South East Regional Organisation of Councils

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Native Vegetation Regulation Review
Conservation Policy and Strategy Section
Office of Environment and Heritage
Level 12, PO Box A290
Sydney South NSW 1232

native.vegetation@environment.nsw.gov.au

Dear Madam/Sir

Comment on the Draft Native Vegetation Regulation 2012

Introduction
SEROC welcomes the current review of the Native Vegetation Regulation and trusts that appropriate changes will be made to enable Councils and landowners to manage their land with less red tape and more flexibility.

The Native Vegetation legislation presents many challenges for Councils, landowners and developers. The farming community in particular view the legislation as a significant impediment to their farming rights and feel frustrated by the paperwork and various processes they must endure when the management of their land falls within the scope of the legislation.

There is a lack of understanding and confusion between planning controls of the Environmental Planning and Assessment Act (EP&A Act), the Threatened Species Conservation Act and Native Vegetation Act.

Socio-Economic Considerations
Local economic viability and social impacts should be part of the assessment process included in Native Vegetation legislation.

In many rural communities farming is a significant industry and often creates add on value industries such as processing and transport. The potential impacts on these communities needs to be factored into the assessment process.

Also, the issue of food security should be factored into assessment considerations. Food security was raised as a significant issue during the recent community consultations in regard to the development of a Regional Action Plan for the South East of NSW.

Consent Process

The impositions of the Native Vegetation Act and the Regulation can often result in lengthy and costly approval processes. The issue of dual consents under the EP & A Act and the Native Vegetation Act 2003 is also a major concern and clarification is needed as to which Act takes precedence.

It is noted 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 (RAMA), however, there are 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.

SEROC proposes that any development that has a development application consent, where the environmental impact including direct impacts on threatened species or their habitat has been assessed should be exempt from the dual consent process.

There is more need for education rather than regulation. More autonomy should be provided to CMAs to negotiate appropriate approvals and management actions with landowners. This could be achieved with the extended use of a RAMA rather than Property Vegetation Plans (PVP). This will reduce the red tape and provide a better working relationship between landowners and CMAs.

Local Government Infrastructure

The proposed 2012 Regulation has deleted the definition of Council and does not contain any provisions relating to "infrastructure works by councils" as a RAMA. Clarification is required as to whether Council infrastructure works are legislatively excluded by virtue of section 25 of the Native Vegetation 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.

More detailed clarification is also required in regard to Clause 30 of the new regulation regarding crown land management infrastructure and land management activities. As an example, does a gravel pit which is required as part of road maintenance or construction included as a RAMA.

Clarification is also required in regard to non-rural infrastructure such as public recreation facilities on public land as it is unclear if 'recreation facilities' is as described in the Standard Instrument LEP or limited to picnic and barbeque facilities.

Another significant issue is whether Clause 30 of the draft Regulation exempts cemeteries and redevelopment of tourist parks that are within bushfire prone areas. This development is considered as integrated development requiring NSW Rural Fire Service (RFS) approval. The clearing required to satisfy the standards for bushfire asset protection zones cannot be met under the "maintain and improve" conditions under the legislation.

Conclusion

Efforts to fast track and streamline assessment processes are consistent with community and political expectations. The current legislation has created many challenges and requires significant resources for State Government, Local Government and landowners.

SEROC understands the need to protect native vegetation and supports sustainable agriculture and forestry. The review of the Native Vegetation Regulation does, however, provide an opportunity to improve the balance between the objectives of the legislation and landowners rights to manage their land to improve economic viability. The vast majority of landowners understand the need to embrace sustainable agricultural practices with the proper management of native vegetation.

Councils as custodians of community land fully understand their responsibilities to maintain and improve environmental outcomes for the land they manage, however, more flexibility and less administration will provide for better delivery of services and facilities for their communities.

Yours faithfully

Don Cooper
Executive Officer