

**Submission
No 279**

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

Organisation: NSW Council of Freshwater Anglers Inc

Name: Mr Rodney Tonkin

Date received: 3/08/2012

1st August 2012

The Director
General Purpose Standing Committee Number 5
Legislative Council
Parliament House
Macquarie Street
SYDNEY NSW 2000

RECEIVED

03 AUG 2012

GPSC's

Dear Director,

Regarding NSWCFCA Submission on the Management of NSW Public Lands

The NSW Council of Freshwater Anglers Inc. (NSWCFA) welcomes this opportunity of presenting you with a submission on the management of public lands in New South Wales (NSW). Recognised by the NSW Department of Primary Industries – Fisheries as the Peak NSW freshwater recreational fisher body, the NSWCFA represents the interests of all NSW freshwater anglers. This involvement not only focuses on the sustainability and improvement of the inland fishery, but also concentrates on maintaining the environmental wellbeing of the riverine and lakeside surroundings and habitat. As such the NSWCFA regards our interests in the subject of the management of public lands providing access to and involvement in waterways as one of being a significant stakeholder.

With the co-operation of NSW Fisheries, the NSWCFA has in recent times been active in progressing the establishment of access to NSW freshwater waterways, and in so doing has formulated and sought to undertake the management responsibility for certain Crown Lands Reserves. The intension in this regard is to widen this involvement throughout the State as and where the involvement is appropriate.

The NSWCFA has been initiating, in some circumstances, and participating in public forums relating to the establishment of a responsible angler access program to inland NSW waterways, the outcome of which is now under development throughout the State. Of notable significance has been the NSW Angler Access Forum and Workshop held in September 2009, organised by the NSWCFA and the Recreational Fishing Alliance of NSW. Involvement was gained from specialist consultants from New Zealand and inter-State. This has resulted in NSW Fisheries involvement with the identification of public lands providing fisher access to waterways with a view to publication, and in recent times the application by incorporated bodies for the management control of some Reserves.

Conversion of Crown Lands that may impact on restricting recreational angler access to waterways is of major concern to recreational anglers. The NSWCFA is working to taking a responsible and feasible alternative to this occurring, and seeks your Committee's co-operating in achieving a satisfactory outcome.

Yours sincerely

Rodney Tonkin, NSWCFA President.

NSW Council of Freshwater Anglers Inc
PO Box 537, Paddington NSW 2021

Email info@freshwateranglers.com.au Web www.freshwateranglers.com.au

ABN 22 497 104 592

NSW COUNCIL OF FRESHWATER ANGLERS INC.

SUMBISSION ON

THE MANAGEMENT OF PUBLIC LANDS IN NEW SOUTH WALES

INTRODUCTION

The NSW Council of Freshwater Anglers Inc. (NSWCFA) is now in the 54 year of representing the interest of NSW freshwater fishers. Affiliated with the Recreational Fishing Alliance of NSW and the Murray Darling Basin Recreational Fishing Council, the NSWCFA is focused on the improvement of the State's fisheries management, regulatory matters, conservation, angler access, angling ethics and animal welfare, together with generally looking after the welfare of the NSW's fishery, habitat and freshwater environments. Being one of the largest recreational freshwater fishing bodies in Australia, the NSWCFA is recognised by the NSW Department of Primary Industries (DPI) – Fisheries as the Peak representative freshwater recreational fishing body for its record on being an effective and reliable voluntary organisation. For further background information and policy statements on the NSWCFA please access the NSWCFA website at www.freshwateranglers.com.au.

TERMS OF REFERENCE APPLICABLE TO THE SUBMISSION

The NSWCFA submission is restricted to the following particular issues in the statement of the General Purpose Standing Committee Number 5 – Call for Submissions. These are:-

- 1.a The conversion of Crown Land into National Park or other types of conservation areas, involving the process and the assessment of potential operational, economic, social and environmental impacts;
- 1.b As to what will be the operational, economic, social and environmental impacts after conversion on neighbours of public land and on Local Government;
- 1.c A case relating to the Red River Gum State Forests in the Southern Riverina;
- 2 Adherence to management practices, in particular weed eradication and soil conservation;
- 3 Examination of a model for the management of public land that provides for conservation which utilizes the principles of sustainable use; and
- 4 Other related matters.

CONVERSION OF CROWN LANDS & ASSESSMENT OF IMPACTS (refer to 1.a above)

The NSWCFCA, in gaining the support of the Minister for Crown Lands, has in recent years encouraged its constituent member recreational fishing clubs and societies to responsibly appeal against the sale or disbursement of NSW Crown Lands, paper roads, and reserves wherever they provide, or have the potential to provide, recreational angler access to NSW waterways. The NSW DPI – Fisheries has in the past facilitated this process in a limited manner by ensuring that some clubs and societies were informed of proposals for the sale of such land, and by providing land titles and map descriptions where there existed the matter of waterway access.

From an operational view point, the NSWCFCA regards as reasonable that any conversion of Crown Lands where appropriate should accommodate multiple uses by the general community for recreational pursuits such as angling, walking, Local Body reserves, or set aside for native vegetation and wildlife conservation and/or restoration. There is evidence to suggest that these social, human welfare and environmental impacts are of real significance and are likely to be of an ever growing importance with Australian's increasing population.

The NSW population participating in fishing has been as high as 30% of the total NSW population. The 2003 National Recreational & Indigenous Fishing Survey (Henry et. al.) established that in the year 2000 in excess of 1 million fishers fished in NSW and the income attributable directly to recreational fishing in the same period for NSW was \$554.2 million. This assessment does not take into account the beneficial effects of maintaining a healthy and physically active population of people. Now that the drought of the past 10 years has broken, the expectation is that these figures will be exceeded in coming years.

As discussed at the 2011 NSW Travelling Stock Routes Conference organised by the National Parks Association and held in Orange, there is a need for some consolidation of formal government ownership to simplify the administration and management of these lands, without disposing of the considerable shared multi-use, heritage and environmental benefits that are involved. Much of the supervision in safeguarding to reduce fire risk and weed infestation can effectively be provided locally where the incentive is linked to the beneficial use and responsibility.

The transfer of land tenure and/or management to National Parks has often resulted in significant reduction in access to water for fishers. It would appear that under-funding of National Parks to manage such lands appears to compound this trend with Park managers preferring to lock out the public in preference to establishing effective compliance activities.

RECOMMENDATION For 1.a

Given the jurisdiction of the Minister for Primary Industries administering the Fisheries Management Act 1994 and its amendments in respect of NSW freshwater fishing, Section 30C of the National Parks and Wildlife Act 1974 be amended to include all land comprising the banks and beds (within the meaning of Section 38(3) of the Fisheries Management Act 1994) of perennial streams, rivers and still waters as land that cannot be transferred to National Parks or other landholders without the written consent of the Minister administering the Fisheries Management Act 1997.

Note that the amendment to Section 30C should have the effect of encouraging compliance with the Fisheries Management Act 1997, as preserved by Section 44 of the National Parks & Wildlife Act.

IMPACTS AFTER CONVERSION (refer to 1.b above)

As will have become apparent from the previous statements, the NSWCFCA is not in favour of all these lands being disbursed by public sale, but rather those worthy of retention being consolidated within one government department's administration and management wherever a community benefit exists. National Parks do not have a good record in the public eye of being able to control weed infestations and pest animal control. Consequently, conversion of these lands to National Parks is not regarded by NSWCFCA as being acceptable within the management paradigm currently prevailing. National Parks have a tradition of locking people out and preventing access on the excuse that to allow access, even on foot, is a threat to the environment. Also of concern is how consistent National Parks and Wildlife (NPWS) closures / restrictions are with Section 44 of the National Parks and Wildlife Act, 1974. S.44(1) states 'nothing in this Act affects the operation of the Fisheries Management Act 1994 in relation to lands within a national park or historical site'.

The objects of the Fisheries Management Act 1994 in Section 3 state:-

- (1) The objects of this Act are to conserve, develop and share the fishery resources of the State for the benefit of present and future generations.
- (2) In particular, the objects of this Act include
 - 2(a) to conserve fish stocks and key habitats, and
 - 2(e) to promote quality recreational fishing opportunities, and
 - 2(f) to appropriately share fisheries resources between the users of those resources, and
 - 2g) to provide social and economic benefits for the wider community of NSW, and ...

No withstanding the operation of the Fisheries Management Act 1997 within National Parks, there has been no acknowledgement of jurisdictional issue in many National Park plans of management. As an example, the Blue Mountains National Park's Plan of Management makes no mention of recreational fishing in the use of the Park. Part 4.3 of the Plan provides for an extensive coverage of "recreation in a natural setting" while mentioning a wide range of other recreational activities. This unjustifiably ignores the historical significance of fishing as an important recreational activity of Australian Bass and Perch within the Park since the nineteenth century.

The failure to appropriately acknowledge recreational fishing in the Blue Mountains National Park Plan of Management is a failure to accurately acknowledge the history of the Park. Tracks into the Grose River via Lockley's Pylon and Falconbridge Point, together with the remains of the weir on Grose River near Burra Korain, which was originally built as a fish hatchery, have received no recognition in the Plan even though Section 30F of the National Parks and Wildlife Act make provision for the recording of historical sites.

NSWCFA is against the sale of these lands where recreational fishers have or could have an entitlement to accessing waterways in pursuit of their recreational sport unless there is a clause written on the title guaranteeing continuing angler access under reasonable conditions at all times.

Regarding the impact on neighbours of public lands and upon Local Government, NSWCFA maintains that were recreational angler access to waterways is established there should be a clear understanding of the obligations and expectations of the parties/stakeholders concerned over those who stand to benefit. A written binding memorandum of understanding (MOU) covering all aspects of use is seen as an essential when it comes to arbitration over disputes, and copies should be filed with all concerned.

THE CASE FOR RED RIVER GUM STATE FORESTS (refer to 1.c above)

The NSWCFA is of the opinion that where the government decides to change the status of public land such as in its conversion of State forests and other lands into the Murray Valley Regional and National Parks, attempts should have been made to accommodate the social and cultural practices of the region. For example, dispersed campsites were a common feature along the riverbanks prior to the area becoming parks. These dispersed campsites have been replaced by concentrated campsites in what many users consider less than ideal locations within the parks. Further, in the past wood could be gathered for camp fires. This practice is no longer permissible. With a less doctrinaire approach NPWS may have been able to ensure that much of access and activities historically provided in these areas could have been accommodated without causing significant harm to the land.

RECOMMENDATIONS For 1.c

In any transfer of public land, the Government should

- Make all efforts to improve or at least maintain the current level of public access to that land; and
- Demonstrate that such a transfer benefits the public, taking into account the financial, social, cultural and environmental implications of those most directly affected.

ADHERENCE TO MANAGEMENT PRACTICES (refer to 2 above)

In regard to public land that is mandated for private property holders, NSW Travelling Stock Routes (TSR) fit this category. TSRs provide a very important access for recreational fishers throughout the State of NSW. The reason for this is that they all are located on a river, lake or dam to ensure the livestock have sufficient access to water.

National Parks Association held a conference on this subject in 2011 at Orange. A number of conclusions were formulated at this meeting that relate to the network of TSRs across the State, namely

- TSRs share a multi-purpose use from a number of stakeholders (including recreational anglers) and not just graziers during times of drought
- They now represent an important illustration of the only remnant native flora across many varying NSW landscapes
- They provide connectivity of important natural habitat for much of our native wildlife
- They are of significance to Aboriginal cultural heritage, and in some cases subject to Aboriginal land claims
- Overall they are of prime ecological value with significance to research, education, and the preservation as a window of the past.

Recognition at the conference was given to the problems associated with the maintenance and administration of these TSRs. The increasing costs of maintenance to fencing and weed control in some cases not being met by revenue, lack of managerial attention, and the lack of a single authority to centralise the administration and responsibility, were some of the issues recorded.

The significance of the TSR network fitting into both State and Federal government initiatives for green and wildlife corridors and connectivity conservation is important to this nation. Were these areas to become available to adjoining land holders for limited grazing from time to time in return for some maintenance of fencing and weed control, then this

would overcome the problems of fire hazard problem, weeds, animal pests and some asset maintenance. A suggestion was put forward that perhaps the Catchment Management Authorities would be a better management authority than that at present.

In any event, there was a very strong public vote of approval at the conference for continuing the existence of TSRs as public property, and in ensuring their proper maintenance and administration. The NSWCFCA strongly supports this view as a stakeholder in the use of these small lots of land.

Factors that impact upon the stability of soils and which contribute to erosion and siltation of the State's waterways has adversely impacted on fish habitat in approximately 25% of the States rivers and streams. Uncontrolled herds of wild pigs rooting up river flats and banks, feral goats causing loss of bank vegetation, and animals generally tracking uncontrollably into water to destabilise river banks are all examples of causing siltation.

The lack of fire management is also a factor adversely impacting on the mortality or rapid decline in native fish species in rivers, such as experienced in the Lachlan and Cox's Rivers. Long periods of fire suppression under European settlement, as compared to the Aboriginal tradition of regular burning off bushland in a patchwork manner, has provided events of intense fires followed by heavy ash wash into rivers following rain. This combination of ash and other matter from the denuded fire ravaged land results in toxic and hypoxic conditions in the rivers causing massive fish kills.

As a general observation, the NSWCFCA is of the opinion that National Parks and Wildlife Services, together with managers of other public lands, do not have the resources to adequately manage these problems of pest animal infestations and fire control, not to mention weed infestations.

RECOMMENDATIONS For 2

- (1) That LHPA inspectors be empowered (and appropriately resourced) to deal with all noxious weed and feral animals on public lands, including National Parks, independently of the management regime applying to those lands, including the powers of entry, inspection, and to issue remediation notices, comparable to the existing powers with respect to land held under private tenure.
- (2) That fire management plans for National Parks and Crown Lands be required to have regard to the likely impact of catastrophic wildfires on freshwater ecosystems, and to ensure mitigation of the risk of such fires by regular fuel reduction activities.

MODEL FOR THE MANAGEMENT OF PUBLIC LAND (refer to 3 above)

In 2009 the Monaro Acclimatisation Society Inc. (MAS), an affiliated Society to the NSWCFCA, enquired of the NSW Minister for Lands as to the possible appointment of the MAS as the manager of four parcels of Crown Land on the Thredbo River. MAS in taking this action sought to ensure that these reserves were preserved and actively managed by an organisation dedicated to the task of proper maintenance and control, and to preserve recreational angler and public access to the Thredbo River. As a result MAS was appointed the Trustee Manager for what is locally known as Paddy's Corner Reserve, an iconic reserve location that has been used by generations of anglers to fish the river.

This action has involved MAS negotiating with neighbouring landholders to undertake re-fencing the area to exclude farm livestock, the erection of a stile to facilitate human passage, the eradication noxious weeds, opening the reserve re-vegetation of native species, to erect rubbish containers, and to attend general maintenance of the river-side track. To fund these improvements, MAS received funding from the NSW DPI – Fisheries Recreational Fishing Trust Fund and negotiated a contract with the Southern Rivers Catchment Management Authority to undertake some of the work.

Paddy's Corner is the subject of an Aboriginal Land Claim to which MAS has lodged an objection. MAS has concerns that this claim may result in MAS having the responsibility for this reserve taken away from them. The outcome of this matter is yet to be determined. MAS has investigated in gaining control of a number of similar reserves on the Murrumbidgee River which are also being impacted by Aboriginal Land Claims by impeding progress on a similar development in some cases.

The MAS is a fishing society based on the Monaro Region of NSW. MAS took this action on Paddy's Corner because it is the only uncontested free access to the Thredbo River. Other potential access points on this river are either in dispute with local land holders or require the payment of a fee to NSW National Parks. MAS undertook this commitment to ensure the reserve is well maintained and open to the public at no cost. Without this action, people visiting the Snowy Mountains would be obliged to pay to visit one of the Region's iconic rivers.

This example is leading the way for affiliated members of NSWCFCA to act throughout the State to providing water access in a responsible manner. In so doing, access passage ways and river reaches are being protected from weed infestation and the latter river bank erosion that otherwise by shutting up access will not happen.

RECOMMENDATIONS For 3

- (1) That Government policy encourage, extend and maintain recreational interest groups in assisting with the management of public lands.

- (2) That Government policy make more use of recreational interest incorporations in assisting with compliance activities in relation to the management of public lands.

4 OTHER RELATED MATTERS (refer to 4 above)

Exclusion of Public Land Without Any Basis In Law:

Public lands are often found to be fenced off, or rights of exclusion otherwise asserted, by landholders where no such right exists at law. There appears to be no proactive management to overcome this matter. Two instances of such exclusion have been identified in recent times on the Duckmaloi River and on the surrounds to Oberon Dam in the Central West of NSW. There is also a dispute in place near Jindabyne to the upper reaches of the Thredbo River.

This activity is so widespread throughout NSW and so common that NSWCFR is of the opinion that there is scope for legislation to establish un-authorise fencing in, locking gates, erecting exclusion signage, or otherwise assertions of right to exclusion as being an illegal act. That is in circumstances where there are no reasonable grounds for asserting such a right in the proof of a defence.

Such a provision in legislation may also address the many wrongful attempts that regularly come to the notice of NSWCFR of landholders denying fishers their rights to waterway access under Section 38(1) of the Fisheries Management Act.

RECOMMENDATIONS For 4

- (1) That Division 6, Crown Lands Act 1989, be amended to make it an offence attracting a penalty notice to erect a fence, lock a gate, erect exclusion notices, or otherwise assert a right of exclusion where there is no reasonable ground in law for asserting such a right, and that such an amendment provide for the alternative of injunctive relief.
- (2) That a new sub-section be added to Section 38 of the Fisheries Management Act 1997, making it an offence attracting a penalty notice to assert a right of exclusion in respect of a person fishing along a body of water as permitted under Sub-section (1) of the same Section 38, and that such an amendment provide for the alternative of injunctive relief.
For example, a notice 'Keep out, Private Property' erected on a fence line across a stream or river would require including the words 'save as permitted pursuant to the provisions of the Fisheries Management Act' to avoid transgression.

(3) That a program be implemented to ensure that relevant public servants and landholders are aware of their statutory obligations which at present appear to be ignored.