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Reference **SSP Crown Land**

## **Submission: Draft State Strategic Plan for Crown Land**

### **Introduction**

The Tomaree Ratepayers and Residents Association (TRRA Inc) represents the interests of the 26,000 people living on the Tomaree Peninsula located at the eastern extremity of Port Stephens LGA. Our key objective is to act and be a representative voice in all matters that will enhance and protect their residential amenity and the local environment, both natural and built.

The Tomaree Peninsula is a unique strip of land surrounded by the Stockton Bight, Tasman Sea and Port Stephens waterways, most of the inshore waters being a declared marine park.

Most of the land area is listed either as National Park, Crown Land or high Environmental value land surrounding the major centre of Nelson Bay and a number of smaller villages such as Fingal Bay, Shoal Bay, Salamander Bay, Soldiers Point, Boat Harbour and Anna Bay.

TRRA has long been concerned about the adverse impact of population growth and development on the Peninsula, and the pressure this places on Crown land in our area.

We are frequently seeing developers attempting to push the existing restrictions on building heights and density or to change land use zoning, using what we believe is often questionable justifications, such as accommodating population growth or economic viability.

TRRA has previously made a number of submissions on the uses of Crown land managed by the Council and we have at times raised concerns with Council about its operations on Crown land (such as caravan parks). We have been frustrated at times with Council's response with no other avenue to pursue our concerns apart from being told to wait until the next election (this opportunity for change has once again been deferred).



We welcome the development of a Strategic Plan for Crown lands and acknowledge the opportunity to make some changes if they can be justified. However this should not be seen as a mandate or opportunity for dramatic changes to land uses or operations without any such proposals arising from the review going back out on public exhibition.

It would not be acceptable for the Plan to be finalised on the basis of submissions received on this draft – stakeholders need to see what others are proposing and have the chance to respond to specific recommendations, if they are for significant change.

We therefore object to the proposed timetable (p10) which would see the Ministers adopt and endorse a final Plan without the public having a chance to comment on the Summary Report or recommendations arising from it.

### **Identifying Crown land and its status**

Along with (we suspect) most of the public, we are far from clear as to what land is covered by the definition of Crown land, and therefore subject to the Plan (and the Act). For example, most people would assume that National Parks are Crown land. The draft Plan regrettably misses the opportunity to clarify the different types of publicly owned land. On page 17, it is inferred that National Parks and State Forests, while owned by the State Government, are not Crown land. But is that also the status of Conservation Areas, Nature Reserves etc?<sup>1</sup>

It is difficult for interested parties to comment sensibly on the draft Plan without knowing definitively what land is covered. Online digital maps should allow people to clearly identify the land in any particular area which is 'Crown land' for the purposes of the Act and the proposed Plan. It appears from p.59 that such digital maps are not currently available, but are proposed, although it is admitted to be a significant undertaking. We support the proposed staging of mapping, with priority given to areas where there is greatest potential for land use change, but also in consultation with stakeholders.

While we acknowledge the importance of aboriginal interests, the effect of those interests is also unclear. We acknowledge that this is a complex areas of law but the diagram at Figure 4 unhelpful. The path on the left implies that land not subject to claim is unconstrained but then contradicts this with a condition '...if permitted under native title legislation'. What is the relationship between this 'permission' and native title claims?

Another unclear dimension is which Crown land is 'dedicated or reserved' or 'leased or licenced' (or 'subject to (Native Title) claim'). Surely a precursor to a proper management system for Crown land, and for public input on any Strategic

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<sup>1</sup> See the list of types of protected area at <https://www.environment.nsw.gov.au/topics/parks-reserves-and-protected-areas/types-of-protected-areas>

Plan, is a full, complete and regularly updated inventory of all land included in the definition, its status and the identity of the relevant Crown land manager.

## The Vision, Actions and Priorities

The draft Plan adopts an unusual structure.

In section 3.2 (p.28), under the Vision – 'for Crown land to support resilient, sustainable and prosperous communities', the draft Plan has four 'actions', but it is not clear if these are intended to be in the nature of objectives or principles.

1. Adopt a quadruple bottom line approach to the management of Crown land
2. Support the network of Crown land managers across NSW
3. Empower Aboriginal people to play a central role in delivering this vision
4. Collaborate with government and stakeholders to steward the land in our care

The draft Plan then sets out four priorities which only loosely relate to the four 'actions' above.

The draft Plan is a high level document with huge scope. The vision, actions and priorities are unobjectionable at face value, but much will depend on how these are interpreted and applied in practice. We acknowledge the call for creativity and 'big thinking' but we are apprehensive that this will be taken as licence for major claims on Crown land by private commercial interests and for preferencing of economic development over other important values.

We submit that the Plan needs to recognise more clearly the significant differences between the different categories of Crown land in different parts of NSW. For example, the factors and considerations that apply to the vast areas of Crown lands in the Western Division, much of which are leased for agriculture and extractive industry, are very different from those that apply in urban and coastal areas.

The 'quadruple bottom line' approach assumes a 'one-size fits all' approach to all Crown lands which is not appropriate. There will be some lands, already leased for commercial activities, where economic and social objectives may appropriately be given priority (subject to any cultural constraints).

However, the pretence that all four objectives can be balanced will prevent environmental or cultural values from ever being recognised as *the most important consideration* in some areas. This is a major problem. Crown lands in NSW include many areas that still support relatively natural ecological communities representative of pre-colonised Australia. Protection of these

landscapes are crucial for the ongoing survival of what is left of the diverse, complex natural landscape and character of NSW.

We submit that the draft Strategic Plan has failed to adequately acknowledge this, and that '... environmental values' is one of only two outcomes categorised as 'long term' in the timeline at Figure 8. The overall vision should include a clearer statement about the prime importance, in many areas, of the natural environment. We advocate for an additional strategic priority; **to protect and enhance environmental values**, with associated outcomes scheduled for achievement in the short medium and long term.

This additional priority would have particular significance for areas of habitat for threatened or endangered species of flora and fauna.

Koala habitat is under particular threat, with last season's bush fires throughout the State having compounded an already critical situation. The recent report of the Legislative Council Inquiry confirmed that NSW is at risk of losing its wild koala populations in the next few decades, unless urgent action is taken. The Government has expressed an ambition to save koalas, and increase their numbers, but these ambitions will not be realised if a 'business as usual' approach to greenfield development and land clearing is allowed to continue.

In Port Stephens, the Council and State Government are currently funding a new koala sanctuary and hospital at One Mile Beach (on Crown land), which is also planned to be a major tourist attraction. However, the investment in caring for injured and sick koala rescued by hard working and committed volunteers will be undermined by a careless and reckless lack of protection for core koala habitat throughout the LGA. Historic and more recent approvals for land clearing at locations including Kings Hill (for residential development) and at Brandy Hill, Karuah, Anna Bay and Williamtown (for quarrying) are inconsistent with a genuine commitment to protect koala populations.

The loss or threat of loss of so much habitat on private land only increases the importance of protecting habitat on Crown land. We submit that the Plan should include an express commitment to maximise protection of any Crown land that comprises habitat for vulnerable, threatened or endangered species of flora and fauna.

### **Enable jobs growth, commercial opportunities and sustainable economic progress in regional and rural NSW (section 3.3.1)**

This is the first 'Priority' proposed in the draft Plan. It is implicit that it only applies to Crown land outside urban areas but this should be made clearer. While it is not suggested that it is a higher priority than the other three, it is unfortunate that it comes first as it will feed suspicion of a hidden agenda. So too will the emphasis on 'jobs and growth' and an apparently unquestioning acceptance of continued population growth.

We submit that this priority would be better labelled as 'ecologically sustainable development' given that ESD is a concept to which the Government is ostensibly committed. Couching this priority in language that acknowledges that not all economic or commercial development is necessarily in the public interest would help allay suspicions.

We strongly support the use of Crown land to support renewable energy, which can serve both economic and environmental objectives. Bio-mass energy generation should also be investigated, although it may not be entirely positive from an overall ecological perspective. We are pleased to see that there is no specific encouragement for fossil fuel projects, but would prefer to see the Plan expressly confirm that Crown lands should not be seen as potential locations for any investments that would contribute to the greenhouse gas emission problem.

We support the consideration of how some Crown land can be better utilised for tourism (p34), particularly where it is adjacent to National Parks and other protected areas. Care must be taken, however, to avoid over-commercialisation of environmentally sensitive land.

In our area, there have been numerous examples of low-impact tourist and leisure activities being licenced on foreshore Crown land such as kayak and SUP hire and a seasonal 'splash park' at Nelson Bay. In general we support such activities provided they are carefully managed and monitored.

### **Expand green space, sustainable quality of life and climate change resilience (3.3.2)**

The second 'Priority' in the draft Plan is a curious and somewhat arbitrary 'grab-bag' of important but not necessarily directly related issues. This grouping does not engender confidence in the draft Plan giving adequate integrated consideration to any of these issues.

Climate change should for instance be a more prominent and overriding issue addressed by the Plan. It should encompass not only 'resilience' (which implies primarily adaptation) but also 'mitigation' i.e. pro-active measures to reduce greenhouse gas emissions and otherwise limit the adverse effects of climate change.

'Expand green space' is a worthy objective, highlighted in the draft Plan as being of particular relevance to Crown land in urban areas – where it might result in either open recreational space or vegetated amenity areas. But it should also be seen as a wider objective in all parts of the State, and expressly include the increased planting of trees that will be essential as a 'carbon sink' as part of an overall climate change strategy, and the contribution expanded green space can make as flora and fauna habitat (which also falls under the 'Support and restore environmental values' part of the second Priority).

We are surprised that there is no mention under this Priority of the relationship of Crown land to waterways – rivers, lakes, and adjacent estuaries and coastlines (there is limited recognition of marine economic and recreational activity under the first Priority). Land and water are inextricably linked, particularly in ecological terms, and we submit that there should be express recognition of these links and their implications for land uses and activities.

Under the ‘Sustainable quality of life’ part of the second Priority, increased use of Crown land, where appropriate, for affordable housing is proposed. We support this provided it can be reconciled with other objectives.

Employment opportunities in conservation and land management have been left unexplored. The Strategy should connect community engagement and job opportunities in conservation and land management with restoring environmental values and climate change resilience.

### **Strengthen and support evolving community connections (3.3.3)**

We support this third priority, and in particular the third proposed ‘outcome’ of ‘Strengthen and uphold compliance to ensure a fair go’. It is essential that any private, NGO or public operations on Crown land are held to any conditions and all applicable standards – Crown land managers should have an important role as ‘model’ managers exhibiting best practice in compliance monitoring and enforcement.

A fair financial return to the public from any commercial activities should also be guaranteed with no special favours or treatment – in this respect transparency of all lease and licence arrangements and terms is essential. Commercial in confidence’ may have limited applicability to competitive tenders but should not extend to financial and other outcomes which the public is entitled to know.

We support the principle that a proportion of any revenue earned from Crown land must be invested back into infrastructure or maintenance of Crown land.

All Crown land managers, including Councils, should also be held to high standards of accountability. Port Stephens Council has a poor history in relation to its management of holiday parks, some of them wholly or partially on Crown land. See our comments later on transparency.

### **Work with Aboriginal communities to realise the potential of their land rights (3.3.4)**

We support this priority, as essential in the context of reconciliation and justice for the State’s first peoples.

We have already commented above on the desirability, if at all possible, for clearer explanation of the relationship between native title and aboriginal land

rights law and the status of particular parcels of Crown land. We note that this is recognised as a challenge in section 4.3.2.

### **Enabling initiatives (Section 4)**

We strongly support the proposals to make information more available and transparent (4.1). As we have already noted above, transparency must also apply to processes as well as information. We have also already called for better digital mapping so that all interested parties can readily locate and identify the status of all Crown land.

In relation to the section on reduction of red tape (4.2.3), we support the proposed improvement of processes so long as they remain transparent and not hidden from the public. We have already referred above to the lack of transparency of Port Stephens Council's management of holiday parks on Crown lands.

We strongly support the provision of support and assistance for volunteer land managers (4.3.1) This support should extend beyond those NGOs which are officially designated 'Crown land managers' to the thousands of volunteer land care groups around the State who maintain and enhance many reserves, including on Crown land.

### **Timeline (Section 5)**

We submit that the use of 'Long term' in Figure 8 could be misinterpreted. It sends the wrong (if unintended) message to show Supporting and restoring environmental values...' and 'Information availability and transparency as the only two 'outcomes' as 'Long term'. As we have argued above, 'Supporting and restoring environmental values...' is urgent, and 'Information availability and transparency' is an essential precursor to many of the other objectives and actions. Neither of these can afford to await the 'long term'.

### **Monitoring and Reporting (Section 6)**

We welcome the commitment to an annual report on progress against the Plan's outcomes and initiatives. However, while periodic 'snapshots' are useful, it should be possible in a digital environment to have more continuous and even real time monitoring and reporting. We encourage the Government to explore innovative approaches to monitoring and reporting, in the interests of transparency and accountability as well as to help ensure the Plan is implemented and effective.

We have no objection to this submission being published in full, unredacted.

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