



# Blue Mountains Conservation Society Inc

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## Nature Conservation Saves for Tomorrow

18-Aug-06

Regulation Review  
Independent Pricing and Regulatory Tribunal  
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### INVESTIGATION INTO THE BURDEN OF REGULATION IN NSW AND IMPROVING REGULATORY EFFICIENCY; Draft report July 2006

Dear Sir/Madam,

We submit the following comments on the draft report of July 2006.

#### Consultation

##### Recommendation 4

The Society supports the development of a policy on consultation for adoption by all agencies based on best practice principles and that this should apply to a wide range of regulatory instruments and processed.

##### Recommendation 5

The extension of time to 42 days is essential if consultation is to be meaningful.

#### Regulatory Impact Assessments

RIA appear to be to strongly weighted towards an assessment of short term financial impacts on business. These should include assessments of the impact on the whole community and environment of having the proposed regulation and also of NOT having regulations.

#### Building Regulation - BASIX

##### Recommendation 16 (a) (on page 93, not listed in Attachment B)

The Society supports the recommendation for a post-implementation Review. However, this review should not be limited to the costs of individual consumers (the perspective reported promoted by the building industry proponents) but extend to the burden on civic funds to address the implications of not having standards to require watertanks on site. For example, addressing the costs of dealing with erosion, sedimentation of waterways, stormwater infrastructure and maintenance, water demands on centralised systems, spread of weeds so on.

The Society objects to the significant weakening of the targets in BASIX, particularly through the use of 'bonus points' and other fudge factors. The standards are significantly weaker than the greenhouse targets required in most states. The adequacy of these targets should be reviewed.

Short term economic savings/gains of the consumer is no justification for government backpeddling on critical water and energy sustainability standards.

The Society also supports the Tribunal's concern about the lack of transparency prior to the introduction of BASIX; viz that the full cost benefit analysis was not available for public scrutiny and comment.

### Planning and Development Assessment (S5.2)

#### Recommendation 58 (a)

The Society wishes to highlight the problems with recommendation 58 (a) which endorses the standard LEP as a means of achieving a more 'consistent' approach to exempt and complying development. Whilst it may achieve greater 'consistency' and even efficiencies, there is no point in having a planning system if it does not achieve GOOD outcomes.

- 1) The categories of 'exempt' and 'complying' development offer NO opportunities for community consultation and No opportunity for environmental assessment.
- 2) This template is heavily biased towards development rather than protection of the environment or of local communities. The land use matrix proscribes land uses which must be permitted. Councils are invited to allow more uses, but prohibited to reduce these uses. This effectively allows councils to reduce environmental standards but not improve them (eg in the Environmental Protection Zones).
- 3) This template fails to give legal precision and certainty, inevitably resulting in more appeals to the Land and Environment Court. Apart from the sandmining clause, there are no environmental development standards which have any legal certainty. There are no other total prohibitions or "conditions precedent to a decision", only environmental factors for "consideration". This results in the inefficiencies of court challenges.
- 4) The LEP template does not easily allow for "place based planning" which provides a significantly higher level of certainty in planning, and therefore greater total efficiencies.

#### Recommendation 59

It is suggested that the Tribunal outline in more detail in this recommendation its understanding of 'effectiveness'. The report recognises (p178) that a review must not only assess 'the timeliness and cost of the DA process' but also 'the quality of decision making outcomes'.

Unless the quality of outcomes is clearly specified at this stage it is unlikely that any data will be available when it comes to the time to review the process. All of the data identified on p 178 as being available is limited to a very superficial understanding of 'efficiency' issues ie numbers of DAs and assessment times.

Water (Utilities and Regulators)

Recommendation 69

The Society supports Recommendation 69. We strongly support the arguments presented by the Hawkesbury Nepean Catchment Management Authority for the need for a more holistic and coordinated approach.

It is incomprehensible that separate water plans are being developed for surface water and groundwater, as they are both part of the same water cycle. We support the proposal that single catchment wide water plans be developed. The fragmentation of responsibilities prevents the development of water re-use opportunities here in the Blue Mountains, as well as elsewhere in the state.

Any inquiries should be directed to the undersigned on 4782 1635 or [lsullivan@eftel.net.au](mailto:lsullivan@eftel.net.au).  
Thank you for the opportunity to comment.

Yours sincerely

Lyndal Sullivan  
On behalf of the Management Committee  
Blue Mountains Conservation Society