



# Saving the Southern Parks

Alex Colley and Fiona McCrossin

**T**HE past decades have seen significant increases in the protection of lands as national parks, some as wilderness. It is of continued concern, however, that park managers continue to be subjected to the need to cater for many so-called "stakeholders" who seek to exploit the parks for profit or recreation regardless of conservation.

A description by Jennifer Westacott, Planning and Natural Resources Director General of DIPNR, of the state's natural resource planning system adequately mirrors management direction when dictated by the

needs of such "stakeholders". Ms Westacott said "It is the natural resources system that has unravelled the planning system. It is the collision between natural resources, the environment and land use planning that has made the planning system a schemozzle."

The next year will see major decisions being made about the future management of park systems. Colong will be placing a major focus on management regimes in the southern parks.

The largest and most abused of the southern parks is Kosciuszko. Colong's views on management are detailed in its Plan for Environment

Protection and Restoration. The Tabletop, Upper Snowy and other nominated wilderness areas should be declared. Resorts should be restricted to existing boundaries and cater for skiers, not for amusement facilities. Vehicular transport, and horseriding should be confined to public roads. Every effort should be made to control pest species, including horses, which should be humanely shot if trapping is ineffective. Public transport to and within the Park should be developed.

The management principles of national parks, as given in the

*continued on page 2*

**•• STOP PRESS ••**  
**SE FORESTS**  
*Bob Carr honours his long term vision to put nature first in South East Forests National Park Draft Plan of Management*  
**SUBMISSION NEEDED**  
*see page 12*

*In this issue...*

Saving the Southern Parks . . 1	NCC Resolutions . . . . . 5
Oppose Snow Clearing of Roads in the Perisher Range . . . . . 3	"Tales from the Wild" lunch . . . . . 6
Meeting Dates . . . . . 3	Environmental Law - A case study . . . . . 9
Climate Change, Worse than we thought . . . . . 4	SE Forests National Park given a plan for its future . . . . 10

THE COLONG FOUNDATION FOR WILDERNESS  
 PATRON: The Hon. Dr. Neville K. Wran, A.C., Q.C.  
 DIRECTORS: Pat Thompson, L.C.P. (Chairman); Peter Prineas, B.A., LL.B. (Vice-Chairman); Alex Colley, O.A.M., B.Ec., H.D.A. (Hon. Secretary); Albert Renshaw (Hon. Treasurer); Tim Cadman B.A. (Hons), M.A. (Cantab.); Peter Maslen, B.Sc.(Eng), B.Sc.(Botany); Jeff Rigby; John Sinclair, O.A.M.; Jim Somerville, A.M., F.C.P.A.; Henry Gold.  
 DIRECTOR: Keith Muir, O.A.M., B. Nat. Res. (Hons.) ASSISTANT DIRECTOR: Fiona McCrossin, B.Sc., Dip.Ed., Dip. Env. Studies  
 HON. PHOTOGRAPHER: Henry Gold HON. MAPPING DRAFTSMAN: George Elliott HON. PROJECT OFFICER: Don Cameron, B.Vsc  
 HON. AUDITOR: Ernst & Young HON. MEMBERSHIP SECRETARY: Betty Mason HON. PRINTERS: Shirley Dean, Ray Hookway  
 BULLETIN DESIGN & TYPESETTING: Bungoona Technologies Pty. Ltd. Ph: (02) 9526 6199

## Saving the Southern Parks

from page 1

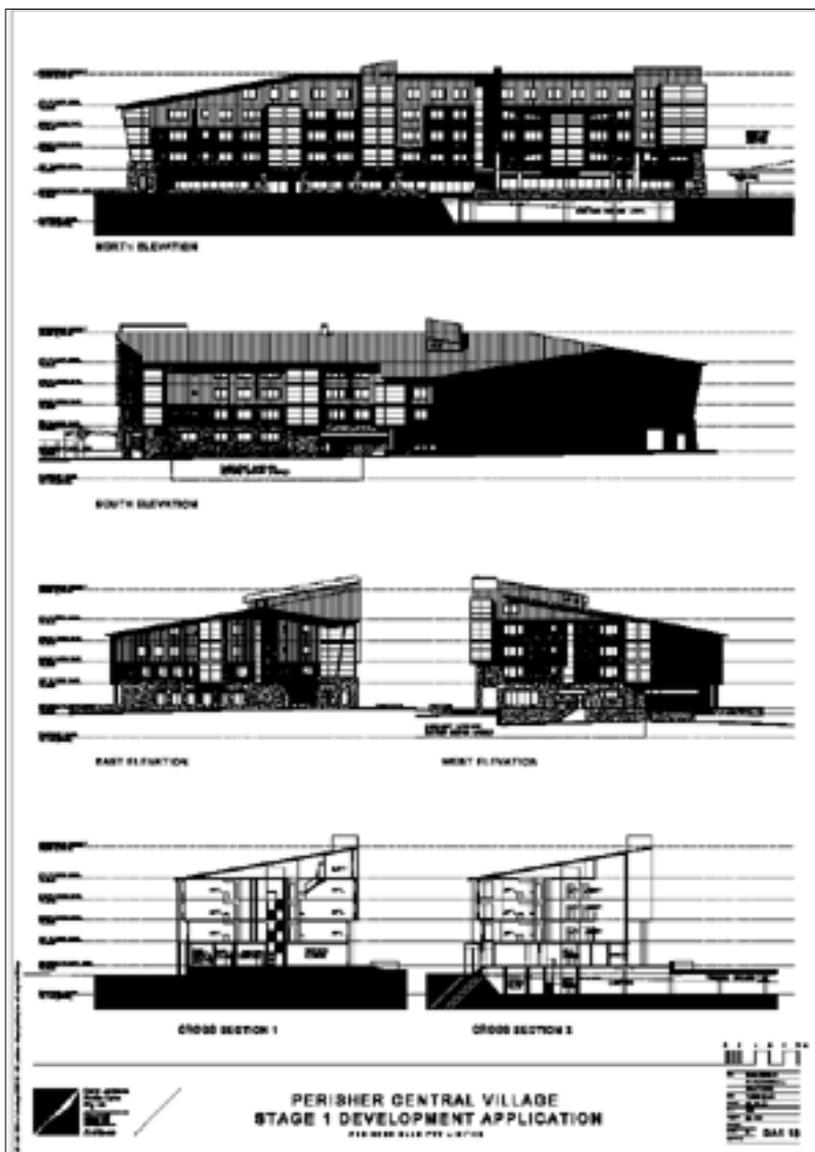
National Parks and Wildlife Act 1974 are:

- the conservation of biodiversity, the maintenance of ecosystem function, the protection of geological and geomorphological features and natural phenomena and the maintenance of natural landscapes;
- the conservation of places, objects, features and landscapes of cultural value;
- the protection of ecological integrity of one or more ecosystems for present and future generations;
- the promotion of public appreciation and understanding of the national park's natural and cultural values;
- the provision for sustainable visitor use and enjoyment that is compatible with the conservation of the national park's natural and cultural values;
- provision for the sustainable use (including adaptive reuse) of any buildings or structures or modified natural areas having regard to the conservation of the national park's natural and cultural values;
- provision for appropriate research and monitoring

The proposed development regime for Kosciuszko, as set out by Craig Knowles, Minister for Planning, in his Department's exposure draft Alpine Resorts Plan (ARP) is contrary to these principles. The development regime outlined in the ARP will not conserve biodiversity because it threatens the Park's ecological systems, including species and communities already listed as endangered of extinction. Further it will lead to the destruction of significant aboriginal sites.

If the first major Development Application (DA) in the proposed development regime - Perisher Blue's seven apartment blocks and games building in Perisher Valley - is signed off by Craig Knowles, the alpine region's landscapes will be set for a future dominated by buildings, amusement park activities, car parks and sewerage treatment plants.

In September 2004 the NSW government published the Independent Scientific Committee Report into the



Elevations of one of the seven towers proposed by Perisher Blue for Perisher Valley

Values of Kosciuszko National Park - the "first comprehensive assessment of the condition of the park, and the pressures it faces, since it was established sixty years ago" (draft PoM KNP). The Committee warned against further development in the alpine region, finding that there would be increased pressure on the park's values with expanded development both in summer and winter mainly motivated by commercial reasons, with widespread implications for loss or degradation of the Park's values.

Conference facilities, entertainment facilities, hotels and shops will not promote public appreciation of the park's natural and cultural values, nor do these facilities constitute ecologically sustainable visitor use. The Perisher Blue development violates at least five park management

principles specified in the NPW Act.

Colong continues to maintain that Parks should be managed primarily for conservation. Ample opportunities exist for fun parlours and thrill and spill recreation on other land tenures. The precious public lands reserved in national parks need to remain undeveloped. ■

Colong will be maintaining our focus on lobbying for national park management that fulfils the spirit of the National Parks and Wildlife Act. For this we will require the funds to maintain our office, make media releases and submissions, print the Bulletin and another book and pay for many other campaigning expenses. We intend to support imminent legal challenges to the Kosciuszko developments. So, once again, we ask our worthy members and supporters to renew their annual subscriptions for 2005 and donate what they may be able to afford.

## **ROADING WILDERNESS TO CONTROL PESTS**

by Alex Colley

IN a series of speeches in the Legislative Council the Hon. Jon Jenkins has thrown new light on the iniquity of environmentalists. We are not just ordinary Communists but are "polluted by the far left, Communist, Trotyskist invaders."

His answer to pest control in wilderness is access roads so that people get into wilderness areas to "set traps, lay poison, shoot, infect spray and apply other control mechanisms." Since vehicles are essential for access, only those pests near the roads would be killed..

That the people equipped with the recommended controls would succeed in limiting their activities to pest control is an unrealistic assumption and they would succeed in eliminating only a small number of pests.

The only practical means of preserving the native fauna is to preserve the remaining large natural areas – i.e. wilderness. In my experience the pests are found mainly near the cleared or lightly timbered areas. I have seldom seen them in timbered wilderness areas. Perhaps they have seen me first. The trappers, poisoners, shooters, infecters, and sprayers would find it even more difficult to locate the pests because they would be warned by the noise of car engines. ■

### ***Out With Cows...***

The VNPA wants cattle removed entirely from the Alpine National Park. National Parks (the legislation is clear) are reserved, above all, for the purpose of nature conservation. There is no study known to us that indicates that cows are in any way good for the conservation of natural systems in the park.

**Victorian National Parks Update  
November 2004**

[The same applies to horses and resorts. Ed.]

## **Oppose snow clearing of roads in the Perisher Range – Kosciuskzko NP**

Refer DIPNR URL: [www.planning.nsw.gov.au/plans for action/ roads.html](http://www.planning.nsw.gov.au/plans%20for%20action/roads.html)

THE NSW Department of Infrastructure Planning and Natural Resources (DIPNR) has prepared a discussion paper on whether to allow the internal roads of the Perisher Range Ski Resorts of Perisher Valley, Smiggins Holes and Guthega to be cleared during the winter months or maintain their current snow bound nature.

This is a major issue in the campaign to protect the Kosciuszko Alps from the proposed development regime outlined in DIPNR's Alpine Resorts Plan. It is known that Perisher Blue has sought clearing of the roads to aid the proposed development onslaught across the Alps.

The paper will be on public exhibition until 14 February 2005

### **Sydney Office**

Information Centre, Ground Floor,  
Henry Deane Building, 20 Lee  
Street, SYDNEY

### **Jindabyne Office**

Snowy River Avenue, JINDABYNE

### **Queanbeyan Office**

Suite 107, Corporate Centre, River-  
side Plaza, 131 Monaro Street,  
QUEANBEYAN

### **Cooma Office**

26 Soho Street, COOMA

### **Deadline for submissions:**

5pm Monday 14 February

**Post to:** Team Leader, Alpine  
Resorts Assessments Team, DIPNR,  
PO Box 36, JINDABYNE NSW 2627  
Fax: 02 6456 1736

Email: [alpineresorts\\_assess-  
ments@dipnr.nsw.gov.au](mailto:alpineresorts_assessments@dipnr.nsw.gov.au)

### **POINTS YOU MIGHT RAISE IN YOUR SUBMISSION**

1. Kosciuszko National Park must be managed for its natural values and ecological integrity, not for the needs of a developer.
2. Oppose the Perisher Blue proposal for a "cleared road" regime in Perisher Valley, Guthega and Smiggins Holes throughout the winter as the proposal is inappropriate for this sensitive alpine region and does not comply with ecologically sustainable development
3. Call for the roads to remain snow-bound and the retention of the existing nature of the area, where people have traditionally skied, walked or used oversnow vehicles. ■

### ***How to Conserve the Natural World***

Is there a way to divert the human juggernaut and save at least most of the remaining natural world? A providential arrangement in the geography of life makes it at least possible. Biodiversity is not distributed uniformly over land and sea. A large part of it is concentrated in a relatively small number of coral reefs, forests, savannahs and other habitats scattered on an around different continents. By preserving these special places it should be possible to accommodate the continuing human surge while protecting a large part of Earth's threatened fauna and flora.

E.O. William, *National Geographic* January 2002

### ***Plan for SE Qld***

The draft plan indicates that 80% of the region will be immune from urban development, and aims to limit this by more efficient use of land through more compact cities. Much of the development will be situated in the Western Corridor in and around Ipswich, but there are five major development nodes.

*NPA (Qld) News*, Dec 2004

***MEETING DATES  
Meetings will be  
held in our Kent  
St office at 2pm  
on February 10th,  
24th and March  
10th and 24th***

# ***Climate Change Not as Bad as We Thought ...It's Actually Worse***

THE National Resource Ministerial Council (NRMC) has published a National Biodiversity and Climate Action Plan, the goal of which is to "minimise the impacts of climate change on biodiversity."

The Plan commences with a description of climate change and its potential impacts on various species. These have already been well publicised. The second section is about objectives, strategies and actions. Objectives 1 and 2 are to increase our "understanding and awareness". Objectives 3, 4, 5 and 6 are to minimise impacts, and objective 7 is to "factor" them. The list of recommended actions includes a consideration of identified priority areas and national programs to retain and restore native vegetation.

## **A few examples of what the plan tells us follow:**

- "Australia has significant vulnerability to the changes in temperature and rainfall that are projected (under climate change)" (p.11)
- "Scientific evidence is rapidly mounting" of current and predicted climatic changes and their impacts on existing stresses e.g. invasive species; fire regimes; biodiversity and ecosystem structures, functions and processes... "The changes are expected to accelerate and become more obvious over the next few decades, though the precise nature and rate of change for individual species and ecosystems is uncertain" (p. 14)
- "Under climate change, species that are already vulnerable, such as those with limited ability to disperse, specialised habitat requirements, small populations and low genetic diversity will be most at risk" (p.11)
- "Protected areas are those systems of national parks and other types of

conservation areas that are dedicated to the protection and maintenance of biodiversity, and are formally managed and protected for this purpose. The National Reserve System is one of the most important components in Australia's portfolio of strategies for preserving biodiversity" (p. 33)

- "The Australian Alps are considered to be one of the three most vulnerable ecosystems under potential climatic warming because of their restricted range and cold climate" (p.11)

## **One of the Plan's objectives**

"Over the next three years, all jurisdictions will begin to work with planners and managers to ensure that strategies that minimise the impact of climate change on biodiversity are incorporated into regional plans, are consistent with sound ecological principles, and take account more detailed information as it becomes available" (p.30)

## **A comment from the Foundation**

The means for protecting species is well understood. It is to protect their habitat. And, if needed, restore it. This could be implemented now without further research.

If the NRMC document is to be taken as a serious plan by government to take the steps needed to deal with the impacts of climatic change, then the current actions of governance must change.

In NSW mandatory water restrictions were instigated and accepted because the serious loss in water supply in our rivers and dams is obvious. Unfortunately, in the environmental campaigning sphere in which Colong operates, the "out of sight, out of mind" attitude is alive and well. It can be difficult to tell the

level of governance where the blindness or mindlessness is occurring. It probably varies – sometimes the entrenched attitude of a single bureaucrat; at others, decisions based on political expediency at the highest levels.

The decades long arguments for protected areas across all land tenures and landscapes, together with the need to say "no" to developments that place our precious biodiverse country at risk, must be heeded.

One can only imagine how individual bureaucrats struggle with the need for the "political imperatives" to issue licenses in the development rampage that exists on our coasts and beyond. Let alone, the despair that highly trained land managers must feel when forced to factor in the diverse views of the numerous "stakeholders" which of course often have competing and conflicting interest. The thrust of this argument is that decisions are being made in government, industry, commerce and business that cross all sectors of land and maritime use and are having serious adverse impacts including on people who have, through time and circumstance, very little influence on these major decisions. It is a role of government to act upon the trust that these communities have placed in their hands. Let alone, the species, which have no direct voice in these decisions.

A government cannot have a policy where it still caters for the "old" but has some fantasy of introducing the new. For example, in the past months a new coal powered electricity station was announced; a couple of days later windfarms. It cannot

*continued on page 5*

# Nature Conservation Council Resolutions

AT the NCC Annual Conference, held on October 23 and 24, the following motions submitted by the Colong Foundation were passed.

## **Management of aquatic systems in national parks**

That the NCC call on the NSW Government to transfer the primary management of aquatic ecosystems on public land set aside for nature conservation, to the Department of Environment and Conservation.

## **Protecting Newnes Plateau**

That the Nature Conservation Council of NSW call on the NSW Government to reserve all non-reserved public lands on Newnes Plateau and the Airly-Genowlan Mesa as the new Gardens of Stone State Conservation Area.

## **Impact of climate change on conservation reserves**

That the Nature Conservation Council of NSW call on the NSW Government to prepare a clear and strategic response to current and impending impacts of climate change on the adequacy and viability of areas protected for nature conservation in NSW

And that this strategy should

recognise:

- the role of protected areas as refugia and sources of recruits for conservation across the landscape; and

- the need to maximize the ability for species to migrate across the landscape within and between protected areas

(b) include an assessment of the adequacy of:

(i) the current system of protected areas to continue to perform their nature conservation function within current and predicted climatic regimes, including their ability to facilitate species migration across the landscape; and

(ii) current protected area management regimes to minimise the impacts of climatic change on their conservation reserve function; and

(c) seek to minimize the impacts of climatic change on the viability of terrestrial and aquatic endemic species, populations and communities through appropriate protected area and planning and management.

## **Restoration of the Coolangubra and community education centre**

That the Nature Conservation Council of NSW:

Call on the NSW Government to

continue its long standing position on the protection of the Coolangubra Wilderness within the South East Forests National Park, by producing a clear strategy for restoration of this iconic old growth forest wilderness area. The strategy should include the closure of the Wog Way Road, with successive close of all roads previously used by State Forests of NSW to access the wilderness for logging, and which are no longer necessary for essential DEC management purposes; and

Seek a commitment from the NSW Government to investigate options and provide funding for a National Park Community Education Centre in a regional town adjacent to the South East Forests National Park, which would provide a learning centre for the community in relation to the role of national parks in preserving natural heritage values.

## **Protecting the adequacy of the NSW CAR reserve system**

That the Nature Conservation Council of NSW call on the NSW Government to provide clear policy for national park management which incorporates the need to take account of the nature conservation objectives of the CAR (comprehensive, adequate and representative) reserve systems set up under the National Forest Policy. Such a policy should include the maintenance of ecosystem function.

## **Kosciuszko National Park: artificial snow making and resort development**

That the Nature Conservation Council of NSW:

1. Call on the NSW Government to provide clear justification for its policy of increased artificial snowmaking and increased four season resort development in the alpine region of Kosciuszko National Park, and,

## **Climate Change**

*from page 4*

employ Australia's leading alpine scientists to give advice on whether or not further development in the alpine region of Kosciuszko National Park is sustainable and then ignore their advice and go gung ho into the biggest development regime in Australian national park history.

Climate change is an all or nothing equation. It is about an imperative for complete change to pre-existing concepts of sustainable actions. If we do not adopt sustainable practices immediately we will

not have this or any policy options into the future. When full-blown climate change is upon us, it will be too late.

So, what joy, if any, can we expect from the grand goals espoused in the "Climate Action Plan"? For the sake of all the species whose lives will be impacted, if governance does not make the "hard decisions", we would hope that a revolution occurs of decision makers in the broad spectrum of the community. Let alone for the sake of our children and grandchildren. ■

*continued on page 6*

## NCC Resolutions

from page 5

2. Condemn the development regime outlined in the exposure draft Alpine Resorts Plan which will lead to the alienation and degradation of public land set aside for nature conservation.

### Kosciuszko National Park Cloud Seeding

That the Nature Conservation Council of NSW

condemn the enabling legislation – the Snowy Mountains Cloud Seeding Trial Act 2004 – which overrode six environmental laws to allow the cloud seeding ‘trial’ in Kosciuszko National Park; and

Call on the NSW Government to present an independent and transparent review of this development, based on compliance with Commonwealth and NSW environmental legislation, including requirements for environmental impact assessment and species impact assessment under the *Environmental Planning and Assessment Act 1979 (NSW)* and *Threatened Species Conservation Act 1995 (NSW)*.

### Feral horses in Kosciuszko National Park

That the Nature Conservation Council of NSW call on collaborative action across the ACT/NSW border, in accordance with the Australian Alps Co-operative Management Programme, in relation to the effective and humane control of feral horses. This action should include:

a) The option of aerial shooting, as already practiced in the ACT, and in accordance with the NCC resolution adopted at the 2002 Annual Conference; and the removal of the horse fence on the ACT/NSW border in the area of Namadji National Park due to its lack of effectiveness and negative impacts on wilderness values.

### Transport systems to and within national parks

That the Nature Conservation Council of NSW calls on the NSW Government to develop an integrated energy efficient transport strategy for travel to national parks to minimise the reliance on private motorised transport ■

# “Tales from the Wild” Lunch



THE Foundation for National Parks and Wildlife Lunch, a celebration of wilderness conservation in NSW, was held for the benefit of the Dunphy Wilderness Fund in the Strangers Dining Room at Parliament House, on November 22nd. It was chaired by Gillis Broinowski, President of the Foundation, and attended by Hon Tom Lewis A.O., its Founder, and Dr Tony Fleming, Deputy Director General of the Parks and Wildlife Division. A highlight of the lunch was the launch of Colong Foundation’s book *Blue Mountains World Heritage* by the Premier, The Hon. Bob Carr M.P., who paid tribute to the achievements of the Dunphy Wilderness Fund and the assistance provided to the fund by the bequest of \$1 million dollars from the late Catherine Clare White. About 100 attended the lunch.

The Hon Bob Carr’s address was as follows:

According to biographer Peter Meredith, in 1910, a 19-year-old architecture student, Myles Dunphy, saw for the first time the view out over the sheer cliffs at Katoomba. Myles wrote:

*“I had never seen such a scene before. It is hard to grasp the stupendous immensity connected with all things relating to the scenic part of the Mountains”.*

My predecessor, Tom Lewis, ladies and gentlemen, don’t we owe a massive debt to that family, the Dunphy family. I feel so honoured to have had the pleasure, as many of you have had, of hiking with Milo. And I can’t see the Blue Mountains without thinking of the beautiful calligraphic hand with which those Dunphy maps record the natural features.

Without being an historian, let me relate the story of the young Milo as a baby being taken on these camping trips in a specially built pram, so

keen was Myles to get his entire family, young as it was, into the Kowmung Valley and the other remoter parts of the mountains.

I’m very proud that we’ve since 1995 protected almost two million hectares of national parks and reserves. That brings the State’s national parks estate to almost 6 million hectares, nearly 7.5 percent of the landmass of NSW.

And I pay my respects to the articulate, restless nature conservationists in this State who are the people who put this on the agenda – keep it on the agenda – and engage governments like mine in making these declarations.

A great part of this story of nature conservation is, of course, the protection of wilderness. I haven’t got it in front of me but I remember how Teddy Roosevelt responded to

*continued on page 7*

## Tales from the Wild Lunch

from page 6

wilderness as he set aside vast areas of the United States in the early years of the last century. He said

*"Leave it as is. Leave it as God has made it, man cannot improve it".*

That was his view of the Zion Canyon or the other great natural areas that he baptised with protection. And we have the same response when we contemplate some of the beautiful wilderness areas of this State.

The Kowmung, for example, is on my mind because of the book I've got the honour of launching – never photographed better than in the pages of the book I'll come to, beautiful black and white and colour photographs that remind us that within relatively easy reach of Sydney, there is a wild river unmodified as it was before European settlers pressed on over the Blue Mountains after 1813.

I think of Nadgee Nature Reserve on the far South Coast abutting the Victorian border. That is our last coastal wilderness, there's no road through it and there are no four wheel drives getting in from its beaches. It has untouched coastal lakes, it has spectacular heathlands and it has pockets of forests and those great sand dunes – a coastal wilderness.

I think of some of the wilderness in our rainforests, great untamed country with a primeval feel about it. The spectacular diversity of species saved, for the most part, because of that decision in the early 80s by the Wran Government taking the big step to lock up the rainforests of northern NSW now, of course, on the World Heritage List.

The Dunphy Wilderness Fund was established after Milo's death in 1996 by this Government in honour of the Dunphy family so that lands like these could be purchased and protected for all time.

Wilderness is, of course, rare. More than 200,000 hectares of land in NSW identified as containing wilderness values, falls outside the parks system. They're privately owned or they're leasehold, and the best way to secure their protection is through their voluntary acquisition,



Bob Carr with Henry Gold (left) and Alex Colley (right)

as they're added to the national parks system..

We've contributed \$9.6 million to the Dunphy Wilderness Fund since 1996. All that money goes to purchasing such land. Almost 68,000 hectares of wilderness have been purchased with that Fund. That area is big. It is an area four times the size of Ku-ring-gai Chase National Park.

This has included properties in the Kanangra-Boyd, Nattai and Wollemi wilderness areas within the Blue Mountains World Heritage Area. The protection of some of those is depicted in the book I referred to, *Blue Mountains World Heritage Book*, which is my honour to launch today.

Public funding and private donations to the Dunphy Wilderness Fund are a crucial component of the Fund's success. The Foundation for National Parks and Wildlife, the Colong Foundation for Wilderness and the Nature Conservation Council have all been instrumental in this fundraising and I applaud them for that.

Your efforts have been wonderfully assisted by the bequest of \$1 million from the executors of the estate of the late Catherine Clare White, Joan Carmody and Helen

Williams. Catherine Clare White's memory will be honoured by enduring conservation achievements secured in her name.

Last year, the campaign sought to raise funds to acquire the property, "Green Gully", adjacent to Macleay Gorges Wilderness. Green Gully is a 13,000 hectare property in pristine condition near Kempsey in northern NSW.

The property links two isolated national parks and its purchase has secured a wildlife corridor and a habitat for a number of species including the Regent Honeyeater, Glossy Black Cockatoo, Spotted-tailed Quolls and bats. The area is one of the last strongholds for Brush-tailed Rock Wallabies in NSW. The Foundation raised \$200,000 towards the purchase of "Green Gully" and the property has now been purchased and becomes part of Oxley Wild Rivers National Park.

That's the sort of achievement that Myles Dunphy might have envisaged when he first looked over those tree-clad sandstone cliffs 94 years ago. The sort of achievement the celebrated wilderness photogra-

*continued on page 8*

## Tales from the Wild Lunch

from page 7

pher, Peter Dombrovskis, had in mind when he said of the bush:

*"When you go out there you don't get away from it all, you get back to it all. You come home to what's important. You come home to yourself".*

I'm greatly honoured to be here today to celebrate the achievements of the Dunphy Wilderness Fund and to honour the memory of Catherine Clare White and to remember her generosity and to launch this sumptuous book, superbly crafted by Alex Colley and Henry Gold.

I acknowledge all of Alex's contribution, by the way, to those Dunphy style battles over the years Alex, and it's a great honour to have you and Henry with us today. The book is terrific. Can I have a copy of it up here please to wave around. I've not seen a better version of this type of book than this. I can't believe that every photograph is as superb as that – the rainfall through the canyon. *[the Premier indicates a particular photo]*

I think this is, without a doubt – to use that overused expression – 'world class'; the sort of book you want to shove into the hands of every international visitor to NSW who are passing into the natural world. It reminds us how lucky we are, how blessed we are to have the Blue Mountains on our doorstep.

I declare *Blue Mountains World Heritage* launched and these rich pages have captured and saluted everything that all of you have fought for, for so long and, I might say, so effectively.

Thank you very much."



IN RESPONSE Alex Colley said that The Hon. Bob Carr and his Government had played an essential role in winning World Heritage listing. Bob Carr launched Dr. Geoff Mosley's authoritative proposal, in book form, in 1989. For nearly six years after that the proposal was subjected to a series of studies and assessments which did little but amplify it. It was not until the Carr Government attained office that arrangements for a nomination were

set in train. This was submitted in 1998 and listing was granted in 2000.

Writing the book was the easy part. The real work was done by five dedicated wilderness campaigners – Myles Dunphy, the realisation of whose Greater Blue Mountains National Park proposal underpinned World Heritage listing, Milo Dunphy, who organised the meeting that appointed the Colong Committee in 1968, Geoff Mosley, with his meticulously researched book, Keith Muir, who secured a unanimous vote for listing from the IUCN World Heritage Committee, and last, but far from least, Henry Gold, whose beautiful photographs were more persuasive than thousands of words.

In conclusion Alex expressed his personal appreciation. He was born at Lithgow, on the edge of the Mountains and had enjoyed walking in them since childhood. He deeply appreciated the fact that their protection was now the responsibility of Local, State and Commonwealth Governments and the IUCN.



BEFORE and after lunch, John Blay entertained with a Tale from the Wild which he entitled "A Dingo ate my hat." Since 2001 John has covered thousands of kilometres in the South East forests gathering data for his literary works, which include two books, and material for the National Herbarium and the State Library. His talk focussed on a small corridor beside the Victorian border, running from the Monaro to the vicinity of Nadgee.

A few years ago, in the Byadbo wilderness, he was awakened by the calls of dingos, a happening that could only occur in wilderness. Everywhere else they're hunted mercilessly, along with the wild dogs.

If wilderness was to have integrity, inholdings would have to be purchased back (a goal of the Wilderness Fund). As wild places started to disappear, he said, "it's been a last minute rush to secure the remaining natural pockets and it's a blessing each time we've been successful. I know many people in this room have been instrumental in securing large tracts of land. Hats

off, as a dingo might say, to those here who've helped to keep even the smallest part of what was not so long ago regarded as limitless wilds. You have my profound thanks."

Walking through this rugged country carrying the GPS, digital camera tape recorder and other equipment necessary to record the values of the wild was hard going, particularly in areas of metres high wiregrass which ripped his clothing and caused his legs to bleed.

John researched the location of the routes used by Aboriginal people. One of the main routes was between Kosciuszko and the coast which was used when the Aboriginals came to the coast to enjoy whale meat. There was evidence that the Aboriginals successfully hunted whales. The coastal people used the route to access the Bogong moths on the mountains. John found traces of this route.

On one of his walks heavy rain set in. He found shelter in an overhang, but when he woke in the morning his hat had gone. There was a paw mark in the sand and he was able to trace the dingos, which responded to his howls, but no hat. Perhaps they ate it.

John concluded: "In a world of crumbling certainties, where few things are made to last, the wilderness areas we are securing now are probably the most valuable things we'll have to pass on to our children and their children after them. They will outlast us all, and our hats. They'll be held in a sacred trust for future generations and, I must add, the Aboriginal people. And, hopefully, some dingos."



THE lunch provided a very welcome public launch of our book and for the announcement of Catherine Clare White's bequest, which will be contributed to the Dunphy Wilderness Fund. The bequest will be used to purchase wilderness land for Morton National Park, Catherine Clare White's favourite park.

Our thanks to the Foundation for National Parks and Wildlife for this very well organised event which enhanced the efforts of both the Foundation and Colong. ■

# Environmental Law – A Case Study

by John McCarthy

IN THIS article I would like to talk about the development control system in NSW and explore the issue as to whether there should be some mechanism by the consent authorities to prohibit development from occurring. In NSW the approval bodies for development are the local councils; and in some instances statutory instruments give power to the Minister for Planning to approve development. By looking at certain types of development that have occurred in NSW in the past five years it is possible to identify a range of developments which should never have been approved. Let's now have a look at the Sandon Point Development in Bulli NSW (developer: Stocklands).

Some three years ago the Land and Environment Court gave approval to Stage 1 to 6 of the subdivision. This occurred in a background where Wollongong Council refused to give development consent because certain statutory requirements in relation to the then Department of Land and Water Conservation had not been complied with by the developer. This was a very curious situation. Instead of the Developer satisfying DLWP requirements, they claimed that there had been a deemed refusal by the Council of the DA and thus appealed to the Class One jurisdiction of the L & E Court NSW. So there is a question as to whether the court's jurisdiction was properly invoked. It can be said that a Class One Action is a fairly satisfactory action for the developer because objectors have very limited rights of appearance and appeal and of course the contest is usually just between the developer and the Council. This can lead to a situation where the Council may choose not to fully prosecute their case and instead leave it to the mechanisms within the court process to determine whether or not the development should proceed. In case of Sandon Point the Court gave consent to Stages 1 to 6 of the development.

In my view the Court consent was poorly expressed. A major point of confusion was that the Court gave consent to what is called staged devel-

opment but the developer asserted in subsequent litigation that consent was given in respect of the deposited plans which are specific to the area. It is quite clear that the Court intended to give staged development consent. Usually in the development project management the procedure would be to apply for development consent, then a Section 90 consent to destroy aboriginal artefacts and then construction certificates which permit the developer to carry out site construction activities such as: road building, storm water; curb and guttering etc. However, in this development there were instances where construction activities took place in areas that led to the destruction of aboriginal relics before any Section 90 Consent had been granted by the NPWS. Furthermore, there were instances of development activity taking place that was not subject to any development consent whatsoever. This was in a background where the developer's heritage assessment downplayed the number and density of artefacts on this site. For example, the developer's heritage assessment report stated that only a thousand artefacts had been discovered in preliminary diggings. But this result has to be compared with Professor Peter Hiscock, archaeologist at the ANU, who found in his report that the site may well contain up to five million artefacts and is one of the most significant tool making sites on the east coast of Australia. The local community's response to this development was one of sheer outrage. A community picket was established and an Aboriginal tent embassy was erected on nearby McCauley's beach. Then the litigation started. It was too late to run an appeal against the Court's decision to grant development consent. Such an appeal would have to be done almost immediately and so any appeal rights in respect of the Court's consent became what is termed "out of time". This left a sole avenue of appealing against the series of Section 90 consents, which the NPWS issued in favour of the developer. The first appeal was successful and a temporary injunction was granted. However, at the full hearing of the matter, the

injunction was lifted, so work on the subdivision recommenced. So what could now be done to litigate against this proposal when all legal avenues appeared to be exhausted? It was time for research and it was an interesting process to go back through the documentation which included the original Court consents, Council correspondence, correspondence from NSW Government authorities and other assorted material. Then, after reviewing this material and viewing the work on site, it became apparent that the project management left a lot to be desired. A Class 4 L& E Court action was commenced in November 2002. The Applicant was granted an injunction over practically all of the future stages of the site because it appeared the developer was unlawfully dumping fill on what is known as the AIR site. Now two years later the final judgment for this case was granted. The judge found that: a) development was carried out without consent which breached the Environmental Planning and Assessment Act and, b) Construction Certificates issued by the certifier were found to be invalid. There is also an issue as to whether the NPW&W Act has been breached. In the meantime Stocklands have grown to be the largest property company as a result of recent takeovers. However environmental management has not kept pace with their stellar financial performance. There are other developments that can be added to this one that in the author's view should never have been approved by the consent authority including mining at Lake Cowal, dam construction at Shannon Creek; a ten thousand lot development on the South Coast, called Miltonbrook; 45 lot subdivision at Oyster Creek, Nambucca and a resort style development at Scotts Head on the NSW North Coast. In conclusion, perhaps somewhere in the Local Environment Plan a Clause needs to be added to give Councils the power to prohibit development. The difficult task is, of course, assessment. How to identify a single factor or a combination of factors, that would mean that development would

*continued on page 10*

# *South East Forests National Park given a plan for its future*

THE South East Forests National Park, iconic not only due to its wild lands and rivers, but also due to the history of conservation efforts to protect it, now has a draft Plan of Management. A significant step in the protection of this precious area is the Plan's intention to manage the Coolangubra Wilderness according to wilderness principles.

The history of the Park, and the Wilderness, is one that touches the memories of many thousands of people. As only one of these people, and as a mother, I recall one of the most vivid memories of my life – the day in 1989 when my son Robin, at age three, clung to my back as I, with hundreds of others, walked the Wog Way just a few sad moments after that infamous logging road had been pushed into the heart of a wild place – a peaceful place – a wilderness.

I cannot begin to speak of, or for, the human lives impacted by those heady days, both in the realms of conservationists and the logging community. Instead, I dedicate these few words to the “wild” “life” with whom we share this precious

## **Environmental Law**

*from page 9*

not take place. This is a very important issue and long overdue for consideration. There is an added sense of urgency given the ramifications of the impact climate change will have on this Country. These issues should not be left to future generations to deal with given the rapid degeneration of resources which will lead to a situation where there will be increasing conflict over resource security on a local and international scale. ■

*(John McCarthy Dip. Law. B.A.B., Dip. Nat. Res. Law, SIA. Aff., Young Australian Lawyer of the Year. John is a solicitor NSW, specialising in environmental law. He is currently assisting Colong in relation to the provision of advice on environmental law matters).*

planet and who, far too often, do not have a voice.

Finally, I would like to thank Premier Bob Carr who has always expressed a special affinity with these forests and, in another world, may have been able to bring peace to them sooner.

## **HOW TO BE INVOLVED IN THE DRAFT PLAN**

The Plan is on exhibition at NPWS offices in Sydney and the region.

### **Web address of the plan:**

[http://www.nationalparks.nsw.gov.au/npws.nsf/Content/south\\_east\\_forest\\_mgmtplan\\_draft](http://www.nationalparks.nsw.gov.au/npws.nsf/Content/south_east_forest_mgmtplan_draft)

### **Post your submission to:**

The Regional Manager  
NPWS, PO BOX 656  
Merimbula, NSW, 2548

### **Fax your submission to**

02 6495 5055

### **Email your submission to**

[farsouthcoastregion@npws.nsw.gov.au](mailto:farsouthcoastregion@npws.nsw.gov.au)

### **Deadline for submissions:**

Friday 22 April 2005

## **SUBMISSION GUIDE**

### **Support the Plan's provisions for:**

- management with principles commensurate with the Park's role as part of the comprehensive, adequate and representative reserve system set up under the National Forest Policy.
- management for restoration of natural forest values and recovery of impacts from past logging operations, with conservation having priority over public use.
- low key recreational use focused on the periphery of the Park.
- the classification of roads into three categories, which will allow review if a road's initial classification leads to unacceptable impacts; this must involve an overarching and continued rationalisation of the road network.
- liaison with adjacent land managers, both public and private, to

conserve biodiversity and water catchments across the region's landscape, including retention of native vegetation.

- fire regimes designed to maintain ecosystems.
- the operation of the precautionary principle in management decisions.
- monitoring of ecological impacts of management and adaptive management to reduce negative impacts

### **Call for:**

- further rationalisation of the roads open to public vehicle use as four wheel driving should be limited to those roads suitable for two wheel drive vehicles. Plenty of opportunities to enjoy the Park exist when in 2WD vehicles and 4WD use places unacceptable impacts on the Park's natural values. Extensive 4WD opportunities exist outside the Park.
- further research into horseriding opportunities outside the Park on land tenures where nature conservation is not the priority. Provision for horseriding on all Category A Roads is not ecologically sustainable and the draft Plan needs review in this area.

## **FOR THE COOLANGUBRA WILDERNESS**

- Support the management, according to wilderness principles, of the identified Coolangubra Wilderness, including closure and rehabilitation of all roads not essential for essential management purposes such as fire and pest control.
- Accordingly, call for a classification change to Category B or C those roads in the southern section of the identified wilderness which are currently classified as Category A. Category A allows for public vehicle and horseriding use and is inappropriate for wilderness management
- Call for the declaration of the Coolangubra Wilderness Area under the NSW Wilderness Act. The declaration will ensure that future management will allow its restoration in perpetuity. ■