

**Submission
No 516**

**INQUIRY INTO MANAGEMENT OF PUBLIC LAND IN
NEW SOUTH WALES**

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Date received: 11/12/2012

SUBMISSION TO THE INQUIRY INTO THE MANAGEMENT OF PUBLIC LAND IN NSW

By

The Little Garie Protection League

December 2012

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SUBMISSION TO THE INQUIRY INTO THE MANAGEMENT OF PUBLIC LAND IN NSW

SUMMARY

1. **RECOMMENDATIONS**

- 1.1 Introduce a system akin to the EIS process for setting up new National Parks.
- 1.2 Move to limit the power of the more extreme elements of the conservation movement, particularly in respect to the National Park Estate and its management.
- 1.3 Recognise that one of the greatest dangers to Threatened Species and to biodiversity in Australia comes from the opposition by elements of the Conservation Movement to hazard reduction burning and, in the case of the National Park estate, the effect that this has had on the ability of managers to adequately and consistently perform hazard reduction burning.
- 1.4 In light of the threat to biodiversity and to threatened species that comes about through inadequate hazard reduction burning, have an open and public, science based debate of the issues, aimed at freeing up the permitting regime for hazard reduction burning.
- 1.5 Reject Non Interventionist Conservation. National Park Estate lands that are not managed, or are poorly managed and not adequately hazard reduction burnt will become a wildfire hazard as well as breeding grounds for noxious weeds and feral animals. Such lands are certainly not Comprehensive, Adequate and Representative of what Australia was like before the advent of European Man, so what is the justification of locking them up in National Parks and reserves? Either manage them properly or don't have in the National Park Estate.
- 1.6 Have the NPWS Advisory Council and Advisory Committee nomination process revised so that specific organisations do not have statutory membership of these bodies.
- 1.7 Have NPWS Advisory Committee meetings as public meetings, open to the public as Councils Meetings are, with notices placed in relevant media, notifying the time and place these meetings. A section of each meeting should be made available for public input.
- 1.8 Have the National Parks and Wildlife Act subject to the Administrative Decisions Tribunal so that citizens have an independent means of review of decisions made by NPWS Officers.
- 1.9 A logical solution to problems being experienced in snow fields management is the one which has been proposed on a number of occasions in the past by the NSW Ski Association (now trading as NSW Snowsports); that is to have a designated resort area or resort areas in the Kosciuszko National Park that would be managed by a separate authority on which the NPWS would be represented but would not control. This would remove control of snow sports from the organisation (the

NPWS) that is philosophically opposed to the activity.

- 1.10 A similar problem exists with Parks having significant cultural heritage issues (e.g. the Royal National Park). Problems here could be similarly resolved by having designated Heritage Precincts, managed by Heritage Precinct Boards similar to those for State Conservation Areas or Regional Parks. The Board should be constituted of a majority of members of the community who are the stakeholders of the cultural heritage values with representatives of Heritage Branch and NPWS.
- 1.11 There needs to be provision for community input into management of areas with significant cultural heritage values within National Parks. Management decisions relating to cultural heritage values should be made by the people whose cultural heritage is at stake and not by NPWS Officers.
- 1.12 The Plan of Management Process should be reviewed so that the community and stakeholder input into Plans of Management properly reflects those people with a genuine stakeholder interest in the Park.
- 1.13 Amend NPWS recruiting policies so as to develop a more balanced staff mix. In particular aim for a focus on recruiting staff with commercial acumen and those that see planning as a prelude to doing something, rather than a tool to assist delay and procrastination. And we suggest that this needs to begin in the KNP.
- 1.14 Since there will never be enough money to adequately manage and care for the land that is currently in the National Park estate; consider how best to harness volunteer groups to work for the good of the National Park Estate.
- 1.15 Over the years the NPWS has not always dealt fairly with people and/or organisations that it has had contact with and in addition has engaged in practices that may have been of doubtful validity. As a start on the path to reform, perhaps examine some of the more egregious examples in detail and if thought appropriate seek redress, legal or otherwise.

SUBMISSION

2. INTRODUCTION

2.1 The Proponents Of This Submission

This submission has been prepared by and on behalf of the Little Garie Protection League (LGPL) representing the interests of the Little Garie cabin community in the Royal National Park south of Sydney.

There are three cabin communities all built on 350 ac (≈142 ha) of freehold land with the permission of the owners or the lessee of the land and rent paid. In 1950 the land was resumed and subsequently added to what is now the Royal National Park. No more cabins were allowed to be built after the resumption. The three communities, from north to south are, Little Garie, Era and Burning Palms. These communities have an umbrella body, the RNP Coastal Cabins Protection League Inc. (the RNP CCPL or the Protection League).

The Bulgo cabin community, further south in the Royal National Park has a somewhat different history and its own Protection League.

The Cabin Communities Landcare Group Inc was founded in April 1993 to formalize and coordinate the Landcare work that was being carried out within the communities. An additional driver was that an incorporated group could apply for grants to assist in carrying out specific projects. It is a matter of record that the CCLG, with the backing of Royal Area management has been successful in obtaining grants totaling in the order of \$100,000 for projects to the overall value of about \$200,000; grant money plus labour, fencing materials, use of the NPWS's helicopter and etc.

The two major projects have been the re-vegetation and stabilisation of the Aboriginal middens at North Era and at Middle Rill on Garie Beach. Both are in an aggressive environment and require long term maintenance.

In addition there has been a considerable amount of work on un-funded projects, particularly control of weeds and exotics, erosion control and track works. Much of this work and a significant percentage of the work on funded projects is outside the curtilage of the three communities.

2.2 The Conservation Movement And The Environment

In commenting on the issues that flow from the terms of reference of this inquiry it is important consider the role of the conservation movement and their part in arriving in the situation we now find ourselves in, in regard to the National Park estate.

Fifty years ago there was only limited environmental awareness in the community at large. In fact, the environment was a distinctly unpopular issue and the espousal of what today would be considered to be mildly pro-environment views was enough for their proponent to be viewed as some sort of a "nut case".

The Conservation Movement has, as the result of a long and arduous campaign and to its great good credit, brought about a sea change in public perception. This change was both essential and long overdue.

However along the way and over the years, the Conservation Movement itself has

changed. Perhaps as a result of the difficulties involved in bringing about a greater public awareness of environmental issues, there has been a tendency for people with extreme views to "hijack" the Movement.

This has led to dogma of replacing logic in the environmental debate and a "*The end justifies the means*" approach by certain Green groups holding what, by community standards, would be considered extreme views. In fact for some this has become a religion; defining a religion as a set of beliefs held in faith by which people live.

National Parks, prior to the formation of the National Parks & Wildlife Service (the NPWS or the Service) were to set aside land not just for nature conservation, but primarily for public recreation. Looking at Australia's first National Park, dedicated in 1879, which became the Royal National Park on the Queen's visit in 1954, this Park was set aside as a lung for Sydney and provided visitor accommodation at guest houses, such as Allambie House at Audley and others along the Hacking River. It was primarily a recreational park for the people of Sydney.

It was only with the drafting of the National Parks and Wildlife Act in 1967 that elements of the Conservation Movement achieved a change in the balance. One cannot view National Parks today without considering how the NPW Act reflected a swing of the pendulum away from recreation and toward an extreme view of conservation. Organisations such as the National Parks Association and Nature Conservation Council are enshrined in the Act, having statutory membership of both the Advisory Council and Committees.

Yet these organisations today represent a very small section of the population and still advocate the removal of recreational facilities from National Parks. They would see no visitor accommodation built within National Park boundaries and are quite out of step with the majority of people who enjoy visiting and staying in National Parks.

To illustrate the point by an example. The Kosciuszko National Park was set up in 1943 by then NSW Premier William McKell (later Sir William). He knew the area well and gave as a key reason for proclaiming the Park the creation "**...of a winter sports ground greater than any in Switzerland and the development of an immense tourist area that would, ... compare favourably with any in the world.**" The Park "**...would be as famous as any of the great tourist resorts of Europe or the United States, and would prove a magnet for overseas visitors....**" The Sydney Morning Herald 4 September 1943, quoting the Premier, William McKell, (emphasis added)

Attached is a letter (Appendix 1) written by four conservation groups in 1990 to Bob Carr, then Leader of the Opposition. Despite the lapse of time these four groups appear to still hold the same views as those expressed in the letter.

The letter concerns a proposal to build around an additional 1,000 beds on the Perisher Range, made in the 1990 snowfields planning report, Ski 2000.

Perisher is Australia's premier winter sports area by virtue of a long season and varied terrain, generating about the same number of skier days/year of all the Victorian resorts combined.

The letter states:

"All leases should be phased out

.....We would prefer to see these existing leases terminated or progressively phased out."

And

"This sensitive area, which should be managed as a wilderness..."

What is being advocated here is the removal of all winter sports facilities, lodges, hotels and ski lifts from Australia's premier snow-sports resort and the management of the area as a wilderness.

Where now over 15,000 people per day enjoy themselves on a good winter's day the sponsors of this letter would allow a limited number of groups of up to 8 people, the maximum allowed under our wilderness legislation.

This is an extreme position, if it were put to the vote at a referendum it would be lucky to get 5% of the vote.

The signatures and logos on the letter are:

- Sue Salmon
Australian Conservation Foundation
- Dr Judy Messer
Nature Conservation Council of NSW
- Rod Bennison
National Parks Association of NSW
- Milo Dunphy
Total Environment Centre

The authors recognise that there many in the Conservation Movement who do not subscribe to an extremist position in environmental matters. In contributing to this Inquiry it is our hope that a more balanced view will return to the debate.

Further, in the opinion of the authors, if the abuses of the extreme elements of the Conservation Movement are allowed to continue the Movement will eventually be discredited and it won't be those holding extreme views that will suffer, but rather the environment and our Planet. Certainly those with extreme views at present control and distort the debate on environmental matters.

However perhaps now is the time to begin returning the pendulum back to normality. It is our hope that the present Inquiry will assist in bringing this about.

3. THE CONVERSION OF LANDS INTO THE NATIONAL PARK ESTATE

3.1 Preamble

This section of our submission has been written in response to Sections 1, 1a. and 1b. of the terms of reference for the inquiry. These sections call for comment on issues surrounding the process converting land into National Park estate and other types of conservation areas, including the impacts of conversion, both on neighbours and Local Government.

In addressing this topic we have focused on four issues that we consider to be significant. They are:

- i) The need to have a logical, science based permitting approach for the setting up of National Parks.
- ii) Bush Fires And Hazard Reduction Burning.
- iii) Non Interventionist Conservation.
- iv) Whether State Forests are best left in the hands of State Forests or in the hands of the NPWS.

3.2 An Approval Process For Setting Up A National Park In NSW

For virtually every proposed development there has to be an approval process (generally centred around an EIS) BEFORE the development can proceed, not so with the creation of a of new National Park. For National Parks what has happened historically is that the conservation movement makes a suggestion to the government of the day, or with an election coming up the government decides on a new park or parks and it becomes a done deal. The conservation movement publicly lauds the government for this, gaining wide support by declaring that the new park is for future generations to enjoy.

However typically what happens is that the Plan of Management for the new park comes out years later, and again typically severely limits public access and makes little or no provision for funding.

We strongly believe that this is an anomaly that must be re-dressed. In our view the “*Grab all the land that you can, lock it up and throw away the key*” approach to setting up new National Parks must cease. There needs to be a mechanism similar to the EIS process for gaining approval to set up a new National Park, perhaps call it a Community Impact Statement (CIS). The CIS should include an economic impact statement and be required to address issues such as, but limited to:

- i) What is the justification for placing the particular parcel of land in the National Park Estate.
- ii) What resources will be sterilised by doing so. Perhaps apply a precautionary principle type approach to this; for instance if there is a resource (mineral or otherwise) or a reasonable chance that there may be a resource that one day could be economic this should be taken into account in the approval process by perhaps making provision for future exploitation or denying the application, if the harm to the future economy is judged to outweigh the benefits of creating the Park.
- iii) Following from ii) consider making provision for a dual use National Park. For instance there may one day be a need for a new dam.

- iv) Will people be thrown out of work (say timber workers) and how will they be re-trained and compensated.
- v) What provision will be made for public access.
- vi) What provision will be made for bush fire management.
- vii) How will feral animals and noxious weeds be controlled.
- viii) How will the new Park be managed.
- ix) How will the new Park be adequately funded.

Around 1987 one of us (Stitt) attended a talk given by Bob Carr, then Minister for the Environment in the Wran/Unsworth government. The talk was to members of the Sydney Bush Walking club, a pioneer conservation group; basically congratulating the club on its efforts on behalf of conservation over the years. During question time Stitt put precisely the above proposition to the Minister, mentioning dual use and making the possible future need for a dam the example, and asked that he consider implementing a CIS type scheme. His replied rather violently, using words to the effect "Absolutely not, people might object; particularly local residents". If Bob Carr could prevent it, no one was going to be allowed to object to the setting up of a new National Park.

Then there is the issue of how much of NSW gets locked up in National Parks and reserves. In the early 1950's a figure used in the Conservation Movement was 5%. Now the figure is claimed to be 9%, although it is possible that, taking everything into account, the real figure is well in excess of this. Notwithstanding, when one poses that same question today it is difficult to get a definitive answer from the Conservation Movement. The reply may be in the form "*We have to apply CAR principles*", (that is Comprehensive, Adequate and Representative), but there is hardly ever a percentage figure put forward as to how much of the State, or the country for that matter, they consider would be required to achieve a Comprehensive, Adequate and Representative National Park Estate.

And what use are vast areas locked up, poorly managed, not adequately hazard reduction burnt and a wildfire hazard, breeding grounds for noxious weeds and feral animals. Such lands are certainly not Comprehensive, Adequate and Representative of what Australia was like before the advent of European Man, so what is the justification of locking them up in National Parks and reserves?

There is an urgent need for there to be a more systematic approach to the setting up of new national parks and greater degree of logic. The LGPL commends the idea of a CIS type scheme to the Inquiry as a possible solution.

3.3 Bushfires And Hazard Reduction Burning

Our comment here focuses on the subject of hazard reduction burning, something the Conservation Movement has been strongly opposed to. It is not only a problem for the National Park estate but for the whole country. However in the case of National Parks a number of serious fires have originated in them and spread beyond park boundaries to cause massive damage; for instance the 2003 McIntye's Hut fire that laid waste the Canberra suburb of Duffy.

First some history.

Australia, when Europeans arrived, consisted of a series of biota highly adapted to what we now call hazard reduction burning. The reason is that this is what the aborigines had been practicing for 50,000 years or so.

They were greatly assisted in this by the existence in Australia of the “The Fire Tree”, the eucalypt. The eucalypt promotes fire and is resistant to fire, so that in a regime of constant burning, eucalypts have a higher survival rate and you tend to get the type of monoculture remarked on by many early scientists, including Charles Darwin.

Early settlers repeatedly remarked on the constant burning carried out by the Aborigines and often described the Australian landscape as grasslands with widely spaced trees. Some examples taken from *The Australian Landscape – Observations Of Explorers And Early Settlers*, Murrumbidgee Catchment Management Committee:

'Amongst the trees, two were remarked whose thickness was two, or two and a half fathoms, and the first branches from sixty to sixty-five feet above the ground...the country was covered with trees; but so thinly scattered, that one might see every where to a great distances amongst them...Several of the trees were much burnt at the foot...'

ABEL JAN TASMAN DESCRIBING THE STORM BAY AREA, TASMANIA
IN DECEMBER 1642

'The country today again made in slopes to the sea...The trees were not very large and stood separate from each other without the least underwood; among them we could discern many cabbage trees but nothing else which we could call by any name. In the course of the night many fires were seen'

JOSEPH BANKS DESCRIBING BULLI FROM THE DECK OF THE ENDEAVOUR 27
APRIL 1770

'...very barren place without wood...very few tree species, but every place was covered with vast quantities of grass...the trees were not very large and stood separate from each other without the least underwood.'

JOSEPH BANKS DESCRIBING THE BOTANY BAY AREA 1770

After we had passed this swamp we got into an immense wood the trees of which were very high and large, and a considerable distance apart, with little under or brush wood.

J. WHITE DESCRIBING FRENCHS FOREST (NOW A SYDNEY SUBURB) 5 APRIL 1788

'...and at the head of the harbour, there is a very considerable extent of tolerable land, and which may be cultivated without waiting for its being cleared of wood; for the trees stand very wide of each other, and have no underwood; in short, the woods on the spot I am speaking of resemble a deer park, as much as if they had been intended for such a purpose...The grass upon it is about three feet high, very close and thick...'

CAPTAIN JOHN HUNTER DESCRIBING PARRAMATTA 1788

'The extreme uniformity of the vegetation is the most remarkable feature in the landscape of the greater part of New South Wales. Everywhere we have an open

woodland; the ground being partially covered with a very thin pasture.'

And

'In the whole country I scarcely saw a place without the marks of fire; whether these had been more or less recent - whether the stumps were more or less black, was the greatest change which varied the uniformity, so wearisome to the traveller's eye.'

CHARLES DARWIN, 1836

Since the advent of European man in Australia, we have, by preventing the Aboriginal practice of Fire-stick Farming, changed the landscape. There have been a variety of reasons, ranging from the preservation of post and rail fencing in the early days of the colony, through to the Conservation Movement's current opposition, which appears to be largely ideologically driven. As a result we typically have much higher fuel loads than in pre-European times. Fuel load is defined as the amount (expressed as t/ha) of ≤ 6 mm diameter litter on the forest floor.

Considering the effect of this, and quoting from a NSW bush fire personnel training manual (BP/6), typical data for the relationship between fuel load and fire intensity on a high fire risk day is:

Fuel load (tonnes/ha)	Time to reach (Years)	Fire Intensity (kw/m)
7.5	4	300
15	8	1,300
30	-	5,200

At 7.5 t/ha fires are relatively low intensity, bird habitat is largely undisturbed and animals can dodge around the slow moving fire front.

At 15 t/ha we are entering Crowning Wildfire territory.

At 30 t/ha Crowning Wildfires are common with, in windy conditions, fireballs up to 300m in front of the fire front. We are now in the extremely dangerous category.

The results of this can be seen in events such as the McIntyre Hut fire, which in January of 2003 devastated parts of Canberra. This fire was started by lightning strike in a National Park. The NSW National Parks and Wildlife Service (the NPWS), being heavily influenced by those in the Conservation Movement opposed to hazard reduction burning, had done little about hazard reduction burning, resulting in fuel loads claimed to be in the range 45 to 50 t/ha. Nonetheless, in relatively cool conditions the fire lay dormant for a few days, during which time, according to some in the RFS, it could have been put out. However when conditions turned hot and windy the fire rapidly got of control, ultimately ravaging the Canberra suburb of Duffy.

These excessive fuel loads lead to catastrophic uncontrollable crowning wildfires, which kill everything in their path. Despite this the more radical elements of the Conservation Movement are still fundamentally opposed to hazard reduction burning, although they have had to indulge in a fair bit of ducking and weaving on the issue over recent years.

The result is a procession of government apparatchiks and members of the Conservation Movement making claims in the media to the effect that:

- ❑ The NPWS has carried out all the hazard reduction burning possible in a particular year.
- ❑ You can't hazard reduce the whole of NSW.
- ❑ Hazard reduction doesn't work.
- ❑ Hazard reduction is only (a small) part of the answer.

However an interesting counter statistic comes from the work of State Forests NSW (the former Forestry Commission). In 2001:

- ❑ State Forests managed approximately half the area of this State as that managed by the NPWS.
- ❑ State Forests hazard reduced $\approx 120,000$ ha to the NPWS's $\approx 12,000$ ha.

The result was that in the December 2001/January 2002 bushfires State Forests had 70,000 ha ravaged by bushfires whilst for the NPWS the figure was 770,000 ha.

And, as previously noted, these high intensity crowning wildfires having a catastrophic impact on native wildlife.

And from this it follows the one of the greatest dangers to Threatened Species and to biodiversity in Australia comes from the opposition by elements of the Conservation Movement to hazard reduction burning and, in the case of the National Park estate, the effect that this has had on the ability of managers to adequately and consistently perform hazard reduction burning.

And then there is Victoria and the disastrous February 2009 fires that killed over 170 people. This was caused by a combination of high fuel loads and extreme weather conditions. Afterwards, a range of claims were made by politicians and bureaucrats including "*There was not sufficient warning.*" and "*Nobody could have anticipated the way the conditions developed*".

Neither claim is true; Appendix 2 is an alert sent out by CSIRO scientist and bush fire researcher David Packham on the Thursday afternoon before Black Saturday. It was widely disseminated (even in Sydney one of us received it) and accurately forecast what ultimately happened. It was ignored by the politicians and bureaucrats of the Brumby government. David Packham, by advocating fuel load reduction by means of hazard reduction burning was persona non grata to both groups and to those in the Conservation Movement who opposed hazard reduction burning.

Note David's final comment:

"You have no idea how much I hope that I am wrong."

As it is no longer acceptable for certain conservation groups to as openly and trenchantly

oppose hazard reduction burning as they once did, the tactic now is to sow doubt by making the obfuscating type of comments set out above and to tie up permitting for hazard reduction burning in green tape. What needs to happen is that there be an open and public, science based debate of the issues, free from ideology and for the permitting regime for hazard reduction burning freed up.

We ask the Inquiry:

- **How much of Australia’s biodiversity has to be destroyed,**
 - **how many species have to be wiped out,**
- and**
- **how many people have to die,**

before the illogical, ideologically driven opposition to hazard reduction burning is finally put to rest. Please do something about it.

3.4 Non Interventionist Conservation

Non Interventionist Conservation simply involves locking up land that has been converted to the National Park estate, throwing away the keys and leaving it to nature. From an Extreme Green point of view this has the great advantage of allowing vast areas of land to be swept into the National Park Estate at seemingly at little or no management cost.

However this ignores the fact that, prior to the advent of European man, the land was not “Left to nature” it was managed by the Aboriginals using fire-stick farming techniques, and as previously noted, over 40,000 to 50,000 years Australian flora and fauna became highly adapted to this regime.

The problem with Non Interventionist Conservation is that:

- Fuel fuel loads build up to dangerous levels, creating a major fire hazard for neighbours.
- Weeds and exotics proliferate and spread into surrounding farmlands.
- Feral animals breed unchecked and also become a problem for neighbours.

Non Interventionist Conservation needs to be seen as a dangerous “con”, and abandoned.

4. MANAGEMENT PRACTICES ON PUBLIC LANDS

4.1 Advisory Committees

The current situation is that each administrative region has an Advisory Committee with members appointed by the Minister according to Schedule 8 of the Act. In effect the Regional Manager chooses the members of this committee by submitting the names up the line for the Minister to appoint. Our experience has been that this allows the Regional Manager the ability to skew the make-up of the particular Committee.

In addition, Schedule 8 of the Act requires that one person is to be jointly nominated by the Nature Conservation Council and the National Parks Association of NSW. This creates a statutory position on the Advisory Committee for organisations that represent a very small number of people and who have a particular agenda in respect to the management of National Parks. In this day and age it is an untenable situation that particular organisations are always to be included in the Advisory Committee. This part of the Schedule should be revised.

Further, another position is designated to the NSW Farmers' Federation and this should also be revised where it is not relevant, say in metropolitan National Parks.

These statutory requirements tie the hands of the Regional Manager regardless of how he/she sees things.

An example of the problems that arise, concerns the Royal National park and the cabin communities. At a point in time when the Plan of Management for the Royal National Park was due for redrafting, the Regional Advisory Committee for our area had to be reconstituted to accommodate a restructure of the Service. The Advisory Committee that, previously included two members of the cabins community This resulted in our communities not being represented on the committee after the reconstitution.

The rationale given by the Regional Manager was that matters relating to the licensing of cabins had been "completed" and further input into management was not required. This is far from the truth. There are important management issues for the Advisory Committee to consider in respect to the cultural heritage of the cabins areas and how this will be represented in the Plan of Management redraft.

The cabins community members constitute hundreds of families, with a wide range of backgrounds and contribute valuable volunteer resources to the Park including Landcare and Surf Life Saving.

Moreover the communities have long supported improved public access, improvement of the iconic Coastal Walking Track, plus additional and upgraded camping areas.

What has happened is that peak conservation bodies who actively seek to restrict public access by, for instance, maintaining the current policy of having only two camping areas in the Royal (at North Era camping is restricted to those using the Coastal Walking Track and allows for one night only) and have little "hands on" relationship with the Royal National Park are represented on the Advisory Committee and the cabin communities are not.

4.2 Open to all

The Advisory Committees currently are virtually secret committees. Though their role is to advise on the management in National Parks, the public does not have access to them.

It would seem appropriate for proper public input into National Park management, that Advisory Committee meetings are open to the public with notifications of when and where they take place circulated in the media. Members of the public should be able to attend to observe proceedings and a section of the meeting should be made available for people to address the Committee. A role model is local Council meetings.

This would provide public scrutiny and public input of the Advisory Committee functions and would be a marked improvement in the management of National Parks.

5. MODELS FOR MANAGEMENT OF PUBLIC LANDS

5.1 Introduction

We have elected to comment on models for management in the two national parks with which we are most familiar, the Royal and the Kosciuszko National Parks. Coincidentally these two parks are claimed to be the most visited in NSW.

For the Royal National Park we address the management issues that the LGPL sees as confronting the cabin communities. For the Kosciuszko National Park we address management of snow sports.

5.2 The Cabin Communities In The Royal National Park

5.2.1 Background

The cabin communities of, from north to south, Little Garie, Era and Burning Palms were all built on freehold land with the permission of the owners or lessee of the land, prior to 1950. When the land on which the shacks at Era and Burning Palms were built (Portion 1, Parish Bulgo, County Cumberland, totaling 150 ac) was due to be sold in 1950, the Protection League lobbied the Minister for Lands to resume the land. The Government resumed not only Portion 1 but also the five 40 ac freehold blocks (Portions 7,13,44,47 and 48) to the north on which the North Era valley and the Little Garie community are situated. The six blocks totaling 350 ac (≈142 ha) and known as “The Era Lands” were added to the National Park in 1953 which was renamed the Royal National Park in 1954 to celebrate the Queen’s visit to Australia that year.

Under the management of the National Park Trust from 1953 to 1966 shacks could be bought and sold with the Trust Board noting the change of ownership. In 1967 with the passing of the National Parks and Wildlife Act, NPWS policies sought to have the shacks removed and indeed until the recognition of the heritage values in the 1990s over fifty shacks were demolished at the three communities. However in the early 1990’s the communities began to seek and were successful in getting heritage recognition from organisations such as the National Trust, Wollongong Council and the Australian Heritage Commission. This put a stop to the demolitions.

There are currently 143 cabin (or shacks as they are sometimes referred to) in all, 20 at Little Garie, 94 including one derelict at Era, and 29 including two derelict at Burning Palms. These are part- time recreation communities, not road accessible and the shacks themselves require constant maintenance due to them being subject to extremes of environment.

More recently in April 2012 the Cabins Communities were listed on the State Heritage Register with three distinct curtilages, one for each community, that contain the shacks themselves and a network of tracks between them.

The cabin communities in the Royal National Park are unique. They represent self-regulating communities of non-road accessible cabins, built legally on free hold land that was later incorporated into what is now the Royal National Park. There is nothing like them anywhere else in Australia, and it is both the cabins **AND** the communities that are important.

Whilst the long term security situation of the communities has greatly improved over the last 20 years we are aware of the mantra of the more radical elements of the Conservation Movement “*No compromise, never give up.*”

Even with approximately 15 years to run of a 20 year licence agreement and listing on the State Heritage Register we are still vulnerable to tactics such as destroying the communities by applying excessive rents and conditions that are impossible to comply with, especially in a non-road accessible location.

How the communities are to be managed into the future, is now the issue that concerns us. The current Plan of Management (POM) calls for the Service to follow the provisions of the Australia ICONOMOS Charter for the Conservation of Places of Cultural Significance (the Burra Charter) and in respect to the cabin communities, to ensure:

“... their cultural heritage values are retained ..” (Page 34)

and that in respect of each community the Service will:

“... establish guidelines for maintaining the social context of the group of cabins ” (Page 37)

However the NPWS has demonstrated that it does not follow its own Plan of Management, its own Cultural Heritage Policies nor the Burra Charter in respect to the management of our communities.

Ownership of the cabins

From the time of the resumption through to 2005 the Government of the day, the National Park Trust and the NPWS when it came into being, acknowledged that the cabins were owned by the occupants. We believe this came about as a consequence of the decision of the Government at the time of resumption not to have to pay financial compensation to the owners of the structures on the land.

There is concrete evidence to this effect in documents found in the Lands Department archives clearly showing that on resumption of the land, the Lands Department directed the NSW Government Real Estate Office not to resume the structures themselves.

“In resuming the subject land it was not intended to claim ownership of the huts and tents...” writes PJ Haahes of the Parks Division approved by Sheldon for the Undersecretary Dept of Lands 9th March 1950 to the NSW Govt Real Estate Office. (Document from Lands Department at time of Resumption)

Under the National Trust Board from 1953 to 1966, shacks were bought and sold with the Board recording the transfer of ownership in its minutes. In 1967 with the passing of the National Parks and Wildlife Act, NPWS policies sought to have the shacks removed and indeed until the recognition of the heritage values in the 1990s over fifty shacks were demolished at the three communities.

The 1979 Licence that was instituted by the NPWS acknowledged the licensees as owners of the building and required them on termination of the licence to remove the structure as it was considered the property of the licensee.

The 2000 Plan of Management recognized that the cabins were owned by the occupants. Minister for the Environment and Attorney General, Hon. Robert Debus refers to this ownership in the introduction and it is spelt out in detail on page 33.

However since 2005 there has been a concerted effort by the NPWS managers to break the nexus between the people and their cabins. Specifically the NPWS claimed ownership of the structures, in breach of its own Plan of Management. They refused to acknowledge the previous history of having acknowledged cabin ownership in the 1979 licence and in correspondence addressed to “cabin owners” for over virtually 50 years. By claiming ownership, the NPWS were not only in breach of their own POM, but was also in effect saying that the Attorney General was wrong.

It was not only the Protection League that took issue with the attempt by a Government Department to claim ownership of the shacks. The National Trust provided a letter to the Protection League on the issue in 2006 stating:

“The Trust has long opposed the NPWS policy supporting demolition of the shacks. However, ownership being taken over by the State to correct an alleged “anomaly” may in time achieve the same objective.

“Forcing the long-term owners of any historic and culturally significant properties to relinquish their ownerships on threat of eviction and demolition is unconscionable.”

5.2.5 NPWS And Cabins Management – The Current Problems

The NPWS core business is management of a busy National Park on the doorstep of Sydney with an iconic Coast Walk that is in dire need of upgrading, and tourist areas that have high visitation numbers and associated problems.

The Cabins Communities provide valuable resources to the RNP including a Landcare group that has attracted multiple grants and works on areas from Jibbon Beach to Middle Rill Midden and North Era Midden as well as within the cabin communities’ areas themselves. They also provide the members and facilities for the Surf Life Saving Clubs at Era and Burning Palms and contribute markedly to the Garie SLSC. The Surf Clubs and Cabin Community members are often the first point of contact for the public in distress within the broader area from Garie to Burning Palms through which the busy coast walk passes.

Some of the problems with the current NPWS management in the cabins areas are:

- Failure to provide adequate fire management for the cabins. With increasing fuel loads due to marked natural bush regeneration, the NPWS only allows cabin owners to manage vegetation within 2 metres of their cabins. The Rural Fire Service Guidelines would require fuel load reduction in curtilages of up to 70 metres downslope and 20 metres upslope – depending on the gradient. The 2 metre curtilage is considered grossly inadequate.
- The NPWS is supposed to have conducted a Fire Assessment of all the cabins and provide this assessment to licensees. However only Burning Palms community have received their assessments to date. We have been told the others have been done yet despite requests for the past two years, they have not been provided to us.

- Inability to manage the vegetation issues within the communities. The 2005 Conservation Management Plan requires Vegetation Plans to be done at each of the communities. To date only one such plan has been done at Bulgo. The LGPL would like to see its vegetation plan completed so that the community can manage vegetation issues within our curtilage. The Cabins Community Landcare Group has proposed that it undertake these vegetation plans as it appears the NPWS does not have the resources to do so. This suggestion was well received by the NPWS and is under consideration.
- Inability to manage vacant cabins within the cabins areas. Three cabins are now derelict and face removal due to neglect by the NPWS over many years. Two at Burning Palms (BP) are in a partial state of demolition and have been placed in bags but not removed for many months. The BP community had proposed that it would do all the work of removal of the two derelict cabins if it were to be allowed to rebuild one for Surf Club and public use. This suggestion has been given agreement in principle but not finalized despite the passage of over 2 years. The derelict shack at Era is right beside the coast track and contains asbestos fragments. These sites have become an eyesore and environmental hazard. They are an embarrassment and bring our areas into disrepute.
- In its publicity in 2005, the NPWS has stated that it would make some vacant cabins available for public use, but it has failed to give effect to this scheme. The LGPL has supported the use of a small number of vacant cabins for public use and allowance for this has been included in the State Heritage Register exemptions. The NPWS has demonstrated that it cannot manage infrastructure at the remote locations. The rebuilding of the derelict cabins mentioned above could be done by the communities and managed by them, for public use.
- An issue that is completely forgotten by the NPWS is that the people that are experts in operating in a non-road accessible environment are the members of the communities. They are the people, who for instance, when a toilet has had to be rebuilt have devised a minimum weight design for a septic toilet, carried everything in by hand and erected it. The “experts” that the Service engages to advise them have absolutely no experience of this type of situation. This has led to a number of ridiculous requirements, for instance, architects mandating that water tanks (all rotationally moulded plastic these days) be set on a reinforced concrete slab. Having no experience of the issues they got the idea and the design from a Bunnings catalogue. Community practice (and it eventuated the recommended method by the largest producer of these tanks in Australia) is to site the tanks direct on ground. Although we have had Service personnel prepared to listen to a community solution, this is not always the case. Even if the NPWS officer agrees, his/her hands are sometimes tied by Service bureaucracy.

5.2.6 Participation in Management

In order to address the management problems within the Heritage listed Cabins Curtilage the LGPL considers the key to resolving these problems is providing the communities themselves with the management role. The problems will not be addressed by “more of the same” with NPWS not having the resources or heritage expertise to properly manage the state significant cultural landscape. Over the past years the communities have repeatedly referred to policy documents on Cultural Heritage within the Department, but

have never had these policies effected in management decisions.

In the October 2010 document, "Cultural Landscapes, A practical guide for Park Management", the Introduction states the following:

"Heritage management system in NSW

The heritage management system advocated by the Heritage Branch, Dept of Planning (NSW) is a three-stage process – identify significance, assess significance and manage significance. This broadly conforms to Australia's internationally recognized Australia ICOMOS Burra Charter, which emphasizes cultural significance as a basis for making management decisions.

DECCW's cultural heritage strategic policy recognizes that the Australia ICOMOS Burra Charter 1999 for the conservation of cultural heritage represents current best practice in heritage conservation." (This document was produced by DECCW and the Dept of Planning referred to is now together part of the Office of Environment and Heritage)

The Burra Charter under Article 12 states:

"Participation

Conservation, interpretation and management of a place should provide for the participation of people for whom the place has special associations and meanings or who have social, spiritual or other cultural responsibilities for the place."

The State Heritage Register Listing is clear that the Cabin Communities are of State Significance under criteria d) Social Significance. It states:

"The cabin communities of Little Garie, Era and Burning Palms have social significance at a State level because of the breadth of direct associations across a broad regional area, the strength of ties and sense of identity within the cabin community areas associated with the cabins lifestyle, and sense of place in the landscape and the continuous and strong family associations, in many cases for four generations."

So in order to meet best practice management principles the challenge now is how to find a way for the participation of the people of the cabin communities in the management of their places. Currently the only avenue for participation by cabins community members is the Cabins Consultative Group which was established after the adoption of the Plan of Management in 2000 and meets quarterly. However it is a consultative group only and has no direct management role.

The LGPL and the communities have been looking at options that involve the community in management of the State Heritage listed cabins curtilages:

- To provide a way forward to meet the needs of our communities in the new Heritage environment.
- Are within the terms of the NPWS Act
- That the Minister may consider an acceptable way forward for the NPWS to meet its responsibilities of best practice management.

In Conclusion

The LGPL is advocating a new paradigm for management of the cultural heritage values of the cabin communities within the Royal National Park. Our communities are exceptional as they are part-time recreational communities within a National Park. However there are implications from our situation for all communities that border on or are near National Parks.

Cultural Heritage values that relate to Aboriginal Areas have been well covered by Part 4A of the Act. However European cultural heritage within National Parks is not treated with any of the consideration of the Burra Charter principles that should be applied to it.

There needs to be provision for community input into management of areas within National Parks. Management decisions relating to cultural heritage values should be made by the people whose cultural heritage is at stake and not by Regional and Area NPWS officers.

We ask the Inquiry to support this principle of community management of cultural heritage areas within National Parks.

5.3 The NSW Snowfields

5.3.1 Snowfields Accommodation

Since the formation of the Service there has been much angst on the part of snow sports enthusiasts and resort managers at the way in which that body has gone about managing snow sports in NSW. To cite an example; on-snow accommodation; something that the NPWS has long opposed.

There are estimated to be in the order of 500,000 snow-sports enthusiasts in NSW. Whilst some only ski or snow board overseas due to factors such as the cost and hassles in our snowfields, most go to NSW or Victorian resorts. And if we leave out ski touring and X-country skiing, in NSW snow sports impact on less than 1% of the area of Kosciuszko National Park (the KNP)

Both the Australian Ski Federation (the ASF) and the NSW Ski Association (now trading as NSW Snowsports) in the 1980's carried out surveys of the opinions held by snow-sports enthusiasts on a number of issues. One question was to the effect, assuming that cost is not a major issue where would you prefer to be accommodated, on snow or off-snow. The answers were +95% in favour of on snow accommodation. Following this the NSW Ski Association adopted a target of one bed on-snow for each bed off-snow.

The letter to Bob Carr from four conservation peak bodies mentioned in Section 2.2 was in response to the 1990 NPWS planning discussion paper Ski 2000. This document came during the tenure of the Greiner government and took a much more enlightened view on snowfields planning than had previously been the case. One proposal was for approximately an extra 1,000 beds on the Perisher Range; this is the proposal that raised the ire of the peak bodies and caused them to write to Bob Carr.

Although the proposal was accepted, we are now about 22 years into the implementation phase and so far only around 300 of those beds have been taken up. The whole process has been subject to bureaucratic slow down and excessive pricing. Rental costs are such

that most of the beds have gone into existing lodges; in commercial terms it is very difficult to justify building a new lodge from scratch.

Basically this amounts to the Service renting the public out of their preferred accommodation option.

5.3.2 NPWS Staff

In our opinion this is an issue throughout the Service, however it has its greatest impact in the KNP since, due primarily to snow sports, that park has the greatest visitation numbers of all NSW parks and by far and away the most development.

In our opinion, due to the undue influence of radical elements of the conservation movement, staff recruitment has focussed on nature conservation. We see the Service as a dysfunctional organisation where to get ahead staff have had to be seen to be adhering to a strict line radical green line, no matter what they may have thought in private.

This situation reached a peak during the tenure of Bob Carr as Premier and Bob Debus as Minister for the Environment. It was obvious at meetings involving certain peak body luminaries, that Service managers felt that they had to “keep their heads down” no matter what outrageous idea was being proposed. With the departure of these two gentlemen it is our experience that there has been somewhat of a sea change. Managers who are themselves not adherents of radical conservation and have “guts”, are now on the odd occasion, seen to be standing up to those they previously thought they had to kow tow to. This is something to be encouraged.

Back to the KNP, as elsewhere the NPWS focus has been on the issue that the staff are comfortable with, that is nature conservation, yet they constantly have to deal with major visitation issues and the submission of development proposals. Development proposals and their proponents particularly, are not appreciated. And when funding is tight the NPWS simply responds by increasing park entry and associated user charges with a view to further limiting people impacts.

There needs to be a change in NPWS recruiting policies so as to develop a more balanced staff mix. In particular there needs to be a focus on recruiting staff with commercial acumen and those that see planning as a prelude to doing something rather than a tool to delay and procrastinate. And this needs to begin in the KNP.

5.3.3 The Impact Of The Thredbo Landslide Inquiry

As a result of the findings of this Inquiry the government of the day separated the planning approval process from the NPWS. Whilst doubts about the Service’s capability to assess development proposals were well founded, the unfortunate result is that proponents now have to go through two government departments, the NPWS and the Department of Planning via a referral process in which effectively the NPWS still retains the right of veto.

Planning approvals are thus bogged down and many applicants simply become frustrated and take their investment dollars elsewhere.

This is of course an ideal outcome for the radical elements of the Conservation Movement and certain of the KNP members of the NPWS staff.

5.3.4 Conclusion

So in a National Park for which one of the key reasons for setting it up in the first place was the creation “**...of a winter sports ground greater than any in Switzerland and the development of an immense tourist area that would, compare favourably with any in the world.**” we have as managers an organisation (the NPWS) that is philosophically opposed to snow sports and has acted to slow down development and to increase the costs and hassles involved in snow sports. Question for the Inquiry, why put an organisation that opposed to a popular recreational activity, in Park largely set up to accommodate that activity, in charge of it?

The logical solution is the one which has been proposed on a number of occasions in the past by the NSW Ski Association (now trading as NSW Snowsports); that is to have a designated resort area or resort areas in the Kosciuszko National Park that would be managed by a separate authority on which the NPWS would be represented but would not control. We commend this suggestion to the Inquiry.

6. OTHER MATTERS

6.1 Volunteer Groups

The Cabins Community Landcare Group has long held the view that there will never be enough money to adequately look after the land that is currently in the National Park Estate, and the only way that it can be accomplished is to recruit volunteers.

Landcare, initiated by the Hawk/Keating Government and now having bi-partisan support has been of considerable help in funding Landcare groups, whether working in or out of the National park Estate.

Early on, it was the Group's unfortunate experience to be contacted by one funding agency and warned that they had been requested, apparently by a conservation organisation with a particular agenda, not to grant funding to us. There were a few other incidents of a similar nature. In addition at one stage the then Regional Manager was strongly opposed the cabin communities being involved in Landcare in the Royal. That situation has totally changed now, with in recent years the Area Manager forming a Friends of Royal Group that aims to bring all stake holders, regardless of their affiliation, together for the good of the Royal.

We suggest that the Inquiry consider how best to harness volunteer groups to work for the good of the National Park Estate, and hopefully avoid the problems that the Cabins Community Landcare Group experienced in its early years.

6.2 NPWS Doubtful Practices

In the opinion of the LGPL the NPWS has a history of not dealing fairly with people and organisations as well as sometimes of proceeding with matters in a manner that may have been of doubtful legality.

Some examples:

- i) **A Cabin Transfer.** At the time of the formation of the Service members of the Burning Palms had applied to have the lease for a particular cabin transferred from seller to purchaser. This was a standard part of the sale mechanism then in force. The transfer was approved as the Service took over management of the Royal, with an announced policy of fixing ownership and demolishing cabins as the owners died off. It came out years later, that the Service had failed to notify the parties; which would have allowed the sale to be legally completed. This resulted in the cabin being demolished.
- ii) **The 443 Account:** In the 1980's NSW Ski Association members of the Liaison Committee with the Service, on hearing that all gate revenue from the KNP went to consolidated revenue, said that on certain conditions the Association might support a special winter levy, the proceeds of which would go directly to the KNP.

This proposition was put to an Association meeting and passed. The conditions were that the money be spent pro rata, that meant if x% was raised from Perisher Range visitors in winter then the money would be spent on winter facilities in that area. The Association could suggest projects, however the final decision would for the Service and there was to be an "open book" disclosure of how the money was actually spent. The scheme had to go to treasury for approval. After a couple of years the Service refused to divulge where it was spending the money. Years later,

under freedom of information, it eventuated that they had abandoned the agreement that had been made with the Association.

To this day there is no accountability as to where the funds are spent. However it does appear that significant sums have been or are being spent in remoter areas of the KNP where no surcharge fees are collected

iv) Ski Tube

Arguably the largest single development in any national park in Australia; the NPWS permitted a proponent to prepare an EIS for Ski Tube Mark 1 on the basis of assumed and unrealistic demand for access figures without, as required by the Plan of Management, first carrying out a study of alternative means of access.

v) Ski Tube Extension, Perisher To Blue Cow

The Service allowed work to commence on the extension without first having an EIS prepared and determined.

Perhaps it is time that some of the more egregious examples to be examined in detail and if thought appropriate seek redress, legally or otherwise, sought.

6.3 The Administrative Decisions Tribunal

As things currently stand there is no independent means for citizens who consider that they have been unfairly dealt with by the NPWS, to gain redress. The NPW Act is not subject to the Administrative Decisions Tribunal, and citizens must take a complaint either to the Ombudsman or to the Land and Environment Court. In the course of our difficulties with the NPWS, the LGPL has been party to both these mechanisms and found that the process is far from satisfactory. Moreover it is our experience that the Service is well aware of this and hides behind it.

The Service's attitude in dealing with the communities was that they would listen to us and then tell us what they would give us, but they would **NEVER** negotiate. It wasn't till the RNP Coastal Cabins Protection League went to Court and took out an injunction against the Service, that was supported by strong evidence, that the Service decided that it might be an idea to negotiate.

However this cost the Protection League and it's members (many retired and of modest means, but passionate about their shacks) was in the order of \$200,000.

National Parks now cover a significant percentage of NSW, and within these Parks there are multiple regulations. If a person is deemed to be in breach of a regulation, they may face substantial fines. There is no avenue for appealing a decision made by a NPWS Officer other than internal review or Court.

There has to be a better, fairer way. In our opinion this would be achieved if the National Parks and Wildlife Act were to come under the jurisdiction of the Administrative Decisions Tribunal. We commend this idea to the Inquiry.

6.4 Exclusivity In National Parks

The NPWS from time to time speaks out against exclusivity in National Parks, with the cabin communities in the Royal National Park and those with access to on-snow accommodation in Kosciuszko National Park generally carrying bulk of the criticism. There

is another side to this story.

In the Royal National Park, after the resumption of “The Era Lands” and prior to the formation of the NPWS, if you were interested in acquiring a cabin all you had to do was to get involved with the communities, say through one of the Surf Clubs, and when a shack came up for sale, buy it. You could occasionally see them advertised in the Sydney Morning Herald.

As we have seen above, the NPWS has been opposed to on-snow accommodation and have been successful in limiting what the vast majority of snowsports enthusiasts favour.

In both cases the exclusivity that the NPWS complains about is a construct of their own making.

7. ABOUT AUTHORSHIP

This submission was prepared by Peter Stitt of the Little Garie Cabin Community with the support of community members.

Peter Stitt

Peter joined the Sydney Bush Walking Club in May 1950 and is still a member. The Club was a pioneer conservation group, with many of the early luminaries of the conservation movement as members; e.g. Myles Dunphy, Alex Colley OAM (for services to conservation), Tom Moppett, Alan Strom and Marie Byles.

Peter holds a BE in Applied Geology and a Graduate Diploma in Mineral Processing, both from the University of NSW. He worked for twelve years ACI Ltd, in the 1950's/1970's a top five Australian company, resigning in December 1970 as Chief Scientist, ACI Technical Centre Pty Ltd. The Technical Centre was then one of the largest industrial R&D/Engineering/Testing facilities in Australia with a staff of around 240.

He set up the mining and geological consultancy of Peter H Stitt & Associates Pty Ltd in 1971 and is still active in the company.

Peter commenced skiing in 1951 and is still an active downhill skier. He was involved with the NSW Ski Association (the NSWSA) and its predecessor organisation, the Perisher Association for 35 years. During that time he was variously:

- Chairman of the NSWSA's Recreation Committee.
- Responsible for the Associations investigation into Twin Valleys as a possible new ski resort (1978 to 1983).
- Co-author or author of most of the submissions prepared by the NSWSA in the 1980's/190's.
- A member of the Liaison Committee between the NPWS and the NSWSA.
- President of the NSWSA.
- A director of Skiing Australia.
- For 25 years, a member of the organising committee of the Paddy Pallin Classic, a major long distance cross country citizens ski race and apprentice course setter for 5 years and course setter for 20 years.

Peter has been a member of the Little Garie cabin community since 1966 is an ex-president of the RNP CCPL and is currently President of the CCLG and Secretary of the RNP CCPL. He was formerly a member of the Advisory Committee for what is now the Metropolitan South West Region of the NPWS.

6. **APPENDICES 1 AND 2**