

# Australian Democrats

## (N.S.W. DIVISION)

### Public Lands Policy Platform 2003

#### Our Aims

The Australian Democrats believe public land is important for the long-term future of citizens, as they are important assets required for local infrastructure such as parks, schools, hospitals, open space, and land of environmental, cultural and historical significance.

We believe decisions about the possible sale of public land need to be transparent. At the moment, New South Wales legislation provides unfettered means for New South Wales ministers to sell land, with no checks and balances. This obviously leads to the inappropriate sale of significant lands. For example, the State Government had the power to sell Hunters Hill High School without Parliamentary scrutiny or the involvement of local government. That sale was stopped only through a Democrat-supported public and community campaign.

The Australian Democrats will move legislation in the New South Wales Upper House that will see an approach to public lands that is in the long-term interests of present and future generations of the people of New South Wales. We have already demonstrated the importance of this through the introduction of the *Quarantine Station Preservation Trust Bill*, as well as passed<sup>1</sup> the *Open Government Bill*.

We believe there exists a conflict of interest when the Minister responsible for the upkeep of public lands is the same Minister that has the authority to sell public lands. This does not provide for a transparent process and hence the community is often not involved.

Fundamentally, the sale of significant land to private developers must stop.

Furthermore, New South Wales needs a register of public lands, which should be readily accessible, and this register should provide a description of the significance of all public land.

Not all public land sales are going to be controversial. However when we are aware of what our planning needs are into the future and what lands we have, this will certainly ensure even less controversy over those that are to be sold.

The Australian Democrats have released this policy and will fight to have it implemented, because we believe that people have the right to know what is happening with their land.

The Australian Democrats do not believe that such decisions should be left to the hand of one Minister.

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<sup>1</sup> Passed by the New South Wales Upper House in 2002.

## **What is needed to protect our Public Lands**

**Interim moratorium on the sale<sup>2</sup> of public lands until a multi-party Parliamentary inquiry determines overall public land requirements and establishes an independent legislative assessment process.**

In an era when families and communities are under strain, public land is a very valuable social asset. Additionally, good urban planning requires locally sited public land for public infrastructure such as schools, hospitals, and green space.

In New South Wales the fate of public land is often not subject to any systematic and overall planning policy. In fact, New South Wales government departments "own" public land, and often sell land to satisfy core budget business requirements, perhaps directed by Treasury to do so. This would typically happen without consulting other departments; so one hand does not know what the other is doing.

This was the case for proposals (now defeated) to sell public land owned by Department of Community Services (Linnwood Hall), Department of Health (Rozelle Hospital) and Commonwealth Defence Department (Sydney Harbour foreshore land). In each of these cases, land was proposed to be sold to satisfy narrow departmental budget requirements, rather than the overall needs of the well being of the community.

No public land should be sold until appropriate safe guards are in place and processes to ensure what is being sold are in the best interests of the community at large. This means ensuring a serious needs-analysis is completed that looks to the future.

Currently there is an adhoc manner in which public lands are assessed and valued. Further, planning requirements are not clear as to the value of public land with respect to the growing density of housing especially in the city and surrounds of the Sydney centre. Before an assessment can be made as to the level of significance or the need to keep public lands in the hands of the people, we need to establish what public lands we currently have.

Once the appropriate safeguards are in place then the moratorium will be removed. This could take 6 months, or 12 months, or longer. However, areas that are easily identifiable as being able to be sold will be able to be removed from the moratorium in the early stages of this process.

Another reason that significant public land should not be sold is that it is an expensive asset that could be difficult for governments to reacquire in the future. If we sell our public land now, it is our children and grandchildren who will be faced with having to repurchase it at a much higher price.

For the above reasons, the Australian Democrats believe that a moratorium on the sale of all public land is urgently needed, until these issues can be resolved. The moratorium would be short term, and an interim measure. At the same time a bi-partisan Parliamentary inquiry would be able to determine overall public land requirements and establish an independent legislative assessment process.

What we will do is protect properties such as the Quarantine Station, the ADI site, Sandon Point, and Graythwaite hospital, to name just a few that are under threat.

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<sup>2</sup> Freehold or leasehold over 21 years

**A publicly available register of all public lands, including assessments of significance.**

Although the Government claims to be working on a public lands register, any such process is occurring behind closed doors and importantly there have been no guarantees that such a register would be made public. Only the Democrats will open the process, and make the register available to the people of New South Wales.

The availability of a register, which is publicly accessible, ideally on the Internet, would be a valuable tool for the local community, which is typically most affected by a proposed sale of public land.

Additionally, it would make the government transparent in its dealings in public land. A register must not become simply an inventory list or asset *ready for sale* register.

**All public land sales subject to Parliamentary scrutiny<sup>3</sup>.**

One of the significant things that has been missing from many areas of decision making of many governments, but in particular the Carr government, has been transparency in decision making processes.

An independent legislative assessment process, to assess the significance of public land, will assist in the process of good decision making.

Going a step further, having a disallowable instrument on the sale of all public lands, means that all land sales will be subject to an open and accountable process. This single change will ensure that decisions are met with the appropriate level of public scrutiny.

Too many times people have spoken about how biased and ineffective the so-called “community consultation process” has been. This is the same in so many areas across the state. The Australian Democrats are interested only in **genuine consultation**, and believe that by having the process open for parliamentary debate will ensure that public consultation is undertaken.

**Leaseholds limited to 21 years. No “head” leases. Leaseholds over 5 years subject to Parliamentary scrutiny.**

A time period of 21 years is an appropriate timeframe for businesses to be able to hold lands under lease and achieve a return on their investment. This is consistent with existing provisions of the Local Government Act and the results of the Quarantine Station Commission of Inquiry.

“Head” leasing can result in the inappropriate use of the land by a sub-lessee, and a resulting loss public of control.

Further, leaseholds over 5 years would have the added check of being subject to Parliamentary scrutiny.

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<sup>3</sup> By disallowable instrument

## **Saving public land has always been a priority for the Australian Democrats**

The Australian Democrats are the leaders in protecting public lands in New South Wales. At every opportunity the Australian Democrats have brought issues regarding public lands to the attention of the Parliament. This has taken the form of questions, committee hearings, inquiry motions, speeches and, of course legislation. In 2002 New South Wales Australian Democrats MLC Dr. Arthur Chesterfield-Evans successfully introduced the *Quarantine Station Preservation Trust Bill*.

Federally, the Australian Democrats were key players in the establishment of the Sydney Harbour Federation Trust, which now protects the areas of Middle Head, Georges Heights, Chowder Bay, Woolwich, and Cockatoo Island. This new legislation saw around 140 hectares of some of Australia's most important public land protected.

## **What have we got to lose? ...**

Across New South Wales there are many areas of significant lands that are under threat. Within a short drive from the city centre of Sydney the following sites are notable areas under threat:

- Quarantine Station, North Head, Manly, Sydney Harbour
- ADI Site (Commonwealth), St. Marys
- Prince Henry Hospital, Little Bay, Maroubra
- Rockdale wetlands, Rockdale (Cooks Cove)
- Gladesville Hospital, Gladesville
- Ballast Point, Balmain<sup>4</sup>
- Graythwaite, North Sydney
- Sandon Point, Wollongong

## **What Carr has already taken from us...**

The State Government of New South Wales have already demonstrated what they are capable of in regard to the sale of significant public lands. The notable areas that have been sold are:

- Parramatta River foreshore land
- Walsh Bay Wharves
- Woolloomooloo Wharf
- East Circular Quay

It is understood that as recently as last week, a decision has been made regarding the sale of the Quarantine station, and that the Minister is sitting on the final tick-off of this decision. It is also understood that to avoid public criticism the Minister will not be ticking this off until just after the election due 22<sup>nd</sup> March.

We only get one shot at public land. There is so little of it left, particularly in the Sydney area, that we must give very serious, and scrutinised consideration, including genuine consultation, before any of it should be sold.

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<sup>4</sup> Although recently resumed and transferred to the Sydney Harbour Foreshore Authority, insufficient legislation protections are in place

## Background

The Australian Democrats have agreed to the principles set out in the Protectors of Public Land Charter<sup>7</sup>. The Australian Democrats also believe that this charter sets out a framework that will promote what we are also pursuing, which is an open and accountable process. We have used many of the features of this charter in the formulation of our own policy position.

We have also included, as you will have read above, a disallowable parliamentary instrument. This adds a further important safeguard and ensures that there is an open and transparent process.

The Protectors of Public Land Charter is as follows:

### Charter

1. Public lands belong to the people.
2. No National, State or Local government or government department or body 'owns' public lands, they are held in trust for the people.
3. All public land that is of significance must remain in public ownership and control.
4. Public land is of significance where it is of environmental, heritage, natural, cultural, social, historic, scientific, aesthetic, ecological, or indigenous value, or is capable at present or in the future of having a value or use the benefit of which to the public outweighs any public benefit from sale or alienation by lease.
5. In relation to public land that is of significance:
  - (a) no privatisation;
  - (b) any lease must enhance significance and have public support after due process;
  - (c) maximisation of public access compatible with significance.
  - (d) proper protection and conservation;
  - (e) proper and genuine consultation with the public.

### General Principles to be applied by all Governments

'To ensure that significant public lands remain in public ownership and control, properly protected, conserved and managed, for the benefit of present and future generations'

1. A National Register
  - (a) A National Register to be developed and maintained of all lands publicly owned by Governments (including local governments), and their agencies (departments, authorities and bodies).
  - (b) A State Register to contain State and local government public lands, information on that register to be placed on the National Register.

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<sup>5</sup> By disallowable instrument

<sup>6</sup> Although recently resumed and transferred to the Sydney Harbour Foreshore Authority, insufficient legislation protections in place

<sup>7</sup> <http://www.nsw.nationaltrust.org.au/ppl.html>

- (c) By agreement, Commonwealth Department of the Environment and Heritage to hold and maintain the National Register.
- (d) The National and State Registers to be publicly available.
- (e) Each item of public land to contain an assessment of significance.

## 2. Proper Assessment of Significance

- (a) Each item of public land to be assessed (Statement of Significance).
- (b) Identified and uniform criteria to be used.
- (c) PPL Assessment of Significance to be adopted to determine whether public land is significant.
- (d) Public participation in the process.
- (e) Independent expert body to carry out assessment, to include, but not limited to, the National Trust of Australia, key environmental groups, the Australian Heritage Commission and Heritage offices in each State and Territory.

## 3. Public Ownership and Control

- (a) Significant public land to remain in public ownership and control, to be held on trust for the people.
- (b) Public uses to accord with the assessed significance of the land.
- (c) Proper protection, conservation and management.

## 4. Notification of Change of Use

- (a) Public land that is surplus to requirements or involves a change of use to be notified on the National Register, and to be notified to Governments and to the public.
- (b) Full and proper public participation in determining agreed public uses for significant public land.

## 5. Protective Legislation

The principles set out above to be incorporated into appropriate State and Commonwealth legislation.