



17 April 2023

biodiversity.review@environment.nsw.gov.au

Westleigh Park Project by Hornsby Shire Council

I would like to share an example of the ineffectiveness of the Biodiversity Conservation Act 2016 on the ground. Hornsby Shire Council (HSC) purchased land at Westleigh from Sydney Water with the intention of building sporting facilities in areas that are essentially contaminated by previous land use.

Surrounding these contaminated areas is a forest. Upon purchasing the land in 2016 HSC had the bushland surveyed and it was discovered that it contained significant areas of the Critically Endangered Sydney Turpentine-Ironbark Forest and the Endangered Duffys Forest.

By 2016 mountain bikers had ignored the signs and directions from Sydney Water and Council and built around 5km of mountain bike network of trails throughout the bushland. As at 2023 they have built 9km of trails.

For the full timeline of events see this link.

<https://www.savewestleighpark.net/timeline/>

Community Consultation

Extensive consultation has been conducted to try and justify the non-action of HSC to protect the bushland.

In July 2021 Elton Consulting ran a community engagement. The draft master plan was exhibited for a total of eight weeks from 21 April to 16 June 2021. During this time, 293 written submissions were received, six stakeholder meetings which were attended by approximately 69 people were held and Elton Consulting engaged with 785 people at three swing bys. There were also two surveys prepared as part of the community consultation. A total of 1,878 responses were received from Elton's opt-in, online survey and a representative, two stage phone/online survey by Micromex was completed by over 300 participants.

Friends of Berowra Valley (FoBV) do not know how much ecological information was passed on at these consultations as we did not participate.

However FoBV did participate in the Feb-June 2022 Captivate Consulting Community Engagement. Four stakeholder workshops were held across March. The workshops were targeted towards the two stakeholder groups being the mountain biking community and local environment interest groups. The primary objective of the engagement was to attempt to reach a consensus between the two stakeholder groups on a formalised mountain bike trail network at Westleigh Park.

These workshops were followed up by Co-design Workshops. The participants were carefully vetted and ultimately 15 people were chosen. Any questions regarding the ecological communities were shut down aggressively by council. Council did not provide an independent ecological expert on the endangered ecological communities but they did provide a professional track designer for the entire workshop. Ultimately, the co-design participants did not come to a consensus regarding the trail design.

Despite all of this consultation which was primarily designed to attempt to get approval of MTB trails there was no real attempt to communicate ecological information apart from at a very skewed webinar. Even when an external ecological consultancy had confirmed the Critically Endangered and Endangered Ecological Communities in 2021 Council still made no attempt to protect the bushland.

EPA Ineffective

Friends of Berowra Valley reported Council to the EPA for failing to protect the Critically Endangered Ecological Community of Sydney Turpentine-Ironbark Forest and the Endangered Duffys Forest in June 2022.

This was the response from the Compliance and Regulation Officer Greater Sydney Branch Biodiversity, Conservation and Science | Department of Planning and Environment in August 2022.

“Following an investigation, at this stage DPE will not action this matter any further.

Hornsby Council have stated measures are in place to deter the use of the unsanctioned trails, you may contact Hornsby Council to discuss this.

Please report any further concerns regarding this matter to Hornsby Council.”

However Council have done nothing and still as at April 2023 continue to do nothing.

No Protection for Critically Endangered and Endangered Ecological Communities

Hornsby Shire Council cannot please everyone and the inordinate amount of money spent on community consultations were entirely to justify their precarious position. They have been under significant political pressure to allow these illegal tracks because of funding supplied by the then local member Mr Matt Kean. The changes in the NSW electorate boundaries have since seen Westleigh Park moved to the member for Wahroonga Mr Alistair Henskens.

The Council will now enter the planning process, the amount of offsets will be calculated and HSC will happily pay the offsets, build the professional track network and seal the fate of the forest. There is no legislation to protect these areas, there is no red line. Political pressure means that

council have failed to do the right thing. The only way this can be achieved is if there is legislation which clearly protects these areas.

Yours sincerely,

Karen Benhar

President of Friends of Berowra Valley and member of Save Westleigh Park

<https://www.hornsby.nsw.gov.au/council/noticeboard/works/major-projects/westleigh-park>

<https://www.savewestleighpark.net/>

<https://www.friendsberowravalle.org.au/category/westleigh-park/>