

**Submission
No 14**

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

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NSW Legislative Council: General Purpose Standing Committee No.5 -
Inquiry into the management of public land in New South Wales.

Introduction

1. The following remarks respond generally to the preamble to the Committee's Terms of Reference. They are primarily directed to operational issues of management of public land in NSW, including State Forests and National Park estate. The submission had its genesis in Minister Hodgkinson's letter to us dated 27 March 2012, ref IM11/28178, which responded to three letters of ours dated variously 31 October, 24 November and 4 December 2011, that arose initially out of the *NSW Government Gazette Notice 28 October 2011: Game and Feral Animal Control Act 2002: Proposed declaration of public lands for hunting game – 39 nominated State Forests*. Copies of the letters are annexed
2. We annex for the information of the Committee a copy of our submission dated 9 May 2012 to the NSW Department of Primary Industries in relation to the *Game and Feral Animal Control Regulation 2012: Regulatory Impact Statement and Draft Regulation*. That submission also relates to issues of management of public land, and it has some particular relevance in relation to paragraph 2 of the Committee's Terms of Reference.
3. Our response to the Committee's Terms of Reference is largely confined to matters arising from that correspondence, and so refers mainly to implications and assessments about the conduct of armed hunting in public lands, particularly in State forests.
4. In the *first part* of this submission, the general thrust of our reading of the correspondence attached and of the remarks we now present to the Committee is to document our very strong doubt that the present armed hunting regime applied in State forests can meaningfully be characterised as being a conservation-based approach to management. In response to Paragraph 3 of the Committee's Terms of reference, we think that the *Game and Feral Animal Control Act 2002* does *not* offer a management model for public land that can produce conservation outcomes utilising the principles of 'sustainable use'.
5. Public lands are differentiated from private lands by title, and (often, but not always) by statutory definition of allowable and prohibited uses. For the purposes of this Inquiry, we adopt the basic view that use of the public lands of NSW is properly and always to be managed such that the *public* aspect of its ownership is dominant. The pursuit of interests and activities on public lands that are available to and appropriate for private lands does not, therefore, offer a suitable model for conservation outcomes or 'sustainable use'.
6. The *second part* of this submission builds on the first, and relates it to some National Parklands issues.
7. The *third part* of the submission offers some brief remarks relating to the Western Lands of NSW. We address them to the Committee because the original purposes of the Western Lands leases were closely tied to environmental conservation and sustainability objectives, and we think the need remains.

(1) Hunting in State Forests

8. Our submissions and observations relate to the impact on the safety and amenity of casual public access to and use of those State forests to which armed hunters have approved access. We are concerned about what the legislation calls *other users*.
9. The Minister states, *I am satisfied that the safety controls put in place make hunting on State forest as safe as practicable and also fulfil Forests NSW workplace safety requirements*.
10. While the controls may indeed make hunting itself as safe as practicable for hunters, and may be appropriate for Forest workers as she claims, the Minister did not directly address the issue of adverse

impacts on 'other users' of declared State forests in her letter. Our perusal of a range of documents at the NSW Game Council website has not disclosed any particular - or even identifiable - interest by that Council in assessment or management of 'other user' issues related to the public at large.

11. *For example*, the relevant *risk management* documentation appeared to see *signage* as an adequate and appropriate response to inform and warn about, and protect casual forest visitors from shooters. Everyday life demonstrates, sadly at times, that signage is only protective to those who *can* read it, *and* interpret it correctly, and to those who can *obey* it and *choose* to do so. If relevant signage is not located where the people are at the time when they are there, and unless it is actually relevant at that time and place, it is nugatory. We do not think the 'Bow-tie' analysis appreciated the reality of (often generic) signage in the vicinity of people - perhaps with children - enjoying a casual day out in a forest in company with not-always-predictable armed hunters.
12. The NSW Game Council's commissioned study relating to *firearms sound moderators* did not seem to have their impact on the safety of casual forest visitors as a matter of direct interest (although its concern for protection of hearing was heart-warming!). It seemed odd that the study did not note among the identified advantages of moderator bans the potential for unwary, casual visitors to a forest to take the sound of arms fire as a warning.... gunshot is not common in ordinary life, and most people would be at least curious about it if they heard it, and perhaps logically take care to ensure their own safety. But the public was not the focus of the study.
13. Similarly, the *Blaze orange clothing* report by the NSW Game Council and its associated policy statement did not consider whether the use of such clothing by hunters might assist 'other users' - not being hunters or Forest staff - of the forest to identify the presence of armed hunters in their vicinity. But 'other users' and the general public were not the focus of the report.
14. However, the NSW DPI's own website page, *Important information when visiting State forests*, is clearly focussed on the public. While it adverts to hunting generically, it contained no mention of or warning about *armed* hunting (with firearms) or archery, or trained dogs) at all when we last visited it (16 April 2012), despite the reality that some two million hectares of over 400 State forests are already declared for hunting.
15. We have not found in the public documentation any practical commitment by the NSW Game Council or NSW DPI to the protection and preservation of the rights of 'other users' relating to access to and safe enjoyment in State forests. For those who do in fact become aware of the practice of armed hunting activities in State forests, such knowledge must surely constitute effective inhibition or even exclusion of (even only moderately cautious) casual visitors from declared State forests. That is an outcome that we thought before and still think was directly and importantly relevant to the Minister's consideration of the re-declaration of the 39 forests, and any others.
16. As we noted to the Minister, the NSW Game Council website appeared merely to see the 2011 re-declaration of the 39 forests as a routine administrative procedure with a pre-ordained conclusion. That interpretation is reinforced by the Council's website *Public consultation* page notation that *There is no requirement under Section 20 of the Game and Feral Animal Control Act to conduct community consultation in regards(sic) to hunting on declared public land* (accessed 16 April 2012). The purpose of the 30-day public notification which it said it undertook for the 39 forests was not explored in the Council's statement.
17. The notification and the legislative requirement for it were entirely without meaning unless that notice was intended to have some effect. Our interpretation of the practicalities of Section 20(4), *Game and Feral Animal Control Act 2002* was and is that it enjoins on the Minister, before making a declaration of that kind, a duty to have regard, among other things, to *...(b) the rights of others using the land*. We find no indication in the Minister's letter to us that such a consideration took place, nor is there any indication that our comments relating to it were taken into account.
18. If that was indeed the case, the Section 20(4)b reference to *the rights of others using the land*, listed in the *Game and Feral Animal Control Act 2002*, was in that instance a nonsense. And, on that basis, we argue that the legislation should be revised so as *either* to remove it (for clarity) *or* to reinforce it with a definitive statement that presents a public interest purpose for the advertisement of declaration intents, and a mandatory process for consideration of responses to such advertisements.

19. An overwhelming preponderance of hunting kills reported by the Game Council occurs within private lands. Landowners are usually well aware of the characteristics and densities of pest and feral animal populations within and near their boundaries, and that supports the notion that the armed hunting they undertake or permit would be, sensibly, based on that information. It could be said, we think, to be effective and efficient to that extent.
20. However, measured in raw numbers, or on a per hectare, per annum, per declared forest, or per licensed hunter basis, the cumulative total of State forests kills of some 61,000 game and feral animals over the five+ years to date reported by hunters to the Game Council may be entirely satisfactory from a sporting viewpoint, but it is signally unimpressive from any other. The kill numbers certainly do not present a picture of effective, orderly, focussed or efficient pest and feral animal control in pursuit of land or other natural resource conservation and biodiversity objectives for public land in State forests.
21. When weighed against the consequential but essential and unavoidable inhibition of safe and enjoyable casual forest access by 'other users' - that is the public generally - the State forest kill numbers and their rabbit-intensive composition do not provide even a weak (let alone convincing) argument for the on-going retention of over 2 million hectares of more than 400 public forests under continuous declaration to permit hunting with firearms and otherwise in the name of conservation. We are aware of no other claimed justifications.
22. The techniques and accoutrements of armed hunting are fundamentally and inherently dangerous (indeed lethal, as is intended) for prey, and - by extension - potentially so for anyone who comes unwarily within their range. Hunting rifle accident statistics notwithstanding, licensed hunters themselves may be generally assumed to be reasonably skilled and relatively safe from their own weapons and (hopefully) from each other.
23. The Minister claims in her letter of 27 March 2012 attached to be satisfied about the safety of State forest workers. We have no basis on which to dispute or confirm that view, and so we accept it provisionally. But the same cannot be said with any degree of confidence about non-hunter 'other users'. Those 'other users' appear in and use State forests in a multitude of ways which may involve fixed itineraries or unscheduled and informal movements about paths or non-paths, for widely varying purposes such as walking, camping, picnics, spotting wildlife, botanical study and the like. They embrace all ages, and may move on foot or by vehicle, in large or small groups or singly, by day and/or by night, in all kinds of weather.
24. In theory and for common-sense reasons, the current hunting regime for State forests warrants constant vigilance by and on behalf of such 'other users' in case hunting is occurring near where they happen to be, or where they happen to be going, or 'just might' go, in any and all of the declared forests.
25. Probably, a responsible parent would not choose wittingly to take a young child to a forest in which hunting with firearms is known to be taking place. Non-hunter campers would be unlikely to visit an area if they know it is subject to night-time armed hunting. Many people would find the sight of a person carrying a hunting rifle quite frightening in daylight, let alone at night. In that and other more subtle ways under the operation of the current hunting regulatory regime, the interests of non-hunters in State forests are being affected adversely as their *perceptions* of safety are being reduced (justifiably or otherwise), and their access is thereby being rendered problematical. That adverse impact seems unavoidable as long as armed hunting is undertaken in public lands.
26. But it is critical to recognise that the problem is only generated by a regime which seeks to support in the name of 'conservation' the pursuit on public land of a voluntary recreational activity that is already clearly thriving on private lands. That success is mirrored in the 2010-2011 report by the NSW Game Council of 55 kills on private lands for every single kill in a vast area of declared State forest lands.
27. The aversion of 'other users' of State forests to gunfire does not signify stupidity. Rather, it raises the question of whether there is really any serious, public benefit need for it to be generated.
28. Recognising that it administers a hunting access allocation system in all instances, and that ballots may be made for places at some specific campaigns (especially in private lands), we note that the NSW Game Council does not report a scarcity of pest and feral animals on accessible and suitable-for-

hunting lands in private ownership, nor has it demonstrated a case for extending – or even sustaining – the large-scale year-round access that presently prevails for hunting in over 400 declared State forests.

29. Given the public ownership of the State forests, and the preponderance of non-hunters in the population of 'other users', there is an evident gross imbalance in that situation.
30. Having regard to the nature and procedures of the NSW Game Council controls under which hunting is conducted and the reported kill outcomes, as well as the adverse impact of armed hunting on the rights of 'other users' in the State forests, and the generic safety issues involved with firearms in public places, the present armed hunting arrangements are inadequate and ineffectual in conservation as well as public recreational settings. The 'conservation' characterisation that has been utilised in their description and acceptance by the legislature has masked the serious and growing need for effective, efficient, and closely focussed pest and feral animal management in public lands.
31. If the Government is immovably and irretrievably committed to retention of armed hunting in State forest lands, we think a substantial modification of current arrangements for the provision of appropriate access for licensed hunters in State forests is warranted.' so that the rights of 'other users' may be sustained, and so properly formulated conservation goals and strategies that are realistic, practicable, and explicitly adopted and monitored may stand a chance of being achieved.
32. *One necessary step* is the designation of specific days or groups of days on which specific State forests are available for armed hunting of feral and pest animals, with all 'other users' being excluded totally on those nominated hunting days. Armed hunting would be banned for the rest of the year. In that scenario, school holidays and their 'shoulder' periods would obviously figure as times when armed hunting access to State forests would not be permitted. That seems fundamental.
33. Acceptability of such an approach would depend on the relative balance between 'open' and 'closed' days. Probably hunters, who are presently accustomed to potential every-day year-round access to all 400 State forests, would cavil at any restriction, but their hunting performance in State forests as reported by the Game Council would obviously not support that objection. Equally, 'other users' would be incensed if too many exclusion days were to prevent them from having what they would see as reasonable access to 'their' forests, especially if they live nearby.
34. *A second necessary step*, complementary to the first, involves rotating access by hunters to the declared forests on a geographic basis. Instead of the present broad-brush declaration of more than 400 State forests providing unrestricted hunting access to any and all of them at any time throughout the year (subject to NSW Game Council booking arrangements), a smaller-scale allocation of hunter access to forests on a regional basis should be implemented.
35. The two modifications should operate in tandem, so as to ensure the safety of 'other users' from firearm incidents and other obvious and serious risks associated with armed hunting. Special concerns in relation to apiarist activity could be accommodated readily in this sort of regional framework, to reflect seasonal influences on hive siting.
36. In comparison with the present arrangements, there would be some clear advantages in those arrangements. With goodwill and competence in the implementation of such a system, 'other users' in State forests would be unambiguously safe from armed hunters' firearms (and arrows, and dogs) during designated hunting periods, because those 'other users' would be banned from entry. Armed hunters would be free to hunt at those times without having to exercise specific caution in relation to an unknown and unknowable body of 'other users'. And, critically, 'other users' would (theoretically and hopefully) be free to enjoy the State forests without real or perceived danger from armed hunters of any kind on all other- non-hunting - days.
37. With proper scheduling of open and closed days, effective, efficient and economic pest and feral animal control strategies for State forests, clearly focussed on identifiable and meaningful performance indicators, could be developed by NSW DPI. They could be implemented with the co-operation not only of licensed armed hunters, but also of *other users*. If that did occur, it is even quite possible that armed hunting in State forests might come to be - and to be seen credibly as - at least partly a true conservation activity.

38. *A third step* is therefore necessary if armed hunting is to be acceptable *and* accepted as a means of control of unwanted pest and feral animals in State forests. There is a need for a genuine pest and feral animal management plan and strategy for State forests, based on informed understanding of the nature, location, and extent of the pest and feral animal population that is designated as the target of armed hunting activity, an analysis of the most appropriate means (and combinations of means) by which adopted conservation objectives are to be met, and requiring regular performance reporting of progress in that regard. That kind of approach might look to the NSW National Parks and Wildlife regional plans as a model, at least for start-up purposes.
39. The raw kill numbers posted on the Game Council website and repeated in the DPI website lack the reference to base populations of target species and the impact of hunting on those populations that would inform and give credibility to a real conservation ethic to support a form of controlled armed hunting in State forests. In marked contrast to the provisions of the *NSW Invasive Species Plan 2008-2015* which specify, for example, the intent to *Monitor the effectiveness of eradication or containment programs*, and the active monitoring undertaken by the NSW National Parks and Wildlife Service as indicated in their various regional *Pest Management Strategy* documents, Game Council reports simply indicate kill numbers and animal species. They are naïve, uninformative and practically meaningless for policy purposes.
40. If the three essential steps described above were undertaken, we think the NSW community might be persuaded that armed hunting in public lands has some justifiable purpose. The NSW Game Council could retain its relevance through co-operation with and support of an evidence-based conservation strategy. But its current remit would need modification for that purpose.
41. This raises the interesting question of whether the recently announced corporatisation of NSW State Forests might change the armed hunting picture for State forests (and perhaps other public lands). The injection of a profit motive to support the removal of pest and feral animals in State forests could do so, we think, especially if it were under-pinned by local and relevant evidence of the kinds usually sought by commercially focussed boards, relating to relevant animal populations, density, economic and environmental damage, and the like. Again, monitoring and accountability would be important aspects of the scenario.
42. A sharp and hard commercial focus of a corporatized NSW State Forests might also reasonably see an extension of the present nominally-conservation-oriented, but effectively- recreational hunting regime as a potential income-earner of significant and useful scale, *for example* if access fees or scalp bounties were imposed. A whole new range of issues would then arise. Whether the Standing Committee should consider them now is for it to decide, but we think the remnant access rights of 'other users' of State forests in that situation would certainly bear close scrutiny, and protective measures to ensure their survival should be considered – and mobilised - now rather than later.
43. We would have wished these kinds of considerations to have been assessed *before* the 2011 re-declaration of the 39 State forests, and that a purpose of our original letter to Minister Hodgkinson late in 2011. But it seems from the NSW Game Council's website account of the matter, and in the absence of any relevant information about her consideration in the Minister's eventual reply to us, that no such consideration was made. We could perhaps suppose that the original declaration had canvassed some or all of such matters when the 39 forests were first declared. But even if that were so, time has passed, conditions change, and our experience suggests strongly that the administration of the public lands in the context of the *39 State forests* re-declaration of 2011 was deficient (at the least) in proper procedures and timely information.

(2) Hunting in National Parks

44. We refer to our letter addressed to (then) Premier Rees, dated 21 August 2009. A copy is attached. We received no response.
45. While recreational armed hunting is presently not permissible in National Parks, some media have suggested that the prohibition may or should be removed, and that this is a matter of interest to the present Standing Committee inquiry. We take such matters to be included within Paragraph 3 of the Committee's terms of Reference.

46. We oppose the removal or modification of the statutory ban on recreational armed hunting in National Parks.
47. We emphasise to the Committee now the necessity of ensuring at all times that the NSW National Park estate is utilised for the purposes for which it was assembled.
48. The National Park estate has been assembled by various means, including by resumption, by gift, by inter-Governmental transfer, by purchase, and perhaps even by default, and its community goodwill is enormous. The possibility of casual park visitors meeting - unexpectedly or not - with armed hunters carrying and using firearms, hunting dogs, or archery with the intent of killing their prey for sport in a National Park is not and has not been part of the community concept of National Parks in NSW, or elsewhere in Australia.
49. The pursuit of armed hunting for recreational purposes in the National Park estate was not one of the accepted purposes for which the estate has been assembled. Nor should it be. And any attempt to inject armed recreational hunting into National Parklands should properly generate much public concern. Extension of the current armed hunting regime applicable to declared State forests into National Parklands would constitute merely an extension of what can only accurately be described as recreational hunting masquerading as conservation hunting.
50. The conservation and public recreation objectives of the National Park estate require much more focussed activity and professional input than is evident in the nominal (even obsessive) deference to the conservation ethic that seeks to popularise the operation of the present armed hunting regime in State forests. *Truly* conservation-focussed management of pest and feral animals in any public lands, and especially in National Parklands, demands an orderly, evidence-based sequential, prioritised, location-specific and -above all - accountable response which protects the general rights of the ultimate landowners - the NSW public.
51. Paragraph 2 of the Committee's Terms of Reference is relevant in this context. It directs attention to issues of public land managers' compliance with duties imposed on private landowners.
52. We have seen above that NSW State Forests does not appear to have obligations or clear strategies to meet them in relation to pest and feral animals, at least in the form of meaningful and evidence-based targets and performance reporting of a kind that could measure the contribution expected from and made by armed hunting. As argued above, we think the need for an evidence-based conservation strategy is a major issue in the present context at least partly because it has been obscured by the so-called *conservation* claims that were and are used to support the current armed hunting regimen.
53. To the extent that NPWS also fails to achieve its feral and pest animal control objectives (and observably it does fall short of them!), the issue does not appear to result from fudging of the problem or lack of strategic acumen and application. Rather, the matter clearly requires consideration of the means and resources of the National Parks administration and the direction of the relevant portfolio. Given that armed destruction of pest and feral animals is permissible in National Parks with appropriate authority, the implementation of that permit is a managerial issue dependent on the detailed strategy applicable to the specific region and Park.
54. The Committee might find it useful to investigate whether any particular and unnecessary obstacles inhibit the programmed, prioritised and focussed use of firearms in that restricted context, as part of its explorations under Paragraph 3 of the Terms of Reference.
55. A constructive approach to those operational matters would, in our view, be much more likely to produce acceptable results than would be achievable under an extension of the present *Game and Feral Animal Control Act 2002* armed hunting regime to National Parklands. An extension of that kind would merely extend the current un-programmed, informal (albeit Game Council-supervised), unfocussed, essentially unproductive resort by armed hunters to the locale of their choice at the time of their choosing (subject to Game Council regulatory constraints) with no specific objective other than the opportunistic killing of legally endorsed, identifiable prey animals, ostensibly in pursuit of un-informed, unstructured and incoherent '*conservation*' objectives.
56. The feral animals in National Park lands are, by definition, ultimately actual (or descendants of) escapers from private lands and/or private owners. As we note above, licensed hunters are currently

reporting the killing of 55 pest and feral animals on an un-reported area of private land for every one they kill on the more-than 2 million hectares of the more-than 400 State forests to which they already have access on a year-round basis. That mathematical ratio would change with the addition of more public land to an armed hunting access regime. Presumably more kills would be registered. But kill number reporting to date indicates that the ratio would not change for the better in terms of achieving *real* conservation goals on public lands if real and informed goals were stated!

57. In contrast, the kill numbers published by the Game Council imply that the ratio would be very likely to improve on the conservation side if licensed armed hunting were more closely concentrated on the private land estate where enumerated kills are already substantial, for the very obvious information, efficiency and focus reasons set out earlier.

(3) The New South Wales Western Division lands

58. We note that the *quasi*-freehold nature of the typical *Western Division* lease arrangement in NSW implies to some observers that lessees might be construed as having some *private landowner*-type responsibilities and rights.
59. The terms of the leases are the critical matter. The NSW Government as Lessor, and the individual lessees themselves, may reasonably negotiate arrangements for access to leased properties for armed hunting of pest and feral animals, *provided* those arrangements are consistent with the public purposes for which the Western Lands are retained as leasehold land, and other relevant law.
60. As we have noted above in relation to hunting in State forests, the pursuit of a 'conservation' objective requires rather more than the current system of virtually random, opportunistic killing of pest and feral animals by licensed hunters in the absence of a credible public interest agenda of evidence-based conservation strategy. That is, it requires something very different from recreational hunting – better informed, better focussed, better reported to and by landowners, and better conducted than the typical week-end campaign of target practice and trophy portraiture that seems to be reflected in the State forest and other kill information given in the NSW Game Council's website.
61. The ecological vulnerability of the NSW Western Lands estate demands much more than ordinary care in management of land use and animal populations, whether plants and animals are designated to be pest or feral, or commercial. Evidence-based management strategies, targets, practices, and performance reporting against rigorous conservation benchmarks are essential there too. The armed hunting regime presently applied in declared State forests is neither sufficiently informed - nor sensitive, nor focussed - to be suitable as a *sustainable use* conservation model for public land management in the Western Division.

(4) Summary

62. The submission argues that the present armed hunting regime applied in State forests cannot meaningfully be characterised as being a conservation-based approach to management, nor does it offer a management model for public land that can produce conservation outcomes utilising the principles of 'sustainable use'.
63. Public lands are differentiated from private lands by title, and (often, but not always) by statutory definition of allowable and prohibited uses. For the purposes of this Inquiry, we adopt the basic view that use of the public lands of NSW is properly and always to be managed such that the *public* aspect of its ownership is dominant. The pursuit of interests and activities on public lands that are available to and appropriate for private lands does not, therefore, offer a suitable model for conservation outcomes or 'sustainable use'.

Michael Rolfe, Principal

Hylde Rolfe, Principal

29 May 2012

ANNEXURE 1: Letter to Hon. Katrina Hodgkinson MP, Minister for Primary Industries, 31 October 2011

Dear Minister,

NSW Government Gazette Notice 28 October 2011:

Game and Feral Animal Control Act 2002: Proposed declaration of public lands for hunting game – 39 nominated State Forests.

The stated purpose of the proposal advertised is to assist in the management and control of game and feral animals in the public lands of the 39 State Forests nominated in the *Gazette* notice.

We contend that the present declaration proposal should be abandoned.

Our primary concern lies in the public interest in public recreational use of these publicly owned lands.

Section.20(4), *Game and Feral Animal Control Act 2002* enjoins on the Minister, before making a declaration of the kind proposed, a duty to have regard to, among other things,

...(b) *the rights of others using the land.*

There is a clear – and we think justifiable - community nervousness about the extent to which informal public recreational activity and licensed game hunting may be safely interwoven within a forest context. Visibility issues, distance and accuracy considerations, mobility constraints, and similar influences colour perceptions of the relative safety of non-hunter visitors to declared forests. While the *Forests NSW Annual Report 2009-10* and the *NSW Game Council Annual Report 2009-10* do not disclose or detail any hunting misadventures, the apprehension of non-hunters is understandable, even though lacking in evidence at this stage. There are – and can be - no practical guarantees of personal safety from gunshot in a declared forest in which hunting is actively being pursued.

Community nervousness and apprehension about sharing forest lands contemporaneously with active hunters has one obvious outcome: prudent and cautious forest visitors simply exclude declared forests from their destination list. Most caution in any situation of potential danger tends to be exhibited by family groups with small children, but it is not confined to them.

In that indirect but important way, the rights of public recreational use of State forests may be impeded significantly by active hunting activity. It constitutes a real impediment to the rights of non-hunter public recreational use of State forests. Accordingly, pursuit of the present declaration proposal requires consideration of that impediment in the terms of Section.20(4) (b) of the *Game and Feral Animal Control Act 2002*, relating to *the rights of others using the land.*

Identification of such an impediment does not depend on past evidence of occurrence, for it mirrors simple caution and plain commonsense. But it does require Ministerial recognition of its reality as a potential occurrence if the proposed declaration is pursued. We submit that it is sufficiently significant for the proposed declaration to be abandoned, on the ground that it would, if made, be inconsistent with the provision of S. 8A(1)(e) of the *Forestry Act 1916*.

Some other considerations relating to the declaration proposal are set out below.

Being owned and managed by Forests NSW, we take it that the lands to be declared are indeed presently managed for the purposes appropriate to the Forests NSW charter. However, annual reports do not indicate in financial terms a substantial effort by Forests NSW to manage and removal feral animals from their lands. Rather, it appears that the annual vote of some \$2.5 million to the Game Council from the NSW Government constitutes a main channel for that work. We think this inference is reinforced by the *Forests NSW Indicator 2(a)- Public participation* record of staff time associated with engagements initiated by Forests relating to *Pest animal/Weed/Disease management* for 2009-10, of a mere 150 hours for the whole year.

Indicator 14 – Pest animal and weed control shows an expenditure of only \$0.6 million for 2009-10. That relatively insignificant number is difficult to equate with the statement that *Forests NSW continues to be a*

major contributor to a range of control programs including those targeting foxes, wild dogs, feral goats, feral pigs.... noted in Forests NSW Annual Report 2009-10.

Control – or eradication – of feral animals on public lands is clearly a matter of general public interest. From the material noted above, it is not evident that Forests NSW places a high priority on this issue in its in-house management of its lands.

Whether undertaken directly by Forests NSW or contracted out, the public interest requires Forests NSW to ensure that such control should be undertaken with efficiency, economy, and a coherent evidence-based strategy.

Viewed as an executive arm of Forests NSW in this context, it is not clear that the activities of licensed hunters under the NSW Game Council's approach to '*voluntary conservation hunting*' exhibit those qualities.

The licensed hunting regime administered by the Game Council may well be appropriate and effective for feral animal management on private land. We note that some 620,000 pest animals are reported by the Game Council to have been removed from '*hundreds of farms*' in the year 2009-10. In marked contrast, a mere 15,232 feral animals - more than half of them rabbits - were removed by licensed hunters from declared State Forests in the same year.

Given the Game Council's advice that the 39 State Forests proposed to be declared now have all previously been declared (website accessed 31/0/2011), we suppose that hunting was undertaken in them during 2009-10, apparently without significant impact on feral animal numbers. Alternatively, the 39 forests may not contain many feral animals to be taken by hunters, but our acquaintance with some of the relevant forests indicates that is not likely to be the case.

There are approximately 12,540 hunters licensed by the Game Council.

The very low per/hunter tally of licensed hunters in State Forests suggests that their activity is not focussed on feral animal removal with anything like the same intensity that applies when they operate on private land. That is readily understandable, and does not warrant criticism.

With hunter access to *private land* being dependent on owner permission, hunting for the purpose of removal of pest and/or feral animals on private land will generally be fairly closely overseen, well-informed, and actively encouraged by the owner, and therefore undertaken in a way that is area-specific, prey-focussed, and methodical.

Declared forest hunting by licensed hunters has no such internal operational insight or strategic focus. While Game Council forest entry permits restrict hunter numbers according to area, hunters do not necessarily enter a forest with the express intent of - or an agreed strategy for - eradicating pest animals in that defined area, nor do they have recourse to a clear plan of management for pest and feral animal identification and control in that place. Forests NSW does not appear to provide any specific strategic direction of or for feral and pest animal control activities undertaken by licensed hunters within its lands.

Other than by exercising their freedom to enter and hunt in declared forests, there is no obvious Forests NSW system within which licensed hunters co-operate with Forests NSW or each other in furtherance of a coherent management strategy relating to control of feral and pest animals. Rather, they hunt with permission in furtherance of whatever private motives they have, for whatever purposes they wish to pursue. It is not unreasonable to suppose and accept that some of that hunting is more of a recreational nature than an activity purposed on formal strategies relating to pest and feral animal control. The high proportion of rabbits in the total State Forest hunting tally tends to support that notion of varied motivations.

We conclude that:

- because it inhibits the general public recreational use of the relevant State Forests, the current licensed hunting regime is inconsistent with the legislated objectives relating to public use of the public lands that are the subject of the present proposal;

- the present proposal should be abandoned;
- the licensed hunting regime presently operating is not an efficient, effective, or economic way of managing feral animal occupation of State Forests. A more efficient, tightly focussed procedure is warranted for those purposes.

ANNEXURE 2: Letter to Hon. Katrina Hodgkinson MP, Minister for Primary Industries, 26 November 2011

Dear Minister,

***NSW Government Gazette Notice 28 October 2011:
Game and Feral Animal Control Act 2002: Proposed declaration of public lands for hunting game – 39
nominated State Forests.***

We have received no response at this date from you or your office to our letter of 31 October 2011 relating to this matter.

There is no obvious point in advertisement of the Minister's *Intention to Declare ...in the Gazette* and the newspapers if the Minister does not consider and/or respond to the response(s) elicited by the advertisement.

Should the *Gazette* Notice and other advertisements be construed by you to be merely an advice – or a warning - to potential visitors to the relevant forests, we think that in itself would strongly support our point that the hunting activity proposed to be authorised should be viewed as having a significant impact, actual or potential, on other users of the forests, and should therefore warrant careful consideration.

Having indicated that we think the impact on other users is sufficiently significant to warrant abandonment of the declaration proposed in the *Gazette* Notice, we again request your attention to this matter.

ANNEXURE 3 Letter to Hon. Katrina Hodgkinson MP, Minister for Primary Industries, 4 December 2011

Dear Minister,

***NSW Government Gazette Notice 28 October 2011:
Game and Feral Animal Control Act 2002: Proposed declaration of public lands for hunting game – 39
nominated State Forests.***

We learn from the NSW Game Council website that the 39 State Forests that were the subject of your Notice in the *Gazette* of 28 October 2011 have been re-declared for conservation hunting. We have not found any other reference to your decision, but assume it is recorded somewhere.

You will recall that your proposal to make the declaration was the subject of our letters of 31 October and 26 November 2011. The letters opposed re-declaration. They have not received a reply at this stage.

A very disturbing feature of our search for information was the discovery, at the Game Council's *News Archives* page of its website, of this entry (now undated, accessed by us on 2/12/2011):

Temporary closure of some forests

Game hunting licence holders are advised that some declared State forests have been temporarily closed for conservation hunting.

This is due to a legislative requirement to the these forests re-declared for hunting, as the original five-year declaration provided for hunting in these forests has now expired.

This is an administrative process which will take an estimated five weeks until the affected forests are re-opened for bookings.

In the meantime, other declared State forests remain open as usual to conservation hunters.

Check details of affected forests [here](#).

Clearly, the Game Council did not contemplate that the re-declaration process involved anything other than automatic renewal of the previous access arrangement.

Given that the Game Council is a statutory body, its approach to the process involved in re-declaration of the relevant forests is presumably consistent with that of the Government. Thus, we infer that the *Gazette* Notice was essentially nugatory, and your Ministerial role was merely that of passive concurrence, apparently without benefit of consideration of the matters listed in Section.20(4), *Game and Feral Animal Control Act 2002*. If that is so, we believe that there may have been a miscarriage in the administration of the Act, and direct the matter to your early attention.

ANNEXURE 4: Letter to Hon. Katrina Hodgkinson MP, Minister for Primary Industries, 14 March 2012

Dear Minister,

NSW Government Gazette Notice 28 October 2011:

Game and Feral Animal Control Act 2002: Proposed declaration of public lands for hunting game – 39 nominated State Forests....

We wrote to you last year in relation to the abovementioned ***Notice*** and certain issues arising from your subsequent decision. Our letters were dated 31 October, 26 November, and 4 December 2011.

Apart from Departmental advice that the correspondence would be dealt with, we have received no substantive response. Perhaps this reflects the reality that the issues related to policy as well as procedure.

Your early attention would be appreciated.



The Hon Katrina Hodgkinson MP

Minister for Primary Industries
Minister for Small Business

IM11/28178

Mr Michael Rolfe
Ms Hylda Rolfe
Principals
Natural Allies Consultants

27 MAR 2012

Dear Mr Rolfe and Ms Rolfe

Thank you for your letters dated 31 October, 2011, 26 November 2011 and 4 December 2011 regarding the re-declaration of 39 State forests for licensed conservation hunting.

As you are aware, these forests are not being declared for hunting for the first time but, rather, they and hundreds of others in NSW have been open for licensed hunting for the last five years. The highly regulated environment that has been in operation for the past five years has been reviewed and remains in force. The licensed hunting system and actual hunting activity is supervised by the Game Council NSW.

On the basis of a recommendation by the Game Council on the operations of the *Game and Feral Animal Control Act 2002* I approved the re-declarations that were subsequently gazetted. However, it is important to note that, even if a forest is declared as available for hunting, hunters still must register their intent and obtain a permit for hunting at a particular time and place. Hunter numbers are restricted to an average of one per 400 hectares of forest and the Game Council's online booking system makes managing the numbers of registered hunters very efficient. Also, through the registration system, hunters are able to be contacted directly whenever Forests NSW considers this becomes necessary.

A comprehensive risk assessment covering regulated hunting on State forests has been carried out by Forests NSW using an external consultant and a panel of stakeholders. A link to the risk assessment has been published on the Game Council website. I am satisfied that the safety controls put in place make hunting on State forest as safe as practicable and also fulfil Forests NSW workplace safety requirements.

Given the experience with licensed hunting in the past five years, Forests NSW has found that volunteer hunters have significantly reduced the populations of feral animals on State forest and, according to published Game Council statistics, have removed more than 61,000 game and feral animals to date. The level of general pest animal control by volunteer hunters has allowed Forests NSW to concentrate its limited resources on feral animal hot spots where a range of control methods may be employed.

.../2

Mr Michael Rolfe and Ms Hylda Rolfe

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Minister for Primary Industries

I trust this information is useful to you. I have asked that Mr Mike Welch, Forests NSW Manager - Game Council Liaison & Plantation Strategy, is available to discuss this matter further with you. Mr Welch may be contacted on 6051 7705.

Yours sincerely



Katrina Hodgkinson MP
Minister for Primary Industries

ANNEXURE 6: Letter to NSW Department of Primary Industries 9 May 2012.

Game and Feral Animal Control Regulation 2012: Regulatory Impact Statement and Draft Regulation

We offer these comments on the draft *Regulation* and the supporting RIS documentation:

- The present system does not deliver *quantifiable effective control of feral animal populations* (RIS p.11). Kill statistics published by NSW Game Council do not relate to the impact of the kills made on the available animal population; they merely report raw kill numbers by species. The draft *Regulation* makes no provision for meaningful assessments of the efficacy of hunting activity as a control measure. Comparison of public land vs private land kill numbers suggests that hunting in State forests is probably not effective as a feral animal control measure; it may be useful for boosting commercial hunters' incomes. We suggest the draft *Regulation* be modified to support and require the preparation of suitable criteria by which effectiveness of hunting as a feral animal control measure can be assessed in a quantifiable and consistent manner. That implies the need for sound and timely and location-specific base documentation of pest and feral animal prevalence, among other things, so that impacts of reported kills can be understood and their effectiveness as control measures gauged with at least some degree of credibility.
- The draft *Regulation* makes no provision for the public to respond to – and have the Minister consider – advertisements made under Clause 21 *Notice of proposed declaration of hunting land*. Without such a provision, the *Notice* so given is effectively meaningless to the public. We attach copies of correspondence relating to the re-declaration of 39 State forests at the end of 2011; the Minister's eventual response fails to address the concerns we expressed in terms of Section 20(4), *Game and Feral Animal Control Act 2002*, relating to ...*(b) the rights of others using the land*, presumably because she considered she had no obligation to do so. We strongly suggest that Clause 21 of the draft *Regulation* be amended to ensure that the public has a meaningful input into proposed declarations – and re-declarations - of public land, and that such input is genuinely given consideration.
- *Hunting, with or without a firearm, can present a risk to public safety and can limit recreational activities on public land such as bush walking, horse riding and bird watching* (RIS, p.11). There is a strong public interest and safety argument that declared public lands should be closed to all armed hunting at certain periods, for example in the shoulder times before and after NSW and interstate school holidays, and in the main bushwalking winter season. We suggest a revision of Clause 6 of the draft *Regulation* might be a useful start for that purpose. For similar reasons, we object strongly to the proposed Clause 14 *Special provisions for licenses authorising minors to hunt unsupervised* to the extent that it is applicable to hunting by minors on public land.

ANNEXURE 7: Letter to Hon Nathan Rees MP, Premier of NSW, 21 August 2009

Dear Mr Rees,

Game and Feral Animal Control Amendment Bill 2009

We write to register with you our deep concern about and strong objection to the provisions of this Bill.

Our interest focuses mainly on conservation issues impacting on the National Park estate of New South Wales, but it necessarily extends beyond their boundaries by virtue of the application of the Bill to private lands, and to the Western Division.

The Bill's proposals represent an inefficient and flawed approach to the management of feral pests, and a clear and certain threat to native wildlife of all kinds. The safeguards it purports to embody are theoretical, inconsistent with Australia's practical experience of hunting and shooting in un-supervised environments, and insufficient to offer any reassurance that non-target animals and species would be excluded from predation by hunters.

Additionally, we are gravely concerned with the tacit encouragement of firearms use that we discern in the Bill, not only because much of the firearm use will occur in either open or undeveloped country where danger to unwary animals and people is unavoidable, but also because it tends to negate the whole law-abiding and peaceful purpose of restraining the use of firearms in the community.

Our associates and we have worked long and doggedly to help build and sustain a sound balance between the natural environment and the reasonable demands of human settlement. The imperfections of the current feral animal management measures should not and do not justify their replacement by measures, such as those in the Bill, that negate the hard-won advances that have been achieved to date. The origin of the provisions of the Bill in the Game Council's report presumably underlies its orientation towards the specific interests of the Council membership, which naturally include the gaining of access to land areas from which they are presently excluded, and the extension of the scope of game hunting.

However, the Game Council's membership does not and could not purport to represent the interests of the New South Wales public at large, and should not be thought to do so; rather, the Government does. In matters like this, the Government is expected to bring to bear consideration of the whole of the public interest, consistently with the established norms of natural environmental policy and public safety.

So that the real public interest may be protected, and recognising the desirability of improving feral animal management, the custodians of the National Parks and Western Lands estates should be encouraged – and even required – to devise means of feral animal control that are more effective, less dangerous to the general public, less threatening to native wildlife, more in keeping with National policy relating to firearms, and less injurious to the sensibilities of those who value the remnants of the Australian natural environment, than the extreme and damaging measures contemplated in the Bill.

We are sure you need no reminding that the National Park estate was accumulated, sometimes by compulsory acquisition, sometimes by gift, sometimes by open market purchase, for the purposes specified in its enabling legislation. Those purposes do not include the provision of hunting facilities, the pursuit of hunting, or the encouragement of hunting by firearms or other weapons. It would be most unfortunate indeed in terms of public confidence in government if the retrospective enabling of such activity now were to endanger or compromise the achievement of the original objectives.

Similarly, the conservation ethic embodied variously – and almost ubiquitously – in our water, air, environmental protection, threatened species, animal treatment, chemicals use and other legislation is sadly contradicted by the terms of the Bill. Put bluntly, it does not sit well with the way things are done in New South Wales.

We respectfully request you, Mr Premier, to reject the Bill.
