



Submission to the OEH public consultation on national parks establishment

prepared by

**EDO NSW
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About EDO NSW

EDO NSW is a community legal centre specialising in public interest environmental law. We help people who want to protect the environment through law. Our reputation is built on:

Successful environmental outcomes using the law. With over 25 years' experience in environmental law, EDO NSW has a proven track record in achieving positive environmental outcomes for the community.

Broad environmental expertise. EDO NSW is the acknowledged expert when it comes to the law and how it applies to the environment. We help the community to solve environmental issues by providing legal and scientific advice, community legal education and proposals for better laws.

Independent and accessible services. As a non-government and not-for-profit legal centre, our services are provided without fear or favour. Anyone can contact us to get free initial legal advice about an environmental problem, with many of our services targeted at rural and regional communities.

EDO NSW is part of a national network of centres that help to protect the environment through law in their states.

Submitted to:

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Introduction

EDO NSW welcomes the opportunity to provide feedback on national parks establishment in NSW. We made a detailed submission to the Parliamentary Inquiry into the Management of Public Lands in NSW in August 2012 and provided evidence to the Committee.

Our *Submission to the Inquiry into the Management of Public Lands in NSW*, 31 August 2012 and previous submissions on protected area law and policy are available at: www.edonsw.org.au/protected_areas_public_land_management_policy

We note that the NSW Government Response to the inquiry was released in November 2013, involving a commitment to publicly consult on:

- updating the NSW National Parks Establishment Plan;
- enhancing consideration of the social and economic implications of new park proposals; and
- considering how to improve community involvement in the reserve establishment process.

The Office of Environment and Heritage (OEH) is now seeking comment on proposed directions, socio-economic considerations and community involvement in creating new national parks and reserves.¹

Accordingly, this submission makes comment on:

1. The new *Directions Statement for National Park Establishment 2015-2020* (that will replace the *NSW National Parks Establishment Plan 2008*);²
2. Socio-economic Assessment in NPWS Land Acquisition;³ and
3. Community involvement in reserve establishment.

In summary, we support a well-resourced, active and strategic national park establishment plan for NSW. Protected areas are critically important now and in the future – not only for biodiversity – but for broader landscape health and community well-being. The environmental, social and economic benefits of protected areas are enjoyed by the whole community and it is essential that policies and laws support the growth of the protected areas estate.

¹ See:

https://engage.environment.nsw.gov.au/establishingnationalparks?tool=survey_tool&tool_id=upload3#tool_tab

² See: <http://www.environment.nsw.gov.au/resources/protectedareas/140853DSNPEstab2015-20.pdf>

³ See: <http://www.environment.nsw.gov.au/resources/protectedareas/140854SEANPSWLandAcqu.pdf>

1. **Directions Statement for National Park Establishment 2015-2020**

The new *Directions Statement for National Park Establishment 2015-2020* (**Directions Statement**) replaces the *NSW National Parks Establishment Plan 2008* (**Establishment Plan**).⁴ Key differences between the plans are noted below.

We note that the Directions Statement identifies seven thematic conservation priorities, and indicates that priority will be given to *connectivity conservation, improving reserve design and culturally important landscapes and places*.⁵

Connectivity Conservation (theme 4.1)

The Directions Statement notes “The long-term viability of many reserves and of the whole protected area system may rely on the maintenance or re-establishment of vegetated corridors between reserves or other core areas of native vegetation.”⁶ We agree that this approach is crucial to enhancing connectivity values. EDO NSW has consistently supported initiatives to improve conservation connectivity across the landscape.⁷

However, current Government policies – such as the intended repeal of the *Native Vegetation Act 2003* and changes to private land conservation delivery options – have the potential to undermine connectivity investments.⁸ The Directions Statement notes that some bioregions are already over-cleared and biodiversity has declined (for example the Tablelands and Western Slopes bioregions). Weakening vegetation controls on private land will put even more pressure on protected areas to provide refugia, and will undermine the important goals of enhancing connectivity conservation.

We recommend that the Directions Statement provide further detail on the broader context of landscape management as relevant to connectivity conservation. This includes more detail on links with private land conservation initiatives as an important complement to enhancing connectivity across the reserve estate. This is consistent with the expressed preference “to achieve greater land management across tenures.”⁹

Improving reserve design (theme 4.2)

We support the acquisition of: inholdings, land to improve management access to areas, high conservation value crown lands, additional land to create buffers around reserves (including for climate change impacts), and high priority intertidal areas.¹⁰ In particular, we welcome the acknowledgement in the Directions Statement that “climate change will influence all existing threats to current reserves, providing further impetus to improve their boundaries and increase their effective areas.”¹¹

As previously submitted, any reserve revocations must be only in exceptional circumstances and require an Act of Parliament.

⁴ <http://www.environment.nsw.gov.au/resources/protectedareas/0852npestplan.pdf>

⁵ Available at: <http://www.environment.nsw.gov.au/resources/protectedareas/140853DSNPEstab2015-20.pdf> pg 3.

⁶ *Directions Statement for National Park Establishment 2015-2020*, p5.

⁷ For example, see: ANEDO submission on the Draft National Wildlife Corridors Plan, 20 April 2012, available at: http://www.edonsw.org.au/protected_areas_public_land_management_policy.

⁸ The NSW Government has indicated that it will implement the 41 recommendations of the recent *Independent review of Biodiversity Legislation* that includes repealing the *Native Vegetation Act 2003* and *Nature Conservation Trust Act 2001*, and making a new Biodiversity Conservation Act. See: <http://www.environment.nsw.gov.au/biodiversitylegislation/review.htm>

⁹ *NSW Government Response: Inquiry into the management of public land in NSW*, 15 November 2013, p1.

¹⁰ *Directions Statement for National Park Establishment 2015-2020*, p5.

¹¹ *Directions Statement for National Park Establishment 2015-2020*, p5.

Culturally important landscapes and places (theme 4.3)

We note that cultural heritage laws are under review in NSW with the aim of establishing stand-alone legislation. EDO NSW, with our Aboriginal Solicitor, has been involved in this ongoing consultation process. One important element of discussions has been recognition of a need for laws to be able to protect culturally significant landscapes and better protect the less tangible aspects of culture in addition to specific landmarks, places or objects. It is not merely an area of land, but interactions with place that can be significant. Protected areas offer a way of protecting a range of values in an area, but we recommend that any policy attempting to improve protection of culturally significant indigenous landscapes must be cognisant of this evolving area of reform.

Other themes

We also note our strong support for increasing national park establishment in relation to the other identified themes:

- ***Poorly reserved ecosystems and critical habitats*** (theme 4.4). NSW does not yet have a comprehensive adequate and representative (CAR) reserve system. As noted, “protecting as many different ecosystems as possible will support the protection of as many species as possible, and is an important strategy for minimising the effects of climate change on biodiversity.”¹² CAR principles must continue to drive acquisition policy.
- ***Wetlands, floodplains, lakes and rivers*** (theme 4.5). In acknowledgement of the increased stress already placed on these systems, we strongly support increased protection of both the iconic wetlands identified and expanding wetland reserves more broadly.
- ***Lands within important water catchments*** (theme 4.6). We welcome the inclusion of this theme, and strongly support protections for important water catchments being enshrined in protected areas law. For example, an enforceable prohibition on certain activities such as fracking, is essential to keep important catchments healthy and functional.
- ***Places containing significant geodiversity*** (theme 4.7). We support increasing the representation of karst formations, aeolian landforms, fossil sites and under-represented soil types in the reserve system.

Comparison between NSW National Parks Establishment Plan 2008 and Directions Statement for National Park Establishment 2015-2020.

There are a number of key differences between the Directions Statement and the NSW National Parks Establishment Plan 2008 (**Establishment Plan**). These include:

- **Long term goal** - The Establishment Plan makes it clearer that the Government’s long term goal is to have a comprehensive, adequate and representative (CAR) public reserve system. The plan has a 10 year focus towards meeting the longer term goal in 50 years (p 3). In comparison, the Directions Statement plans for the near term (2015-2020) (p 3), which may have less long term strategic value. The Directions Statement should adopt a long-term timeframe, as do other programs such as Saving Our Species.
- **Context** - The Establishment Plan makes it clearer that the public conservation reserve system is part of collective conservation effort that also involves the federal government,

¹² Dunlop M & Brown PR, 2008, Implications of climate change for the *National Reserve System – A preliminary assessment*. Report to the Department of Climate Change, and the Department of Environment, Water, Heritage and the Arts, Canberra.

local councils, community groups and private owners (p 5). This provides important strategic context.

- **Climate change** - The Establishment Plan has a stronger emphasis on the value of reserves as a buffer against the effects of climate change (pp 7 and 17). This is strongly backed up by information from a CSIRO report on the related design implications. It also makes it clearer that the reserve system has this function because it operates as part of a range of coordinated conservation programs across the state.
- **Measuring progress** - The Establishment Plan is more clearly focussed on providing reserves that are measured in terms of how they protect representative and adequate ecosystems and areas of importance to people (p 9). The Directions Statement by contrast is more flexible and gives a greater focus to economic development over conservation in certain circumstances (p 3). In addition, vital statistics are provided in the Establishment Plan for each of the Bioregions and this provides a more transparent link to the priorities that follow. By contrast the information supporting the directions for each bioregion in the Directions Statement is more opaque. The Directions Statement should adopt much clearer, additional measures of the socio-economic value of *ecosystem services* (even in pilot form at first). This would go beyond a narrow economic development focus and reflect the Government's aim of enhanced socio-economic assessment.
- **Integration with policy and planning framework** - The Establishment Plan more clearly shows how the reserve system supports other international, national and state conservation policies (p 12). The Directions Statement does not provide that clear linkage, so it is unclear how well it is well integrated with other relevant policies. If the Directions Statement is applied in the context of an increased emphasis on economic considerations (as suggested in the original inquiry), it will potentially undermine these existing related policies.

We recommend the Directions Statement be amended to address the comparative deficiencies as identified above.

2. Socio-economic Assessment in NPWS Land Acquisition

It is clear that socio-economic considerations are already taken into account in the NPWS acquisition process through existing processes and tools. We would not support any alteration of the process to prioritise economic considerations,¹³ as this would be inconsistent with the objectives of protected area legislation – ie, first and foremost to protect the environment.

We support a balanced and more comprehensive approach to assessing different considerations and benefits, consistent with the overarching goals of protected area law and policy.

In a situation where a socio-economic assessment is being used to determine whether the likely outcomes of reserve enhancement or creation are acceptable or unacceptable, it is important to ensure that all economic costs and benefits are appropriately and accurately assessed. We submit that the current models do not adequately take into account certain benefits.

The current process outlined in “Socio-economic Assessment in NPWS Land Acquisition” recognises the importance of considering the benefits of national parks providing ecosystem services (such as provision of clean air and water) and enhancing public good across long

¹³ As has happened in other areas of NSW land use policy – for example, the State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007

timeframes, but fails to incorporate any quantitative measure of these benefits in either the “Local economy assessment” or the “Landuse change assessment”.¹⁴ It is also unclear whether the value of other ecosystem services, such as carbon sequestration, are included in the NPWS assessment of conservation value. While recognising that such quantification is complex, without any attempt to consider the economic benefits of these features, a socio-economic assessment of any reserve proposal must be considered incomplete.

It is also unclear how the socio-economic benefits of adding the land to the reserve estate in relation to economic (tourism) and social (amenity) value are considered in the “Local Economy Assessment”.

If socio-economic assessments continue to be a key decision factor in the reserve assessment process, these benefits must be appropriately incorporated, and the NSW Government must promote improved valuation of biodiversity and ecosystem services.

For example, NPWS could consider *The Economics of Ecosystems and Biodiversity* (TEEB) approach championed by UNEP:

*TEEB for Local and Regional Policy Makers calls on local policy makers to understand the value of their natural capital and the services it provides and apply a focus on nature’s benefits in local policy areas such as urban management, spatial planning and protected areas management.*¹⁵

3. Community involvement in reserve establishment.

There is no separate paper released as part of this consultation process on community consultation, so we are assuming that no substantive changes are proposed.

EDO NSW supports the current opportunities for public engagement in relevant aspects of reserve establishment, and more broadly through Regional Advisory Committees. We note that the Reserve Establishment Team has been reduced in size. Our recommendation is therefore that the team be adequately resourced and staffed to actively and strategically implement national parks establishment.

We strongly support additional and culturally appropriate consultation with local Aboriginal community members, including Traditional Owners, on acquisitions as well as naming proposals of Aboriginal origin and proposals to name Aboriginal areas and places.

For further information, please contact Policy & Law Reform Director Rachel Walmsley on rachel.walmsley@edonsw.org.au or (02) 9262 6989.

¹⁴ We are unable to comment on the specific detail of the Local Assessment model used as that tool is not publicly available.

¹⁵ See: <http://www.teebweb.org/our-publications/teeb-study-reports/local-and-regional-policy-makers/>.