Shoalhaven City Council

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Native Vegetation Regulation Review
Conservation Policy and Strategy Section
Office of Environment & Heritage
PO Box A290
SYDNEY SOUTH NSW 1232

Email: native.vegetation@environment.nsw.gov.au

Dear Sir/Madam

**Comment on the Draft Native Vegetation Regulation 2012**

Thank you for the opportunity to comment on the Draft Native Vegetation Regulation 2012. I commend you on the range of interpretive assistance that accompanied the release of the draft. The fact sheets are very helpful and the table outlining the proposed changes was very welcome.

Council is pleased to see that the issue of dual consent for small scale developments has been addressed though the addition of a series of new Routine Agricultural Management Activities. There are however still other forms of development such as cabins (tourist development), home activities and educational establishments that are all still potentially caught by the need to obtain both Council and CMA approval. It is unfortunate that the issue has not been fully addressed and hence, we are still left with the issue of dual consent for larger scale developments. Council strongly requests that any development that has a development consent, where the environmental impact including direct impacts on vegetation and threatened species or their habitat has been assessed, should be exempt.

It is noted that the draft Regulation does not contain any provisions relating to "infrastructure works by Councils" as a RAMA (as clause 18A of the 2005 regulations did). In fact, the definition of Council has been deleted from the Regulation. I assume that this is mainly because most of Council's infrastructure works are legislatively excluded by virtue of section 25 of the Act as they would either be designated development or an activity carried out in accordance with Part 5 of the EP&A Act through the Infrastructure State Environment Planning Policy. Council requests this understanding be confirmed.

However, a particular exception to this, which will impact on Councils in particular, is the lack of an exemption for cemeteries and redevelopment of tourist parks that are within bushfire prone areas. The latter is particularly problematic as, regardless of how minor the development is (e.g. change of use to particular areas of the tourist park), development is automatically considered integrated development requiring NSW Rural Fire Service (RFS) approval.

Currently RFS impose conditions that attempt to retrofit bushfire asset protection zones to standards that would be applied to new developments of this type. As these can be in the order of 80 to 100 metres, compliance with the Native Vegetation Act cannot be achieved as "maintain and improve" conditions under the Act are not achievable. As a consequence, redevelopment of tourist parks that could otherwise improve bushfire protection (through other protection and mitigation measures), amenity, environment and the utilisation of the tourist park is effectively prevented. Council requests your immediate clarification on this issue. The opportunity for Clause 30 of the draft Regulation to overcome this issue is noted – however, this will require a clarification of exactly what is covered by the terms "*crown land management infrastructure*" and "*land management activities*".

In the case of a cemetery or tourist park - is it the intention that clearing of vegetation for the management of the land, for its zoned purpose, will form an acceptable "land management activity" and therefore gain exemption? Are cemeteries and bushfire asset protection zones (required as consent conditions) regarded as "infrastructure" and therefore part of an exempt land management activity? This issue needs urgent clarification, and Council strongly requests that management activities relating to cemeteries and tourist parks be included in the definition of acceptable land management activities.

It is acknowledged that Clause 30(2)(a) protects vegetation that is a listed as threatened or an endangered ecological community. However, it does not protect vegetation that is known to provide important habitat for threatened fauna (e.g. stands of sheoaks that provide feeding resources for the glossy black-cockatoos). This could be rectified by changing the clause to read "...is likely to comprise important habitat features for a threatened species". A definition of 'important habitat features' would also need to be provided with a specific list.

Exotic species including woody weeds should not be subject to approval, even in riparian areas. For Councils this inclusion causes unnecessary red tape.

Council is very concerned that the draft Regulation does not consider social and economic factors related to the clearing of native vegetation. Council believes that the *Native Vegetation Act 2003* should not override other Acts merely compliment them on a meritorious basis. Thus, Council strongly supports the Standing Committee on State Development in central western NSW's recommendation (No. 24) which suggests:

*That in completing the review of the regulations for the Native Vegetation Act 2003, the Office of Environment and Heritage implements reforms which streamline the process for preparing and implementing a property vegetation plan, and that the Native Vegetation Act 2003 incorporate within it a requirement that local socio-economic impacts be part of any assessment considerations.*

Council looks forward to these issues being considered and incorporated into the final Regulation.

Yours faithfully

R/ Pigg

**Russ Pigg**
**General Manager**