

CROWN LANDS POLICY

Carried unanimously at 1989 Annual Conference, 28-29th October 1989.

CURRENT CONCERNS

1.0 The Nature Conservation Council of NSW notes

- 5 i) the repealing of the Crown Lands Consolidation Act, 1913 by the Liberal National Government in February, 1989.

1.1 The Nature Conservation Council of NSW expresses great concern at:

- 10 i) many of the provisions of the *Crown Lands Act, 1989*;
- ii) the fact that many areas of Crown Lands have not been thoroughly and publicly evaluated for their biological recreational, historic, anthropological and other resources, or their suitability for:
- a) reservation as National Parks, Nature Reserves or State Recreation Areas;
- b) dedication as wilderness areas under the *Wilderness Act, 1987*;
- c) leasing or sale;
- 15 iii) the fact that the public lands of NSW are still poorly documented and mapped, severely restricting the ability of the public to make balanced and informed decisions about public land use and alienation.

1.2 The Nature Conservation Council of NSW condemns the Liberal National Government for:

- 20 i) the suspension by the Minister for Natural Resources, of the Crown Lands Conservation Policy, 1982, whereby Crown lands, including leasehold lands capable for conversion to freehold title, were retained in Crown ownership;
- ii) the delay in the promulgation of the new *Crown Lands Act, 1989*, due to the non-gazettal of Regulations under the new Act, which would give effect to the Act's provisions;
- 25 iii) the exploitation of this holding in abeyance of the new *Crown Lands Act, 1989*, to facilitate the rapid disposal of Crown Lands via an unprecedented number of Crown leases conversions, revocations of dedications, revocation of reservations from sale and/or lease and sales and special leases;
- 30 iv) an apparent intent of the Liberal/National Government to politicise land use decisions, particularly potential for disposal, rather than applying land capability assessment processes and future public uses criteria;
- v) the restriction of acquisition of natural areas and other lands of high conservation value by the National Parks and Wildlife Service through:

- 35 a) the provision of an inadequate land acquisition budget;
- b) claims from other state government agencies for the same lands for commercial purposes which would compromise the lands conservation significance;
- 40 vi) the lack of resources being directed to the Soil Conservation Service (SCS), and the consequential discouragement of SCS field staff from assessing these natural values on Crown leasehold lands before their conversion to freehold title;
- vii) the reliance by the Government on the Soil Conservation Service to protect natural values on Crown Lands converted to freehold title;
- 45 vi) their commitment to a program of disposal of Government assets, targeting Crown lands, and the continued depletion of the public estate as central and essential components of the Government's short term Budget strategy.

AMENDMENTS TO THE CROWN LANDS ACT, 1989

- 2.0 the nature conservation council of NSW adopts a policy of:
- 2.1 requiring the NSW Government to amend the *Crown Lands Act, 1989* to incorporate
- 50 provisions to achieve:
- 2.1.1 the explicit statement of the custodial role of the Department of Lands in the Act's objectives and the embodiment of this role in specific provisions;
- 2.1.2 the inclusion of public participation processes in:
- 55 i) the assessment of physical, environmental and cultural resources and the evaluation of natural values of Crown Lands;
- ii) proposals for future land use or disposal of public land by either sale or lease;
- iii) the preparation and evaluation of draft Plans of Management for Crown Reserves;
- 50 iv) revocation of dedications and/or reservations from sale or lease of Crown Reserves;
- v) changes in the boundaries between the Central and Western Divisions of NSW;
- 55 vi) enclosure of road or watercourse reserves;
- vii) removal of Crown Land sites from the control provisions of Part V, *Environmental Planning and Assessment Act, 1979*;
- vi) changes in administration of Crown Lands vested in Trusts;

2.1.3. the requirement for the Department of Lands to carry out a detailed land capability evaluation:

- 70 i) using Land Assessment Planning Processes (LAPP), which apply evaluation criteria specified under provisions set out in the Act;
- ii) to evaluate the physical, environmental and cultural resources and natural values of any parcel of Crown Land.;
- iii) as a basis for preparing draft Plans of Management;
- 75 iv) prior to any consideration of a proposal for future land uses, or disposal of any public land, by either sale or lease, except where that land is proposed for protection under the *National Parks and Wildlife Act, 1974* by the NSW National Parks and Wildlife Service, and;
- 30 v) by the employment of appropriate consultants to prepare reports and recommendations about land use where specialised technical expertise to undertake the assessment of particular values, e.g., cultural values, does not exist within the Department of Lands ;

2.1.4. public participation provisions to include:

- 35 i) the giving of a public 'Notice of Intent to Consider Disposal or Changes in land use', in the form of:
 - a) a Notice in the Government Gazette; and
 - b) a paid advertisement in newspapers circulating in the local area and newspapers circulating generally in the state, and the city of Sydney, and
 - 30 c) a Notice posted on the subject site, in a prominent position, visible from the public access ;
- ii) the public exhibition, for a period not less than two months, of documents relating to the land, particularly:
 - 35 a) data, results and recommendations arising from the Land Assessment Planning Process;
 - b) proposals for future land use;
 - c) draft Plans of Management;
 - d) any other purpose described in 2.1.2.;
- ii) the receipt, acknowledgment and consideration of and formal response to
40 public submissions by the
Department of Lands;

- iv) the calling and holding of Public Inquiries (similar to those held under the *Environmental Planning and Assessment Act, 1979*) into proposals for future land use or disposal, at the request of an objector to such proposals; third
- v) permitting party appeals to the Land and Environment Court, of decisions made by the Minister on future management, land use or ownership, by any objector who has lodged a submission under 2.1.4 .iii) above;
- vi) permitting general third party appeal rights for any person to pursue the enforcement of the provisions of the Act;

2.1.5. the termination of the Land Board system of administering Crown Lands, and its replacement by:

- i) full public participation processes; and,
- ii) a Crown Lands Advisory Council which includes representatives from the NSW environment and conservation organisations, relevant natural resource management scientists, community groups and local government. Such a Crown Lands Advisory Council should be a formally regulated, independent and representative body with staff resources available from within the Department of Lands;

2.1.6. the unequivocal linking of the Ministerial Corporation and the Department of Lands, so that the Corporation is required to seek, receive and consider advice from the Crown Lands Advisory Council and the Department before taking any action in relation to management, use or disposal of Crown Lands;

2.1.7. where the disposal of Crown Lands, by way of lease, has been confirmed through the processes of public participation:

- i) conditions on lease be inserted, to maintain values which have been identified through the public participation process;
- ii) the standard term of any lease be 50 years, in order to:
 - a) maintain the land in public ownership;
 - b) maximise returns to Government in the long term;
 - c) link the lease term more closely to the average life of any building likely to be erected on the site;

2.1.8. where the disposal of Crown Lands, by way of sale, has been confirmed through the processes of public participation:

- i) covenants on the titles of these lands be imposed by the Government, to maintain values which have been identified through the public participation process;

- ii) these covenants be endorsed on the title deeds by the Registrar General held at the Land Titles Office Register;
- iii) the Minister should not be permitted to offer vendor finance to assist purchaser since this would appear to be contrary to sound commercial practice.

INTERIM POSITIONS

2.2. The Nature Conservation Council of NSW adopts, until such time as the above policy provisions are agreed to by Government and enacted, the following interim positions:

- 2.2.1. request the full disclosure of all sales of public assets, including budget and non-budget assets, from March 20th 1989 to the present and the subsequent disclosure of all proposed future disposals on a monthly basis;
- 2.2.2. requests that processes are put in place immediately or extant processes accelerated so as to map and describe the public estate as a matter of high priority;
- 2.2.3. reject a reliance on the Soil Conservation Service as an adequate measure to supervise the land use practices following conversion to freehold;
- 2.2.4. request a moratorium on the disposal of government assets, particularly Crown Lands, until processes are put in place to properly protect the public interest in the future use of lands deemed surplus to government requirements;
- 2.2.5. seeks a restoration of the Crown Lands Conservation Policy, 1982, whereby Crown lands, including leasehold lands capable for conversion to freehold title, will be retained in Crown ownership, where it comprises:
 - i) strips required as access to and fronting watercourses, lakes, water storages, lagoons and tidal waters; and
 - ii) land required to be retained for
 - a) scenic and catchment area protection;
 - b) preservation of the habitat for native fauna;
 - c) preservation of native flora;
 - d) soil conservation purposes;
 - e) recreation;
 - f) re-vegetation;
 - g) scientific and educational purposes;
 - h) protection of National Estate and heritage values

2.2.6. rejects the intent and detail in Circular F4, of 4/8/1989, from the Department of Planning to local councils because:

- i) it does not guarantee public involvement in the disposal of potential surplus government lands;
- ii) it implies threats to councils which either express an unwillingness to support the rezoning proposal or which fail to exhibit the draft plan within 10 weeks ;
- iii) details of future development proposals will not be submitted with an application for rezoning;
- iv) potential sales represent a one-off fire sale of public lands and buildings without the public being guaranteed knowledge of the use of funds raised, and hence being able to assess the relative merits of such disposals;
- v) planning powers are being removed from local councils through a forced rezoning before sale of land.

ACTIONS TO ACHIEVE POLICY AND POSITIONS

3. The Nature Conservation Council of NSW pursues the following actions in support of the above policy.

3.1. writes to the Premier and the Minister for Natural Resources:

- i) stating our great concern at the administration of Crown Lands while the new Act is still in abeyance;
- ii) our opposition to the continued disposal of public lands as a means of balancing the State Budget while conservation regulatory provisions are in abeyance;
- iii) requesting an immediate moratorium on the disposal or conversion of Crown lands;
- iv) advising them of the terms of this policy;
- v) requesting them to commission the drafting of amendments which give effect to the above policy;
- vi) requesting the public exhibition of and receipt of public comments on draft documents, including draft Regulations, being prepared by the Department of Lands, which will direct the assessment of values of lands and the evaluation of land capability;
- vii) requesting the gazettal of Regulations under the *Crown Lands Act, 1989* as soon as possible following this period of public exhibition and comment;

3.2 opposes the disposal of Crown Lands which do not comply with the above policy by:

- 10 i) issuing media releases which draw attention to the failure of the Government to properly administer the Crown Land estate, with reference to individual examples, where appropriate, and to promote this policy;
- ii) co-operating with member bodies and other interested groups to publicise the Government's failure and to inform the public as to the Government's intent, decisions, actions and their implications;
- 15 iii) requesting members bodies to.
 - a) scrutinise local newspapers for Notices of intention to dispose of Crown Lands;
 - b) evaluate the environmental consequences of these proposed disposals and consequently advise the Council;
 - 20 c) participate in a public education program which alerts the general public to the areas being disposed of by the Government and their conservation values;
 - iv) requesting parties and Independent Members to carry motions disallowing the revocation of dedications and/or reservations from sale' p or lease while conservation regulations are in abeyance;

25 3.3 pursue the development of Crown lands policy by all political parties, to achieve:

- i) a policy framework with is consistent with the above policy;
- ii) a commitment to prepare a Bill to give this policy effect before the next state election;

30 3.4. where Regulations made under the *Crown Lands Act, 1989* are gazetted and the Act promulgated without public exhibition and comment on these vital documents, the Council will.

- i) evaluate the provisions of these Regulations to establish whether they give appropriate effect to the Act; and

35 3.4.1 where these Regulations are considered unsatisfactory, approach the Australian Labor Party, the Australian Democrats and other Members of Parliament to seek the disallowance of these Regulations.