



Blue Mountains Conservation Society Inc

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Nature Conservation Saves for Tomorrow

19 December 2018

Dr Rosemary Dillon,
General Manager
Blue Mountains City Council
By email council@bmcc.nsw.gov.au

Cc All Councillors

Dear Dr Dillon

Draft Amendment No 11 Blue Mountains Local Environmental Plan 2015

The Blue Mountains Conservation Society is a community-based volunteer organisation with over 850 members. The goal of the Society is to promote the conservation of the environment in the Greater Blue Mountains region.

General comment

The Society is concerned that the Planning Proposal for draft Amendment No 11, and in all of Council's communications with residents in relation to the draft Amendment, is characterised as "minor housekeeping" aimed at "reinstating provisions, or correcting ambiguities lost in the translation to LEP 2015". The Society believes that this is not an accurate portrayal of some of the significant proposals contained in draft Amendment No 11. Of further concern is that the Draft Amendment No 11 was publicly exhibited for only two weeks before the busy Christmas period, giving inadequate time for community groups or residents to respond.

For this reason we request that Council re-exhibits or extends the current exhibition period to the end of January 2019 to allow the community to actively respond.

The Society would also like to meet with senior Council planning staff to discuss our concerns and suggested changes to Draft Amendment No. 11 which are set out below.

Specific concerns with Draft Amendment No 11.

ITEM 1 Amending clause 6.25 Dwelling houses and ancillary development on land in zone E2 Environmental Conservation

The Society strongly objects to the proposed expansion of developments ancillary to a dwelling house to be permitted in E2 zones, in particular driveways and asset protection zones.

These types of ancillary developments were not permitted in Environment Protection zones (E2 equivalent) in LEP 2005, and were also not included in the definition of '*development ancillary to a dwelling house*' in LEP 2005. Ancillary development such as driveways and asset protection zones are intrusive, require removal of all or most vegetation and have significant impact on habitat values. These ancillary developments on principle should not be sited on land zoned E2 and should only be considered where the development cannot be contained in the developable part of the lot, and where there are no other practical alternatives other than the ancillary development occurring on land zoned E2. Any ancillary development on land zoned in E2 must also only be permitted to the minimal extent possible.

As an example, Council has outlined to the Society, as a justification for the draft Amendment, that a small number of lots that have been 'sterilised' due to the E2 zoning on part of the lot preventing access to a public road. Clear limitations, as outlined above, need to be included otherwise applicants can rightly expect to be able to build driveways through any E2 land, even where there are alternatives, for instance, because it is cheaper.

We suggest the following changes to the Draft Amendment:

- A. At (2) insert a new sub clause (a) to (c) which states
"*.....unless the consent authority is satisfied that*
(a) the ancillary development cannot occur on adjacent land within the lot which is not zoned E2 but which is zoned to permit dwelling houses;
(b) that there are no other practical alternatives for the ancillary development to occur but on land zoned E2;
(c) that any ancillary development that occurs on land zoned E2 is to the minimal extent possible.

- B. The Dictionary of LEP 2015 is amended to include a definition of *development ancillary to a dwelling house* which is consistent with the definition in LEP 2005. Sub clause (4) would then be amended to reference the new term in the Dictionary of LEP 2015 (mirroring the definition in LEP 2005) with the addition of driveways and asset protection zones. This clause would therefore read as:

(4) *“In this clause, ‘development ancillary to a dwelling house’ is as defined in the Dictionary with the addition of any on-site sewerage management system, driveway or asset protection zone that serves the dwelling house.*

- C. The addition in the Dictionary of the definition for ‘development ancillary to a dwelling house’ from the LEP 2005

development ancillary to a dwelling house means a building, work or use that is ordinarily incidental or ancillary to the building, work or use and includes:

- (a) clearing of native vegetation, and*
 - (b) the provision of car parking and hard-stand areas, and*
 - (c) such measures as are required to meet the requirements of this plan, including the provision or use of stormwater control devices or sewage disposal areas,*
- but does not include a building, work or use for the purpose of providing public utility services or that is elsewhere defined in this Dictionary.*

We object to the expansion of ancillary development to include the long list contained in the *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*. In addition, by referencing the definition in the SEPP, if the SEPP is amended to expand the definition of ancillary development, then this automatically expands the definition in LEP 2015.

ITEM 3 Adding fences as Exempt development (Schedule 2)

This proposed amendment allows solid fences to be built in bushland areas Zoned Z4 impeding the movement of wildlife.

The proposal allows for timber paling, or pre-painted metal fence along the side or rear boundaries WITHOUT any assessment of wildlife movement. It also means that trenches may be dug through swamps disturbing the flow of groundwater.

This is an expansion of exempt developments allowed in LEP 2005 and in LEP 2015.

Conclusion

The Society would be keen to meet with senior Council planning staff to discuss the changes we have suggested to Draft Amendment No 11. We believe the draft Amendment No 11 needs to be tightened to ensure the key environmental values of E2 land are maintained. Please contact me to arrange a meeting.

Yours sincerely

A handwritten signature in black ink that reads "Madi Maclean". The signature is written in a cursive style with a large initial 'M' and a trailing flourish.

Madi Maclean
President
Blue Mountains Conservation Society
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