

August 27, 2014



Independent Biodiversity Legislation Review Panel
NSW Department of Environment and Heritage
NSW Government
biodiversity.legislationreview@environment.nsw.gov.au

Dear Members of the Panel

Fingal Head Coastcare welcome the opportunity to comment on the Independent Biodiversity Legislation Review.

About Us

Fingal Head Coastcare Inc. (FHC) is a voluntary, incorporated landcare group which has been operating continuously for 28 years revegetating crown land on the Fingal Peninsula. FHC has 166 financial members and has members working four days a week to maintain 33 hectares of regenerated native vegetation on crown land under the control of Tweed Shire Council.

Our achievements have been recognised by a large number of awards including the following recent awards. 2013 Winner of the KAB Connecting Our Coast Overall Award for the state of NSW; 2013 runners up in the Catchment Management Authority Northern Rivers Landcare Award - Coastcare Category; winner of the 2011 NSW Coastal Conference Community Involvement Award; winner of the 2012 NSW Keep Australian Beautiful Award for Environmental Protection and Highly Commended for this in 2013, 2011 and 2008.

We are obviously very interested in the revision of any legislation relating to the environment and particularly biodiversity and are concerned about the possibility of the reduction of protection through legislation changes.

Part A We have the following general comments about the current review.

1. We are concerned about one of the terms of reference scope being to 'reduce red tape' because this usually signals a reduction in protection for the environment by making conditions less stringent with less detail of required protection. We hope this will not occur in this case.
2. We are concerned that the current government has already shown its disregard for the environment through actions including - changes in department structure and amalgamation; policy and legislation changes; immediate reduction in protection of Marine Parks and National Parks and Crown Land Reserves and the virtual abolition of Environmental Zones and Overlays in the LEP of north coast shires. We are therefore concerned that this is yet another attempt to strip the environment of protection by the revision of essential legislation such as Native Vegetation Act 2003, the Threatened Species Conservation Act 1995 and the Nature Conservation Trust Act 2001, plus parts of the National Parks and Wildlife Act 1974. These constitute the majority of legislation which provides environmental protection in NSW so we hope that these are not going to be undermined by this review.
3. Although far from experts in questionnaire construction it appears that many of these questions are leading questions which result in negative comments on environment protection eg. Theme 2 Questions 1 and 2 both suggest that the current conservation agreements restrict the use and production of the land. In our experience land owners enter conservation agreements after they have weighed up the economic consequences of doing this.

Part B Our comments on some of 'the questions of particular interest to the panel' are as below: (Please note we are only able to comment on the questions relevant to us and within our knowledge and experience.)

Theme 1: Objects and principles for biodiversity conservation

1. *Should there be an aspirational goal for biodiversity conservation? Yes*
2. *Given available evidence about the value and state of the environment, are the existing legislative objects still valid? Yes.*
3. *Do the current objects align with international and national frameworks, agreements, laws, obligations? Yes*

Theme 2: Conservation action

1. *Is the current system effective in encouraging landowners to generate public benefits from their land and rewarding them as environmental stewards? Or are current mechanisms too focused on requiring private landowners to protect ecosystem services and biodiversity at their own cost? A number of our members have elected to be involved in various land conservation agreements including perpetual conservation orders and they have found that it has been both rewarding and beneficial for them and the environment.*
2. *Are there elements of the current system for private land conservation that raise impediments (for example, the binding nature of agreements and potential loss of production) for individuals*

who want to manage their land for conservation? See above and we read this as a leading question.

Theme 3: Conservation in land use planning

Theme 4: Conservation in development approval processes

1. *Can we have a single, integrated approach to the approval of all forms of development, including agricultural development, that is proportionate to the risks involved?* No. The nature of developments vary enormously and these need to be assessed on an individual basis so there is definitely a need for some differences in assessment approaches.
2. *Does the regulatory system adequately protect listed threatened species, populations and ecological communities?* With the introduction of the RFS 10/50 rules none of these are adequately protected by the NSW regulatory system.
3. *To what extent has the current regulatory system resulted in lost development opportunities and/or prevented innovative land management practices?* These 'lost' development opportunities and innovations would obviously have been only lost because they are detrimental to the environment. In these cases it is a matter of choice between the environment or some developments and initiatives.
4. *Some impacts cannot be offset.* What are they? Loss of established mature ecological systems and threatened species. Are these appropriately addressed in approval systems? What is the relevance of social and economic benefits of projects in considering these impacts?
5. *Are there areas currently regulated that would be better left to self-regulatory codes of practice or accreditation schemes?* No these self regulatory codes of practice do not work and would fragment policy and outcomes even more.

Theme 5: Wildlife management

1. *Has the NPW Act and the supporting policy framework led to a positive change in the welfare of native animals (captive and free-living)? What role if any should the government have in ensuring the welfare of individual native animals – particularly where there are already stand-alone welfare laws such as the Prevention of Cruelty to Animals Act 1979?* Is this suggesting that the NPW Act and other government legislation is not necessary because it is covered by laws such as Prevention of Cruelty of Animals Acts 1979? If so, it is again a leading question.
2. *Are the provisions for marine mammals effective?* The regulations may be but we have found that there is not enough staff to ensure compliancy. For example a recent incident of jet skis driving through dolphin pods which contained young was reported to NPWS but there was no staff available to prevent this.

Theme 6: Information provisions

1. *How effective is the threatened species listing process (including the listing of key threatening processes) in guiding subsequent conservation action?* The threatened species listing allows for the planning of conservation action.
2. *Should threatened species listing decisions be decoupled from decisions on conservation actions (including recovery planning) and regulatory processes?* No. These obviously go hand in hand. The listing is the basis of decisions on conservation actions and regulatory processes
3. *To what extent, if any, does having national and state lists of threatened species cause*

confusion, regulatory burden or duplication of conservation effort? The national and state lists have relevance in that some species are threatened at a state level and need to be protected but are not threatened at a national level. Protecting these at a state level may allow these species not become a national listing. How could national and state lists be rationalised? They should not need to be rationalised.

4. *To what extent is the identification of critical habitat an effective tool for biodiversity conservation?* Obviously critical habitat is just that – critical and so the preservation of these is essential for preserving biodiversity. *Should we list critical habitat for more species where relevant and useful?* Of course – very obvious.
5. *Should private conservation data be collected and if so how?* Yes by the authorities that allocate funding and register sites and also the local shires.

Thank you for the opportunity to comment on this review. We sincerely hope that this review will not result in the undermining of environment protection in this state.

I can be contacted on the above email address or kaycbolton@gmail.com

Submitted for Fingal Head Coastcare Inc.

President