and improve the parklands estate across Greater Sydney or to ensure the parklands estate is effectively managed and operated to deliver high quality and ecologically sustainable parklands for the public</i> The City is familiar with the funding model for Western Sydney Parklands where a percentage of land is used for business/commercial functions to fund park operations. Clarity needs to be given on any proposals to expand this funding model as outlined in 15(1)(l) to other areas of the parklands estate and in particular implications for Centennial Park and Moore Park. The legislation should clearly state that this function does not apply to the associated trusts estate.
	(17) Acquisition of land	Section 17 allows the Trust to acquire “new parks”, including by compulsory acquisition. It is unclear whether this means that it is able to acquire existing parks or if the intention is that it creates new parks. Confirmation is required that the Trust can only acquire existing parklands from councils by agreement or to otherwise define “new parks”.

	(17) Acquisition of land	Section 17 similarly allows for the compulsory acquisition of land for the purposes of “supplementary land” which is the land used by the Trust for business purposes. It is unclear why this should be allowed to be acquired by compulsory acquisition.
	(19) Management of GSPT estate and other land	Section 19 allows the Trust to enter into agreements with government sector agencies (including Property NSW) to manage, maintain, improve or develop land of that agency or to allow that agency to manage Trust land. It is not stated clearly that such activities can only be carried out consistently with the objects of this Act. Such a broad power of this nature is not supported and there should be further restrictions on the capacity for the Trust to outsource management and development of its estate to agencies such as Infrastructure NSW. The example given in the guide is for the Trust “arranging” for a council to manage its parklands but the section is far broader in its potential application.
	(20) Leases, Licences and easements	<p>Section 20 allows the Minister to grant consent to leases, licences or easements for any period over 25 years (without restriction) in relation to either a class of land or a class of lease, licence or easement.</p> <p>The potential breadth of this power is of serious concern. It should be expressly clarified in the section that any such approvals would not override any provision to the contrary in the particular legislation governing individual trusts (eg. Section 20 in the Centennial Park and Moore Park Trust Act) or an endorsed plan of management.</p> <p>This appears to be the intention based on the Guide to the Bill but it is appropriate to provide certainty on this issue here given the potential for confusion and inconsistency.</p>
	(21) Open tender process to be used for leases and certain licences	Supported – the amendment provides protection of Parklands Estate from unsolicited proposals and provides more transparent processes on development and use proposals. It should be clear that the 10-year limit includes any options on the lease or licence to prevent the intention of this amendment from being subverted.
	(22) Prohibition on disposal of GSPT estate	Amendments provide added protection to parkland from threats to the estate by road

		widening projects and other infrastructure proposals.
	(23) Plans of Management	<p>Amendment (3)(a) provides more clarity and direction on Plan of Management requirements to ensure that these important strategic documents provide the basis of management and decision making for the parklands estate and in particular leasing and licencing proposals.</p> <p>It is recommended the requirements of the Local Government Act 1993 or the Crown Lands Management Act 2016 are adopted which require Crown reserve managed by councils be managed as if it were public land under the Local Government Act 1993.</p> <p>These requirements also include acknowledgement of the important relationship First Nations communities have to parklands and the heritage value of the parklands</p>
	(24) Government sector agencies to consult with Trust about planning and development that will impact on parklands estate	<p>Section 24 provides that agencies, including councils, undertaking development within or impacting on the parklands estate are required to consult with the Trust and have regard to any submissions it makes. This does not provide strong enough protection for the Trust in its role as steward of these lands to protect them from development decisions made by other government agencies.</p>
	(25) Overshadowing	<p>Section 25 requires the consent authority to consider impacts from overshadowing but it does not prohibit development which overshadows the park.</p> <p>It the City's strong preference that there are no additional structures and development at Centennial and Moore Park in particular due to the rapidly growing population nearby and increased demand for more publicly accessible green space.</p> <p>Notwithstanding, in principle the City strongly supports protecting the Greater Sydney Parklands estate from overshadowing. The effectiveness of the legislation relies on Greater Sydney Parklands Shadow Modelling Study, which does not appear to have been made available.</p> <p>The NSW Government should consult with the City and other key stakeholders such as the community on the Study and any controls it may establish. The City may consider inserting</p>

		<p>provisions into its local environmental plan for increased protection of the parklands.</p> <p>Consultation with the City on the Greater Sydney Parklands Shadow Modelling Study is necessary to ensure a consistent approach with any local planning controls.</p>
	(27) Outsourcing	<p>Section 27 (“Outsourcing”) provides that the Minister can direct the Trust to outsource any of its services or activities. It is unclear what the purpose of this provision is or why the Minister would require the power to make such a direction.</p>
	(28) Private subsidiary corporations	<p>Section 28 empowers the Trust to form private subsidiary corporations with the approval of the Minister. There are no limitations on this power and it is unclear what purpose is intended to be served by it. Such private subsidiary corporations are then specified to not be NSW Government Agencies.</p>
Part 4	Community Consultation	
	(29) Requirement to have consultation and engagement framework	<p>Section 29 states that there will be a requirement for an approved consultation and engagement framework. It is noted that this requirement will not need to be met until 2 years after it is introduced (Sch 3 item 2). It is unclear why such a long time would be required to develop a consultation framework – it should be in place much sooner.</p> <p>The proposed Engagement and Advocacy Framework needs to provide clear direction on the GSPT’s obligations and approach to communications and community engagement</p> <p>The Framework should allow a genuine and effective voice for the community that can guide and influence outcomes and not just be a forum for “telling”. This approach will be key to the effectiveness of community engagement activities conducted by GSPT.</p>
	(37) Community trustee boards establishment	<p>Amendment to make the community trustee boards mandatory and that specific boards be established for specific parts of the parklands estate including Centennial Parklands is supported. This should be extended to all of the parklands estate.</p>

	(38) Community trustee boards - membership	The City supports the requirement of representation from local council to advocate on behalf of and represent the best interests of the community, as well as ensuring planning and development issues surrounding GSPT parklands are communicated to the GSPT to inform better decision making.
	(39) Community trustee boards - functions	<p>Section 39 sets out the functions of the community trustee board which is really just an advisory and consultory group. For effective and genuine community engagement, these boards must be afforded influence in decision-making over outcomes at the parklands.</p> <p>Appointment of the board is under the framework which won't be in place for some time. Developing an engagement framework and the establishing Community Trustee Boards should be a key priority of the GSPT especially given that the estate is public land.</p>
	39(d) Community trustee boards - functions	The proposed use of the community trustee boards as a consultative body for plan of management review and other park management and use issues should not negate the requirement for broader community consultation and engagement requirements on such issues
	40 Community trustee boards -Trust's powers	Section 40 empowers the Trust to dissolve the community trustee board at any time. There is no requirement for consultation on this or for approval by the Minister. There should be procedural protections put in place for a community trustee board once it has been established.
	41 Certain Members of Parliament may attend community trustee board meetings	Amendment to allow Members of Parliament (or their delegate) that have parts of the parkland estate within their electoral district to attend and participate in community trustee board meetings is supported.
	Schedule 2 – constitution and procedure of community trustee board	Schedule 2 sets out more detail around the establishment and operation of the community trustee boards. There is a limit on membership for a maximum of two 2-year periods (in contrast to the absence of limits on the Trust Board). Community members will not be remunerated and will serve on a voluntary basis. The formal provisions are otherwise very similar to the Trust Board which is somewhat inconsistent with the

		nature of this group as a community consultation committee.
Part 5	Finance	
	42 Greater Sydney Parklands Special Deposits Fund	<p>This part requires the establishment of a Greater Sydney Parklands Trust Fund which includes separate accounts for each associated Trust and each other park owned or managed by the Trust. Monies received in relation to a particular park are to be paid into that park's account but there is no specific restrictions as to how payments can come out of the fund (section 42 just provides that amounts required to meet expenditure incurred by the Trust may be paid from the Fund).</p> <p>Although the White Paper mentions the use of a nexus arrangement to ensure parkland funds are spent where generated, it is a concern that potential high income parkland areas such as Centennial Park and Moore Park will be maximised to support the sustainability of the entire estate.</p>
		<p>Section 45(3) is unclear and doesn't appear to reflect what is intended by the Guide, which states:</p> <p style="text-align: center;"><i>“As an added protection for each of the associated trusts, the GSPT will be required to prioritise that the funds of each trust be spent on implementing their plan of management and ensuring they are financially sustainable.”</i></p>
	(45) Other matters relating to Trust's financial powers	Section 45(3) should be amended to be explicit that expenditure for each park should, in the first instance, be drawn from the relevant account of that park's trust or other nominated account unless there is a good reason to do otherwise.
Part 6 and 7	Enforcement and legal proceedings	No issues
Schedule 5	Amendments of Acts	
	5.2 Centennial Park and Moore Park Trust Act 1983	It is still an ongoing concern of the City and our community as to plans for the future use and development of the Showground and the Entertainment Quarter (EQ).

	General and (18AA) - Prohibition of parking Moore Park	Prohibition of parking in Moore Park is supported however this prohibition should be introduced immediately and extend over the entire Moore Park Trust area to ensure that it is returned to appropriate public uses as soon as possible
	[2] Section 7 Appointment and Procedure - Centennial Park and Moore Park Trust	Amendments propose the Centennial and Moore Park Trust now consists of the Chief Executive and the GSPT Board. As noted previously we are concerned that there is no requirement that there be any particular connection to or familiarity with the specific land of this Trust.
	(13) Plans of management (PoM)	New provisions are inserted confirming that the Trust is required to approve and give effect to a plan of management for this land, which is required, among other things to guide “development of the park”. The plan of management is required to be reviewed every 7 years however there is no current timeframe for the review of the current PoM.
	(14) Community Trustee boards	Amendments that require the Trust to have regard to the advice and recommendations of the board is supported.
	(18AA) Parking offences	Amendment (Schedule 3 – Maps of non-parking grass areas in Moore Park East, as shown on pages 44 and 45) that provides more clarity on the prohibition of parking in Moore Park including legislative end dates and mapping of subject areas is supported. Also, Section 5.3 - Centennial Park and Moore Park Trust Regulation 2014, the Schedule 2 - Map of non-parking areas on page 47 should be replaced by the two maps in Schedule 3 Section 5.2 – Maps of non-parking grass areas in Moore Park East on pages 44 and 45.
	(20) Grant of leases, easement and licences	A new section 20(2) is inserted which empowers the Trust to grant a lease over any part of the Trust lands for a purpose, including commercial purposes, that would help the Trust achieve its objects. This effectively allows for commercial leases more generally on Trust lands, which the City strongly opposes given the increased demand for accessible green space particularly at Moore Park due to the rapidly growing population nearby. Limiting the length of leases on Centennial Parklands to a maximum 50 years is supported

		<p>Confirmation is required that this does not allow commercial leases on any part of the land where this is not expressly permitted by the plan of management.</p> <p>It is still an ongoing concern of the City and our community as to plans for the future use and development of the Showground and the Entertainment Quarter (EQ).</p>
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