

Submission
No 162

INQUIRY INTO CROWN LAND IN NEW SOUTH WALES

Organisation: Nature Conservation Trust of NSW

Date received: 24 July 2016



Submission to the NSW Legislative Council General Purpose Standing Committee

Management and Use of Crown Land

Thank you for the opportunity to provide a submission to the inquiry into Crown Land management and use in NSW.

Background

The Nature Conservation Trust of NSW is an independent body established by the *Nature Conservation Trust Act 2001*. The object of the Nature Conservation Trust is to work with private landholders to protect the natural heritage values of NSW. The Nature Conservation Trust (NCT) achieves this using in-perpetuity conservation covenants under the *Nature Conservation Trust Act 2001*.

The NCT also operates a revolving fund that purchases high conservation value land, prepares a conservation covenant for the natural heritage values of that land, and sells the land to willing buyers. Proceeds from sales are reinvested in additional purchases. The NCT provides on-going support to landholders and monitors conservation covenant areas. The NCT has experience in the purchase, conversion and on-sale of high conservation value Crown Land.

To date, the Nature Conservation Trust has worked with more than 105 landholders across NSW to protect more than 52000ha of high conservation value lands.

Biodiversity legislation in NSW is currently under review, with a Biodiversity Conservation Bill released in May 2016 (<https://www.landmanagement.nsw.gov.au/>). The Bill recommends a continued and expanded role for a Biodiversity Conservation Trust to work with rural landholders to protect biodiversity values of NSW.

This submission primarily addresses items (a) and (c) in the Inquiry into Crown Land terms of reference, with a focus on the environmental values of Crown land and effective measures for protecting Crown land so that it is preserved and enhanced for future generations.

Term of Reference 1(a) the extent of Crown Land and the benefits of active use and management of that land to New South Wales

Crown Lands in NSW occur throughout some of the most under-reserved bioregions in NSW, contain examples of some of the most threatened communities and species, and in the case of travelling stock reserves, provide vital connectivity for biodiversity in NSW.

In many landscapes, Crown Lands including Travelling Stock Reserves are the best local examples of remaining native vegetation, especially the critically endangered Box Gum Grassy Woodlands in the NSW Central Division. For these areas there is much value for local communities and the public in general for them to be left as part of the public land estate, primarily for passive-based nature recreation.

In 2014, the Independent Biodiversity Legislation Review Panel, Chaired by Dr Neil Byron, recognised the role of travelling stock reserves in landscape connectivity, and the importance of maintaining the connectivity of high-conservation value travelling stock reserves. The Panel also recommended that a more strategic and integrated approach is required to guide biodiversity conservation efforts on private land, the protected areas system and Crown land (such as travelling stock reserves) to improve connectivity and provide for stronger and more effectively focused biodiversity outcomes (*A review of Biodiversity Legislation in NSW Final Report* December 2014 pp 54-55).

The NCT supports a strategic assessment of the contribution that Crown Lands make to the broader biodiversity management planning process. Consideration of the high biodiversity values within Crown Lands is critical to well-planned strategic frameworks to best guide conservation priorities and investment in NSW.

Term of Reference 1(c) the most appropriate and effective measures for protecting Crown Land so that it is preserved and enhanced for future generations.

The NCT submits that the most appropriate and effective measures for preserving Crown Land for future generations are:

- (i) to identify those Crown Lands that contain High Environmental Values, and require such lands to be managed under the Crown Land lease arrangements for environmental purpose or a purpose compatible with maintaining the high environmental values; and
- (ii) to ensure that any conversion and sale of High Environmental Value Crown lands to freehold are protected with an in-perpetuity conservation covenant attached to title, entered into with a fit for purpose covenant body, that provides landholder support and monitoring of the covenant.

(i) Identifying High Environmental Value Crown Land

The NCT submits that determinations regarding the future use of Crown Land should be underpinned by assessment of environmental value, and supports an assessment process that considers the following criteria:

- Native vegetation of high conservation value such as:
 - Overly cleared vegetation types - vegetation types which are >70% cleared from their pre-European extent, having regard to best available information including fine scale vegetation mapping where available
 - Vegetation in overly cleared landscapes - landscapes >70% cleared from pre-European extent
 - Threatened Ecological Communities, including all vulnerable, endangered or critically endangered ecological community pursuant to the *Threatened Species Conservation Act 1995*, *Environmental Protection and Biodiversity Act 1999*, and the *Fisheries Management Act 1994*
 - Old Growth Forest
 - Rainforest
 - Littoral rainforest
- Threatened Species and populations, including:
 - Critical habitat identified pursuant to biodiversity legislation
 - Habitat for threatened species, having regard to best available information, including local government data, local and regional key habitat data, places of known breeding, migratory pathways, core koala habitat, and other relevant sources of information, including Saving Our Species program and reference to local experts where data gaps exist
 - Endangered populations and their habitat
- Wetlands, rivers, estuaries & coastal features of high environmental value, including:
 - Coastal wetlands
 - Wetlands listed on the National Directory of Important Wetlands in NSW
 - Riparian vegetation
 - Vulnerable estuaries and Intermittently Closed and Open Lakes and Lagoons (ICOLLs)
- Lands identified for conservation investment outcomes, such as any lands identified under the proposed 'Biodiversity Conservation Investment Strategy' (part of the current biodiversity legislative reforms proposals)

The NCT further submits that inclusion of specific legislative objectives regarding the management of High Environmental Value lands would be an effective measure for protecting Crown Land so that it is preserved and enhanced for future generations. Objectives could include a requirement to protect High Environmental Value lands, and an objective that the management and disposal of Crown lands be guided by the principals of ecologically sustainable development (as currently defined in 6(2) of the Protection of the Environment Administration Act).

The Western Division

The Crown Lands Legislation White Paper identified that the Western Land Division constitutes some 88% of the Crown Land portfolio, and contains unique and fragile ecosystems that are, "particularly sensitive to disturbance (including drought and overgrazing) and are slow to recover"(NSW Trade and Investment, Crown Lands Legislation White Paper, February 2014). The white paper also canvassed conversion of such lands and streamlined assessment for conversion.

The NCT submits that streamlined assessment to convert any Crown Lands, including the Western Land Division leases, is not suitable, because reliance on spatial datasets for decision making without ground truthing has a very high potential to result in adverse outcomes for areas of high conservation value. Whilst spatial datasets (eg vegetation mapping products) are an essential component of decision making tools, they are not able to be relied upon at a site scale. (For example, information on the NSW Government website regarding the NSW State Vegetation Type Map project, states that it is not intended to be used as a stand-alone product due to low confidence levels at a site scale: <http://www.environment.nsw.gov.au/vegetation/more-state-vegetation-type-map.htm>.)

The Crown Land White paper proposal to not undertake site assessment for 'streamlined assessment', may result in areas of high conservation values not being identified and inappropriate management regimes having negative impacts on fragile ecosystems and biodiversity values. Site assessment will minimise this risk and enable well informed decisions regarding appropriate use and management for leasehold lands and converted lands. In the absence of well verified decision support tool (such as site scale vegetation mapping) the NCT strongly submits that it is inappropriate to dispose of lands without site assessment.

Similarly, the proposal to use land capability to determine appropriateness for conversion of Western Land Leases may produce adverse outcomes, especially if there are areas of good condition native vegetation on the subject land. High land capability for agriculture often correlates with areas of high importance for wildlife, especially threatened species, where good condition native vegetation exists. The NCT strongly supports site assessment of values for conversion applications.

The NCT submits that conversion of Western Land leases, and other Crown Lands, should only occur where those areas of high environmental value are protected with in perpetuity conservation covenants. *Nature Conservation Trust Act 2001* covenants provide an opportunity for this purpose. NCT covenants are targeted towards only those areas of the property that contain high conservation values, are practical in permitting land uses that are compatible with biodiversity conservation, and are enforceable. The NCT provides an active support program for landholders and implements a monitoring and property visitation program.

Much of the Western Division is under reserved within the National Reserve System. The use of in-perpetuity covenants to preserve biodiversity values, provides a significant opportunity to increase representation of ecosystems within the National Reserve System and enhance Australia's performance in reaching the Aichi targets (Convention of Biological Diversity, Strategic Plan 2011-2020 Aichi Biodiversity Targets, Target 11 and 12 <https://www.cbd.int/sp/targets/>).

(ii) Conversion of Crown Lands to freehold lands

In the event that Crown Lands with High Environment Values are sold or leased, there is an opportunity to protect the values via use of a conservation covenant with the new owner or lessee. The NCT understands that it is current policy for *Crown Lands Act* Part 4A covenant to be applied to conversion of crown leases that are adjacent to (or within 100m of) protected areas. NCT supports the expansion of this practice to include converted lands that contain high environmental values, or have been identified as areas for best biodiversity conservation investment outcomes.

The NCT further submits that an in-perpetuity covenant with a fit for purpose provider be utilised. The NCT conservation covenant under the *Nature Conservation Trust Act 2001* is such a mechanism. The NCT's core business is to work with rural landholders to protect the unique natural heritage values of NSW under the *Nature Conservation Trust Act 2001*. The NCT is well placed to provide in-perpetuity conservation agreements in these circumstances, subject to appropriate resourcing, and has significant experience in reaching practical covenant design to balance conservation, land value and production outcomes.

Landholder support is critical for enabling private landholders/leaseholders to be environmental stewards for future generations. Assisting landholders to manage Crown Lands with High Environmental Values will assist the enhancement of Crown Lands with High Environmental Values for future generations. Fit for purpose covenant providers such as the NCT have a landholder support program that includes contact with landholders, information exchange and monitoring covenant areas.

The current NSW biodiversity legislative reforms propose to maintain conservation covenant mechanisms for private land conservation, and propose a continued role for a Biodiversity Conservation Trust in entering into private land conservation agreements such as conservation covenants.

The preservation of biodiversity on Crown Lands is able to coexist with agricultural activities such as sustainable grazing, and in some cases may provide opportunities to value add, such as biodiversity offsetting, carbon farming, and agro environmental schemes. The current NSW biodiversity legislative reforms propose an increased role for offsetting, and an increased opportunity for provision of biodiversity services in return for stewardship payments.

The NCT would support the use of rate concessions for those areas of leases and converted lands that are subject to in-perpetuity conservation covenants. Provision of rate concessions to rural landholders who manage crown lands (or converted crown lands) under conservation covenants would provide recognition of the public benefit that these rural landholders provide. The NCT would suggest that a proportional rating system could be utilised in a similar way to the rating of certain conservation covenant lands under the Local Government Act 1993.

In conclusion, Crown Lands support some of the most important biodiversity values in NSW. Conservation covenants used on conversion provide a very good opportunity to maintain sustainable agricultural practices where activities are compatible with biodiversity management, and to identify those lands that are best suited to preservation and contribution to the National Reserve System for future generations.

Thank you for the opportunity to make a submission to the Legislative Council General Purpose Standing Committee Inquiry into Crown Land.

Gary Wells
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22nd July 2016