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SYDNEY COASTAL COUNCILS GROUP INC.

councils caring for the coastal environment

SUBMISSION

Draft Crown Land Management Regulation

September 2017

28 September 2017



Draft Crown Land Management Regulation Comments
Department of Industry Lands and Forestry
PO Box 2185
Dangar NSW 2309
Submitted online

Dear Department of Industry Lands and Forestry,

Re: Submission on Draft Crown Land Management Regulation 2017

The Sydney Coastal Councils Group (SCCG) welcomes the opportunity to provide a brief submission on the Draft Crown Land Management Regulation 2017.

Established in 1989, the SCCG is a Regional Organisation of Councils with twenty-seven years' experience in leading sustainable coastal management. The SCCG comprises eleven Member Councils who represent approximately 1.5 million Sydneysiders and over 600 km of coastline.

The SCCG Strategic Plan 2015 – 2019 sets out three guiding principles which encapsulate the core vision, mission and goals of the SCCG, namely to:

1. Restore, protect and enhance the coastal environment, its associated ecosystems, ecological and physical processes and biodiversity
2. Facilitate the sustainable use of coastal resources, now and in the future
3. Promote adaptive, integrated and participatory management of the coast.

As managers of Crown Land our Member Councils share an interest in ensuring that the Crown Land Management Regulation 2017 is sustainable, equitable, provides continued community public access to land, particularly on the coast, and accurately reflects local government roles and responsibilities and resourcing in land management.

Comments on the Draft Crown Land Management Regulation 2017 are provided below:

- Part 2 Use of Crown Land - *Clause 5 Public Access to dedicated or Reserved Crown land*
(1) A responsible manager of dedicated or reserved Crown land may, by a public notice displayed at or adjacent to each entrance to the land... specify times that the land is open to the public, close a part or whole of the land to the public, regulates or restricts how the land may be used, or prohibits the use of the land for any purpose specified in the notice.

Whilst it is supported that the management and decision-making with respect to use of and access to Crown lands should be determined by the responsible manager, these regulations need to ensure through Clause 5 that appropriate public access to Crown land is maintained, and that a public notice is not used by the responsible manager to deny access to the public without proper justification and evidenced-based decision-making.

- Part 2 Use of Crown Land - *Clause 6 Responsible manager may set aside parts of dedicated or reserved Crown land for certain uses.*

SCCG is supportive of (2) in that set aside areas for certain uses must be consistent with a plan of management. It is recommended that this clause enforce the application of ESD principles and the Crown land management principles in decision-making on what 'certain uses' are appropriate. It is also recommended that a proportion /percentage rate be provided as a guide to responsible managers on allowable limits for 'parts of land' that can be set aside, to ensure that public access is maintained.



- Part 2 Use of Crown Land - *Clause 7 Fees and charges in connection with use of dedicated or reserved Crown land; 2) A responsible manager of dedicated or reserved Crown land (other than land for a cemetery or crematorium) may, from time to time, determine fees or charges payable in respect of entry to the whole or any part of the land or any structure or enclosure in or on the land.*

Whilst it is acknowledged that charging fees may be necessary and/or appropriate in certain circumstances, particularly where fees/charges assist in the direct management of the Crown land, responsible managers under this clause must be transparent and be required to report on the justification for fees and charges payable in respect of entry/access, particularly if these fees/charges disadvantage lower socioeconomic communities in their ability to access Crown land.

- Part 2 Use of Crown Land - *Clause 9 Conduct prohibited in dedicated or reserved Crown land*

It is recommended that the penalty units relating to (1) be increased to deter unlawful conduct. (2) is not supported and should be removed as there should be no allowable reasonable excuse to be used as a defence.

- Part 2 Use of Crown Land - *Clause 10 Destruction or taking plants or animals*

Nothing in this Division prevents a responsible manager of dedicated or reserved Crown land from authorising....(b) subject to the provisions of any Act, the taking from the land of any plant or animal that, in the opinion of the manager, has assumed pest proportions or is required for scientific purposes.

(b) as currently written is not supported and should be reworded. There must be restrictions placed on responsible managers with regard to the taking of plants and animals from the land, irrespective of whether this is a pest as defined by the Biosecurity Act or 'of pest proportions', or for 'scientific purposes'. 'Pest proportions' and 'scientific purposes' need to be clearly defined, with a permit system required to validate scientific purposes. The wording also needs to be changed in (b) as decision-making of the responsible manager through this regulation should not be based on 'in the opinion of the manager'. This must instead state 'based on scientific evidence'. There must also be a clause here regarding prohibitions and offences for taking or harming threatened species.

- Division 2 General - *14 Activities that can be prohibited on Crown land by direction or notice under Part 9 of Act (1).*

It is recommended that 'smoking and/or littering/disposing of cigarette butts' be included as a prohibited item and activity at (1).

- Part 3 Management and vesting of Crown land – *Clause 17 Community advisory groups for non-council managers*

SCCG supports the establishment of community advisory groups for non-council managers, to ensure that the community is engaged and that community knowledge and views are considered in the management and use of Crown land. It is recommended with reference to (1) that this be established as common practice for all Crown land managed by non-council managers, and not just on the direction of the Minister.

- Part 3 Management and vesting of Crown land - *Clause 18 Annual reports for non-council managers*

In reference to (1) - as well as '(h) details of environmental management initiatives undertaken', the annual report should be required to include information on activities/uses that may or have had detrimental impact on the environmental aspects of the land.



- Part 3 Management and vesting of Crown land - 19 Record keeping by non-council managers
In reference to (1) - suggestion to remove 'unless the Minister determines differently by written notice' finishing the sentence after 'clause', as it is expected that comprehensive, transparent, up-to-date records will be kept by all non-council managers, no exceptions.
- Division 3 Vesting - 26 Local land criteria for vesting transferable Crown land in local councils
SCCG supports the transfer of Crown land to local councils, where criteria are met and where the transfer of land is a voluntary process and is agreed upon by the relevant local council. At the time of transfer there must be assurance that the relevant local council has the capability and adequate resourcing to manage the land. It is suggested that a process be put in place to enable local councils to access external resources (funding) for land management if required.
 - In reference to (1) (a-c)- SCCG supports this local land criteria with the addition of criteria that i) guarantees the protection and management of biodiversity including threatened species and ecological communities on the land in perpetuity, and ii) ensures public accessibility to the land is retained. It is important that local land criteria and principles of Crown land management are carried over in the transfer agreement of the land, particularly given that once in council ownership this land will be managed under the Local Government Act rather than the Crown Lands Management Act.
 - In reference to (2) 'A good is not a public good for the purposes of subclause (1) (a) if ... (b) one resident's enjoyment of it will reduce another person's enjoyment of it'.
The use and interpretation of the wording included at (b) i.e. 'one resident's' is unwise and should be changed. The definition of public good should not be based on 'one resident', particularly where personal enjoyment and perspectives are individual and subjective.
- Division 3 Vesting - 28 Vesting of Crown land in statutory corporations
With regard to transparency, the statutory corporations in which Crown land can be vested must be listed in the regulation, including Aboriginal Land Councils. The regulation should outline the purposes for which the land may be used once vested and set criteria around the management/use of the land, to ensure existing environmental, social and cultural aspects of the land are enhanced rather than minimised.
- Part 4 Dealings and holdings - Clause 31 Short-term licences over dedicated, reserved Crown Land.
Short-term licence categories listed at (1) must be in the public interest and be of minimal risk of causing detrimental environmental impacts to i) the land; ii) native flora and fauna, threatened species and ecological communities that may be present on the land; and iii) any existing waterways or foreshore areas present on the land or within the surrounding area. Consideration of cumulative impacts of all short-term licences must be considered when licences are being granted.
- Part 5 Land in Western Division - Clause 43 Approved activities on land under perpetual Western land leases
In reference to (1) it is noted that approved activities are diverse and may impact adversely on the landscape, biodiversity, and cultural heritage as well as conflict with the public interest, and safe access to Crown lands. Community consultation, and environment/heritage assessments must be undertaken prior to granting approval for activities on land under perpetual Western lands lease.



- Part 6 Administration - *64 Advice on draft State strategic plans for Crown land*

It is recommended that advice be sought from local councils as relevant, and that a public community consultation process be developed and adopted for draft State Strategic Plans for Crown land. SCCG is supportive of strong community engagement and is supportive of the development of community engagement strategies in collaboration with the community and relevant stakeholders.

- It should also be noted that the draft Regulation provides minimal detail on plans of management for Crown land, including the development of new plans and/or management and implementation of existing and future plans of management. Further detail is required within the Regulation.

If you have any queries regarding this submission please contact the undersigned on 02 9246 7791.

Yours sincerely,



Geoff Withycombe
Executive Officer, SCCG

