



Lane Cove Bushland & Conservation Society Inc

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General Manager,
Lane Cove Council

Att Christopher Pelcz

State Environmental Planning Policy No 19 Issue

Our Society has become aware that an anomaly in the planning system is threatening our bushland in Lane Cove.

Until the present we have understood that the provisions of SEPP 19, which relate to development adjacent to bushland areas, are available to Council when considering development applications on land which adjoins bushland.

However, SEPP 19 Clause 4 – Interpretation states in part the following:

(2) A reference in this Policy to bushland zoned or reserved for public open space purposes is a reference to bushland within an area or zone identified by an environmental planning instrument as open space (other than for private recreation).

As you are aware, the Lane Cove Local Environmental Plan 2009 as amended has no areas of bushland that are identified as Open Space. Rather they are generally identified as Zone E2, Environmental Conservation. This means that the important considerations contained in Clause 9 of SEPP 19 may not apply.

These important considerations are contained in Clause 9 of SEPP 19, which states in part the following:

9 Land adjoining land zoned or reserved for public open space

(1) This clause applies to land which adjoins bushland zoned or reserved for public open space purposes.

(2) Where a public authority:

(b) proposes to grant approval or development consent in relation to development on land to which this clause applies,

the public authority shall not grant the approval or development consent unless it has taken into account:

(c) the need to retain any bushland on the land,

(d) the effect of the proposed development on bushland zoned or reserved for public open space purposes and, in particular, on the erosion of soils, the siltation of streams and waterways and the spread of weeds and exotic plants within the bushland, and

(e) any other matters which, in the opinion of the approving or consent authority, are relevant to the protection and preservation of bushland zoned or reserved for public open space purposes.

As you are also aware, SEPP 19 is proposed to be absorbed into a new SEPP entitled 'SEPP (Environment)'. We understand that this SEPP is currently being drafted. The Explanation of Intended Effect for the SEPP (Environment) was on exhibition from 31 October 2017 until the 31 January 2018. Our Society commented on the importance of incorporating Causes 9 and 10 of SEPP 19 into the proposed SEPP (Environment). However it appears likely that it may perpetuate the existing anomaly by only allowing assessment of development on land adjoining bushland that is designated as Open Space.

This is clearly inconsistent with the intent of SEP 19 as the template that Councils must use to prepare its LEP (entitled NSW Standard Instrument—Principal Local Environmental Plan), has no category for a zoning entitled Open Space or Public Open Space. Rather it makes provision for categories such as E2 Environmental Conservation, which our LEP 2009 has adopted.

We have been advised that the period for comment on the Explanation of Intended Effect for the SEPP (Environment) is closed and that no further comments will be accepted.

However we believe that it is essential that the NSW Department of Planning & Environment immediately corrects this anomaly and does not proceed to draft or exhibit the Draft SEPP before it is corrected.

Therefore we urgently request that Council urge the Department of Planning & Environment to take steps to ensure that SEPP 19 immediately incorporate the definitions contained in the NSW Standard Instrument—Principal Local Environmental Plan, so that development proposed on land adjoining bushland is subject to the considerations contained in Clause 9 of the current SEPP 19.

In addition the Standard Instrument – Principal Local Environmental Plan should not be altered to change zonings such as E2 Environmental Conservation to a general Open Space zoning to suit the current SEPP 19. Deletion of Such a zoning would not allow Lane Cove to sufficiently distinguish its sensitive bushland areas in the LEP.

Doug Stuart, for the Committee,
Lane Cove Bushland and Conservation Society Inc