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Greater Sydney Parklands Trust Bill 2021

Submission from Dharug Strategic Management Group Ltd

29 October 2021

Who is making this submission?

Dharug Strategic Management Group Ltd (DSMG) is a not-for-profit company and registered charity that operates as an organisation for Dharug people, managed by Dharug people. DSMG was established in early-2018 after more than seven years of community consultation and negotiation about management of the site of the Blacktown Native Institution in Oakhurst in Western Sydney. The BNI site has cultural and historical significance for Dharug people and its return to Dharug ownership in 2018 was the first return of Nura to Dharug care since colonial times.

DSMG is immensely proud to accept the role of caring for the BNI site and developing a range of activities that will commemorate the site's colonial history, recognise and celebrate its much longer Dharug history and foster its ongoing place in Dharug futures.

Why are we making this submission?

DSMG's vision is that Dharug Nura must be at the heart of successful truth telling, healing and learning to belong together with Dharug Nura across the Greater Sydney Basin. The significance of the Parklands of the Greater Sydney region, which includes areas of Dharug Nura, in those processes is enormous. So we recognize the management of this element of our Nura is significant not only for Dharug yura (people) but also the wider communities with whom we belong together. Much of our shared and complex story is connected to the area now protected in parklands and we hope to see more of our Nura protected and managed properly for future generations. DSMG fosters engagement and understanding across all of Dharug Nura. We aim to deliver and support programs and activities that foster cultural, artistic, educational and economic success with high levels of Dharug participation and wider community and organizational engagement with Indigenous issues.

Comment of the Draft Exposure Bill

We note and support the following proposed objects listed in the Draft Bill – but also anticipate our rejection of the Bill as a whole for reasons detailed in this submission:

> *3. (a) to maintain and improve the parklands estate across Greater Sydney and ensure the parklands estate is effectively managed and operated to deliver world-class and ecologically sustainable parklands for the public,*
>
> *(b) to enable the Greater Sydney Parklands Trust to facilitate a connection to Country for First Nations people that—*

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(i) recognises and conserves First Nations peoples' cultural heritage and values through the use of the parklands estate, and
(ii) establishes long-term and mutually beneficial partnerships that give effect to the ongoing relationships of First Nations people with Country,

However, we express our deep concern about and opposition to the proposal to establish a single body to operate the entire parklands estate as the Trust as proposed and to the unrestricted ministerial discretion the Bill proposes in appointing Trustees.

In particular, we note that, despite the Bill's façade of requirement to conserve, restore and enhance connection to Country for First Nations people, there is no requirement or direction regarding how this will be achieved.

We further note that for Dharug Nation and our neighbouring First Nations, The New South Wales Government is directly connected not only to our histories of colonial dispossession, but has also been both a party to and beneficiary of our continuing trauma in being unable to connect to our Nura.

In proposing changes to the management of the public Parklands on our Nura, it is essential that this flawed legislation is revised to ensure that:

- management is localised rather than centralised,
- every management structure includes local First Nations custodians,
- the Minister is required to regularly demonstrate engagement with and accountability to First Nations custodians,
- the Minister is required to regularly demonstrate that local Trusts are adequately resourced to deliver on the programs of conservation, management, education, research and public access to these valued public assets that are underpinned by our Nura.

A single Trust overseeing the public assets will simply be unable to build genuine and lasting trust with local communities and in the absence of existing relationships of trust and understanding with First Nations custodians, will fail to understand how profoundly our Nura builds community through belonging together in places.

In our view, a single Trust empowered to "grant a lease, licence or easement over land within the GSPT estate" (§20(1)), and to grant the Minister power to authorise alienation of Parklands assets through a "lease, licence or easement for more than 25 years" (§20(2)) is deeply flawed without local accountability and accountability to local First Nations custodians. In the absence of any requirement for appointment of First Nations custodians (plural – as no single custodian would have authority to speak across all the areas of Nura covered by the existing parklands), this is the antithesis of acknowledgement, recognition and respect.

We express our alarm that §27 creates the possibility for a privatisation by stealth of our Nura that has been the important public asset represented by the Parklands. This Section is completely unacceptable and puts the Parklands at risk. It must be removed.

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For the Dharug Nation, we have already witnessed the continuing alienation of Nura through its conversion to property without reference or accountability to Dharug custodians. The NSW Government has adopted principles of 'designing with Country', 'connecting to Country', 'acknowledging Country'. We feel these principles are no more than empty and offensive rhetoric that reinforces and reimposes colonising trauma on our people if they are treated as some sort of check box preamble to the business-as-usual activities of over-development, environmental degradation, cultural alienation and social exclusion in order to privilege the creation of wealth-through-property.

This Bill is an affront to the growing community recognition of the importance of parklands across our communities in the wake of Covid-19 restrictions and the Black Summer bushfires. It is the responsibility of the State to ensure that the principles of acknowledging Our Country, Our Nura – not some generic 'acknowledgement of Country' or acknowledgement of traditional owners' but concrete, ongoing, developing and sincere engagement with US and Dharug Nura – are more than empty rhetoric. This Bill does nothing to ensure this. It places all discretion and no responsibility with the Minister. There is no accountability to First Nations custodians, nor science! The inadequacies of drafting are startling given that key stakeholders involved in the objects identified in Part 1 §3 are completely absent from the requirements for "Community Consultation" in Part 4. We further note with alarm that the NSW Government's record on consultation is best characterised as the state telling First Nations what they think is best for us and demonstrating its incapacity to listen, to hear, to learn or to respond.

While we recognise the Bill allows for the creation of Community Trustee Boards (Division 2), the hierarchy of accountability is completely the wrong direction – an overarching regulatory body for the Parklands should be accountable to communities, with clear and enforceable obligations to First Nations custodians, not the other way round. Again, the proposed structure for the Community Trustee Boards (which is optional and may not be created at all) assumes a 'one size fits all' model in which the top-down assumption is that the state knows what works best in all circumstances and that all members agree to be effectively controlled by the proposed Ministerially-appointed Trust.

We note with concern and alarm that these local Boards are charged with significant functions (§38), but neither the proposed GSPT nor the NSW State is obliged to resource them to deliver those functions. This is a recipe for failure which will, we expect, become the justification for the backdoor privatisation we referred to above.

We note also with concern and alarm that the proposed GSPT would be able to change the responsibilities or a Community trust Board or dissolve it (§39), without any constraint or accountability. Again – this is an appalling failure of legislative drafting and reinforces our sense that the objects set out in §3 are not adequately or accountably embedded in the Bill.

In so many ways, the Bill's use of the term 'Trust' is such a mis-use of the concept of trust in relation to First Nation custodians' continuing obligations to and relationships with Nura. The state has largely failed to build genuine trust in the space, and this Bill will only undermine trust, with First Nations and with the wider communities with whom we share our Nura.

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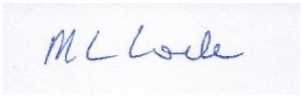
We note with alarm that, despite the increasing demands that population growth, climate change and urban development place on our Nura, the financial arrangements indicated in Part 5 place no obligation at all on the NSW State to maintain resources to secure the objects set out in §3 – reinforcing the risk of the proposed GSPT being 'forced' to undertake the backdoor privatisation of public assets in order to meet the obligations this Bill places on it. And clearly, any local board or trustees that seek to call out this betrayal of public trust would face censure rather than being supported to hold the proposed Trust, the Minister, the private beneficiaries or the State to account.

We also note that the insistence on strictly limited terms of service for board members on Community Trust Boards (ie. two year terms) belies complete ignorance of the value of cultural knowledge held by First Nations custodians and the time involved in building knowledge, understanding and wisdom and the value placed on those people roles. Again, this reflects the assumption that the State knows what is best (and in this case, who is best) and while there is no expectation that the Minister would have limited tenure and no constraints on his or her discretion, the Bill entrenches all power and no responsibility to a Minister who, in most cases, could not be expected to meet the expertise criteria required membership of even a Community Trust Board as indicated in (§37(3)(a)-(b))!

It is regrettable, reprehensible and offensive that the Bill is effectively preface with lip service to recognition of First Nations, but is actually enabling our continuing marginalisation. It offers notional commitment to connection to Country for First Nations people whose customary and traditional Country is alienated to the State through the Greater Sydney Parklands in the form of recognising and conserving our cultural heritage and values through the use, but it excludes us from management, control or ownership of the parklands estate. It proposes establishing long-term and mutually beneficial partnerships that give effect to the ongoing relationships of First Nations people with Country, but fails to provide any accountable mechanism to ensure such 'partnerships' will be enabled and resourced into the future. And it gives effect to a backdoor privatisation and renewed trauma that will be imposed on Dharug custodians and future generations. That is misguided, hypocritical and unacceptable.

We recommend complete rejection of the Bill as a poorly conceived and poorly drafted initiative that fails on too many criteria to allow even conditional support.

Julie Jones
(Chair)



Michelle Locke
(Secretary)