



NSW NATIONAL PARKS & WILDLIFE SERVICE

Leases, licences and consents discussion paper

Ku-ring-gai Chase National Park, Lion Island Nature Reserve, Long Island Nature Reserve and Spectacle Island Nature Reserve



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Introduction

The NSW *National Parks and Wildlife Act 1974* requires a plan of management to be prepared for each national park and nature reserve. A plan of management is a legal document that sets out how the values of the park including natural, cultural (Aboriginal and shared heritage) and recreation values will be managed in the long term.

The current Ku-ring-gai Chase National Park, Lion Island Nature Reserve, Long Island Nature Reserve and Spectacle Island Nature Reserve Plan of Management has been in place since 2002. In this time, visitation to the national park has increased, new management challenges and opportunities have emerged, and community interests and expectations have changed.

In response to these emerging management challenges and changing community interests and expectations, the NSW National Parks and Wildlife Service (NPWS) is preparing a new plan of management for Ku-ring-gai Chase National Park and the island nature reserves.

Five discussion papers have been developed to inform preparation of this new plan of management and provide opportunities for comment and community feedback. The papers describe and explore key management issues focused on the following themes:

- Natural, visitor experience and shared heritage values
- Aboriginal cultural values
- Recreational activities
- Visitor destinations
- Leases, licences and consents.

Purpose of this paper

The purpose of this paper is to invite discussion about how NPWS might manage leases, licences and consent for:

1. providing visitor services, staging of events and filming and photography in Ku-ring-gai Chase National Park
2. private interests located within Ku-ring-gai Chase National Park.

This paper does not cover activities related to public utilities located in the park (e.g. electricity, sewerage, water and telecommunications infrastructure), primary industry (e.g. apiary and fishing) or park maintenance or environmental purposes (e.g. contractors repairing tracks and trails or carrying out pest control).

Visitor services, events and filming and photography

External business entities, organisations or individuals play an important role, in partnership with NPWS, in promoting our parks and encouraging visitors to appreciate, understand and enjoy them. They can also ensure that visitors undertake activities safely with trained and skilled staff. Fees paid to NPWS are invested back into park management and conservation. Their activities often operate alongside a range of visitor services provided by NPWS.

A commercial activity is an activity that aims to achieve financial return over and above base operating costs. It includes some or all of the following elements:

- The activity has a principal commercial purpose or aim to profit.
- The activity is ongoing or regular.
- An entry, participation or membership fee is collected to cover indirect expenses as well as direct expenses.
- The activity is provided free of charge but in conjunction with another commercial product or service.
- The activity is available to the public rather than a specific membership group.
- A service is provided (e.g. guided tours, food and beverage, accommodation) and those providing the service are paid or compensated.
- The National Parks and Wildlife Act describes what activities may occur in parks and what type of approvals are required. Commercial activities in NPWS parks:
 - May be undertaken by business entities, organisations (including NPWS itself) or individuals. It is the nature of the activity, rather than the organisation, that will determine whether an activity is categorised as a commercial activity.
 - Operate under approvals that include conditions specifying how, when and where the business can operate.
 - Include a fee to be paid to NPWS, which will vary according to the type and scale of the activity.
 - Must comply with the National Parks and Wildlife Act, the National Parks and Wildlife Regulation 2009 and the park's plan of management.
 - Are subject to environmental assessment and consistent approval processes.

Leases, licences and consents

Commercial activities in parks are managed according through one of the following types of agreements:

- A lease: a formal agreement between NPWS and an entity for ongoing exclusive rights to occupy and use land or a facility for five years or longer (even if that use is not 24 hours a day, seven days a week), or for a cumulative period that exceeds three months in any 12-month period.
- An activity consent: a formal agreement between NPWS and an entity for the staging of an event or function that is of a one-off nature or short duration, is small scale and simple, only requires temporary works that are limited and completely reversible (e.g. marquees, portable toilets or portable offices), does not exclude the public from the part of the park where the activity will occur and does not require permanent physical works or permanent structures.

- A licence: a formal agreement between NPWS and an entity that does not meet the criteria for either a lease or an activity consent.

Extended occupation of part of a NPWS park requires a lease or licence. Commercial activities may only occupy a building or area of land for the purposes listed in the Act, including: general purposes; sustainable visitor or tourist use and enjoyment (e.g. accommodation, restaurants, cafés and other food and beverage outlets); and adaptive re-use (see s.151A of the Act for the full list of purposes). Public consultation and sustainability requirements must be met. Construction of a new building or structure for sustainable visitor or tourist use and enjoyment purposes must be listed as permissible and its general location identified in the park's plan of management.

One-off event activity consents or licences are issued for activities such as sporting competitions, concerts, fun runs, weddings, functions and festivals. They must meet the requirements listed in the NPWS events, functions and venues policy.

Guided tours, walks, educational activities and other leisure activities in NPWS parks are managed under a centralised licensing system called the NPWS Parks Eco Pass.

Commercial filming or photography requires a specific NPWS filming and photography licence. The *Filming Approval Act 2004* makes filming permissible in NPWS parks even if it may otherwise be prohibited under national parks legislation. Consideration of filming and photography applications includes assessing potential environmental impacts and benefits to NPWS parks, the public and NSW. It is NPWS policy to favourably consider all proposals for commercial filming and photography that do not compromise park values, visitor amenity or cultural values. Commercial use of drones for photography or filming must also comply with the NPWS Drones in Parks Policy and requires park manager's consent and compliance with Civil Aviation Safety Authority (CASA) rules.

Visitor services

Commercial visitor services provided by businesses and external organisations in Ku-ring-gai Chase National Park include:

- Guided and facilitated recreational activities such as kayak, paddleboard and boat tours within Cowan Creek and its tributaries and on the western shores of Pittwater, Aboriginal cultural tours, guided bushwalks and educational tours and seaplane trips. These visitor experiences are provided by commercial recreation and tour operators who hold a NPWS Parks Eco Pass (a type of licence) to operate in the park.
- Visitor retail services such as Apple Tree Kiosk, Bobbin Inn Café, food outlets at Empire Marina Bobbin Head and d'Albora Marina at Akuna Bay and Cottage Point Inn (partially located within the park). These commercial activities are managed by a lease between NPWS and the service provider. Some visitor retail services in the park are provided by sublessees.
- Boating services such as storage, mooring, maintenance, sales and insurance for boat owners and boat hire for park visitors. These services are delivered by the marinas at Bobbin Head and Akuna Bay, by a boating association at Apple Tree Bay and by Ku-ring-gai Motor Yacht Club at Cottage Point (partially located within the park). These commercial activities are managed by a lease between NPWS and the service provider. Some boating services in the park are provided by sublessees.
- Educational services are provided by the NSW Department of Education at Gibberagong Environmental Education Centre, Bobbin Head. Services include school excursions and incursions and overnight programs. These commercial activities are managed by a lease between NPWS and the NSW Department of Education.

Commercial visitor services provided by NPWS in the park include:

- The Basin Campground on the western shores of Pittwater (see the visitor destinations and recreational activities discussion papers).
- Educational activities including school excursions, weekend and school holiday activities that are organised and delivered by NPWS staff and Chase Alive volunteers through the Discovery program (see the recreational activities discussion paper).

Do you think the balance between commercial and other uses in the park is right?

Events

Commercial events in Ku-ring-gai Chase National Park include:

- Sporting events such as cycling tours, trail runs, bushwalking treks, orienteering sessions and rogaining competitions.
- Private events such as wedding receptions, parties, functions and corporate events. Venues currently available in the park include Beechwood Cottage at The Basin, The Station picnic shelter and The Pavilion picnic shelter at Bobbin Head, Empire Marina at Bobbin Head and d'Albora Marinas at Akuna Bay.

Should limits be placed on the type number and size of events in the park?

Filming and photography

Ku-ring-gai Chase National Park is a popular place for commercial filming and photography because of its location in Sydney and scenic nature. Commercial filming and photography in the park includes:

- Filming for television dramas and infotainment, documentaries, educational purposes, advertising, news and current affairs, weddings, cinema, social media, travel and lifestyle productions, feature and short films, reality television, music videos, corporate videos, online content, health and wellbeing and tourist information and promotions.
- Photography for weddings, location scouting, specific projects and promotions, travel and lifestyle, brand marketing, campaigns, fashion catalogues, websites, magazines, small-scale stills photography, for resale to photographic libraries and promotion of Aboriginal cultural heritage.

Opportunities for commercial activities continue to change

The way visitors want to use parks, and the type of facilities required, is constantly changing. To provide for exceptional visitor experiences while protecting natural and cultural values, NPWS must partner with skilled, industry-specific operators.

A new plan of management provides the opportunity to consider fresh ideas and how we can better deliver visitor services and provide for events in the future.

What commercial visitor services and events would you like to see offered in the park?

Private interests

Private interests are privately owned structures or other uses of NPWS parks by one or more individuals primarily for personal benefit. These structures or services are not available to the public. Private interests are generally inconsistent with the objects of the National Parks and Wildlife Act and the management principles for land reserved under this Act, so NPWS policy is to reduce their number over time except where they may significantly contribute to park management outcomes.

Private interests in NPWS parks:

- are mostly owned or used by private individuals or groups of individuals who own adjacent land
- are only permissible under a formal agreement between the private entity and NPWS
- are administered by agreements tailored to suit the type of interest
- include a fee to be paid to NPWS, which will vary according to the characteristics of the private interest (and are invested back into park management and conservation)
- must comply with the National Parks and Wildlife Act and Regulation and the park's plan of management
- are subject to environmental assessment and approval processes and include conditions that are subject to monitoring for compliance
- must be considered in the context of park management objectives and broader community interests.

Use of NPWS parks for private interests may be permissible in the following specific circumstances through a formal agreement:

- When a private landholder has an existing interest right. This is where a formal agreement was in place on land prior to its reservation as a NPWS park for the landholder to use the land and any structures on it for private benefit. An example is a private landholder's formal right of way through a NPWS park for access to their private property, where this access agreement was formally in place immediately prior to reservation of land as a NPWS park. Existing interests are generally not transferable or assignable beyond the current owner of the interest.
- In exceptional circumstances on environmental or park management grounds.
- If there are specific clauses in the National Parks and Wildlife Act and/or Regulation that provide permissibility.

Private interests in NPWS parks include:

- use of land to gain vehicle access to private property, which may include formed road pavement and related infrastructure
- use of land for electricity supply to a private residence, including the construction and maintenance of infrastructure
- use of land for private purposes which may include structures such as moorings, ramps, jetties, pontoons and land modifications.

Almost all private interest agreements in Ku-ring-gai Chase National Park are in the section that surrounds the suburb of Cottage Point. Cottage Point is surrounded by Ku-ring-gai Chase National Park, with sole vehicle access via a public road system through the park that terminates at Cottage Point.

Cowan Creek, upstream of Refuge and America bays, is part of the park. This includes Cowan Creek's tributaries upstream of these two bays, such as Coal and Candle Creek.

Cottage Point is located at the junction of Cowan Creek and Coal and Candle Creek and abuts the foreshores of these creeks. Access via the waterway is highly valued by Cottage Point residents.

Licensed encroachments

The 59 private residential lots at Cottage Point are surrounded by parklands and many of these lots have associated park encroachments. All of these encroachments are in the foreshore and waterway sections of the park, adjacent to the lower boundaries of private properties. The structures that comprise these encroachments mostly relate to tethering of and access to private boats and include ramps, jetties, floating pontoons, seawalls, parts of buildings and other related land modifications.

These encroachments are managed under individual licences assigned to each landowner by NPWS. These encroachments existed prior to the proclamation of the National Parks and Wildlife Act, which transferred the care, control and management of the park from a trustee to NPWS. Private landholders at Cottage Point who had approved encroachment agreements prior to the land becoming a NPWS park have been issued encroachment licences as they have existing interest rights. Where new private encroachments are identified, they are typically managed via direction to the private landowner to remove and remediate the encroachment.

Rights of way

Around 10 private residential properties at Cottage Point have an access agreement with NPWS known as a right of way. This allows for vehicular access from the public road through a small section of the park to a shared driveway to each of their properties. These agreements are considered private interests as access roads are for accessing private property.

Licensed private swing moorings

In Cowan Creek and Coal and Candle Creek near Cottage Point, there are 35 private swing moorings secured to the park's creek bed. A swing mooring is a single anchor at the bottom of a waterway with a rope, cable, or chain running to a float on the surface to which boats are attached. These private moorings are managed under licences issued by NPWS to individual property owners at Cottage Point.

In addition to these individual mooring licences, licences are held by Apple Tree Bay Boating Association and Ku-ring-gai Motor Yacht Club for multiple commercial swing moorings. The public can become members of these two entities and be allocated moorings for their boats. These moorings are not considered private interests as there is a mechanism for the public to be allocated moorings.

Unregulated private interests

NPWS is aware that there may be some unregulated private interests within Ku-ring-gai Chase National Park. NPWS is in the process of assessing these interests.

Changes to management of private interests may be considered

Private interests in NPWS parks must be carefully managed to ensure natural and cultural values are protected and visitor experiences available to the public are not compromised.

The existing plan of management for Ku-ring-gai Chase National Park places specific limits on private interests within the park. The new plan of management provides the opportunity to take another look at these private interests and their management.

How would you like to see private interests managed in the park?

What do you think?

Your thoughts, ideas and comments on this discussion paper are now invited and can be provided using an [online comment form](#), by emailing ku-ring-gai.plan@environment.nsw.gov.au or by writing to Manager, Planning Evaluation and Assessment, PO Box 95, Parramatta NSW 2124.

The questions scattered throughout the paper are only intended to guide your thoughts. You may choose to comment on other aspects of the management of commercial activities and private interests in the park. All input will inform the preparation of a new plan of management for Ku-ring-gai Chase National Park, Lion Island Nature Reserve, Long Island Nature Reserve and Spectacle Island Nature Reserve.

There will be another opportunity to have your say when the draft plan is completed and put on public exhibition. If you would like to be notified when the draft plan is available, please [register your details](#).