

# Aboriginal Interests and Nature Conservation Policy

Endorsed by the Annual Conference of the Nature Conservation Council of NSW, October 2007.

## **1. PREAMBLE**

- 1.1 The Nature Conservation Council of NSW (NCC) first developed a comprehensive policy in relation to Aboriginal interests at a Special, Conference in 1988. It was subsequently amended at the 1993, 1998, and 2005 Annual Conferences. This policy updates and replaces all previous policy statements on Aboriginal Interests and Nature Conservation. An important purpose of the policy is to assist NCC and its member groups to engage in open and constructive dialogue with Aboriginal people on the future of the nature conservation lands of NSW. This policy recognises that Aboriginal people need land to meet their economic, social, cultural and spiritual needs and that an important part of NCC's mission is to protect the nature conservation values of lands throughout NSW, ideally in well-managed and adequately funded public reserves secured under the provisions of the NSW National Parks and Wildlife Act. There is much common ground, and also some potential conflict, in the aspirations of Aboriginal interests and nature conservation interests. NCC seeks an honest and mutually respectful relationship with Aboriginal people that builds on shared values and aims, but does not deny differences where they exist. It is hoped that this policy statement will assist NCC in building good relationships with Aboriginal communities and help to deliver outcomes that benefit Aboriginal interests while ensuring the conservation of nature, the protection of the environment, and the attainment of an ecologically sustainable society. Regardless of specific disputes and their outcomes, NCC will uphold this policy statement and will work towards its implementation in a manner that values both the conservation of nature and the Aboriginal cultures of NSW.

## **2. INTERPRETATION AND IMPLEMENTATION**

- 2.1 This policy is to be interpreted and implemented in accordance with NCC's constitutional aims and objects and with NCC's other relevant policies. In this policy the term 'lands' includes 'waters'; the term 'national parks' includes other categories of protected area of similar standing;

### **3. GUIDING STATEMENTS ON ABORIGINAL RIGHTS TO LAND**

- 3.1 Aboriginal people have the right to maintain their communities and their cultures.
- 3.2 Aboriginal communities are the original occupiers, custodians and stewards of the land.
- 3.3 Aboriginal communities are now disadvantaged, in part because the land was taken from them.
- 3.4 Aboriginal communities have special rights to land based on their occupation since time immemorial.
- 3.5 It is right that land be returned to Aboriginal communities.
- 3.6 Aboriginal communities have deep spiritual relationships with their traditional lands or 'country'.
- 3.7 Aboriginal communities have rights and responsibilities to maintain their cultural practices on country.
- 3.8 Aboriginal communities have knowledge and cultural practices and values that can assist in the conservation of nature and the protection of the environment.

### **4. GUIDING STATEMENTS ON NATURE CONSERVATION**

- 4.1 While this policy largely addresses the significance of land to different groups in human society, NCC recognises that land supports geodiversity and biodiversity with values that are intrinsic and independent of their worth to any human group.
- 4.2 The primary constitutional aims of the NCC are the conservation of nature, the protection of the environment, and the attainment of an ecologically sustainable society, and NCC will continue to work towards the realisation of these aims.
- 4.3 The public system of national parks, held in perpetuity under the provisions of the National Parks and Wildlife Act, and managed by an expert and well-funded nature conservation authority, is a cornerstone of nature conservation in NSW and NCC will continue to work for its protection, expansion and enhancement.
- 4.4 NCC will continue to work towards the establishment and good management of a comprehensive, adequate and representative system of national parks reflecting the full range of IUCN categories.

- 4.5 NCC will continue to work for the conservation of natural ecosystems and biodiversity, and for ecologically sustainable management, on all lands throughout NSW regardless of tenure and ownership.
- 4.6 NCC will continue to support wilderness reservation and management under the NSW Wilderness Act, and will work to protect wilderness areas from development and inappropriate uses.

## **5. NCC WILL WORK WITH ABORIGINAL INTERESTS TO ACHIEVE COMMON AIMS**

- 5.1 NCC expresses its appreciation for the vital and important role that Aboriginal Australians have played in preserving the natural heritage of NSW and its respect for their cultural links to 'country'.
- 5.2 NCC believes Aboriginal lands can form a vital part of the protected area system. These 'indigenous protected areas' can be achieved through Aboriginal-owned lands managed to maintain their nature conservation values under arrangements secured by statutory arrangements and/or legal instruments.
- 5.3 NCC advocates support, funding and other resources for the management of Aboriginal lands with nature conservation values in order to achieve high quality indigenous protected areas.
- 5.4 NCC will seek the co-operation of Aboriginal communities in applying to any lands with significant nature conservation values which may be sought, claimed, controlled or owned by them - under whatever process or legal regime - appropriate policies for nature conservation and the protection of the environment, including policies on fire management.
- 5.5 Where NCC shares a common interest with an Aboriginal community in the management of their lands, NCC may assist that community to source funding for that purpose.
- 5.6 Where vacant crown land claimed by Aboriginal interests has nature conservation values, NCC may support such claims on the basis that the lands are held as Aboriginal-owned conservation reserves under joint management as provided under the Aboriginal Land Rights Act and the National Parks and Wildlife Act; alternatively, NCC may support the claim subject to conditions as may be applied under the NSW Aboriginal Land Rights Act to protect those values, while allowing community uses of an appropriate kind and scale.
- 5.7 NCC may support Aboriginal co-management of national parks and other protected areas, and other forms of participation in the management of such lands. These arrangements can help to re-establish Aboriginal traditional links with country while maintaining national park tenure and public ownership of the land.

- 5.8 Where an area of existing national park land is of great cultural or spiritual significance to a local Aboriginal community, NCC may support the vesting of title in the land in that community, under terms which will maintain its national park status, and protect the natural and cultural values of the land, in perpetuity [Part 4A National Parks and Wildlife Act].
- 5.9 NCC will collaborate with Aboriginal interests to seek grant funding for joint research and other purposes consistent with NCC's aims and objects.
- 5.10 NCC will support strategies for the management of Aboriginal lands in ecologically sustainable ways.
- 5.11 NCC will support skill sharing for sustainable land management.
- 5.12 NCC will support significant Aboriginal roles and Aboriginal employment in environmental management.
- 5.13 NCC will support the appointment of adequately resourced Aboriginal representatives to government advisory councils and committees concerned with natural resources and the environment. NCC supports additional and more culturally appropriate ways for government to engage Aboriginal opinion and acknowledge Aboriginal interests in the management of natural resources and the environment.
- 5.14 NCC will take into account and apply, as appropriate to conditions in NSW, relevant international policies including the policies of the World Conservation Union (IUCN) on protection of indigenous interests, management of protected areas, and conservation of biodiversity.

## ***6. NCC WILL WORK WITH ABORIGINAL INTERESTS TO RESOLVE DIFFERENCES***

- 6.1 Certain lands in NSW are of particular interest to both NCC and to Aboriginal communities. These include public lands which may be subject to native title claims, vacant crown lands which may be subject to claims under the Aboriginal Land Rights Act, and some national park lands of special cultural significance for which transfer of title with lease-back arrangements may be sought. Aboriginal rights over public lands may also be granted via regional indigenous agreements concluded by government with Aboriginal communities.
- 6.2 NCC and Aboriginal interests may not always agree on the best use of lands subject to Aboriginal claims and agreements. NCC believes that an open and honest approach which addresses both areas of agreement and of difference, and which allows an ongoing dialogue, offers the best way forward. NCC will make itself available and support negotiations to resolve conflicts.
- 6.3 Unless NCC's interests are significantly affected it will generally not take a position on native title claims, land rights claims, or indigenous regional agreement processes, or question the outcomes.

- 6.4 Where the granting of Aboriginal claims on public lands with significant nature conservation values is likely to lead to a serious diminution of those values, such claims will not be supported by NCC, and may give rise to objections; this may also be the case where the lands are likely to be on-sold, leased, or otherwise alienated to non-Aboriginal interests.
- 6.5 NCC is concerned that the NSW Aboriginal Land Rights Act allows for the alienation of Aboriginal lands and hopes that this does not lead to a new era of dispossession. NCC would like to see Aboriginal-owned lands held in perpetuity in a secure form of community title. NCC nevertheless recognises that this is a matter for Aboriginal communities to decide, subject to law, and accepts that Aboriginal people must participate on an equal basis in contemporary society, including the manner in which they hold and deal with their lands.
- 6.6 NCC supports consistent and non-discriminatory planning rules in NSW which protect the environmental values of the land. Land uses and development approvals should be decided on the basis of good planning and not influenced by the ownership of the land.
- 6.7 NCC accepts that some areas of national park land of great cultural or spiritual significance to local Aboriginal communities, may be transferred from public ownership to Aboriginal community ownership, subject to statutory lease-back and joint management arrangements which continue the national park status of the land in perpetuity [Part 4A National Parks and Wildlife Act]. NCC will seek to ensure that uncertainties about the long term status and protection of national park lands under Part 4A are addressed. Similarly, NCC will seek to ensure that national park lands held under Part 4A are not exposed to added financial burdens as may detract from their good management or their capacity to conserve the nature conservation values of the land.
- 6.8 NCC does not accept that national park lands should be made available to compensate Aboriginal interests for historical wrongs, or for economic purposes. NCC believes the best way to provide compensation to Aboriginal communities for the past loss of their lands, and to improve their economic position, is for substantial funding to be made available to them for land acquisition, and for other forms of investment, and to help secure improvements in their levels of health, education and vocational training. NCC supports the reinstatement to Aboriginal interests of a share in NSW land tax receipts expressly for these purposes.
- 6.9 NCC will seek the co-operation of Aboriginal owners in applying NCC policies for the protection of biodiversity and the environment to their lands.
- 6.10 NCC will promote considered approaches to bushfire management across the landscape, based on the best interests of nature conservation, consultation with any affected Aboriginal landowners, and the best available expert knowledge.
- 6.11 NCC will seek the co-operation of Aboriginal communities in ensuring that hunting and gathering activities in national parks are carried out in accordance with formally adopted plans of management made under the relevant legislation. NCC hopes that Aboriginal hunting and gathering in NSW national parks will be limited to essential cultural purposes; NCC does not support hunting and gathering in national parks for economic or other purposes.

- 6.12 NCC recognises that wilderness areas contribute significantly to nature conservation and the protection of the environment in NSW. NCC will seek to keep wilderness areas free of encroachments, dwellings and other structures, roads, tracks and other works in accordance with the provisions of the NSW Wilderness Act. NCC also recognises that 'wilderness' is a concept that is seen by some people as not fitting well with the Aboriginal concept of 'country'. However, NCC believes there is much scope for cooperation with Aboriginal groups in managing and caring for wilderness areas and will work towards finding common ground.

## **7. RESPECT FOR ABORIGINAL PERSPECTIVES**

- 7.1 NCC will seek to co-operate with all Aboriginal interests in order to achieve common aims and resolve differences.
- 7.2 NCC will always seek to deal with differences with Aboriginal interests in a manner that maintains mutual respect.
- 7.3 NCC will listen to individual and collective Aboriginal viewpoints.
- 7.4 NCC will respect Aboriginal decision-making processes including decisions about who is a traditional owner and who can speak for place and for people.
- 7.5 NCC will respect Aboriginal sensitivities and practices concerning the holding and use of Aboriginal cultural knowledge.
- 7.6 NCC recognises the rights and responsibilities of Aboriginal communities to participate in the development and implementation of policies and strategies for the management of lands and natural and cultural resources in which those communities have an interest.
- 7.7 NCC will promote links, alliances and contacts between conservationists and Aboriginal people at local, regional and state levels to protect the environment and Aboriginal cultural heritage and for other common goals.
- 7.8 NCC will encourage its member societies to become more involved with local Aboriginal groups.
- 7.9 NCC will support and encourage Aboriginal people who advocate the management of communal land for conservation.
- 7.10 NCC will encourage member societies to invite Aboriginal people to join their organisations.
- 7.11 NCC will welcome as members Aboriginal non-government organisations which subscribe to NCC's constitutional aims and objects.