



28 AUGUST 2014

**BIODIVERSITY LEGISLATION REVIEW SUBMISSION**

I am [REDACTED] I am an [REDACTED]  
[REDACTED]  
[REDACTED] where I volunteer 2 days each week and I am a [REDACTED]  
[REDACTED]  
[REDACTED] I am  
also engaged from time to time in specific environmental issues of concern across the  
Central Coast.

As a general opening comment I support in principle consolidation of the various pieces of NSW legislation relating to the environment and biodiversity into a single act of parliament. In doing this I submit that the panel should be mindful of the need not to weaken the protection of our environment, but the need to strengthen legislation so as to increase and preserve our natural biodiversity. I make the following points, not necessarily in order of importance. Where I refer to the environment, this includes native species biodiversity in its narrowest and broadest interpretations.

**My comments are made in a personal capacity and not as a representative of any organisation or group.**

**1. SUSTAINABILITY.** Over recent years there has been a strong pushback by developer interests to change the emphasis on development approvals from Environmentally Sustainable Development to Economically Sustainable Development, in which the environment and biodiversity considerations are relegated to last place. This was encapsulated in legislation put forward by the former minister for planning and the former minister for resources. Fortunately this legislation failed at the last hurdle and is now under review. However the “develop at any cost mentality” appears to be alive and well, no more so than in Wyong Shire, where development at the expense of the environment and biodiversity is constantly justified on the floor of council in the name of job creation.

No thinking environment supporter denies the fact that as Australia's population and hence its cities towns and farmlands grow. Development for housing and industry must occur so that we have somewhere to live, have meaningful employment and have access to food to sustain our lives. However in achieving these desirable outcomes we must not turn our environment into a treeless concrete wasteland, polluted by industrial emissions, choked by exhaust fumes while being constantly threatened by diminishing access to potable water supplies. Nor must our bushland and plains be changed into flat, featureless monoculture paddocks, devoid of any life save that of agricultural machinery or marauding native birds and animals scavenging for something to eat and drink.

A harmonious, sustainable and bountiful environmental balance must be our goal.

When you look at Environmentally Sustainable Development you should consider reflecting the following in your legislation review recommendations:

- Ensuring that environmental legislation governing development is in accord with the principles of ESD including; the precautionary principle; intergenerational equity; conservation of biological diversity and ecological integrity; and improved valuation, pricing and incentive mechanisms. These ESD principles are contained within the Intergovernmental Agreement on the Environment (IGAE).
- Ensuring that environmental legislation governing development incorporates the view that ESD recognises the worth of ecological and social assets and ensures development occurs so as to preserve, and where damage has been done improve, the ecological and social capital for current and future generations, whilst deriving economic benefit from these assets.
- Ensuring that environmental legislation governing development facilitates the understanding that the relationship between the economy, our society and the ecology of our natural systems upon which we depend for long term survival can be, within the parameters of ESD, otherwise described, *that the economy serves human society and both operate within the capacities of the natural world's ecological systems.*

**2. WATER AND CATCHMENTS.** Protection of our drinking, agricultural and environmental water supplies through informed management of our catchments is vital for the survival of all species in NSW, human, plant and animal. The legislation should reflect the fact that good environmental laws and practice are the only way this survival can be achieved. The vast majority of the state's water initially comes from rainfall on the eastern ranges, from whence it flows to the east and west into river systems and aquifers. It is an established fact that dense vegetation in the higher land areas contributes significantly to attraction of rain bearing clouds and attendant precipitation. The legislation should reflect an understanding of this natural phenomenon by protecting and enhancing the quantum and biodiversity of existing rangeland vegetation and by creating conditions / incentives for the re-vegetation of cleared lands.

Most importantly, the legislation must contain clauses that prohibit mining of any type in or under water catchments anywhere in NSW, forever. Failure to address this latter factor will result in a real reduction in the supply of water with consequential acceleration in the loss of species biodiversity.

**3. TRANSLOCATION.** The current legislation, as interpreted by my local council and the NSW department of environment , makes it near impossible to effect translocation of ecologically endangered species and appears to fly in the face of reality. It is a fact that as the country grows, land will be assigned for infrastructure, housing and industrial development. In the process it is inevitable that native plants will come under pressure because of the threat to their habitat.

As I see it we currently take one of three approaches. (a) Ignore the plants and animals and charge on regardless; (b) stop the development completely at economic cost to the community or; (c) set up an isolated community of the endangered plant within the

development, which has the effect of limiting the development while providing a sub optimal environment in which the plant struggles to survive and prosper.

Surely the best approach is to facilitate plant community translocation through positive legislation that recognises reality rather than continue the current approach which has all round negative benefits for the environment and the community. In this way, endangered plants can be rescued by appropriately skilled people and relocated to new compatible environments which will result in preservation and enhancement of our native plant biodiversity.

**4. LAND CLEARING AND OFFSETS.** When considering this aspect of the review it is important that the “like for like” principle is set as the underlying plank of offset legislation. Land clearing for economic development of all kinds is going to happen and this will inevitably result in some loss of important and endangered habitat. However when the offset requirements for a development are set, they must be “like for like” in the local area. It is farcical that approval to clear 100 hectares of Coastal Woodland is given with an off set of 100 or more hectares of grasslands in Western NSW. Equally, the provision of parks, playing fields and grassed verges should not be permitted as offsets for the approved clearing of native habitat. Neither should the rehabilitation of areas degraded through mining be considered as acceptable offsets. Establishment of “like for like” principles in offset legislation in conjunction with intelligent Translocation legislation will provide the best possible environmental outcomes and will help to preserve and enhance our species biodiversity.

**5. SPECIES DIVERSITY.** Some current legislation takes a narrow view of the “proper home location” of species. Its interpretation by some “purist” environment practitioners works against the natural forces that lead to species adaptation and development, the very fiber of long term species biodiversity.

This is most evident in the area of bush regeneration of farmlands, old road reserves and rehabilitation of riparian corridors. At times this results in the forbidding of the importation of plants from outside a defined small radius of the regeneration site, on the grounds that even though the species may be the same, the genetic makeup of the proposed import is different from that which may have been present on the regeneration site in the past. Yet surely the introduction of genetic diversity is what helps sustain our species biodiversity. I believe the new legislation should support and strengthen biodiversity, rather than restrict it as is currently the case in some instances.

In a wider sense the purist approach ignores the effect of species natural migration as a result of global warming and climate change. Studies recently completed by Griffith University have established the natural southward migration of some rangeland eucalypt species due to warming of their local habitat, whilst other species have been recorded as moving both east and west from the plains to the ranges so as to maintain their established temperature range conditions.

I believe that if we are to have increased biodiversity, then legislation should not stand in the way of assisted species relocation, where fauna and flora would otherwise be lost through the impact of changing sea levels, rezoning and development.

**6. WEED INVASION.** One of the greatest threats to our native species comes from exotic plants that have escaped from horticulture or have gone feral after being introduced for

domestic use. Because of the way these plants take over the natural environment they pose one of the greatest threats to our natural biodiversity.

It is vitally important that the legislation recognizes this fact and includes provisions that address the problem through concerted action as a response to the threat to biodiversity. One example, parrots feather water weed, should serve to illustrate the result of failure to address the problem.

This pest was imported from South America as a water weed to be used in home fish tanks. It escaped into NSW waterways and now poses a major environmental problem. The NSW Government has refused to address the problem and pushes responsibility onto the Federal Government. This body has claimed over an extended period that it won't declare the plant as noxious because it lacks the funds to take eradication action that would be required under such a listing. Meanwhile it continues to flourish and choke our waterways. It became so bad in the Myall Lakes RAMSAR declared wetlands that special permission was needed to attack it with a spray that had serious effects on the water life – causing reduction in species density of fish, frogs, "pond life" and native plants. However this treatment is not available in other NSW freshwater streams and lakes.

Parrots Feather has no natural predators in Australia and is prevalent in mid – north coast and central coast fresh waterways and lakes.

It is not sufficient for the NSW Government to pass the buck. Declaration of plants as noxious, when recommended by environmental scientists, as is the case with Parrots Feather, must occur to protect our environment from further degradation and potential loss of biodiversity. The declarations must be backed up by the will to tackle the problems, supported by the financial muscle, and enforced through strong biodiversity protection legislation.

In the same way that noxious exotic weeds attack our biodiversity, so too do feral animals attack the distribution and diversity of native animals. The same principles of declaration and eradication programmes, supported by legislation must occur if we are to wind back the shameful loss of native fauna in NSW.

**7 LEGISLATION AND ENFORCEMENT.** As I have mentioned at various points above, the enhancement and protection of our biodiversity must be enshrined in strong comprehensive legislation. In addition to a review of existing environment and biodiversity specific legislation, your review must also encompass the whole of NSW legislation, where such legislation impinges or impacts upon the environment. Legislation covering planning, water, national parks, land use, agriculture, mining, transport in all its forms, sea shores and rivers, as well as emissions and power generation must be also reviewed and amended to remove conflicts, so that the interests of biodiversity take precedence at the top of the pyramid at all times.

We have seen over recent years, under all brands of political administration, an increasing emasculation of environment departments at both state and local government levels. For the NSW Government to be seen to be serious in respect of this biodiversity legislation review, it must agree to the reinstatement of "The Environment" as a full cabinet portfolio with a dedicated full time minister, backed up on the ground by competent full time staff. The Environment Defenders Office must be retained and strengthened, with powers of environmental oversight akin to those of the ICAC. Local Government must be required by legislation to provide an appropriately staffed

environment department, not just a single junior level environment compliance officer as is now the case at Wyong Council.

Finally, as you complete your review and prepare your draft recommendations, I believe the draft should be put out for public consultation for a minimum of 120 days, to allow sufficient time for in depth analysis and preparation of informed comment, prior to submission to government. The NSW environment and its diverse inhabitants are the property of the NSW people, not just the Government. We are obliged as citizens to ensure the survival of our most precious asset.

Sincerely

A solid black rectangular box used to redact the signature of the sender.