

# Nature Conservation Council of NSW

## Urban Bushland Policy

### 2002

(As endorsed by the Annual Conference, October 2002)

This amended Policy replaces the previous Nature Conservation Council Urban Bushland Policy, endorsed by the 1997 Annual Conference.

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# POLICY

## A. INTRODUCTION

### 1. Definitions

- 1.1 “Bushland” – land on which there is vegetation which is either a remainder of the natural vegetation of the land, or, if altered, is still representative of the structure and floristics of the natural vegetation.
- 1.2 “Urban” – pertaining to or occurring or situated in a city or town.
- 1.3 “Biodiversity” – the variety of life forms: the different plants, animals and micro-organisms, the genes they contain and the ecosystems they form.
- 1.4 “The principles of ecologically sustainable development (ESD)” – as defined in the NSW Protection of the Environment Operations Act 1997, summarised as:
  - the precautionary principle;
  - inter-generational equity;
  - conservation of biodiversity and ecological integrity;
  - the improved valuation and pricing of environmental resources.
- 1.5 “Ecosystem” – a dynamic complex of plant, animal, fungal and micro-organism communities and the associated non-living environment interacting as an ecological unit.
- 1.6 “Foreshore” – land between the water body and dominant ridge-line.

### 2. Preamble

Bushland remnants in metropolitan and urban-rural environments are an invaluable resource that underwrite a range of values such as property values, tourism, recreational, educational and scientific values. It is critical that all areas of remaining remnant bushland be retained and managed for conservation.

However the constant loss of natural ecosystems in urban areas highlights the incremental loss of remnant bushland as a major problem.

Under the principles of Ecologically Sustainable Development, NCC considers it an obligation to ensure that future generations enjoy the full range of ecological options available to present generations. This clearly includes the need to maintain all aspects of biological diversity and ecological processes in remnant bushland.

In New South Wales two statutory instruments provide a framework for the conservation and management of native vegetation at a regional scale ie the *Native Vegetation Conservation Act 1997* (NVC Act) and the *State Environmental Planning Policy 19, Urban Bushland* (SEPP 19).

However the combined effect of the NVC Act and SEPP 19 have failed to ensure effective bushland management across NSW. The NVC Act is limited to parcels of bushland zoned rural and greater than two hectares in size. SEPP 19 only covers bushland designated as public open space within the Sydney Metropolitan Area.

As a result there is no protection for bushland on undesignated Crown land, land belonging to statutory authorities or on private lands. This means that significant areas of remnant bushland in metropolitan and rural-urban areas remain unprotected and suffer continued loss and/or degradation.

To remedy this NCC advocates the strengthening of SEPP 19 and other planning instruments through provisions for mandatory protective clauses, increased transparency, and public accountability.

Application of the legislation must be further strengthened through the development of a mandatory education strategy / package on urban bushland prepared and implemented by Planning NSW in association with the Local Government Association and the Department of Local Government.

Within all legislation and policy development there must be a movement away from a focus on threatened species per se. If the onus on threatened species continues at the wider expense ecological biodiversity and integrity, then it can be expected that species will continually be added to the threatened specie schedules.

NCC also recognises that conservation of remnant bushland in metropolitan and rural-urban environments cannot be achieved through the establishment of national parks and scenic reserves alone. As a result there is an urgent need for institutionalised landscape conservation and remnant bushland protection on private land throughout NSW.

Through the promotion of improved policy and legislation NCC aims to ensure the protection and improved management of urban bushland in metropolitan and rural-urban areas throughout NSW.

### **3. Aims**

- 3.1 No further loss of remnant bushland from urban areas.
- 3.2 Effective management of remnant urban bushland to ensure that biodiversity and other identified values of bushland are maintained at existing or improved levels and that bushland be protected from degrading processes and that all practical measures be undertaken to support the recovery of any natural ecosystems.
- 3.3 Adequate understanding of the ecological processes and values of remnant urban bushland to allow effective management to be achieved.

### **4. Objectives**

- 4.1 To promote and facilitate the retention, conservation, protection, effective management and restoration of all remnant bushland.
- 4.2 To recommend legislative, regulatory, policy and procedural changes at all levels of government in order to prevent any further loss of urban bushland.
- 4.3 government and the community in order to ensure the retention, protection and effective management of urban bushland.
- 4.4 To provide policy guidelines for existing and ongoing efforts within the community to help achieve the retention, protection and effective management of urban bushland.

## **B. RELEVANT GOVERNMENT PLANNING AND POLICY**

### **5. Environmental Legislation Review**

5.1 Legislation and planning controls should be reviewed to ensure consistency and to simplify interpretation and implementation.

### **6. Government Planning Strategies**

6.1 The State government should ensure that its policies and planning instruments do not conflict with protection of bushland and are consistent with objectives of Ecological Sustainable Development (ESD), as per the *Environmental Protection and Biodiversity Conservation Act 1999* (EPBC Act), *Protection of the Environmental Operations Act 1997* (PEO Act), State Environmental Planning Policy 19 (SEPP 19) and the *Threatened Species Conservation Act 1995* (TSC Act).

### **7. Update of Local Environmental Plans**

7.1 The Minister for Urban Affairs and Planning should issue a Section 117 direction to local councils to revise Local Environmental Plans (LEPs), focussing on assessment and protection of bushland consistent with the aims and provisions of SEPP 19.

7.2 Planning NSW should prepare a model LEP/ Development Control Plan (DCP) which would encourage local councils to prepare LEPs on the basis of clear assessment of the value of the bushland, consistent with the aims of SEPP 19.

### **8. Land Zoning and Disposal of 'Excess' Public Lands**

8.1 Planning NSW should protect strategic bushland areas by means of appropriate rezoning and provision of funds for acquisition.

8.2 undertake an urgent review of the process of disposal of public land considered to be excess to public needs, with a view to ensuring that bushland is conserved in a manner consistent with the aims and provisions of SEPP 19

8.3 The NSW Government should develop a public lands register by December 2003; and

8.4 by March 2003, develop a pre-election policy on the process of disposal of public land considered excess to public needs heeding the principles of ESD and the need for community involvement .

### **9. Evaluation of Environmental Impact Assessment**

9.1 Planning NSW should undertake an evaluation of the effectiveness of the environmental impact assessment process as required by the *Environmental Planning and Assessment Act 1979* (EPA Act), with a view to improving effectiveness of legislation and planning instruments in protecting remnant vegetation including SEPP 19 bushland.

### **10. Transport Planning – Motorways**

10.1 The State government should implement strategies to ensure that no further loss of urban bushland results from motorway construction.

### **11. Provisions for State Environmental Planning Policy 19 (SEPP 19) – Bushland in Urban Areas**

11.1 SEPP 19 should be amended to:

- (a) apply to all existing urban areas or areas planned for future urban use, including privately and publicly owned land;
- (b) apply state wide;
- (c) require development consent for clearing or disturbing bushland in all areas covered by the policy;

- (d) specify the Minister for Urban Affairs and Planning as the consent authority where a council is the proponent of a development which will disturb bushland;
- (e) specify the Minister for Urban Affairs and Planning as the consent authority for activities listed in subclauses 6.(2)(c) and (d) of the current SEPP 19 and for stormwater works that will have a significant impact on bushland;
- (f) specify clear guidelines and restrictions which narrow the discretionary power of the consent authority in issuing development consent and which 'give protection of bushland the highest value and priority';
- (g) require 'designated development' type consent processes for disturbance of bushland, (including activities listed in subclauses 6.(2)(c) and (d) of the Policy) with requirement for preparation of an environmental impact statement and public exhibition;
- (h) make provision for a consent authority to impose a stop work order if a person or persons are disturbing or are likely to disturb bushland without consent or without complying with conditions of development consent;
- (i) delete existing exemptions in relation to bushfire hazard reduction and replace with exemptions for the purposes of emergency bush fire fighting only under the Rural Fires Act 1997 as amended 2002; and for the purposes of bushfire hazard reduction only in accordance with a publicly exhibited Risk Management Plan under the Rural Fires Act 1997; such a plan should have regard to the aims and objectives of SEPP 19;
- (j) require consent for development on publicly or privately owned land which is likely to have adverse impact on adjacent bushland to which the policy applies or on adjacent bushland in National Parks & Wildlife Service (NPWS) estate or State Forest which is in an urban area;
- (k) further limit the discretionary powers of the consent authority to grant consent for development on land adjacent to bushland;
- (l) require councils to give priority to retaining bushland, and to bushland regeneration to achieve the aims of this policy when preparing LEPs and to encourage councils to implement environmental plans for bushland protection which are supplementary to the provisions of SEPP 19, provided that such plans enhance bushland protection and ensure that controls and guidelines are appropriate for the local government area;
- (m) require that all plans of management prepared under the Local Government Act for bushland which is subject to the provisions of SEPP 19, are consistent with the aims and provisions of SEPP 19;
- (n) require preparation of a plan of management for any bushland which is publicly owned or zoned for environment protection or visual protection purposes; or any bushland that forms linking corridors to other bushland;
- (o) require preparation or revision of a plan of management consistent with the aims and provisions of SEPP 19 by the Director-General of Planning NSW, if a council has not prepared or revised such a plan within 24 months of the gazettal of the revised SEPP 19;
- (p) require the preparation of bushland restoration plans, and contribution of funding for implementation of plans as a condition of consent where consent is issued for disturbance of bushland under SEPP 19;
- (q) require councils to provide an annual assessment of the status of urban bushland covered by SEPP 19 and steps taken to implement the Policy in their State of Environment Report;
- (r) apply to all wetlands within areas covered under the Policy, while retaining the provision that nothing in the Policy shall adversely effect the operation of SEPP 14;
- (s) ensure that the Planning NSW circular accompanying the Policy (guidelines and explanation for the Policy) is read in conjunction with the Policy; the circular should be revised consistent with revisions to SEPP 19;

## 11.2 SEPP 19 - Implementation

The following recommendations aim to improve implementation of SEPP 19:

- (a) implementation of SEPP 19 and other mechanisms to protect bushland should be coordinated at regional and State levels through Planning NSW, with public accessibility and accountability;
- (b) an education strategy / package on urban bushland should be prepared and implemented by Planning NSW in association with the Local Government Association and the Department of Local Government;
- (c) resources should be allocated through Planning NSW to provide a strong education program as recommended above and to assist councils with implementation of SEPP 19 and other regulatory controls related to urban bushland;
- (d) grants should be made available to local government and other authorities for the development of bushland management strategies within their local government areas, or for lands under their control;
- (e) Planning NSW should conduct a review of the development consent process in the context of urban bushland protection;
- (f) Where disturbance of bushland is likely to have a significant effect on urban bushland (eg. clearing of an area in excess of 1000 sq m) it should be listed as a 'designated development' under the Environmental Planning and Assessment Act 1979.

## **12. SEPP 5 Housing for Older People and People with a Disability**

SEPP 5 should be amended to:

- (a) prohibit development on land containing remnant bushland;
- (b) provide Local Government, under the guidance of the Rural Fire Service, the power to refuse SEPP 5 development on the basis of bushfire hazard; and
- (c) incorporate exemptions for Local Government Areas able to demonstrate suitable provisions for aged and disabled housing into zoning and development control plans

## **13. Local Government Act 1993 (LG Act)**

13.1 The LG Act should be amended to:

- (a) state that all plans of management prepared for bushland under Section 36 of the Act should be prepared, implemented and revised in accordance with SEPP 19 and ESD principles;
- (b) In Section 428 (2)(c) of the Act, incorporate a requirement for local councils to include an annual assessment of the status of urban bushland covered by SEPP 19, and steps taken to implement the policy in their State of Environment Report;

13.2 Allow councils to issue orders to restrain clearing of bushland under Section 124 of the Act.

## **14. Native Vegetation Conservation Act 1997 (NVC Act)**

14.1 The NVC Act should be amended to:

- (a) include all bushland in metropolitan and rural urban locations throughout all of NSW; and
- (b) protect areas of remnant bushland less than 2 hectares in size.

## **15. Rural Fires Act 1997 (RF Act)**

15.1 The Rural Fires Act be amended to:

- (a) place more emphasis, when having regard for the Threatened Species Conservation (TSC) Act 1995, on identifying and protecting ecological communities rather than individual species, when preparing Bushfire Risk Management Plans;
- (b) to ensure that complete protection is offered to all wetlands and rainforests in remnant urban/rural urban situations (coastal, montane and inland) not just those identified in SEPP 14 and SEPP 26; and
- (c) allow for the integration of the latest research into current policy and legislation.



- 15.2 With regard to urban planning at the urban interface, Planning NSW in consultation with the Rural Fire Service, should co-ordinate urban planning to avoid inappropriate development in areas of high bush fire risk.
- 15.3 Through community education and awareness programs the Rural Fire Service and NSW Fire Brigade should emphasise the need to have regard for the maintenance of biodiversity and ecological integrity when undertaking risk reduction at residential properties located at the urban bushland interface.
- 16. Tree Preservation Orders (TPO)**
  - 16.1 TPOs must incorporate the habitat value of all trees and should be expanded (or replaced by Vegetation preservation Orders) to cover all native vegetation defined in SEPP 19 as 'bushland'
  - 16.2 TPOs must be used in combination with Vegetation Management DCPs, not replaced by such planning instruments.
- 17. Foreshore Building Lines (FBL)**
  - 17.1 Foreshore Building Lines (FBL) should be strengthened to include the entire riparian zone and must be applied to all public and private foreshore lands.
- 18. Voluntary Conservation Agreements**
  - 18.1 The State government should continue to implement its undertaking to establish conservation agreements over privately owned bushland of high conservation value. This could be achieved by State Government funding for a specific position under an appropriate agency in each region and the Nature Conservation Trust, to negotiate the VCA, to facilitate the range of VCAs available and to promote awareness of potential benefits to landholders. This should be commenced through identification of priority areas prior to completion of a NSW bushland inventory, because of the time necessary to complete such an inventory.

## **C. IMPROVED BUSHLAND MANAGEMENT STRATEGIES**

NCC calls on the NSW Government to implement the following management strategies in all areas of metropolitan and rural-urban bushland.

- 19. NSW Government Funding**
  - 19.1 Dedicated funding for the development of Local Government and community driven approach to the management and implementation of bushland policies.
  - 19.2 Commitment to designated funding for the implementation of conservation agreements over privately owned bushland of high conservation value.
  - 19.3 Increased triennial funding commitment to Local Government for the purposes of effective threatened species conservation in remnant bushland areas including funding for implementation of Recovery Plans and Threat Abatement Plans (2003-2007).
  - 19.4 Allocation of dedicated triennial budget resources for environmental education and the values of native vegetation in urban environments.
  - 19.5 Expanded priority to be given to stormwater funding in view of its significance for remnant bushland

## **20. NSW Legislation**

- 20.1 The NSW Government should strengthen the State Environmental Planning Policy No. 19 Bushland in Urban Areas by March 2003; and
- 20.2 Commit to complete a review of all legislation and planning controls relating to urban bushland in metropolitan and rural urban areas to ensure consistency and simple interpretation and implementation by December 2003.

## **21. Bushland Inventory**

- 21.1 The NSW Government should meet in full its existing commitment to carry out an inventory of urban bushland, which will identify, map and assess privately and publicly owned urban bushland in NSW; and
- 21.2 Natural resource information should be made available at no cost or lowest possible cost within and between government departments and to local government and the community in order to facilitate implementation of regulatory controls and protection of bushland.

## **22. Weed Invasion and Urban Stormwater Run-off**

- 22.1 The *Noxious Weeds Act* to be amended to incorporate a more rigorous and extensive list of weed species and enforced by Local Government and weed control authorities.
- 22.2 Overall co-ordination of stormwater management to be provided by the State Government.
- 22.3 The NSW Government to allow a stormwater levy to be implemented by Local Government.

## **23. Water Quality**

- 23.1 The State government should monitor and regulate availability, use, storage and disposal of chemicals, herbicides and other toxic substances to prevent their discharge into waterways. A moratorium should be placed on the use of any chemicals for which this cannot be effectively achieved.
- 23.2 The protection of bushland, including bushland streams, from the adverse effects of sewerage system overflows, should be a priority in Sydney Water's current review of its sewage overflow points.
- 23.3 The Environment Protection Authority should remain committed to ensuring that the protection of bushland is maintained by Sydney water through the sewerage remediation program.

## **24. Bush Fire Management**

- 24.1 Wherever possible, fire regimes should be managed or influenced so as to minimise any long-term adverse effects of fire on the biodiversity and ecological processes and to maintain rare or endangered species and ecosystems.
- 24.2 Post-fire restoration and rehabilitation strategies should be developed in the statutory *Bush Fire Risk Management Plans* and should ensure that weed, erosion and sedimentation control activities will be carried out by skilled personnel after wildfires and/or hazard reduction burns.
- 24.3 The standard of post-fire restoration works needs to be defined by an agreed set of criteria and monitored for efficacy for a minimum of 5 years or until stabilised post-fire. Such works should be funded from a dedicated source for this purpose.
- 24.4 All Fire Control Officers and the relevant staff of land management authorities including local councils, who are charged with the management of natural resources, should be trained in regard to the ecological aspects of bush fire management.

## **25. Specific Fauna Impacts/Introduced Animals**

- 25.1 Legislation and regulations should be introduced enabling local government to introduce controls on those domestic pets, which impact on wildlife.



- 25.2 The State government should support and respond to research implicating human impacts such as use of chemicals in wildlife losses.
- 25.3 The State government should investigate the problem of wildlife losses related to developments, such as roads and electricity lines, which impact on wildlife, and implement strategies, which will decrease those impacts.

**26. Destruction of Aesthetic and Scenic Values**

- 26.1 Model LEPs and DCPs should be prepared by Planning NSW and should indicate desirable restrictions on development, which will minimise impacts of developments on aesthetic and scenic values.

**27. Salinity Control**

- 27.1 The NSW Government should develop and implement a strategy to reduce the impact of salinity in metropolitan and rural-urban bushland through the retention and maintenance of the remaining remnant bushland.

**28. Public Access to Remnant Bushland**

- 28.1 Public access in bushland remnants should be managed so as to maintain the ecological functions and biodiversity values.
- 28.2 The strategic planning and management of walking and cycle paths should prevent any construction and associated landscaping that will compromise the ecological integrity, preservation and enhancement of remnants of urban bushland, creeklines and the adjacent vegetation.
- 28.3 The NSW Government must oppose the construction of cycle paths in publicly owned natural bushland, wetlands, rainforest, creek lines and/ or adjoining riparian zones.