



Ryde - Hunter's Hill Flora and Fauna Preservation Society

Member of Nature Conservation Council of N.S.W.

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Land Management & Biodiversity Reforms,
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The Ryde-Hunters Hill Flora & Fauna Preservation Society is a community-based conservation group formed over 50 years ago. Our membership remains actively engaged with a range of local projects as well as the broader issues of environmental protection and the management of natural resources. We have wide experience and involvement in pursuing environmental advocacy goals as well as in bush regeneration and preservation of habitat corridors and native vegetation. We also engage with our local community through a program of outreach events with an educational component.

We wish to express serious concerns about the draft vegetation clearing regulations and codes, recently released under the *Biodiversity Conservation Act 2016* and *Local Land Services Amendment Act 2016*. Our natural heritage will not be adequately protected if these regulations and codes are enacted as drafted and greater native species loss will be incurred.

The conservation of biodiversity and maintenance of ecological integrity are fundamental conditions for achieving ecologically sustainable development. We see no evidence that this is an assured outcome of what is being proposed.

Ecologically Sustainable Development

The purpose of the *Biodiversity Conservation Act 2016* is stated as being “to maintain a healthy, productive and resilient environment for the greatest well-being of the community, now and into the future, consistent with the principles of ecologically sustainable development (described in section 6 (2) of the *Protection of the Environment Administration Act 1991*)”.

However, ESD is not apparent as the overarching principle of the majority of the regulations. There is scant inclusion of the precautionary principle, intergenerational equity or the conservation of biological diversity and maintenance of ecological integrity. Any serious consideration of the impacts of increasing climate change is missing and needs to be addressed.

Economic activity that does not account for the preservation of our indigenous biodiversity and ecosystem health, by fully costing in the price of exploiting natural resources, will not meet the demands of sustainability. Neither will the regulations and codes, as proposed, demonstrate the

primacy of nature conservation as a paramount concern, a commitment endorsed by the NSW government with the signing of the National Strategy for the Conservation of Australia's Biological Diversity over twenty years ago.

Mapping

We are concerned that the proposed Native Vegetation Regulatory Mapping was not finalised and available before the deadline for submissions. We urge that this occurs prior to the draft regulations being finalised and coming into operation.

This additional information, including environmentally sensitive land, SEPP 44 Koala Habitat and rural land mapping is critical and must be released prior to the *Biodiversity Conservation Act 2016* becoming operational. Crown land reserves within the Travelling Stock Reserves network, whose ownership and management are currently under review by government, must be identified as environmentally sensitive land on the Regulatory Map. The connectivity value of the TSR network is critically important for all our native species to be able to cope with the inevitable impacts of a changing climate.

Using transitional provisions before the maps are ready and accessible, as proposed, is likely to lead to confusion as well as further unlawful clearing and environmental degradation.

Biodiversity Offsets Scheme

It is of great concern that these regulations and codes will enable extensive self-assessment of tree clearing by landowners across the state and reduce protection for nature and for farmland. We had hoped that the intention of this reform process was not to increase broadscale landclearing with its destructive consequences for individual threatened species, locally significant ecological communities and increased greenhouse gas emissions.

In particular, we are opposed to the proposal to introduce a 'flexible' Biodiversity Offsets Scheme which will allow developers across the state to make cash payments in exchange for clearing native vegetation.

This would be completely unacceptable and we ask you to ensure that, at a minimum, the Scheme is tightened with the following provisions:

- Exclude the option of cash payments in lieu of genuine vegetation offsets to compensate for the further loss and destruction of native vegetation;
- Ensure that any vegetation offsets are like-for-like, located in the same bio-region and vicinity as the native vegetation proposed to be removed;
- Ensure that endangered ecological communities and Crown lands, including Travelling Stock Routes, are excluded from clearing under the codes;
- Ensure that core Koala habitat is comprehensively assessed and identified across NSW under SEPP 44, before the new legislation is activated, and excluded from code-based clearing;

- Ensure that species-related credits (i.e. those not predictable by vegetation type), such as koalas, can only be offset with the same species, and cannot be offset under ‘flora for flora’ and ‘fauna for fauna’ variation rules as currently proposed; and
- Ensure that the impacts of clearing on soils, water, salinity and carbon are assessed to secure the long term protection of farmland and biodiversity.

Whether across our cities or regional landscapes, native vegetation is essential to the wellbeing of our communities and our economy. We expect the NSW government to act in the broader public interest and protect the irreplaceable natural capital belonging to our state – and not act largely in the interests of individual developers and agribusiness.

We believe that the proposed flexibility of the Scheme would lead to both widespread destruction of endangered communities and threatened species habitat (particularly in Greater Sydney where developers are positioned to make high returns on their investments) *and* undermine the offsets market which the government is wishing to promote.

Vegetation SEPP & Tree Preservation Orders

It is of concern that the details of the proposed SEPP covering urban trees are not available in draft form. There is a need to clarify the relationship between the existing Urban Bushland SEPP 19 and the new Vegetation SEPP and Tree Preservation Orders.

The loss of high community regard for the Urban Forest and its values, established over decades, must not be further undermined. The detrimental results from the introduction of the 10/50 Code have already diminished our suburbs significantly.

The draft SEPP must include the provisions in Clause 5.9 ‘Preservation of trees or vegetation’ and Clause 5.9AA ‘Trees or vegetation not prescribed by development control plan’ which are currently in the Standard Instrument LEP. These provisions are proposed to be repealed from councils’ LEPs. If the specific tree control provisions are not in the SEPP but are part of councils’ DCPs there is concern regarding further erosion of standards.

Recent changes in certain councils now allow a landowner to remove any tree or vegetation on a residential property without an approval from council, unless the tree is a protected species or the property is heritage listed in their DCP or LEP. It is vital that rules protecting trees are robust, standardised and enforceable across all local councils under the new SEPP.

A further concern with repealing clauses 5.9 and 5.9AA is the strength of Tree Protection Orders (TPO) which now are governed by a local LEP. These TPOs are necessary in urban areas, particularly in maintaining the tree canopy cover and its influence on environmental health and amenity, protection of wildlife habitat and reducing the heat island effect in the locality.

There are also serious concerns regarding the cumulative impacts of clearing of vegetation particularly in urban areas with the removal of the “no net loss” test. How will this loss be measured?

We support the inclusion of E2, E3, and E4 zonings state wide. However if the new SEPP does not come under an LEP clause how well can it be monitored on private land adjoining any of the E zones. At the moment SEPP 19 covers this aspect of clearing on private land but there is no indication of how the Vegetation SEPP will integrate with SEPP 19.

Overall, we are concerned that the long term security of our native vegetation, wildlife habitat, soil health and waterways is not at all certain under the draft codes and regulations being proposed and we urge that our concerns are taken into account.

We thank you for the opportunity to submit our comments.

Brigid Dowsett,

Secretary