

Good morning,

Please find following comments from Shellharbour City Council regarding the biodiversity legislation review:

General comments:

- Whilst it is good to have comprehensive legislation, it can only be as good as the resourcing to implement the legislation. Due to lack of resourcing of state agencies ie (OEH) the most frequent breaches of biodiversity legislation in our LGA (e.g illegal clearing of EEC's or poisoning of trees) are often not significant enough to warrant action. This is resulting in a net loss of biodiversity throughout our region (Illawarra).
- To improve the effectiveness of legislation, there needs to be increased funding for state agencies or an investigation into delegating more power to Local Government (similar to delegated authority under POEO Act) with regard to illegal clearing.

Specific comments on themes:

Theme 1: Objects and principles for biodiversity

- An aspirational goal for biodiversity will need to include actions that can be undertaken at a local level to ensure the goal is not just a motherhood statement.
- There are no local/regional level indicators to measure biodiversity health/extent/recovery over time. If regional goals were to be set that allow tracking and comparison of data over time this would allow evidence based programs and action to be taken at a local/regional scale.
- Mapping should be provided by the state to ensure continuity in data gathering and assessment. Councils hold various records that are often in different classifications, scales and formats that cannot easily be related across Council borders. Accurate ground truthed maps showing extent of TEC's accompanied by details on percentage of remaining vegetation would assist assessment of applications for vegetation removal and broad scale planning proposals.
- Duplicity and complication in the approvals process should be removed – e.g joint approval to clear native vegetation under EPA Act and NV Act & the new 10/50 Code of Practice introduced by the RFS which overrides all state legislation.

Theme 2: Conservation Action

- Greater promotion of the legislation surrounding biodiversity protection and the responsibilities of land holders would assist in development assessment. Many land holders will not be aware of what is on their property - Whilst this review does not cover relevant sections of the EPA Act, it should be noted that the listing by Council of the presence of threatened species, populations, communities etc on a property should be a requirement under section 149 (2) certificates, not optional on section 149 (5). Without knowledge of the NSW Atlas, most land holders would not be aware of what is on their property.
- Toughen laws on illegal clearing even on a small scale. We are seeing many cases of small scale damage to EEC's, however they do not warrant prosecution as on a state scale it is insignificant. On a local scale this is having a significant impact.

- The current system of encouraging land holders to generate public benefits from their land is extremely complex and difficult for land holders to understand and comprehend the requirements.
- *How should tradeoffs be assessed?* Tradeoffs should be assessed within the LGA where at all possible and should replace like for like.
- *To what extent does the current practice (rather than legislation) determine outcomes* - We are finding an increase in advice from consultants being based on decisions of the Land and Environment court on EEC classification and exactly what constitutes an EEC now being based on common law rather than the scientific committee final determination. Perhaps final determinations should be reviewed against recent Land and Environment Court rulings?

#### Theme 3: Conservation in land use planning

- *Ensuring biodiversity values are considered in strategic planning systems* – this relates to currency of data used in assessments noted above.

#### Theme 4: Conservation in development approval process

- RAMA's are complicated and subjective so can be difficult to ascertain breaches.
- There needs to be standards set as to who is qualified to conduct an accurate environmental assessment and therefore draw conclusions/set conditions regarding environmental impacts.
- The impact of climate change on species abundance and distribution should become a consideration when assessing impacts on species, populations & communities.
- There is confusion between the licencing (issued under NPW Act) for works conducted in EEC's (listed under TSC Act). Licencing and listings should be under the same legislative tool.
- Councils should be consulted where offsets concern their LGA – either destruction in, or offset on, land in the LGA.

#### Theme 6: Information provision

- Value on biodiversity and other natural assets should include a local scale weighting. Local issues are no less important than national and state issues and should be recognised.
- Key Threatening Processes, whilst worthwhile to list, have no weight when it comes to breaches or contravention. Collection of firewood for example – is permitted as a RAMA for rural land holders, but collection of dead wood is a KTP?
- *National and state listings* – listing information should be consistent between the state and federal legislation.
- *Data collection* – all consultants (environmental), not just those licenced under NPW Act) should be required to enter threatened species data onto NSW ATLAS.
- Age of data on NSW ATLAS – clarification on what constitutes an 'old' record and what does this mean for environmental assessment? E.g Green and Golden Bell frog records in the Illawarra. How long should we continue to impose conditions on developers due to listing on the NSW Atlas, when no GGBF have been recorded in the area for the last 20 years?

Regards



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