

EXPLORATION AND MINING IN NATIONAL PARKS AND NATURE RESERVES

Discussion Paper prepared by members of the Special National Parks Committee

BACKGROUND

1. In November 1990 the State Government announced a new policy outlining proposals for the administration of exploration and mining in National Parks and Nature Reserves. The policy was released as a document entitled "Resolution of Conflict. A Clear Policy for National Parks".
2. This policy replaced a previous policy titled "Balancing the Scales", important elements of which were rejected by the Upper House. Following the release of "Resolution of Conflict. A Clear Policy for National Parks" there was considerable concern in the Party that significant parts of the new policy were at odds with party platform and it is appropriate to consider the most relevant parts of Federal and State platform in that context.
3. At its meeting in December 1990, the State Executive resolved to establish a special committee to review the the new policy and report back to the State Executive at the March 1991 meeting. A copy of the resolution with terms of reference is included in Appendix 1.
4. The Committee was convened in January 1991 and has met on 5 occasions.

RELEVANT PLATFORM

5. Relevant sections of Federal Platform section on the environment

36 Promote the conservation of fauna, flora, landscapes and genetic diversity by-

a strengthening, where necessary, the existing legislative provisions to ensure the conservation of native fauna and flora, especially endangered species and their

habitats...

b opposing mining or any other activity in national parks or national estate areas which adversely affects the prime function of the park;

c instituting a programme in association with the States and Territories to attain and protect standards of excellence in the conservation of fauna, flora, landscape and genetic resources within large ecologically viable reserves which meet internationally recognised criteria for security of tenure for national parks and like reserves.

6. Relevant sections of State Platform section on Conservation and the Environment

B

1 Establish a system of large, ecologically viable National Parks and nature reserves for the conservation of natural areas to:

a attain standards of excellence in the conservation of representative samples of native flora, fauna and land forms;

4 Accord A class status to those reserves set aside for the conservation of natural areas, including unvested reserves, so that their area, tenure or purpose is not varied without parliamentary approval.

6 prohibit mining in reserves for the conservation of natural areas without parliamentary approval and subject any proposals for prospecting, exploration or mining tenements, including petroleum exploration and development, to rigorous environmental impact assessment.

Clearly, section 36 b of the Federal Platform conservation section seeks to effect a

prohibition of mining (or other activities) in National Parks and National Estate areas (many Nature Reserves are also National Estate areas) where this "adversely affects the prime function of the park". In any reserve where the prime function is the conservation of flora or fauna, mining would adversely impact that function. The degree of impact would depend on the particular attributes (size, ecological types present, the rarity and distribution in the reserve of flora or fauna found there) of the reserve and the scale and location of mining involved. Where the prime function is to protect landscape features then whether or not mining would adversely effect this function would depend on the scale and location of the mining in relation to the landscape features being protected.

Section 36c of Federal platform calls for the party to attain standards of excellence in conservation in reserves meeting "internationally recognised criteria for security of tenure for national parks and like reserves". Such standards exclude mining from National Parks and Nature Reserves.

Section B4 of the State Platform on Conservation and Environment calls for all reserves for the conservation of natural areas to be A Class reserves. The new policy calls for the implementation of the outstanding Red Book (and some other) proposals as C Class reserves but, this could be seen as an intermediate stage in the implementation of section B4 if the subsequent processing of the reserves by the Ministerial Council to elevate those worthy of A Class status is not protracted. (In the past, the implementation of this section of platform has been moderately successful with a significant number of C Class reserves having been upgraded to A Class. However, many of those that have not been upgraded are those with mineral prospectivity; thus those most in need of protecting have been held up in the system.)

Section B6 of the State Platform section on Conservation and Environment calls for the prohibition of mining in reserves for the conservation of natural areas without

parliamentary permission. This compromise position was drawn up at the 1989 State Conference in the context of commitments by Government to implement "Balancing the Scales". By implication (as it gives a mechanism to allow mining), this contradicts section 36 b of the Federal Platform conservation section, which seeks to effect a prohibition of mining (or other activities) in National Parks and National Estate areas. As Federal platform over-rides State platform this section is theoretically inoperative. Notwithstanding this, the new policy allows exploration and mining in B and C Class reserves by the agreement of the Ministers for Mines and CALM which is lesser protection than called for in section B6.

POLICY - GENERAL PRINCIPLE

7. The Committee has the view that exploration and mining are activities that are fundamentally inconsistent with the purposes of National Parks and Nature Reserves.

In Western Australia a Nature Reserve is an area set aside for the conservation of the indigenous plants and animals. Some other forms of activity such as research, education and passive recreation are permitted but these should not compromise the ecological integrity of the reserve. A National Park is an area set aside for conservation and for recreation in natural surrounds. A wider range of activities is permitted but, again, these must not detract from the conservation values of the park. National Parks are, in general, large areas containing scenic features such as rivers, beaches and mountains which attract human interest and which give rise to recreational opportunities.

Mining is an activity which impacts directly and indirectly on nature conservation values. The ground disturbance reduces conservation values directly. There is also invariably an indirect impact as a consequence of the mining activity, e.g. lowered water tables, dust drift, introduction of weeds, feral animals or diseases such as Phytophthora (dieback).

Exploration can have much less of an impact on natural values, although it should be pointed out that the mining industry in Western Australia has a poor record of control and management of these impacts (it should also be noted that the cumulative impact of exploration over large areas is very significant because of the large amount of exploration carried out for each mine brought into production). However, the principal concern with exploration in National Parks and Nature Reserves is that it can lead to mining proposals and the consequent associated land-use conflicts.

The mining industry claims that mining is a transient land-use and that post mining rehabilitation restores conservation values. Certainly, some replacement of native species is possible and indeed, is required as a condition of mining approval. However, the fact is that there is no scientific evidence of successful ecosystem reconstruction (*sensu strictu*) in Australia. Most post-mining rehabilitation programs aim for an artificial or synthetic plant community which has some of the original ecosystem properties; many achieve little more than a cosmetic effect. In fact, given that:

- a) the distribution and relative abundance of plants in an ecosystem is very closely linked to patterns of variation in soil and geomorphology,
- b) that a major component of conservation value is therefore a function of soil development, the surface patterns and the stratification, and,
- c) that mining and associated activities (roadbuilding, earthworks) irrevocably destroy the soil structure,

then it is very unlikely, if not impossible to expect, that post mining rehabilitation could return the conservation values of an area. For after all, conservation is about maintaining areas as nature has made them for their own right and so we can enjoy and understand them, not about trying to replicate nature. In essence, the mining

lobby position on rehabilitation is unmitigatedly a propaganda position, albeit at times one that has been well sold to the public.

8. The policy devalues the conservation significance of the nature reserve system in Western Australia (a cynical view is that it is designed to capture the rhetoric of the National Parks debate without seriously addressing the fundamental principals of the issues). In general terms the State's Nature Reserves are less able to withstand the impacts of mining because many of them are small in size and their management objectives are more seriously compromised by mining.

THE FIVE AREAS

9. The Hamersley Range National Park

The decision to excise the Marandoo tenement and the infrastructure corridor to the west (only) is accepted in the context of the State Executive resolution.

The committee considers that the decision to excise the east-west corridor was pre-emptive and inconsistent with the principles of good land-use planning. The committee believes that the proposed review of the remaining tenements in the Hamersley Range National Park should be broadened to include iron ore mining in the region as a whole, i.e. it should produce a regional mining strategy. Decisions on access and infrastructure should be made in the light of long term mining plans for the region in an integrated fashion rather than on an ad hoc basis or mine by mine basis. The review should also address the issue of land acquisition for incorporation into the National Park. Those mining companies given access to the existing park should be required to contribute to the costs of acquisition and management.

10. The Rudall River National Park

Current Government policy (State and Federal) precludes uranium mining at Rudall River. Therefore there is no policy imperative for excising the Kintyre deposit from that National Park. Indeed, to do so would be inconsistent with Party Platform and

Policy. (Even if approval were to be given for the Kintyre deposit to be mined it is extremely doubtful that mining would proceed because of the costs of developing such an isolated deposit.) If the Government felt compelled to honour previous commitments to CRA it could grant long term access rights to the company on a no rental no work requirement basis.

The committee is conscious of the aspirations of the Aboriginal people in the Rudall River area and believes that these would be best satisfied through an ownership -leaseback for national park arrangement similar to that in place at Kakadu and Uluru National Parks in the Northern Territory.

11. D'Entrecasteaux National Park

Previous platform and policy commitments have created strong expectations for many people that the outstanding parts of this park will be gazetted in the near future. Many are openly critical of the Government for its failure to deliver on the policy and platform commitments and this has contributed to anti-government sentiment.

There is strong antipathy to the mineral sands mining in general in the SouthWest (and in Australia as a whole) because of the industry's overall lack-lustre performance in environmental management whilst working in highly publicly visible and sensitive locations.

There is a belief that Cable Sands' requirements for access to deposits in the D'Entrecasteaux area is based on a desire to support its share valuation rather than on a need or even willingness to mine the deposits. Even if the deposits were to be granted to the company, it is unlikely that any mining would proceed within 10-15 years.

Exploration activities (as with other forms of vehicular access) are likely to lead to the spread of Phytophthora (dieback disease). The impacts of Phytophthora are now coming

to be recognised as the greatest nature conservation issue in the South-West.

The committee notes the high community expectation that the D'Entrecasteaux National Park will be created in line with previously clearly stated policy and platform commitments and the current policy. The committee is aware that there are likely to be adverse reactions if areas are excised from the park for mining of mineral sands deposits after the park is gazetted. However the committee believes that this adverse reaction will occur whether or not the areas are formally gazetted and that delays in gazetting the park are also likely to generate adverse reactions as such delays are interpreted as reneging on commitments. The committee further notes that excision decisions are likely to rest with a future government. If the Government takes the course of legislating for the park and the legislation is rejected by the Opposition in the Upper House, the Government could campaign on the issue, highlighting it as an example of the consequences of a Coalition Government.

12. Watheroo National Park

The proposal to mine bentonite clay from a lake bed in this park has not been evaluated economically or environmentally. There has been no exploration of the lake and estimates of the value of the resource are speculative. The environmental values of the lake have also not been assessed; indeed the proponent refused a 1989/90 invitation from the EPA to participate in an environmental study of the area.

Environmental advice to date suggests that the lake is the last uncleared one of its type in the region; there is clearly a need in this instance to ensure that proper environmental processes are carried out. If other similar lakes have been cleared, bentonite clay may be available from their beds and there may be no need for an intrusion into a National Park to obtain this resource. If the lake is the last of its kind then the environmental conflict is obviously serious, irrespective of the issue of whether or not mining is an appropriate activity in National Parks.

13. Neerabup National Park

The committee believes that Neerabup National Park is a reserve of considerable conservation importance in an area which is inadequately served with reserves.

Continued mining for limestone in Neerabup National Park or excision from the park for that purpose devalues the underlying tenet of the policy which is to allow mining where it is of demonstrably high strategic or economic value. A quarry on the Swan Coastal Plain for production of limestone for road building and associated purposes does not (and could not) satisfy either of these criteria.

The quarry should be closed and rehabilitated. The vegetated land to the east of the Park should be purchased by the Department of Main Roads and incorporated into the Park in anticipation of the excision for the freeway extension. Recommendations in various planning reports for extending Neerabup and linking it to Yanchep National Park should be reviewed with some urgency and where justifiable acted upon. (At least part of the land adjoining Neerabup is the subject of an EPA System Six recommendation to protect a wetland and adjoining vegetation types not represented in the Park.)

OTHER ISSUES

14. Marine Nature Reserves

Existing and proposed marine nature reserves should be treated in the same way under the policy as marine parks, i.e. there should be no drilling for or production of petroleum, including gas; proposed reserve areas should be treated in the same way until boundaries are finalised and the reserves are created. This is completely consistent with the recommendations of the Committee of Inquiry into Petroleum Exploration and Development in National Parks and Nature Reserves (Bailey II).

15. Petroleum exploration

There is some suggestion that the Department of Mines is attempting to interpret the policy to the effect that reference to petroleum exploration does not include exploration for gas. It is not really practical, nor is it desirable, to make this distinction. The word petroleum is used in the policy in the same way that it is used in the Petroleum Act to include all hydrocarbons.

16. Implimentation of outstanding EPA Red Book recommendations

This is the key positive aspect of the "Resolution of Conflict, A Clear Policy for National Parks" document. However, experience has shown that bureaucratic inertia will prevail unless a very senior person (Departmental Head or Minister) drives the process.

It is likely that the Department of Land Administration will require a clear directive from the Minister (or the Cabinet) in order to allocate staff to the reservation process to ensure that the work is performed quickly.

It is important to note that a significant portion of the anger that has been generated in response to the new policy is the result of the frustration at the generally slow rate of implementation of the EPA Red Book recommendations since 1983. The resultant perception that our record is not what it should be in the area of reservation of natural areas for conservation purposes is justified on this broad scale. However, it needs to be tempered by the acceptance of the fact that several of the areas that we have made into or added to National Parks have been reserved in spite of significant pressure from vested interests not to do so. Specifically worthy of mention here are the Shannon River National Park, the Lane Poole Reserve and the addition of 50,000 hectares to the Fitzgerald River National Park.

Most of the EPA Red Book recommendations were made by the EPA under the conservative Governments that preceded the Burke Government and, although we would like to think of those governments as regressive, the Red Book

recommendations **received Cabinet endorsement** under those (Court and O'Connor) Governments. This is an indication of the strength of the arguments for the Red Book recommendations on biological and other grounds. It should be noted that the Red Book recommendations are the result of actions taken by the then Department of Conservation and Environment to consult with knowledgeable people rather than responses to wish lists of the conservation movement. In this context it is noted that the argument has been put forward that "nothing would appease the desires of the conservation movement for reservation". The Committee is of the opinion that this line of argument is sterile as it deflects attention from the reality that the Red Book recommendations are justifiable and in many cases are the minimum that we should be looking at if we seek to implement State and Federal Platform effectively. Further, the Committee believes that such deflection from acceptance of the need for implementation of the red book recommendation will further erode our position with the electorate. We must have a balance between conservation and development and we cannot claim to have that balance until we have an adequate reserve system. Until such time as there is an adequate reserve system in place then every new development proposal will attract controversy as a potential land-use conflict.

17. Requirement for detailed resource assessment prior to creation of new national parks

It has been standard practice for more than a decade to undertake biological surveys as part of the selection and design process prior to seeking approval for new conservation reserves. It is clearly desirable that these procedures continue.

A requirement for comprehensive assessment of non-biological/mineral resources could (and probably would) inhibit creation of new national parks, for example:

- the agency responsible for the mineral resource assessment (The Geological Survey of Western Australia) could postpone (indefinitely) the assessment by claiming lack of resources or conflicting priorities. Given the opposition by the

Department of Mines to the creation of National Parks and Nature Reserves (and particularly to the upgrading of C class Nature Reserves) over the last five or six years, this type of behaviour is not only possible but quite probable.

- the Government or Ministerial Council could postpone the decision on the creation of a park by claiming further information is required.

The whole concept of requiring economic resource assessments is inappropriate to the philosophy of National Parks and Nature Reserves which should be created on their merits for protecting natural features or vegetation, flora and fauna. The concept is really a ploy by the mining lobby to protect its perceived vested interest in National Parks not being gazetted as they are unable to oppose them on other grounds. Their hope is that they will get what they want through delaying tactics.

18. Requirement for legislation to create new national parks

Under present Land Act requirements a new national park or nature reserve can be created through Executive Council decision and publication of a notice in the Government Gazette. Where the land involved has some pre-existing purpose then it may be necessary to obtain Parliamentary consent to cancel that prior reservation. This has happened, for example, with some areas of State Forest which have been converted to national parks.

The Land Act requires Parliamentary approval for any extension to an existing national park or Class A nature reserve. In some instances this requirement has been circumvented by gazetting the extension as a new reserve.

There are two ramifications of the proposal that warrant separate consideration:

- it will ensure that any new proposals are subject to public scrutiny and public debate.

- it may mean that very few additional national parks are created.

The Committee believes that the mining industry has embraced the proposal for Parliamentary approval of national parks largely because of the second of these ramifications.

It should be noted that most proposals for new conservation areas are subject to considerable scrutiny and debate. The proposals embodied in the EPA Red Books exemplify this; more recently proposals for new reserves in the Nullabor area have been published but only after extensive biological surveys to assess their merit.

This requirement can only be seen as creating a rod for the back of the Labor Party when in Government. Since the ALP will probably never have control of the Legislative Council then there is always a likelihood that legislation will be blocked in that House, creating a potentially embarrassing predicament for the Party and frustrating the genuine wishes of its constituency. In contrast, a Liberal-National Party Government would not initiate action on creation of a new national park if there was any likelihood of reaction from its natural constituency. If a Liberal-National Party Government did initiate a reserve proposal a Labor opposition would be unlikely to oppose it and would not be able to block it anyway.

19. Excisions from National Parks

The undertaking in the policy to replace excised areas with comparable areas is often impractical, e.g. the excision from Watheroo National Park is a lake the vegetation of which apparently unique because the vegetation has been cleared from lakes with similar geology. Also, the excision from the Hamersley Range National Park cuts across the centre of the Park so (regardless of biological values) its landscape value

and role as an integral part of the Park cannot be replaced. The whole concept of removing areas from National Parks for mining is dangerous as it sets precedents that we will not be able to argue against if we lose government and a conservative government attempts to allow access to other National Parks. Speaking of such excisions as "rationalisation" is doublespeak.

20. Rationale for national parks

4. The attitude expressed in the new policy that it will protect Western Australia's "special places" shows a lack of knowledge of the reason for having National Parks, which is to protect representative areas of ecosystems, whether or not they are appealing to our aesthetic senses, as well as special places. It indicates acceptance of the mining lobby attitude that only extremely special places (which appear to be places of high landscape value) should be protected.