

GENERAL PURPOSE STANDING COMMITTEE NO. 6

INQUIRY INTO CROWN LAND

At Gosford on Monday, 8 August 2016

The Committee met at 2:30 pm

PRESENT

The Hon. P Green (Chair)

The Hon. L Amato

The Hon. C Cusack

The Hon S Farlow

Mr D Shoebridge

The CHAIR: Welcome to the sixth hearing of General Purpose Standing Committee No. 6 inquiry into Crown land. The inquiry was established to examine the adequacy of community input and consultation regarding the commercial use and disposal of Crown land. We will be looking at the benefits of active use and management of Crown land as well as the most appropriate and effective measures for protecting it. The inquiry will also consider the extent of Aboriginal land claims over Crown land and opportunities to increase Aboriginal involvement in its management.

Before I commence I acknowledge the Darkinjung people who are the traditional custodians of the land on which we meet. I also pay respects to the elders, past and present, and any Aboriginal people who may be present. Today we will hear from Gosford Waterfront Alliance, Save Central Coast Reserves and the Darkinjung Local Aboriginal Land Council. I will make some brief comments about the procedures for today's hearing.

In accordance with the broadcasting guidelines, while members of the media may film or record Committee members and witnesses, people in the public gallery should not be the primary focus of any filming or photography. I also remind media representatives that they must take responsibility for what they publish about the Committee's proceedings. It is important to remember that parliamentary privilege does not apply to what witnesses may say outside their evidence at the hearing. I urge witnesses to be careful about any comments they may make to the media, or to others after they complete their evidence as such comments would not be protected by parliamentary privilege if another person decides to take an action for defamation. The guidelines for the broadcast of proceedings are available from the secretariat.

There may be some question that a witness could only answer if they had more time or with certain documents to hand. In those circumstances, witnesses are advised that they can take them on notice and provide an answer within 21 days. I remind everyone that Committee hearings are not intended to provide a forum for people to make adverse reflections about others under the protection of parliamentary privilege. I therefore request that witnesses focus on the issues raised by the inquiry's terms of reference and avoid naming individuals unnecessarily. If people in the public gallery want to give witnesses messages please hand them to the secretariat and they will be passed on. Please turn off mobile phones for the duration of this hearing.

LYNN HAMILTON, Planning and Development Manager, Darkinjung Local Aboriginal Land Council, affirmed and examined

SEAN GORDON, Chief Executive Officer, Darkinjung Local Aboriginal Land Council, sworn and examined:

The CHAIR: Do you want to make an opening statement?

Mr GORDON: First of all I want to acknowledge country and pay my respects to elders past and present, and acknowledge that we are on the land of the Darkinjung people. I thank the Committee for meeting here on the beautiful Central Coast. Darkinjung's boundaries cover the whole of the Central Coast and it is a positive position for us and we look forward to working with one shire council under the new Central Coast Council. Darkinjung has submitted a submission into the parliamentary inquiry into Crown lands. From the outset we have made it very clear in regards to Darkinjung's outcomes and how we wish to move forward.

Mr DAVID SHOEBRIDGE: Mr Gordon, did you say you lodged a submission?

Mr GORDON: We lodged a submission just recently into the parliamentary inquiry into Crown lands.

Ms HAMILTON: We lodged it at the end of July. I noted that it was not on the website where submissions are registered. I emailed Sam this morning to confirm that it had been received.

The CHAIR: We will try to track it down, and take care of it.

Mr DAVID SHOEBRIDGE: I have not seen it.

Mr GORDON: It is quite a detailed submission which covers a whole range of different areas but it has been submitted. The first outcome that Darkinjung seeks from the inquiry is to include recognition of the objects and intent of the Aboriginal Land Rights Act 1983 and that the Aboriginal Land Rights Act is intended to be remedial and beneficial legislation for Aboriginal people of New South Wales. Second, we seek review mechanisms to facilitate dealings in land including determination of Aboriginal land claims or subsequent land dealings pursuant to section 40 of the Aboriginal Land Rights Act or that land affected by native title.

Third, we seek to promote the use of the Aboriginal land agreements, and what we will phrase a new term in this hearing, negotiated land agreements. Four, provide appropriate resources to facilitate the processing of the estimated 28,000 unresolved land claims. We have read in other submissions that that number is floating around 29,000 so we are still a little bit unclear as to the exact number. Finally, that we consider the registration of a caveat or other similar mechanism over any land on which an Aboriginal land claim has been lodged and which has not yet been determined or, in the case of a successful claim, transferred to the land council. They are the keys areas which we wish to address as a part of our submission.

The CHAIR: Do you have a comment?

Ms HAMILTON: No.

The CHAIR: I note we have met in relation to the State development committee. Would you provide comments on land agreements as it would be very helpful?

Mr GORDON: Specifically to Darkinjung, we are the largest private landowner on the Central Coast. We currently own 7,000 hectares under claim. We currently have 3,500 of those hectares actually granted to Darkinjung. The deed and titles of the rest have not yet been transferred. Out of the 7,000 hectares of land that Darkinjung own, 10 per cent of that is developable. In other words, the rest of it really will be set up as offset lands.

Mr DAVID SHOEBRIDGE: Your claims have been accepted for the 7,000 hectares but title has only been transferred over for half of them?

Mr GORDON: They have been accepted but only half of the titles have been transferred.

Mr DAVID SHOEBRIDGE: For half of them you have title and half are still going through the process?

Mr GORDON: They are incomplete.

Mr DAVID SHOEBRIDGE: Is that because they have to be surveyed?

Mr GORDON: Yes.

Mr DAVID SHOEBRIDGE: That can be quite expensive. Who pays for all that?

Ms HAMILTON: Firstly, it takes some time for the survey to be organised. It can take years for a survey to actually be organised. We have a claim down on the Hawkesbury River that has taken several years to get to the point of a survey happening. Crown Lands contracted the surveyors at the beginning of this year. It can take a while. The survey will take a year and then they have to actually transfer the land at the completion of the survey.

Mr DAVID SHOEBRIDGE: I assume you have another whole body of lands which you have claims over?

Mr GORDON: And then we have an additional just over 7,000 hectares under claim that have not been dealt with as yet. That obviously creates a lot of uncertainty when you have effectively got 16,000 hectares of land caught up in the land claim system but 3,500 of that can be dealt with. What makes it more difficult is native title. Out of the 3,500 hectares only 700 hectares of our land is of use in regards to it being developable. When we then throw on top of that native title that really reduces it down to a very small amount of land that we can actually develop for economic benefit and social benefit to our community.

The Hon. SCOTT FARLOW: Can you explain to us the limits of native title on that land?

Mr GORDON: Yes. The limits of native title really means that any land claims that have been lodged after 1994 really prevent us from being able to deal with that land until native title is determined. That is the difficulty of native title at the moment. The process of the Aboriginal land agreements, I sat on the Aboriginal Land Rights Act review in 2012. One of the things that we pushed in 2012 was a process to deal with the unresolved land claims. Back in 2012 there were only 24,000 unresolved land claims. Since then there has been a spike in the large number of land claims that have gone in.

Mr DAVID SHOEBRIDGE: The figure we got is 29,840 unresolved.

Mr GORDON: So we will round it up to 30,000 and I will use that number as I speak through this. I will note for the first time in the history of land councils in 25 years I was the first member to represent a land council on the review. Prior to that it was executives from Aboriginal Affairs, the registrar's office and New South Wales State Land Council. There was never a view in there from an Aboriginal land council perspective. I sat on that review in 2012. We made a whole range of recommendations and Aboriginal land agreements was one of those recommendations.

The difficulty that we have with Aboriginal land agreements right now is the legislation has been in place as of 1 July last year. There is a mechanism now that allows for the negotiated outcome to happen. We also believe there has always been a process to allow for negotiated land claims to happen prior to the actual amendments that took place as of 1 July. The difficulty of Aboriginal land agreements right now is that the State Government and Crown Lands have locked in to four pilot areas. Within those four pilot areas they have indicated that it makes it very difficult then for other land councils to enter into an Aboriginal land agreement process.

Darlingjungle have been lobbying very heavily and we have been lobbying through the State committee in regards to our submission there. We have been lobbying heavily with Crown Lands and with the Ministers to open a process that allows for negotiated land agreements. Negotiated land agreements, in our view, is where all parties and all stakeholders are brought to the table and those stakeholders can sit down and negotiate economic and social benefit through a negotiated land agreement. Right now I am not sure whether Aboriginal land agreements are actually going to lead to an economic benefit or a social benefit to the actual community. It might lead to a cultural benefit or an environmental benefit in regards to the transferring of land, but we are not sure what the economic gain is in regards to the benefit to the whole of the community.

The Hon. LOU AMATO: And economic benefit is very important.

Mr GORDON: The economic benefits are absolutely important. It is important in regards to Darlingjungle. We are a leading land council from an economic perspective across New South Wales. We are also leading from a social and cultural perspective as well because all of the gains that we make in economic development flow on to providing benefits back to our community and back to our members. The difficulty of the current process of the land claims and the current process of the Aboriginal land agreements is that it does not give certainty. It does not give certainty to the Aboriginal land councils, it does not give certainty to local councils and it does not give certainty to State Government that land will be continually opened up for opportunity. Whether that opportunity is economic, that is for the community to decide. Whether it is social, that is for the community to decide. Whether it is cultural, that is for the community to decide. Right now those decisions are not there. Darlingjungle has a strong development agenda focus. We believe in our right to develop

culturally, socially and economically, but we also believe in our right to be able to determine what that means for us and our community.

The CHAIR: I am sure Mr Shoebridge will talk about the acknowledgment of Aboriginal lands in the Act, but it is quite obvious that Aboriginal people want to become self-reliant. However, when we give back the land it will come with encumbrances. One of those encumbrances is probably the values that we have put over those lands without any consultation with the Aboriginal people at the beginning. Do you have a comment about that how that affects self-reliance?

Mr GORDON: Absolutely. I think what you need to do is go back prior to 2006. Prior to the amendments in 2006 there was a clause in the Aboriginal Land Rights Act, section 40D, where before Aboriginals could do anything with the land they were required to declare the land culturally insignificant. It was very rare that land councils actually dealt with land prior to 2006 because when you took a decision to deal with land to your members, your members sitting at that table had to declare the land culturally insignificant before you could deal with it. That has since changed. What we have today is section 42G. That section asks the members to consider the cultural significance of the land.

I remind the Committee that Darkinjung Land Council and other land councils across New South Wales are not claiming cultural land. We are claiming vacant Crown land and we are claiming it under the terms that it is land that Aboriginal people have been dispossessed from. Somewhere within the transferring of that land it becomes Crown land to freehold land to Darkinjung Land Council but we also culturalise the land where we are further asking Aboriginal people to declare land culturally insignificant. We are not claiming culturally significant land; we are claiming vacant Crown land that comes across to us as freehold title. There are some anomalies in the Act that clearly make it difficult for Aboriginal people to move forward and make decisions around economic development.

Mr DAVID SHOEBRIDGE: But there will absolutely be land that you claim that is culturally significant and that you recognise environmental values in. It is just that you are saying that is not the basis of your claim; your claim is that it is vacant Crown land and claimable under the Act?

Mr GORDON: The way in which the Act was set up was to claim vacant Crown land, not to claim vacant cultural Crown land. When it does come across it should then be our decision to determine whether that land is cultural or not, not legislation that says that the members have to make a decision to determine it culturally insignificant.

Mr DAVID SHOEBRIDGE: Absolutely the question of whether it is culturally significant is a matter for the land council, traditional owners and Aboriginal people in the area. I think the Chair's question is about whether or not zoning restraints and environmental constraints that apply to the land should be different or lesser if it is transferred over to Aboriginal ownership than they would otherwise be if it went to a third party or remained as Crown land.

Mr GORDON: I will answer the first part and then I will allow Ms Hamilton to answer the second part because that is where she works. If you look at the introduction of the Aboriginal Land Rights Act in 1983 and then you look at the recent review of the New South Wales local environmental planning policies that were introduced in 1972, Aboriginal people did not have the opportunity from 1983 until recently to actually have input into the review of local environmental planning policies, looking at zoning and a whole range of things. So it is the first time in over 30-odd years that land councils have actually feed into that local environmental planning process to be able to identify what opportunities they could rezone their land to, whether or not there were opportunities to develop their land, whether or not there was opportunities to use their land for conservation corridors, offsets and so on. We are absolutely catching up and behind the eight ball when it comes to our input into planning laws, and those inputs have only just recently come to Aboriginal people. Prior to 2006 it was also very difficult for Aboriginal people to develop land. So our opportunity in this economic development space but also in determining the opportunity on land—although there is this legislation of 1983, it really only come about in 2006.

Mr DAVID SHOEBRIDGE: So it is really a new day and as a significant landholder, which you previously have not been with these instruments, you need some process to engage in planning and other things.

Mr GORDON: We need an Aboriginal State Environmental Planning Policy [SEPP] that allows Aboriginal landowners to be able to deal directly with the State Government. The reason I say that, we don't expect as Darkinjung Aboriginal Land Council to be treated differently. We don't want special treatment; we don't expect special treatment. We expect anything that we are doing economically to be fair and equitable as with all landowners. The problem is when you are an Aboriginal landowner we receive the most number of development objections to any development in the history of the Central Coast and, because of the large number

of objections we receive, rather than our land being dealt with based on merit it is dealt with based on politics. So our development application was rejected and we were then dealing through the Land and Environment Court to have our land dealt with.

The Hon. SCOTT FARLOW: Which development was that?

Mr GORDON: It was the Halekulani development application. There were 2,200 objections, which was the highest, and there were also objections in there around the relocation of Aboriginal people from Redfern—how we are going to deal with the dogs, drunks and so on. That is the reality of the world that we are in. An Aboriginal SEPP would allow us to take our business away from local politics and allow it to be dealt with through a State process.

Ms HAMILTON: The largest percentage of land that is granted to Aboriginal land councils is zoned with environmental zoning. So to enable economic development on that land, the land council would have to go through a rezoning process, which is quite expensive. We are doing several across North Wyong at the moment. They can cost up to \$600,000 per rezoning application and they also take 18 months to process, as a minimum. It is a very longwinded and expensive process. Halekulani is a good example. Halekulani, which was granted to the land council pre-1994, was zoned correctly for such things as manufactured home estates in caravan parks, and it was always the land council's intention to develop one. Four years ago the local council considered rezoning within the area and decided, without consultation, that our properties at Halekulani, which are privately owned properties, would be rezoned to an environmental zoning which would restrict development.

The Hon. LOU AMATO: That was without consultation?

Ms HAMILTON: Without consultation.

The Hon. CATHERINE CUSACK: Is that within the Gosford local government area?

Ms HAMILTON: It was within Wyong. So the land council made a decision at that point to lodge a development application very quickly before the rezoning went through. We lodged the application over three parcels of land at Halekulani. We received 2,200 objections from the local community and went through a whole lot of community liaison processes. We reduced the footprint of our development by one-third and it was put on public exhibition again. We still received 900 objections—so we had addressed a lot of the objections and filtered out a lot of the non-realistic objections, let's say that. The council eventually refused us and it could be on no other grounds—they did use ecological grounds as a reasoning. Realistically it should have been approved because there was a manufactured home estate directly next to it to the south and another just north of it.

The Hon. LOU AMATO: And you could not appeal that decision?

Ms HAMILTON: We took the council to the Land and Environment Court—this is just a good example to show the process—and after 18 months we have a negotiated outcome where we have reduced the footprint of our site by another third. We have not got approval as yet. We have a number of factors that we need to achieve to get approval and one of those is to provide some offset land in the immediate vicinity. We have land claims to the west of the development site—we could see that they would be suitable—they are managed by the local council as trustee on a reserve. We approached the Minister for an Aboriginal land agreement and were promptly informed that they would not consider our Aboriginal land agreement until the pilot program for local government areas was achieved through the LAL process.

The Hon. CATHERINE CUSACK: Which Minister are you referring to?

Ms HAMILTON: The Minister for Lands.

Mr GORDON: Mr Blair.

Mr DAVID SHOEBRIDGE: Let us be clear about it, do you think there was a racist element in the objections to the Halekulani development?

Mr GORDON: Absolutely.

Ms HAMILTON: There is no question.

Mr GORDON: You are talking about a manufactured home estate set between two existing manufactured home estates in an area on the Central Coast where there are over 60 manufactured home estates.

Ms HAMILTON: An example: at the same time the development application was being considered for the Wallarah 2 coalmine at Wyong and they received 600 objections.

The Hon. CATHERINE CUSACK: Mr Gordon, we have met before at a fundraiser for the Darkinjung Art School.

Mr GORDON: We have.

The Hon. CATHERINE CUSACK: When you talk about the economic benefits that you want to deliver to your community I think that art school is a great example. Can you talk the Committee through the connection between being empowered to control your own assets and being able to deliver benefits for your community?

Mr GORDON: In the previous financial year Darkinjung generated revenue of just over \$10 million. Out of that \$10 million less than 2 per cent of our income came from the government—Federal and State governments inclusive—and less than 2 per cent came from the NSW Aboriginal Land Council, so the majority of our revenue came through economic development and the opportunities that we created. Economic development is—and this is the other difficulty when we start to talk about Aboriginal land—that Aboriginal land councils are not developers. We don't come into an area, we don't buy land and sell that land off for financial gain and then go to the next area. Darkinjung is restricted to the Central Coast community, our business is restricted to the Central Coast community—we can't just pop up in the Sydney metro and set up a business, we can't pop up at our neighbours just over the border at Wyee and set up businesses—there are clear boundaries in place in regards to land councils.

Through our current Bluehaven or Menindee Ridge residential development, a 99 lot residential development, we retain 10 per cent of the estate for our members for affordable housing. We have built and funded all of the homes within that estate for our members ourselves. Not only did we pay the NSW Aboriginal Land Council's community benefit contribution of half a million dollars, we also paid section 94 contribution benefits to Wyong Shire Council of \$1.6 million, we are also required to put all of the profits that come from that benefit back into building homes. We will put very little money in the bank but we will have completed the project with 13 homes, contributed \$1.6 million to local council through a section 94, as well as half a million dollars to the community benefit fund, which will support other land councils out in western New South Wales that are not as fortunate. So the economic benefit of that development isn't just of value to the local Aboriginal community of the Central Coast but across the whole development. At one stage Darkinjung had the only major residential development on the Central Coast—this is going back a few years when banks weren't lending money and other developers were a little bit unsure about getting back into the development space—we got into, we had great success and the benefits are flowing on. By the time we complete the building of the homes we will house over 13 families—

Ms HAMILTON: Twenty-one.

Mr GORDON: Over 21 families. We have just had a new decision come through from our board where we will build eight—

Ms HAMILTON: —medium density elderly retirement village type units.

The Hon. CATHERINE CUSACK: This is the Aboriginal community supporting itself, is it not?

Mr GORDON: Self-funded.

The Hon. CATHERINE CUSACK: This is all about being empowered to do that. Can you also tell the Committee about the school and its benefits?

Mr GORDON: As part of that process we also set-up a whole range of partnerships and one of those is Darkinjung Barker where we partnered with Barker College to set up a school specifically targeting, 25 members this year and 30 members next year, Aboriginal kids from kinder to year 6. That has been a fantastic partnership. Again, we initially set that up with not one cent in regards to government funding; it was an initiative between Darkinjung and Barker, and it is going great guns. They have an attendance of over 95 per cent. The results in regards to their education has really lifted in the last two terms. So that is, again, a real success program.

We also partnered up with CommBank. We have 13 trainees sitting in every Commonwealth Bank outlet on the Central Coast. We have partnered with Lend Lease for the construction of the Gosford Hospital site. So we have a whole range of partnerships. What is more pleasing for me is that we actually have a family right now who live in a Darkinjung home at Menindee Ridge Estate; their kids are attending Darkinjung Barker College; they have just picked up a job as a trainee in the Commonwealth Bank traineeship program; they are also in our funeral fund where we provide a benefit to our members that covers their whole family in the event that there is a loss within their family. These are all initiatives that Darkinjung have that are self-funded but

driven through our economic development model. Economic development is only there for the purpose of providing benefit to our community, not to put money in the bank.

The Hon. CATHERINE CUSACK: Very inspiring. Thank you.

The Hon. SCOTT FARLOW: Mr Gordon, I just want to revisit—sorry for going back to it in a sense—the transfer of land and the process. We heard some evidence the other day from Mittagong Land Council at one of our first hearings and they described in a nutshell that one of the problems was that often it was a case of the land council competing with the local council for that land and that then created friction and led to a position whereby they said that they were effectively competing against the body who determines whether you can use it for local government. Is that something you found as well here on the Central Coast?

Ms HAMILTON: It is good to hear we are not alone. It is a major problem actually. I joined the land council 2½ years ago—I came from commercial real estate—and I was blown away that the local council really seriously thinks it is in competition with Darkinjung on the development sites. A good example—I can use an example; it is always helpful—is we have some land at the very northern tip of what was Wyong shire on Bushells Ridge Road. We have a rezoning application in for that land to be rezoned to residential. We lodged that at the same time as we lodged four other rezoning applications and three of them were approved by council to proceed through to what they call the gateway process, and the fourth one—which was this Bushells Ridge Road property—there was no response.

So we got no response from council. We ended up having to go through to the State Government Department of Planning Process, the JRPP, to get that process through. At the JRPP the two council-elected representatives voted against our rezoning proposal and, luckily, the other three members of the JRPP approved it and it will go through the gateway now. But one of the reasons council were holding back on that rezoning is that they had a proposal to build a regional airport not far from that land. The proposal has not eventuated; in fact, I think the land is for sale now because Central Coast Council has revised the need for that airport.

Mr DAVID SHOEBRIDGE: It would have been the only development application refused by Wyong Council in a decade.

The Hon. CATHERINE CUSACK: This is really important though because council is actually a stakeholder then, like your next-door neighbour with their own development application sitting in judgement on your application.

Ms HAMILTON: Yes.

Mr GORDON: The challenge I see with the land claim process at the moment is that it is very transactional and it is very process driven. No-one seems to want to step outside of the process. If you look out this window here over the water, there are a whole range of opportunities out there right now but Darkinjung have land claims over all of those opportunities. Rather than State Government, local government and us sitting down and coming up with solutions, we try and get to a point: there is one owner, one beneficiary; why can't we all be beneficiaries? Why can't we all share in the opportunity? It might be just from our end about creating jobs or it might be about other things, but we create this competition that ends up there of being one owner and the rest of us are then trying to feed into any opportunities that might come from it.

The Hon. CATHERINE CUSACK: So what would be an alternative process?

Mr GORDON: Negotiated land agreements. Negotiated land agreements right now—again we can use an example up at Halekulani. The land that we have up there is under claim. The land that we have an interest in is under claim, council have a trust management over it. Council do not want the land. The land they want is up at Tuggerah where they have been successful in getting Federal Government regional infrastructure funding of \$10 million to build sporting fields on the land. We have a land claim over it; our interest in that land is not as great as what the council's interests are. There is not a process right now that allows us to get the land that we want for the offset for our development, that allows councils to get the land that they want in regards to the sporting ovals that would add to the whole community and support the Federal Government that they have. There isn't that process so what do we do? We wait for a land claim process to happen, which will effectively knock out the Federal Government funding that the council have got, which will delay our plans for Halekulani because we just cannot get through it.

The Hon. CATHERINE CUSACK: I come from Ballina shire and we have concluded a similar arrangement to what you are talking about in relation to developments at Lighthouse Beach. This is the council withdrawing objections to development applications made by the local land council elsewhere—a negotiated solution that cut years off those projects' planning stage. So is it a matter of goodwill more than a matter of process that allows you to arrive at that?

Mr GORDON: I think you are right, I think it is a matter of goodwill, but it is also a matter of Crown Lands wanting to participate in that process. If you have got willing stakeholders that want to sit at the table and want to reach agreement, then the overarching stakeholder, which is Crown Lands in this case, also have to be a willing player and want to participate in the process.

Mr DAVID SHOEBRIDGE: But do not some of the contests with the local council happen by reason of the way the land rates legislation works and the definition of "claimable land"? Basically, for you to succeed in proving that it is claimable land, you have to prove that it is not required for a public or residential purpose because of the definition of your land claim under section 36, and then making a claim for claimable land, if you then want to later develop it the council will jump in and say, "Hang on. In the course of making your land claim you said it wasn't."

Ms HAMILTON: No, typically that is not true. We do not have to prove that it is vacant Crown land and not claimable. It is actually on Crown Lands to do the research.

Mr DAVID SHOEBRIDGE: The Minister has to form that conclusion in order to grant the claim. So that ends up being part of the definition of claimable land—I am not saying the onus is on you—and that is why the council comes in and says, "Oh no, we want it for a public purpose" or "We want it for residential" or "We want it for X, Y or Z", because, effectively, the way the Act operates at least, Aboriginal claimants with the sort of remnant, that is how it is meant to work, it is not delivering on the economic justice that was intended.

Ms HAMILTON: That does happen. We will claim land and then the council will see that there is an opportunity on that land and create problems.

Mr DAVID SHOEBRIDGE: Contest.

Ms HAMILTON: Yes. But, fortunately for us, there is a little bit of protection there because it is all about the date of the claim. So it is all about the land as assessed on the date of the claim. So if council have ideas after that date, they are irrelevant. There is a little bit of protection there.

Mr DAVID SHOEBRIDGE: But then when they do not succeed or you succeed on your land claims, you have then got a council that is a contestant with you and you have got that oppositional footing.

Ms HAMILTON: I think that is more the problem, yes.

Mr DAVID SHOEBRIDGE: As the Hon. Catherine Cusack said, sometimes it is actually just about having the right attitude on council.

Mr GORDON: I think it is about having the right attitude across the board. That goes through the State Government, it goes through the Crown Lands, it goes through local councils. Going back in 2010, the North Wyong Shire Structure Plan was released. Darkinjung are the largest private landowner up in the North Wyong area with 1,500 hectares of land. That is where the majority of our development lands are, up in the North Wyong Shire Structure Plan area. Every parcel of land that Darkinjung own, including the largest industrial zone parcel of land on the Central Coast, were all being proposed to be rezoned to environmental offset—conservation corridor—every parcel. Not one parcel of land out of 1,500 hectares that Darkinjung owned was going to be secured for future economic development.

Mr DAVID SHOEBRIDGE: Was that happening across the board or were there other private landowners who are getting better outcomes?

Mr GORDON: There were other private landowners who are getting better outcomes and green arrows were missing from their sites but running right through ours. We fought that from 2010 all the way until 2014 where we got the approval to go ahead and lodge applications to Gateway. The only grounds that we were able to fight it on were that we had done environmental studies on every parcel of our land to demonstrate to the Government, to the Office of Environment and Heritage [OEHL], that their desktop studies did not cut it in regards to the actual ground truthing that we did. We had spent millions of dollars ground truthing our land, getting seasonal studies, just to demonstrate that this land should not be locked away for conservation. That is the effort we went into to fight that North Wyong structure plan.

Mr DAVID SHOEBRIDGE: Do you feel that the land owned by the land council is an easy target in these things, which opens up opportunities in other places for rezoning?

Mr GORDON: We have highlighted in our application, and clearly indicated as our last point, a caveat. We are saying that we consider the registration of a caveat or other similar mechanisms over any land upon which a land claim is granted. That just means that a caveat, once a claim goes in, prevents others from making decisions on our land. The biggest problem with Aboriginal landowners under the current land rights Act and this Crown lands process is because there is such an extended time in which title is granted, others are

making decisions around or on that land without engaging with us. A caveat would prevent others from making those types of decisions.

Mr DAVID SHOEBRIDGE: What about land on which you have a claim; you being a compulsory stakeholder must be consulted in the rezoning or other decisions that have been made, once you have made a claim on it?

Mr GORDON: We can give you an example down at Mooney Mooney that Ms Hamilton can talk about in more detail where New South Wales Property has gone ahead and done a whole range of work in regards to future opportunities around development and opening that land up. They had only just realised in May this year that there is a land claim on it. Now they need to come and sit down with us to talk about how they engage with us. There are examples like that all over the country. The minute a land claim is lodged, whether it is granted or not granted, there should be some type of caveat that says we need to go and sit down with the land council.

The Hon. LOU AMATO: So there is no system in place at the moment, is that right?

Mr GORDON: There is no system in place.

The Hon. CATHERINE CUSACK: There's one called common sense.

Mr DAVID SHOEBRIDGE: But the reason you say "caveat" is because that is something that any property lawyer or anyone looking at property would immediately call up?

Mr GORDON: Yes.

Mr DAVID SHOEBRIDGE: In fact, it is remarkable, is it not, that there are not caveats already being lodged as a result of Aboriginal lands claims? It is an extraordinary miss?

Ms HAMILTON: It is a very illogical solution to a problem. There have been many court cases over land that has been sold whilst under claim.

Mr DAVID SHOEBRIDGE: All of which would be resolved by a caveat?

Ms HAMILTON: Yes.

Mr GORDON: But even with that, it is still being recorded today; land owned by the Darkinjung Land Council is still being shown up on the State Government books as being owned by the State Government in regards to the financial value in regard to the land.

Ms HAMILTON: Or the environmental value.

Mr GORDON: Or the environmental value. A whole range of issues still need to be addressed.

The CHAIR: Probably a fair and concise way of putting it is that you have been dispossessed from your land but now you have also been dispossessed from the local environmental plan [LEP], the consultation and what that land means to you—the very people who actually managed it for thousands of years: we cannot trust you with the autonomous approach that you could actually choose what zoning you want over that land.

Ms HAMILTON: On the land council relationship, we have an example of a successful agreement and relationship with council. It is on environmental lands and that seems to be the only way that we can successfully negotiate. We have an agreement with the local council at Kincumber Mountain. We have a management agreement in place. We had a claim over Kincumber Mountain, which is a substantial recreational and environmental area within the community. We have a negotiated plan of management up there. As I say, we can do it when it is regarding environmental lands but the council will not talk to us when it is regarding economic development land.

Mr DAVID SHOEBRIDGE: The Parliament is going to do a once-in-five-generations review of the Crown Lands Act some time in the second half of this year. When the Parliament is rewriting the Crown Lands Act, given the fact that we are talking about 42 per cent of the State now, much less in this part of the State, but across the State 42 per cent of the State is Crown land, acknowledging the reality that 100 per cent of New South Wales was Aboriginal land before colonisation and dispossession, do you believe that there should be a very clear primary object in any Crown Lands Act that says return of land to Aboriginal people must be a priority when we are dealing with any Crown lands?

Mr GORDON: Absolutely. It is not just the return of Crown land; it is respecting Aboriginal people's right to develop culturally, socially and economically. The very first outcome that we put in is the recognition of the objects and the intent of the Aboriginal Land Rights Act 1983 and the Aboriginal Land Rights Act is intended to be remedial and beneficial legislation for Aboriginal people.

Mr DAVID SHOEBRIDGE: Should that also be found in the Crown Lands Act, which is really the nuts and bolts of dealing with Crown land?

Mr GORDON: Absolutely. I guess the frustration in regards to Darkinjung being a leading land council in New South Wales driving economic development, providing social benefit, protecting Aboriginal cultural heritage—and we have mapped over 7,000 Aboriginal sites here on the Central Coast. We have fought tooth and nail to prevent Wallarah 2 from building a rail facility across our land. We have fought tooth and nail to prevent the Calga sand quarry from impacting on a significant women's site. These are things today that we should not be spending our money on. In spending over \$200,000 to fight the Wallarah 2 case is a home we could have built for our community and our members. The Calga sand quarry matter to protect a significant Aboriginal women's site involved \$300,000 that we could have spent on building 1½ homes for our community and members—it is the old imbalance; almost this mentality of "us and them and we are trying to prevent these Aboriginal people from trying to succeed".

The Hon. LOU AMATO: You are trying to move forward and yet there are these stumbling blocks and land mines put in your way?

Mr GORDON: Absolutely. My position is that if Darkinjung is fighting tooth and nail today—we have over \$30 million cash in the bank that we manage; we have 7,000 hectares of land and an additional 7,000 hectares under claim; we are providing significant benefit; we are well profiled in regards to my role as the CEO of Darkinjung, the Central Coast community and the opportunities—if we cannot succeed, what hope do other smaller land councils have, if we cannot do it?

Mr DAVID SHOEBRIDGE: It is not a level playing field.

Mr GORDON: And we are fighting tooth and nail every day to keep our position in this space.

The Hon. LOU AMATO: Congratulations. Your land council seems to be on the right path.

Mr GORDON: It is on the right path with one hand tied behind your back and you've got to hop as well.

The Hon. LOU AMATO: You are spot on; that is a challenge.

The CHAIR: I congratulate you on your submission. It really is thorough and I know members will enjoy reading it because it breaks down it down.

Mr DAVID SHOEBRIDGE: We enjoy submissions?

The CHAIR: Much to your delight, you will, because it is absolutely clinical, so well done, Mr Gordon, on that submission. Thank you for your time today. As I noted earlier, we have got you as part of State development and certainly the roundtable and discussion paper we have put out. You are leading the way for many communities across New South Wales so we really appreciate your input.

Mr DAVID SHOEBRIDGE: And thanks for your work on Calga.

The CHAIR: You have 21 working days to reply to any questions on notice or any further questions members may have in light of your evidence. Sam and the team will help you if you need any assistance there. Thank you very much for presenting today.

Mr GORDON: Mr Chair, I would like to provide you with some additional information. One is a report we did commissioned back in September 2013. It is the New South Wales Aboriginal land claim process. They are: a discussion paper we did around the land claims; Darkinjung's community land and business plans so you can actually see what we do achieve socially; a sustainable land strategy where we have managed to work with eight other land councils, UrbanGrowth at the time, to come up with a negotiated land claim process where the community benefits, the State benefits and the Aboriginal community benefits in regards to a solution; and finally, and ironically, a large folder came across a table with a newspaper called back in 1936 the *Abo Call*—I don't know that you would get away with calling it the *Abo Call* these days—

The CHAIR: You can.

Mr GORDON: It was an Aboriginal paper by Aboriginal people. Interesting enough back in 1936 "Land lease scandal" specifically about Aboriginal people wanting the right to manage and lease their own land particularly relating to Aboriginal reserves and missions. This was in 1936 and 80 years later we are still talking about the same thing.

The CHAIR: Thank you very much for that. We will take those on board.

(The witnesses withdrew)

SUE CHIDGEY, Member, Save Central Coast Reserves, sworn and examined

DAVID ABRAMS, Member, Gosford Waterfront Alliance, affirmed and examined

The CHAIR: Please proceed with your opening statement, Ms Chidgey.

Ms CHIDGEY: Since September 2015, the community has slowly become aware of the local council's proposal to reclassify and sell off 24 urban reserves, parks and green spaces across the Gosford region. Starting from one Facebook group, the Save Central Coast Reserves campaign has grown to eight community groups made up of hundreds of residents supported by many local environmental groups—all fighting together to protect the targeted sites. From the outset, council was not forthcoming with information and information was drip-fed via supportive councillors. This entire process has been fraught as a result of a highly politicised process with a lack of transparency and accountability.

Hundreds of community members, as well as environmental groups, have campaigned by sending the council emails, submissions and petitions—giving testament to their clear message that they do not consent to the council's plans to raise revenue by selling off public land. They advised council that many of the threatened urban public sites enjoy a wide variety of community uses and that several have significant flora and fauna.

Save Central Coast Reserves contends that public land should remain a public asset in perpetuity and not be used as a way for councils to raise revenue. As the Central Coast's population and residential density grows, our urban reserves, parks and green spaces will become increasingly vital to ensure community wellbeing and environmental biodiversity.

At no point has the council formally advised or explained to the community how the sites were chosen for the land sale strategy. The only information found in some council minutes stated that the land sale strategy sites were said to be "identified as having sale potential; with no further use to Council; and having little community benefit" and in addition were "no longer required for their initial use" and had "no foreseeable use for Council and the community going forward". The council has not provided the background or paperwork for these assumptions. They certainly didn't ask the communities involved for their input.

Importantly, council staff may not have looked at the origins of these sites—were they bequeathed, a condition of development, or were they Crown land? At the council's public meeting on 6 July for the first 10 targeted sites, staff, when asked if any of these blocks were Crown land, could not give a clear answer.

The Hon. LOU AMATO: Are you aware of which ones are?

Ms CHIDGEY: That comes further down. We have been thwarted by a lack of transparency and communication. The council did not notify the communities affected for many months and then only through public notices in one newspaper and a well-hidden entry on their website following requests to do so by Save Central Coast Reserves. In addition, they refused to provide the terms of reference for the independent consultant even when a GIPA form was submitted.

We are currently waiting for a verdict from the independent consultant regarding the future of the first 10 sites. Hopefully he will discover the backgrounds of these sites and their value to their surrounding communities and/or their environmental values, which will warrant their protection. However, the whole land sale strategy is and has been an exercise of wasted resources, lack of forward planning for future generations and the environment, and an unnecessary source of distress to the thousands of residents who value their urban reserves, parks and green spaces.

In closing, whether our public sites are Crown land or not—and today I have found out that council believes they are not, but I was encouraged still to come along to this session—we believe that they should be cherished and protected for the future. We strongly believe that community or public land should be given the same protection as Crown land and, inasmuch, we believe that Crown land must remain owned by the State on behalf of the people of New South Wales and that Crown lands should be managed for the benefit of the people and environment of New South Wales in perpetuity in accordance with the concept and principles of ecologically sustainable development.

Much Crown land has significant environmental, recreational and social values. These values and public access must be protected. We oppose transfer of Crown lands to councils and other bodies. This is short-sighted and betrays the commitments that we should give to future generations to maintain and improve environmental values and amenity of Crown lands. Control under local councils could see a sell-off of Crown land—and, I am saying, public land—for development by cash-strapped councils. We hope that the inquiry into

Crown lands will move towards a decision that protects public lands on the Central Coast and across New South Wales.

The CHAIR: Mr Abrams, please proceed with your opening statement.

Mr ABRAMS: First, thank you all for coming up here. We always appreciate that up here in Gosford.

Mr DAVID SHOEBRIDGE: We in the New South Wales Parliament constantly get told that the Central Coast gets driven past on the way to Newcastle, so we made it a priority to turn up.

The CHAIR: We did give an undertaking that we would drop into Gosford, so we are here.

The Hon. CATHERINE CUSACK: Not the Labor Party, unfortunately. We are sorry our Labor colleagues—

The CHAIR: We did something very unusual: we honoured our word.

Mr ABRAMS: I will just say two things before I get onto my statement. In this context, I am in the executive of the Gosford Waterfront Alliance—currently its treasurer. I had previously been the chair of Regional Development Australia Central Coast, the founding chair of the NSW Telecommunications Authority, and have been on various other public and private organisations.

I was attracted to this particular group because I was involved in a plan for Gosford when a town planner, Mr John McNerney, was here in 2006. We worked heavily with Gosford and 1,000 community members and organisations to build, let's just say, a non-divisive vision for Gosford—and particularly for its waterfront. This was followed up in 2009 and 2010 by a process called "the Gosford Challenge". That turned into a document that you may have heard referred to: *Our City, Our Destiny*.

That was published in 2010. That document was widely received and awarded at the local government level for its depth of inclusion and consultation. As I said, 1,000 individuals, businesses and organisations were involved in the drawing-up of that document. I thought it was a very good planning document for Gosford, and it included the waterfront to your left. The Gosford Waterfront Alliance [GWA] was formed as a reaction to the overenthusiasm of the previous administration, which is now under administration. It did not formally enact its own master plan in its local environment plan. This was noted by the chair of the Joint Regional Planning Panel in its recent decision about the Australian Taxation Office building a hundred metres away from where we are today. He noted that, had that document been enacted correctly, we would not be in a position of confrontation. We really want unity on development in Gosford. What we have now is the result of a lack of unity.

The alliance was formed to defend and promote that inclusive vision for Gosford and its waterfront in particular. It is an incorporated association established to assist in the positive development of Gosford waterfront. It represents a broad group on the Central Coast and is not aligned with any political party. Reputable community, business and arts leaders are involved in it. They have all fought for various positive local developments over the years. The GWA promotes the positive and inclusive vision of Gosford City Council's *Our City, Our Destiny* plan. A major part of that plan was to retain the Gosford waterfront for public utility and include a facility for entertainment and performing arts. Our current action is in dispute with the proponents of the Australian Taxation Office building on the Gosford waterfront site that was previously occupied by Gosford Public School. The GWA has also called on the New South Wales Government and its Central Coast Regional Development Corporation to halt the further sale of parcels of land on the former Gosford school site. That sets our organisation in context.

We have six points to make in relation to the Crown land element of this inquiry. We have tried to be as focused as possible. Many community members are, rightly, a little concerned about the difficult question of what is Crown land, what is public land and what is private. We have tried to keep the elements of our presentation relatively focused. The State Government is currently promoting the construction of a performing arts centre on what is variously called the war memorial, Rotary or poppy park, which appears to us to be Crown land. That is near the road outside. This is instead of a development on the former Gosford Public School site, which is in the master plan. That is point one. This is the sort of conflict that arises when a master plan is allowed to drift. Developers with goodwill are mistakenly pushed to areas of contention that the public has some interest in. The second point is that the sale of parcels of land on the former Gosford Public School site has been less than transparent. In particular, that land seems still to be owned by the Crown. It is difficult to understand the ownership of that land. I will return to that point. That is despite it being rezoned and subject to a series of subdivisions that predicate the sale of that land.

The third point is the complexity surrounding the search and mapping of Crown land. This is a broad statement that should be noted. The complexity of the search and mapping of Crown land is prohibitive to anyone in the public of goodwill who wishes to investigate the status of Crown land. This effectively prohibits

honest investigation into what areas are public and what areas are private. In my professional life I deal in the information industry. It would appear that relatively straightforward new technologies that would enable public transparency would take a lot of pressure off and conflict away from various developments so that the status of the land is clear. The status of Crown land is far from clear. I have read a lot of documents over the past two weeks, some by researchers here in this room. I thought the information technology industry was difficult. Crown land is a very difficult thing to get one's head around.

Mr DAVID SHOEBRIDGE: Ms Chidgey very clearly told the Committee that about the reserves.

Ms CHIDGEY: I only found out today.

Mr ABRAMS: It is a complex thing. In this day and age it should be relatively straightforward for the appropriate authorities to clarify the status of land, even if land is in dispute. Point four is that we note, through historical investigation, that the Gosford waterfront is reclaimed land—partly from the institution that we are sitting in today, the Gosford Leagues Club. It was set aside as Crown land and thus reserved for public recreation. This historical fact seems to have been overlooked by council and some New South Wales agencies. It is difficult to be specific about that because there are so many layers of information. Point five is that the Gosford Waterfront Alliance is particularly wary of the policy practice that rezones and subdivides public land and Crown land into blocks of land ready for sale or lease. This prohibits overall proper planning of areas such as the Gosford waterfront and slowly diminishes the public's access to its own land. The sixth point is the issue of roads. Once leases or sales are granted outside the master plan, access roads need to be built. That adds insult to injury when Crown lands are released into private hands. This needs to be considered in any sale or lease of land—that it is about not just the land per se but the right of access, which any owner or lessee should expect. They are our six major points. Some of them are broad and some are very specific about the land that we are on today.

The CHAIR: Thank you very much for that. A major issue that we are coming across in this inquiry is Crown roads, paper roads and rights of way and the maintenance of them. That is such a big issue. The Committee will look into that further.

Mr DAVID SHOEBRIDGE: I want to focus on the school site. A number of years ago there was a beautiful public school on public land. How did it cease to be a school, fall out of public ownership and become a highly contested development site? What has gone wrong?

Ms CHIDGEY: A lot.

Mr DAVID SHOEBRIDGE: Take us through it.

Mr ABRAMS: This is my recollection, having been here for some time and having been part of those conversations. To be honest, it was the desire of several people in the community to lease the land, to open it up to the public more generally. It is a prime spot, perhaps the prime spot in Gosford. There was movement over a decade or more to do something that included more people in that space. The school had been there for many decades and was delivering a very good service to the community. The school community put up a gallant fight in resisting relocation. It has now been relocated. I think it was gazetted for sale in the last few months of the Keneally Government. That needs to be checked, but I believe that was the case. There was an agreement that it would be sold on the understanding that it was to be a public utility for more people, not less people.

Mr DAVID SHOEBRIDGE: And a performing arts site.

Mr ABRAMS: A performing arts and entertainment precinct was specifically named in the 2010 *Our City, Our Destiny* plan and the whole idea is to bring more people into town, slow the traffic down here and then from that to help revitalise this part of Gosford up into the central business district. After that there seems to have been a hiatus of some note. It sat empty for many years. It was put under the purview of what is called the Central Coast Regional Development Corporation which was formerly, in fact, the Festival Development Corporation which was put together in 1996 to develop the lands at Mount Penang that you would have driven past on the way up here. It was put under the purview of that board.

Mr DAVID SHOEBRIDGE: That is under the State development legislation statutory board?

Mr ABRAMS: That is correct, much like Honeysuckle, I understand, or otherwise. There were some changes to that organisation at the time and it expanded very rapidly to bring in all sorts of State Government land across the Central Coast to reactivate it, particularly in the interests of the public to get more public utility to a lot of land. It took over this and there were some management changes up there. Honestly, I think there was a misalignment with the understanding. I do not think the corporation appeared to have actually read the master plan for Gosford and proceeded to rezone and subdivide that land. There was some hope in the community that a hotel/performing arts centre was definitely going to go ahead and this was actually a progressive way—

Mr DAVID SHOEBRIDGE: But a rezoning does not happen in the dark at night.

Mr ABRAMS: No, it does not.

Mr DAVID SHOEBRIDGE: The council has to be engaged in the rezoning. They must have been told at that time "This is inconsistent with your master plan. Why not implement your master plan?"

Mr ABRAMS: Some of us in the community were perhaps naively led to believe that this was going to be a prelude to a performing arts precinct, which was a social contract, I think it is fair to say, with the broader community up here and championed for many years by a former mayor who is quite probably in the room here in Mr Brooks. When that land was subdivided and set up for sale we were worried about that particular development and particularly a radio interview that happened shortly afterwards with the new acting general manager of that organisation who said, "We are only here to sell lands." Many of us became worried that it was simply a land sale rather than a strategic asset. So I think that was misinterpreted by the gentleman at the time and the corporation at the time.

The point being that a good planning document guides everybody in this place—the council, the State Government, developers—and it is highly unfortunate that did not go in the local environment plan and could not have guided that. Subsequent to that the land had been for sale without any interest for some time—and I am talking about well over a year because the signs on it started to fade and disappear. We are thinking, "Golly gosh, what's happening here?" The logical thing, some of us lobbied the councillors at the time to actually purchase the land and reserve it for its own performing arts precinct which, in fact, it had committed \$10 million; the Federal Government and the State Government each had committed \$10 million.

To many of our surprise that did not happen and it was sold, I think in good faith, to the Doma Group that was based in Canberra on a tender that was put out through the Federal Government for the relocation of the Australian Tax Office. There were several people who put in—local developers—but that developer won and to many of our surprise the land that he chose to buy was that land that we thought a performing arts centre was going to be built on. I have talked to the developer and I think at the time, just afterwards, he was not aware of the background. He was not aware of the planning document that should have been given to him early on. As a result now, we have a precedent where what was public and perhaps Crown land has now been divided and is now going to be an office precinct down here.

Mr DAVID SHOEBRIDGE: The community lost a school, got an office precinct and the carrot that was dangled in front of it, a performing arts centre, has disappeared and is off the table.

Mr ABRAMS: This little insult to it in the context of this inquiry is, in what it appears to many of us is a bit of panic move, there seems to be a knee-jerk reaction to build a performing arts centre, which is a very popular idea on the Central Coast, to now what is called the War Memorial which is just down there, which has been a bit of sacred ground for many years up here, and now is being proposed—

Mr DAVID SHOEBRIDGE: Who is proposing that?

Mr ABRAMS: That is unclear but certainly some of the State Government agencies seem to be promoting that including the Central Coast Regional Development Corporation. There is argy-bargy around that and it is still not clear.

Mr DAVID SHOEBRIDGE: The community has lost its school, it has a bunch of office blocks and if it wants a performing arts centre it will have to give up a much-loved park. Is that where we are up to?

Mr ABRAMS: I think that is fair to say.

Mr DAVID SHOEBRIDGE: Is that because when managing—that might be the politest description—parcels of land have been dealt with as individual lots and an intelligent master plan has never found its way onto the planning statutes or the local environment plan?

Mr ABRAMS: That is exactly what occurred.

Mr DAVID SHOEBRIDGE: Is this almost like a case study in how not to deal with Crown land?

Mr ABRAMS: Many of us say that. How not to develop a city. Gosford has suffered that over decades. There is really good business in unity, really good business in a planning document. All of us on the committee are very pro the redevelopment of Gosford.

Mr DAVID SHOEBRIDGE: Ms Chidgey, a number of councils and Local Government NSW have appeared before this Committee and said they really want to see Crown land handed over to local councils because there are protections in the Local Government Act about transferring land from community to operational before it can be sold. They are a great set of protections and, therefore, we should be comforted in

changing the law to encourage land being handed over to local government. They also say that there are few protections actually under the Crown Lands Act because you can have a sale after a notice is gazetted for just 14 days. What do you say to that?

Ms CHIDGEY: I found out today that we have been advised by council that our sites are not Crown land but up until this date we were not given very much information as to whether they were. The only document that we could find was the lands register of 2014 which had some 3,000 sites written on it with very few of them marked Crown land. For a fact we know that some of them must be Crown land. So I intend to use the review rights of this Government Information (Public Access) Act [GIPA] form to find out where they got that information. If it was off the land register in 2014, it is a very holey and inaccurate register of land. I am not taking their complete advice on this as yet.

Mr DAVID SHOEBRIDGE: The Committee might be assisted if you agreed to provide it your GIPA application and the materials that were provided. I appreciate it if you could provide us that on notice.

Ms CHIDGEY: Yes.

Mr DAVID SHOEBRIDGE: Is this community land or operational land?

Ms CHIDGEY: It is community land. What the council wants to do is—

Mr DAVID SHOEBRIDGE: Reclassify it?

Ms CHIDGEY: The council wants to reclassify it to operational, not for an operational use but simply to sell it off for revenue. Its estimated value of the sites is approximately \$21.5 million. It will go into general revenue. They said it will improve roads and different things but at the moment with the huge population increase and move to medium density across the coast, our little pocket parks are becoming more and more important.

The Hon. CATHERINE CUSACK: When you say community land I do not really know what you mean.

Mr DAVID SHOEBRIDGE: Under the Local Government Act land can be identified as community land, in which case it cannot be sold, or it can be reclassified after a public hearing process to be changed to operational and then it can be sold. Is that your understanding?

Ms CHIDGEY: Supposedly after checking with the community, but in the initial case the council said that it had little community value, but at that point they had not asked any community whether it had value or not.

The Hon. SCOTT FARLOW: What are some of these parcels of land used for?

Ms CHIDGEY: There are 24 lots, very varied. Some are basically community.

The Hon. LOU AMATO: Are they reserves or parks?

Ms CHIDGEY: They are mostly reserves. They are reserves. There might have been a pocket of land given by a developer as a condition of a development by the council and they were given that block of land. There is Winter Close at Lisarow where the whole community surrounding that block of land use it for their neighbourhood gatherings, the children play there. Until a few years ago there was play equipment, which the council then took away.

The Hon. LOU AMATO: If I have it right some of these lands were given as part of the conditions of development applications?

Ms CHIDGEY: Yes, and some have been bequeathed, some have been donated. But I do not feel that information was looked at enough before the shortlist was made up.

The Hon. LOU AMATO: Has there been community consultation over it?

Ms CHIDGEY: Consultation? We have consulted to the council. It has been a very wasteful exercise. It has caused incredible distress to neighbourhoods that are affected by this. It has taken us so many hundreds of emails and submissions to even be heard.

The Hon. LOU AMATO: The list you have provided us is the ones that the council wants to sell?

Ms CHIDGEY: Yes. Twenty-four. It was 25. Wamberal Hall was on that list. They said that it was to be reclassified as operational. Luckily they have a good legal counsel who then looked into it after much community request. First of all they told us it was operational, it was just going to be sold because they thought

it was community and then they thought it was operational. Now it is back as community. There has been this huge campaign just around one hall unnecessarily, wastefully.

Mr DAVID SHOEBRIDGE: Basically, if a council is on a mission—

Ms CHIDGEY: That is a good word.

Mr DAVID SHOEBRIDGE: —and they want to reclassify and sell off public land the best procedures in the world, if council ultimately has the final say, are not going to protect public land or the community. Is that what you are saying?

Ms CHIDGEY: Sadly in an administrative role that we have at the moment with the amalgamation I fear that one man will be making that decision.

Mr DAVID SHOEBRIDGE: Has there been a change in policy with the administrator?

Ms CHIDGEY: No, the heat has not gone off yet. They are starting to talk to us a little bit lately—a little bit—but there has not been a lot of worthwhile consultation.

The Hon. CATHERINE CUSACK: I am reading from the web. Was there a facilitator appointed and was there a meeting?

Ms CHIDGEY: A public meeting.

The Hon. CATHERINE CUSACK: And that was in July.

Ms CHIDGEY: It was first advertised as a public hearing and then they changed it to a public meeting, which they put on during the school holidays during a work day but we still got a very good turn up. There was a facilitator and also there was an independent consultant, who was looking at the environmental community use, et cetera. But we have never been given the terms of reference, that was refused us, so we did not know what we were fighting.

The Hon. CATHERINE CUSACK: Did they by any chance describe the process that they are going through? Was any of that information given?

Ms CHIDGEY: Yes, but that has changed along the way. Last year when we had a different CEO and we had our councillors there was this certain process but it is sort of different people giving us different opinions.

The Hon. CATHERINE CUSACK: Just to try to understand, where do you understand the process is up to and what is the next step?

Ms CHIDGEY: At the moment there are 10 sites on the table that have been shortlisted by the independent consultant. We had a public meeting about that run by the council. It seemed like the community was giving information to the council, they were not giving much information back to us.

Mr DAVID SHOEBRIDGE: Is that the same meeting you were talking about?

Ms CHIDGEY: Yes, the public meeting on 6 July.

Mr DAVID SHOEBRIDGE: That was during the school holidays?

Ms CHIDGEY: Yes. We requested that we be given the terms of reference for the independent consultant and also we requested an evening session so workers could attend. Seeing that a vast lot of our community have to commute to Sydney to work it would have made sense, but we were point blank refused that.

Mr DAVID SHOEBRIDGE: A lot of other community members would have young kids who they would want to be able to use the reserve, yet the meeting was held during the school holidays.

Ms CHIDGEY: Yes. It was extremely difficult.

The Hon. CATHERINE CUSACK: Has the consultant been appointed to do community liaison?

Ms CHIDGEY: No. We have had to send another couple of hundred submissions and emails to him, mostly repeating the process we did for the previous council.

The Hon. CATHERINE CUSACK: Is he trying to work out which ones to recommend to sell?

Ms CHIDGEY: Yes, of those first 10 sites and then the next 14.

The Hon. CATHERINE CUSACK: Is the list down to 10 properties at the moment?

Ms CHIDGEY: That is the first 10 that they are going to deal with. They have not told us the status of the next 14.

The Hon. CATHERINE CUSACK: Are all of those 10 unacceptable to the community?

Ms CHIDGEY: No, we are fighting for all of them.

The Hon. CATHERINE CUSACK: Is that on principle or is it because of each individual property?

Ms CHIDGEY: On behalf of Save Central Coast Reserves I have never at any point said that this site is better than that site. That is for communities to decide and for environmental reports to outline. My stance is that if it is public land it should be given representation.

Mr DAVID SHOEBRIDGE: And your members support you in protecting each of them?

Ms CHIDGEY: Most do.

Mr DAVID SHOEBRIDGE: Because they think they have public benefit?

Ms CHIDGEY: Yes. There are six or maybe seven of those sites that have significant community representation fighting for them.

The Hon. CATHERINE CUSACK: From our perspective it is very relevant as to whether or not it is Crown land.

The Hon. SCOTT FARLOW: We are a Crown land inquiry first and foremost.

Ms CHIDGEY: Yes, but I was encouraged to attend even though.

The Hon. CATHERINE CUSACK: I do understand that. Also I understand how difficult it is. I think a big message for our inquiry is how much trouble members of the community are having discerning the nuances in relation to the title of the property.

Mr DAVID SHOEBRIDGE: You had to put a Government Information (Public Access) Act [GIPA] request in and we have only got it back today.

Ms CHIDGEY: There is a GIPA form. We also put a GIPA form in for the terms of reference for the consultant but we were refused.

The Hon. SCOTT FARLOW: Was the GIPA form you put in to the council or to Crown Lands?

Ms CHIDGEY: To the council. But my fear is that they have given that information that none of it is Crown land by looking at 2014 land register, which is just a hotchpotch.

The Hon. CATHERINE CUSACK: It is unacceptable. I understand.

Ms CHIDGEY: If they have got it from there it is not good enough and I have to further look into it.

The CHAIR: Would you be averse if a community agreed with council to sell off some land?

Ms CHIDGEY: If it is the community's decision.

The CHAIR: You would be happy with that if it was the community's decision?

Ms CHIDGEY: Yes. We do have some green spaces and surprisingly—I have visited most of the sites. I think there are only two or three that I have not been to. It is just little area of lawn, but the community uses it.

The CHAIR: That was not my question. I want to make it very clear.

Ms CHIDGEY: But if a community said, "Okay, no big worries", well then it is the community's decision. It is community land.

The CHAIR: There are a couple of issues there, obviously. I am a former mayor of an area that has 49 towns and villages. I would put a lot of weight on the community of one little village choosing to make something operational to get some sort of economic outcome. I would also have to take on board what the city had to say about that particular piece of land.

Ms CHIDGEY: Yes.

The CHAIR: They are the competing sides on that issue. I just want to get it clear that you have no opposition if the community was of a view to say that they want to make an area operational.

Ms CHIDGEY: I think if that money that was raised from that block of land that people agreed within that community to sell off, if the revenue raised from that was used to support that community to, for example, put in more playground equipment or something to support that—

The CHAIR: I am very happy with that. Across New South Wales a lot of councils had to identify every particular parcel of land for the local environment plan in 2009. Were the Crown lands not identified in that local environment plan?

Ms CHIDGEY: In the case of my blessed reserve, East Gosford Reserve, we put in a request to the Office of Environment and Heritage and we got a reply back that that there was no plan of management for that reserve, which is two hectares. Since then apparently it is under a blanket plan of management. I have never been into the legal regulations and all that. I do have people who can answer those questions so if you have a particular thing I can take a question on notice.

The CHAIR: Once again, as a former mayor I know that we had a title on almost every piece of land in the Shoalhaven

Mr DAVID SHOEBRIDGE: But it might be useful to find out what the position is in terms of the plans of management.

The CHAIR: The reason I say that is because I have taken this as a bit of feedback.

Ms CHIDGEY: There are not individual plans of management, it seems that there is blanket process.

The CHAIR: I am not too concerned about that, I am more concerned about the public's ability to see what is or is not Crown land or public land. We will include that in the report.

The Hon. SCOTT FARLOW: Mr Abrams, thank you for evidence outlining the process for the sale of the land. You said that the process started under the former Labor Government in 2010. When did designs depicting the performing arts centre at what is now deemed to be a poppy park first appear?

Mr ABRAMS: My recollection is that was perhaps just a few years ago—two or three years ago. In fact, I believe that there was a design competition put out, which was initiated by the development corporation, and they awarded—I don't think it was a contractual award but it was a competition—a winner was named and some pictures were published or released to the public.

The Hon. SCOTT FARLOW: So you do not believe it was in the 2010 Our City: Our Best New Market plan?

Mr ABRAMS: That competition only just—

The Hon. SCOTT FARLOW: But it did not appear as a preferred site in that 2010 master plan?

Mr ABRAMS: I do not have the master plan in front of me but it was broadly that precinct. You will see through the document that this precinct broadly was termed. I think it is also fair to say that this question has come up before and I have talked to various people about that. I think people assume, not unrightfully, that the war memorial and the memorial park was kind of untouchable. It is heavily used on Anzac Day and other days and it was the site of a very big public outpour on the last Remembrance Day. It was something I don't think people even contemplated, although I did note that there were some media releases that happened down by that thing and people argue that was some sort of validation that that is where it was going to be built. I don't think it is fair to say that that is the case. It would necessitate a disruption of that memorial park, which I think would be counter—

The Hon. SCOTT FARLOW: I understand your frustration as to the time line of the performing arts centre, as you said it has been something that the community has been looking forward to seeing come to reality, and particularly the frustration of a \$12 million commitment from the State Government, a \$10 million commitment from the Federal Government and a council that has said \$10 million, so when that land was put up for sale you expected that the council may have purchased the land.

Mr ABRAMS: Or negotiated as part of that overall commitment between State and local government.

Mr DAVID SHOEBRIDGE: Given it was owned by the Central Coast Regional Development Corporation, which held the competition in 2013 for the performing arts centre, it was a reasonable expectation that they would use the land for that purpose.

Mr ABRAMS: I think it is fair to say that that was the public's assumption whatever technically took place, and it happened in a board and management change under CCRDC. As I said previously, I think there was some misinterpretations and understandings in that changeover period which facilitated that and that is

where we are in the position today. I understand the desires of all the proponents in all of that, most definitely, but the point of a good and solid master plan in an LEP is exactly why we are in this position, or the lack thereof.

Mr DAVID SHOEBRIDGE: Their website still says, "the proposed [performing arts] centre falls within the cultural hub located on Crown land on the corners of Central Coast Highway, Dane Drive and Vaughan Drive adjacent to the Gosford Memorial Park. There are no plans to build on War Memorial Park." That does not ring true anymore.

Mr ABRAMS: People here in the room know much more about that than me but the boundaries between what is called poppy park, War Memorial Park, et cetera is somewhat opaque. That brings me to the point that I brought up here, getting information on this from people of good will and some resource is really tough.

Mr DAVID SHOEBRIDGE: If there is anything in this history that you think you have missed out or that you want to clarify the Committee would really appreciate you taking that on notice.

The CHAIR: Time has expired. You have 21 days in which to answer any questions you may have taken on notice as well as any additional questions you may be asked as a consequence of your evidence today. The secretariat will be happy to help you with that. Thank you for your commitment to your local community.

(The witnesses withdrew)

(The Committee adjourned at 4.04 p.m.)