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Land Management and Biodiversity Conservation Reforms
Office of Environment and Heritage
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BIODIVERSITY LEGISLATION REGULATIONS AND CODES

I am writing on behalf of members of the Willoughby Environmental Protection Association (WEPA) Inc in response to the call for comments on the *Biodiversity Conservation Act 2017* draft Regulations and Codes as well as the statement of intent for the draft Vegetation State Environment Planning Policy (SEPP). Thank you for the opportunity to comment on these regulations and codes.

WEPA, which was established in 1981, is a community-based group with a commitment to protecting the local bushland and biodiversity in the City of Willoughby on Sydney's North Shore and other Local Government Areas (LGAs) in our catchment.

Our Beautiful Environment

Sydney is unique among Australian capital cities in having urban bushland so close to the city centre. The Lower North Shore is characterised not only by areas of great natural beauty and surprising biodiversity but also by the high level of interest shown by its residents in environmental preservation. WEPA has worked closely with local council over the past 36 years to preserve and protect our tree canopy and natural areas. This is important not only for biodiversity purposes but also to enhance the liveability of our suburbs, encourage outdoor activity, reduce heat island impacts and increase the value of properties in the locality.

The Willoughby City Council area has long seen itself as part of the 'leafy north shore'. This view has been shaken recently by findings that it is among 6 local council areas which have seen the highest percentage loss in their tree canopy over the past seven years (research submitted to the Greater Sydney Commission by environmental coalition [202020 Vision](#)). The construction of medium to high density dwellings and the increased pressure of population in the district has resulted in the disappearance of long-established gardens, the felling of large native tree, the laying of artificial turf fields and infilling with medium to high-rise apartments surrounded by concrete.

WEPA is extremely concerned that the draft instruments out for comment will further damage our native flora and fauna in the Willoughby Council area and across NSW. Conserving and enhancing biodiversity is fundamental to good planning, healthy environments and a productive community. A



scheme which opens the door to the further clearing of native vegetation, including endangered ecological communities and threatened species habitat, is failing the complex needs of the community. Due to the nature of our organisation, and the complexity and large-scale nature of the regulations and codes released, we are concentrating in this submission on their impact on **urban bushland and trees**. On broader state-wide impacts, which we also believe to be highly deleterious to biodiversity, WEPA endorses the submissions made at this time by the [Environmental Defenders Office of NSW](#) and the [Stand Up for Nature coalition](#).

Consultation Process Flawed

On a general note, WEPA notes that it has been difficult to comment in a comprehensive fashion on the proposed regulations and codes as certain aspects of the legislation have not been fully outlined, in particular the draft Vegetation SEPP, which has only been provided in an ‘explanation of intended effects’ form; detailed maps that identify the category land falls into are not yet available; key institutions have not been established and rules are yet to be finalised.

Recommendation:

1. That the public exhibition time for all regulations and codes under the Biodiversity Conservation Act 2017, as well as the Vegetation SEPP, is extended until the full set of component parts and mapping is made available for public comment, key institutions established and staff trained. Operation of the Act should also be stayed until these additional parts can be commented on by all key stakeholders, staff are well-resourced and trained and private conservation funding is established.

Biodiversity Offsets

In urban areas, particularly the Greater Sydney region, remnant bushland is scarce. It has been noted, however, that 30-50% of Australia’s threatened species occur in these urban and urban fringe areas. Unfortunately, rather than protect this environment, the Biodiversity Offset Scheme proposed will likely result in a significant decline in native vegetation, including endangered ecological communities and threatened species habitat. The Scheme, which appears to have no scientific basis, would allow developers access to an unprecedented range of options for clearing native vegetation including the ability to degrade natural areas in exchange for cash payments, and other unsatisfactory outcomes.

2. Recommendation.

That biodiversity offsets in the proposed Regulations and Codes should:

- *be based on the “maintain and improve” principle;*
- *provide genuine ‘like-for-like’ for plant communities and fauna habitat;*
- *ensure proponents of development take all possible steps to find ‘like-for-like’. A lack of ‘like-for-like’ offsets should be an alert that the impact may be serious or irreversible;*
- *not allow ‘cash for clearing’ in built-up urban areas. Cash payments can in no way compensate for the loss of natural areas to a local community;*
- *be close to where the native vegetation is to be cleared and not in some distant part of the State;*



- *include a method to red-flag ecosystems and species which cannot be cleared in any situation;*
- *not allow discounting of biodiversity credits;*
- *not allow the use of supplementary measures such as the use of research or surveys of the biodiversity under threat; and*
- *not include cash payments.*

Biodiversity Conservation Fund.

Further detail is required on the workings of the proposed Biodiversity Conservation Investment Strategy (BCIS). WEPA supports its use only for the procurement of 'like-for-like' offsets and not for the funding of education, research or mine rehabilitation (which is clearly the responsibility of mine owners and operators).

3. Recommendation

That the regulations be delayed until the BCIS is complete and stakeholder feedback considered.

Vegetation SEPP

The failure to provide the finalised Vegetation State Environmental Planning Policy (SEPP) means that comment can only be very general at this point. We are concerned that the inclusion of the SEPP as part of a Development Control Plan reduces the robustness of the legislation as compared to the existing situation where this type of control is governed by a legal LEP. The Vegetation SEPP is an opportunity to strengthen protection of the tree canopy, particularly in areas where development pressure is high. Developing such guidelines would arm the Greater Sydney Commission in its push for trees and green space across Sydney.

4. Recommendations

- *that the Vegetation SEPP include best practice, enforceable tree protection guidelines to be applied by Local Councils;*
- *that it be integrated with SEPP 19 to ensure the monitoring of clearing of vegetation adjacent to private land;*
- *that Tree Protection Orders, which now have the legal backing of an LEP, be retained; and*
- *that the draft Vegetation SEPP be released for exhibition and stakeholder comment before further action is taken.*

Endangered Ecological Communities

Vulnerable and Endangered Ecological Communities can be cleared under the Codes with very little or no oversight from ecologists or Government. This makes a mockery of listing them for protection in the first place, as allowing these special areas to be cleared will make their existence even more threatened.

5. Recommendation

That Vulnerable and Endangered ecological communities should be mapped as Category 2 – sensitive land and thus excluded from code-based clearing.



Conclusion

WEPA does not believe that the proposed Biodiversity Conservation Regulations and Codes will achieve the Government's expressed aim of protecting biodiversity in the face of intense development pressures. Once again we would also express our belief that the full set of details in relation to the proposed Regulations and Codes be released so further informed comment can be made.

Please feel free to contact me if further information on the above comments is required.

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