



Biodiversity Reforms
Office of Environment & Heritage
www.landmanagement.nsw.gov.au/have-your-say/

**BIODIVERSITY LEGISLATION – REGULATIONS AND CODES
and
Explanation of Intended Affects
VEGETATION SEPP**

The Mosman Parks & Bushland Association was founded in 1964 in response to the destruction of bushland. The objectives of the Association remain the same today – the protection and preservation of bushland, parks and open space in Mosman. It is considered that the new legislation including the regulations, codes and the new Vegetation SEPP will have impacts on urban biodiversity that will affect Mosman. Our comments, therefore, relate principally but not exclusively to urban bushland.

Commencement of the new system needs to be delayed until everything is finalised, assessors trained and very importantly, vegetation maps have been compiled and exhibited. The importance of mapping is crucial.

The Biodiversity Conservation Regulation 2017

We begin with a question:

Isn't the emphasis of the regulation too much on codes and "management" rather than on real conservation? The emphasis is on vegetation as vegetation and not on the actual survival of wildlife and the quality of vegetation as realistic wildlife habitat.

AOBV Area of Outstanding Biodiversity Value is a positive

Sensitive areas to be protected. Up to date mapping is needed for the Sensitive Biodiversity Values Land Map.

Threatened Species, Vulnerable species, ecological communities and listing criteria

Mapping is essential as is the 7 part test, now a 5 part test in the Biodiversity Conservation Act 2016. Unmapped and unrecorded threatened species (eg a migratory bird or a threatened orchid) can be found to be present during a planning process or a DA.

Biodiversity Offset Scheme (BOS) in Urban areas

- Can we achieve a better outcome for biodiversity?
- Like for like offsetting is fundamental if the objective of no net loss is to be achieved.
- If like for like is not available ... Doesn't flexibility (so called) eventually allow a growing list of species to be lost cumulatively?

- The last resort of offsetting after all other options have been found impossible or too hard is paying cash into a fund!
- Offsets should preserve local genetic populations.
- All reasonable steps to avoid and minimise have to be taken before offsets are considered
- If a like for like offset can't be found it is probable that the proposal will have serious and irreversible impacts and should be refused.
- The need for transparency – the public needs to see what offsets are being created and where (cf 9)

Land Clearing threshold(the BOS threshold)

Clearing lot size. Cumulative clearing/incremental clearing surveillance. It is important that TPOs continue to be enforceable in these small lots where clearing may be permitted.

Sensitive areas to be protected. Up to date mapping is needed for the Sensitive Biodiversity Values Land Map.

Public consultation and public registers

It is particularly important for the public to be able to see where the offsets are happening. There should be a public exhibition process. The Planning portal and the Environment portal should both list the offsets. Payments to and from the Biodiversity Conservation Fund will be published in the Annual Report, but in the interest of transparency these should be made more publicly available as well.

The Biodiversity Conservation Trust

- The Mosman Parks & Bushland Association wants better constraints on what the Biodiversity Conservation Fund can be spent on. The cash needs to be spent on a tangible biodiversity result. As the regulations stand, it could be spent on research or education. These are inadequate. Research is valuable, but a threatened species can be researched to extinction if it doesn't have habitat. There has to be a nexus.
- How is the conservation trust fund to be monitored to ensure that money is not simply going to government land management?
- Is there any allowance to use conservation trust money to actually acquire land to extend reserves and public land with critically endangered habitat?

Explanation of Intended Effect for the Vegetation SEPP 2017

The Association was relieved to learn that the Vegetation SEPP is not a replacement for SEPP 19 (Urban Bushland), rather – it is filling a regulatory gap to cover clearing that doesn't require a DA. We hope that the public will have an opportunity to comment on the draft SEPP in due course. Once again, **mapping** is needed for its application.

What is crucial for this policy to work as intended is that TPOs and DCPs are enforceable. The equivalent of Clause 5.9 and 5.9a of the Standard Instrument LEP must be recreated in the Vegetation SEPP to ensure that TPOs and DCPs are enforceable.

Biodiversity Assessment Method (BAM)

If a species is shown to be present in the mapping, then the assessor should assume it **is** present even if the assessors expertise is in a different area.

3.

Accreditation Scheme for the Application of the Biodiversity Assessment Method (BAM)

Consultants undertaking biodiversity assessments for the implementation of the regulations, in particular the BAM are to be accredited. This should ensure a transparent and independent system.

Serious and irreversible impacts guidance

This regulation does not appear to consider cumulative impacts. Does this mean that greenfield residential development will NOT consider cumulative or incrementing environmental impacts over time?

The draft regulations on how the cumulative impacts will be reported and regulated are not clear.

Thank you for the opportunity to comment.

A handwritten signature in black ink, appearing to read "Kate Eccles". The signature is written in a cursive style with a long horizontal stroke at the end.

Kate Eccles
President
21.6.2017