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28 June 2016

NSW OEH

Dear Sir/Madam,

RE: SUBMISSION ON THE NSW BIODIVERSITY REFORMS

The Georges River Combined Councils Committee Inc. (GRCCC) is a regional grouping of eight councils of the Georges River catchment in south and south western Sydney.

Each participating GRCCC member Council has adopted the Georges River Coastal Zone Management Plan (CZMP). The plan guides member Councils actions to manage and improve the condition of the Georges River estuary and protect and rehabilitate the River over the next 5-10 years. The plan was certified by the NSW Environment Minister and came into effect when it was gazetted in July 2015. This submission is consistent with the organisational aims and objectives of the GRCCC and also the on ground management actions as recommended in the Georges River CZMP that has been adopted by participating GRCCC member Councils and specifically Management Actions that relate to the protection of aquatic and riparian habitat including threatened species and protecting biodiversity.

This submission outlines our concerns with the NSW Biodiversity reforms including the proposed Biodiversity Conservation Act and Local Land Services Amendment Act. The reforms will repeal the NSW Threatened Species Conservation Act, Native Vegetation Act and parts of the National Parks and Wildlife Act. The GRCCC supports the Environmental Defenders Office key areas of concern attached. The GRCCCs submission also addresses the 43 recommendations of the Independent Expert Review Panels 2014 report that underpinned these reforms. Our concerns are outlined as follows:-

- We are concerned that the legislation does not focus on achieving the best on ground biodiversity outcomes at a landscape and regional scale. The Sydney metropolitan region including urban areas are excluded from the LLS Bill maps, which is not considered landscape scale management and inconsistent with the objects of the new act that is to focus on bioregional scale biodiversity.

Incorporating: Bankstown City Council; Campbelltown City Council; Fairfield City Council; Hurstville City Council; Kogarah City Council; Liverpool City Council; Rockdale City Council; Sutherland Shire Council; Wollondilly Shire Council

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Chairperson: Councillor Naji Peter Najjar

- The legislation has conflicting goals namely to decrease regulation, compliance and administrative burdens by freeing up land clearance, improving agricultural productivity and cutting red tape on land managers whilst simultaneously decreasing the loss of biodiversity.
- Apparently it is the overregulation of the farming industry that appears to be driving these reforms that state to “support landholders and promote best practice agricultural land management”. For example, the draft act does not regulate the harvesting of native timber on private land as a land use. The act aims to give farmers the flexibility to make decisions about their land. We are concerned with a return to broadscale clearing of farmland and net loss of habitat. The act will allow thinning of vegetation and more discretion around clearing approvals.
- The changes will see increased investment in private land management to be achieved through incentives to conserve farm land (section 1.3e) through market based conservation mechanisms. Conservation gains depend on funding and are not guaranteed by law after the funding has been exhausted. This is a short-term solution to biodiversity management. Concern is raised that the offsets allows local species extinction to occur and puts species at further risk by minimising available areas for habitat.
- Currently:
 - 59% of mammals in NSW listed as threatened with extinction
 - 34% amphibians
 - 30% of birds
 - 14% native plants (OEH 2014b NSW Scientific Committee).
- We know that the Native Vegetation Act has been successful in reducing the rate of land clearing by approximately half. The reforms will mean that the current protections under Native Vegetation Act will be overridden by allowable activities under the LLS new Act further reducing biodiversity.
- The reforms exacerbates the likelihood of extinctions of threatened species because the reforms provide for allowable activities enabling the incidental clearing for routine rural land management under voluntary Codes of Practice and the new act is unlikely to slow the rate of the biodiversity loss. These activities will be subject to four types of land management Codes of Practice titled farm planning, management, equity and efficiency. We are concerned that the exemption of low risk activities that are only subject to self-assessable codes and voluntary codes of practice. This risk based approach to regulation emphasises voluntary compliance. With the significant reduction of staff in Local land Services how can private land conservation be adequately monitored.
- Vulnerable ecological communities and locally threatened species are no longer recognised or protected under the reforms.
- The new provisions of the LLS bill are less stringent, evidence based or accountable.
- Further information is to be made available in a New SEPP to be developed for urban areas such as clearing thresholds and these details are as yet unknown such as the replacement of the tree preservation orders,

expanded offsets and discretion for major projects. We are concerned with the likely net loss in biodiversity. Vegetation in urban areas not only has high biodiversity values, it has strong amenity value and is critical in reducing impact of heat islands. It is concerning that there is discussion that biodiversity assessment is only triggered when land to be cleared is greater than 0.5 ha and this is considered significantly too high given that there are a few urban sites that contain 0.5ha of vegetation left. However, the smaller pockets of vegetation have high biodiversity value in their role of creating biodiversity corridors and supplementary habitat. This proposed process to allow the clearance level to be connected to development and not land titles will allow the staged removal of vegetation without triggering Biodiversity Assessment and the cumulative impacts to be dismissed.

- Also the reforms are not underpinned by goals to maintain or improve environmental outcomes. In the purpose of the Biodiversity Conservation Act item a) states the purpose is to slow biodiversity loss and not stop or reverse biodiversity loss.
- Independent ecologists have advised that the NSW offset policy has the weakest standard and the government has reproduced this. The offsets under the reforms do not have to be like for like and it is proposed to change to wherever the land can be found. Allowing compensation for species to be anywhere in NSW and not in local region will allow the last remaining habitat for threatened plants and animals in Sydney to be destroyed and relocated as it will be considered too expensive in Sydney to provide space to recreate these habitats. This will reduce biodiversity value in Sydney, reduce significant amounts of the human population to be able to access this important habitat (which does impact on their opportunity to value these species), reduce the amenity of local areas as City's lose biodiversity, and potentially create concentrated areas of threatened species (as they moved out of urban development areas) which will leave them vulnerable to natural hazards.
- Ecologists are concerned that the reforms significantly reduce the requirements for field surveys to be conducted and this contrary to evidence based decision making. It is also considered to be contrary to the precautionary principle.
- Further, the reforms rely on maps compiled using broad scale data and this reduces the reliability of the data used to categorise the land. Councils must also be able to advise of their sensitive areas to inform the State Governments maps.
- Concern is raised that there will not be enough consultants who have the appropriate training and expertise to undertake biodiversity assessments within the required timeframe for the Act to become enacted.
- The bill does not address key threats such as climate change and land clearing and fails to recognise the cumulative impacts of development.
- A purpose of the Act (c) is "effectively regulating high-risk interactions with wildlife". It is a concern this may be expanded to include native species which may be at times considered nuisances such as Grey-headed flying-foxes where decisions will be made at the detriment of this species.

- Biobanking provisions in NSW are already skewed towards supporting development in areas where urban bushland and remnant vegetation corridors are considered “nuisance” barriers to holistic development of Urban Release Areas, and urban development opportunities generally. Biobanking legislation currently acts as a loophole for developers to pursue biodiversity offsets in order to maximise development opportunities, including areas where local Councils and OEH have identified important, and often substantially sized, intact EECs.
- The notion that an EEC can simply be ‘created’ elsewhere in the State is a flawed one, given that EECs have generated themselves over millennia, and are not simply ‘vegetation’, but are indeed a ‘community’ of flora and fauna, shaped by environmental characteristics.
- Planning in NSW is running the danger of not only losing most urban bushland, but also intact vegetation on the urban fringe, due to biobanking essentially triggering the conservation of existing areas of EEC in perpetuity that are dislocated from the concentrations of urban communities, and not being easily accessible to those urban populations. The intrinsic value of such EECs and the biodiversity they support is therefore lost as a result. The worst outcome from this is that OEH’s “maintain or improve” position can never be realised. This is because some offset areas - already great distances from urban areas, including some on the fringe of existing State forest areas - are existing EECs. So, there can never be a ‘maintain’ outcome where EECs are removed for urban purposes, only a net loss. The ‘maintain’ simply comes down to the ‘perpetuity’ factor/status, not the actual net amount of vegetation in the State.

Yours faithfully

A handwritten signature in black ink, appearing to read 'P. Scaysbrook', written in a cursive style.

Councillor Peter Scaysbrook
GRCCC Acting Chairperson