



Nature Conservation Council
The voice for nature in NSW



Submission on the proposed Land Management Code Amendments

4 July 2025

About NCC

The Nature Conservation Council of New South Wales (NCC) is the state's peak environment organisation. We represent over 200 environment groups across NSW. Together we are dedicated to protecting and conserving the wildlife, landscapes and natural resources of NSW.

www.nature.org.au

For further information about this submission, please contact:

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Acknowledgement

The Nature Conservation Council NSW acknowledges that we live and work on the land of First Nations. This land has been cared for since time immemorial by Traditional Owners, whose sovereignty was never ceded. We pay our respects to the Traditional Owners past and present of the many Countries within so-called New South Wales.

We respect the leadership of Traditional Owners in caring for Country, and support the development of treaties that meaningfully empower them to do so. We acknowledge the dispossession of First Nations People and the harm inflicted on people and Country since colonisation began. We acknowledge that colonisation is an unjust and brutal process that continues to impact First Nations people today. As people living and working on First Nations Country it is incumbent on us to play our part in righting the historical and ongoing wrongs of colonisation. Indeed, our vision of a society in which nature and communities thrive together depends upon it.

The Nature Conservation Council of NSW (NCC) respects and supports all First Nations people's right to self-determination as outlined by the UN Declaration of the Rights of Indigenous Peoples (UNDRIP), which extends to recognising the many different First Nations within Australia and the Torres Strait Islands. NCC commits to maintain open lines of communication and to build respectful mutual relationships with First Nations people in all the work we do and wherever possible, seek aligned outcomes with and support the goals of First Nations groups.

We commit, as an organisation, to empower and work together with First Nations people to protect, conserve and restore the land, waters, air, wildlife, climate and culture of the many First Nations people in NSW.

Local Land Services - Policy Division
Via email consultation@lls.nsw.gov.au

Submission on the Land Management (Native Vegetation) Code 2018 Amendment Order 2025

Dear Local Land Services Team,

We welcome the opportunity to contribute to this consultation process. The proposals are a small step toward aligning our land management framework with the urgent action required to conserve what remains of precious habitats across NSW.

Australia has the world's worst track record for mammal extinctions, and we are living in an extinction crisis. At least 1018 species in NSW are now threatened with extinction.

The accelerating loss of flora and fauna impacts the health, well-being and identity of the NSW community, and harms the rich cultural heritage of First Nations peoples. The trajectory of biodiversity and the precarious ecological health of NSW is of great concern. This was highlighted just last week with the release of the NSW State of the Environment Report, in which the clearing of native vegetation is named as the key driver of habitat fragmentation and the declining capacity of land to support native plants, animals and ecosystems.

Since the land management and biodiversity conservation laws were made seven years ago, there has been consistently higher levels of clearing on rural regulated land. Combined with the impacts of intensifying natural disasters; drought, bushfire and flood, the native vegetation provisions in Part 5A and Schedule 5B of the *Local Land Services Act 2013* are facilitating Australia's continued leadership in biodiversity loss.

The Government's own response to the statutory reviews of the *Biodiversity Conservation Act 2016* and *Local Land Services Act 2013* Part 5A acknowledges that additional effort must be directed into proactive landscape-scale biodiversity protection, restoration and management, going beyond the aim of halting loss to one of achieving overall ecosystem gains.

Significant reform is needed to return the objectives and outcomes of land management regulation to *reducing* land clearing, *restoring* habitat and *improving* biodiversity outcomes. Actions to protect and restore need to be undertaken together, at a regional scale and in a way that accounts for interdependencies, dynamics and uncertainty.

Aboriginal and Torres Strait Islander peoples, as stewards of Country for over 60,000 years with continuing cultural connections to land and waters must have leading roles in developing the

system which will facilitate better management of natural resources, managing and repairing landscapes, and the achievement of sustainable social, economic, cultural, and spiritual values.¹

The changes the to the Land Management (Native Vegetation) Code 2018 Amendment Order 2025 proposed here are not what is required to meet the Labor government's election commitments to stop runaway land clearing and better protect nature. **We face an urgent repair effort, and these changes are window dressing at best.** More than a tweaking of the current land management framework is required.

We have before us a significant opportunity to improve the ways we protect, restore and strengthen nature in NSW. The NSW Plan for Nature and the Nature Strategy must be coordinated with reforms to rural land management. The Natural Resources Commission landscapes reviews will provide an unparalleled chance to make informed changes to the fundamentals of the way rural land is managed. We look forward to the Government's implementation of recommendations made by the NRC to that effect.

This submission provides feedback on the specific proposals to amend the Native Vegetation Code. However, the work of revaluing and restoring nature and biodiversity in regional NSW is much bigger and it is urgent. It must be done alongside landholders, using relevant and legitimate incentives and effective communication.

Thank you for the opportunity to participate in this consultation.

Your key contact point for further questions and correspondence is Jacquelyn Johnson, Executive Officer, available via jjohnson@nature.org.au and (02) 9516 1488. We welcome further conversation on this matter.

Yours sincerely,



Jacqui Mumford
Chief Executive Officer
Nature Conservation Council of NSW

¹ Chapple R, Wilson J, McCreedy E, Archer R, Gore-Birch C, Hunter B, Davey K, Malcolm L, Cochrane P, Humann D. 2023. 'Reimagining Conservation: Working Together for Healthy Country', report of 3-day Reimagining Conservation Forum, Meanjin / Brisbane, November 2022, produced by the North Australian Indigenous Land & Sea Management Alliance, Australian Committee for IUCN, and the Protected Areas Collaboration, Australia.
https://www.aciucn.org.au/files/ugd/f443f7_d1517b6b1c6f42968adf649ea94c385e.pdf

Proposed strengthened protections in Code-based clearing in the land management code

Summary of recommendations

1. Accept and implement the changes proposed in the Land Management (Native Vegetation) Code 2018 Amendment Order 2025, subject to our detailed comments in this submission, immediately as an interim measure.
2. At a minimum, implement additional changes to the Land Management Codes and related regulations which have been advocated for several years, and which are detailed below.
3. Implement a requirement for overall benefit to biodiversity.
4. Accompany reforms with strong communication and engagement with landholders.

1. Overall response to the proposed reforms to the Code

The NSW Plan for Nature commits the Labor government to stopping excess land clearing, reducing the level of unallocated clearing and improving the management of native vegetation on private rural land.

The proposed amendments to Code-based clearing rules fail to address the long-understood weaknesses that facilitate ongoing destruction of habitat throughout regional NSW. Six years ago, the NSW Audit Office described the fundamental weaknesses of the regulation of rural vegetation contained in the Land Management (Native Vegetation) Code 2018 (the Code). Numerous submissions by NCC, other experts, and the findings of various government processes have since described the same problems and repeatedly proposed solutions. NCC's recent contributions include:

- The 2025 submission on the Natural Resources Commission review of options to further protect and restore biodiversity and ecosystem functions in regional landscapes. [Link](#)
- The 2023 submission to the five-year statutory review of the native vegetation provisions contained in Part 5A and Schedule 5B of the Local Land Services Act 2013. [Link](#)
- The 2021 submission on the Native Vegetation Regulatory Map 2021 Annual Update (no public link)

The proposed amendments do not address the core concerns expressed over several years, and which have played out in the form of consistently high rates of land clearing. While making minor regulatory improvements, the proposed amendments still defer to land holder self-assessment, along with very broad allowable activities and clearing parameters on Category 2 – sensitive regulated land. Very little land in NSW has been identified where clearing under the Code cannot occur. The amendments don't address the Code's lack of transparency and enforcement.

The Native Vegetation Regulatory Map remains unenforced.

There remains a significant gap in policies and landholder program options which counter incentives to clear, that value biodiversity, and that incentivise sustainable agriculture, promote food security, and benefit the environment.

As presented, these reforms are vastly inconsistent with the government's pre-election commitment to stop excessive land clearing.

Healthy ecosystems are our first line of defense against floods, storms, fires, and droughts. According to recent publications by the [Wentworth Group of Concerned Scientists](#), agricultural landscapes have significantly declined in their capacity for maintaining agricultural productivity, for supporting native systems, and as a base for the growth of repaired vegetation communities. As biodiversity declines, we pay the price—through economic loss, food insecurity, climate instability and rising commodity and insurance costs.

2. Managing invasive native species

Plan for Nature Commitment: “Strengthen the prescriptions for managing invasive native species to reduce the risk of misuse of this provision for clearing.”

Comments on proposed amendments to the Code:

- The intent of these amendments is to help guide landholders in the appropriate application of Part 2, Division 1 of the code “low impact clearing of invasive native species” by providing a strengthened invasiveness test.
- These proposed changes represent a continued dependence on self-assessment for clearing, which has been a key criticism of the land management framework all along.
- The self-assessment approach puts the onus on the landholder to have enough knowledge to form a “reasonable opinion” about the correct identity of invasive native vegetation, its impacts and management practices, in the case of “low impact” clearing. This is a difficult expectation to monitor or enforce.
- Because there are no strong assessment or approval processes in place for “low impact” native vegetation clearing, there will remain no accurate understanding of the extent and the ongoing use of these clearing provisions.
- The proposed amendment still enables the clearance of vegetation on a property-by-property basis and has no landscape scale analysis of impact.
- The Code continues to be very open to misuse and difficult to prosecute, for example Division 2 30(3), where clearing of non-invasive native species is permitted “only to the minimum extent necessary”.
- This part of the Code would be strengthened by requiring assessment by an appropriately qualified vegetation ecologist, using an evidence-based invasiveness test that considers the features of the area, including how depleted ecosystems are in the

region, connectivity, the necessity to clear non-invasive native species for the desired effect and the ecological values of the vegetation proposed for clearing.

- It is unclear how this amendment will have the desired outcome identified in the Plan for Nature to reduce the risk of misuse of this clearing provision.

3. Mosaic thinning

Plan for nature commitment: “specify environmental management requirements for retained areas under the Pasture Expansion (Mosaic Thinning) provisions to prevent the overuse of this provision for clearing.”

Comments on proposed amendments to the Code:

- The intent of Part 3 Division 3 (Mosaic Thinning) is to facilitate grazing expansion whilst also supporting ecosystem functions.
- The slight changes to minimum vegetation retention requirements to clearly include native shrubs is a positive change, however a minimum of 30% retention of a treatment area is insufficient.
- Retained area management requirements are also a positive change, however, the amendment fails in the same way that plagues the entire framework – that is, the efficacy of the amendment will be unmonitored, unquantifiable and therefore the extent and condition of retained areas will be impossible to determine.
- The provision cannot “prevent the overuse of this provision for clearing” in any meaningful way and therefore does not meet the commitment of the NSW Plan for Nature.

4. Set asides

Plan for nature commitment: “remove area discounts for set asides to ensure protected parcels exceed the size of the area approved to be cleared.”

Comments on proposed amendments to the Code:

- This amendment removes set-aside discounts for landholders who have cleared land and retained areas containing EECs or CEECs, or areas of strategic landscape-scale biodiversity importance. It also enables Local Land Services to determine the location of set-aside areas for Part 5 (equity) authorisations.
- The removal of set-aside area discounts is supported as a bare minimum and interim step.
- However, set-asides should not be used as a land management strategy. They are a form of offset that has even less ecological integrity than the Biodiversity Offsetting Scheme. Rather, the government should reassess the role of the native vegetation panel in approving impacts on vulnerable and endangered ecological communities.

- Landholders should not be clearing high conservation value native vegetation without rigorous assessment and even then, under very limited circumstances. Rather landholders should be supported to implement other methods of land management which better address economic and environmental imperatives.
- The amendment provides for Local Land Services to determine the most appropriate location for set asides. It will be important that an evidence-based assessment is applied to the LLS approach to seeking “to maximise environmental benefits from the set aside area”.
- The Code still does not specify that the vegetation to be set aside should be the same or of ecological equivalence (“like for like”), nor what condition the vegetation should be in. There remains no analysis of what “like for like” means in practice for vegetation on privately held rural land.
- There is no discernible auditing of progress on set-aside areas to determine if environmental outcomes are being achieved. An important follow up to this amendment is to ensure the application of the set-aside rules, and to determine and implement an ecologically sound, best practice model to replace current settings.

Box 1: If set-asides are to continue to be used, there are opportunities to increase their ecological value.

Land set aside for conservation matters on a landscape scale. Like National Parks and stewardship agreements, set-asides are intended for protection in perpetuity. The difference in biodiversity values between set-aside land in scattered pockets compared with land adjacent to, or forming corridors with, other protected areas are significant. Yet, set-asides are not habitually planned with complimenting the reserve system as a criterion.

If set-asides are to continue, there should be mechanisms for planning how set-asides and other protected areas fit together, and how they are managed together. The best outcome for a set aside program would be to strategically protect areas of high conservation value across landscapes.

5. Clearing caps

Plan for nature commitment: Re-introduce a cap on equity clearing and require approval from the Native Vegetation Panel for anything above the cap.

Comments on proposed amendments to the Code:

- Equity clearing allows for paddock trees and associated ground cover under a certain scale to be cleared without approval.
- The Code originally described a cap for clearing proposals, but the cap expired 3 years after the Code was published. This amendment will reintroduce the application of schedule 4 of the Code to limit the maximum clearing allowed under the ‘equity’ part of the Code (Part 5, Div 4).

- While this amendment may reduce areas cleared under this part of the Code, if the divisions which permit clearing for 'equity' and 'farm plan' remain, large swathes of important and threatened species and habitats can be cleared with little or no monitoring.
- It has long been advocated that the 'equity' and 'farm plan' parts of the Code be removed completely.
- In the absence of their removal, the caps should be reduced even further to minimise harm as an interim measure while a new approach to land management is determined and implemented.

6. Notification and certification requirements

Plan for nature commitment: Increase notification and certification requirements to give landholders certainty, improve transparency and reduce unallocated clearing.

Comments on proposed amendments to the Code:

- This amendment proposes to enable better monitoring and reporting of the management of woody native regrowth in managed native pastures to reduce unallocated woody vegetation clearing rates. Clearing may be carried out under Part 4, Div 1 of the Code, following notification, or if Local Land Services has issued a voluntary code compliant certificate for the intended clearing.
- Improved data which can provide a better picture of the reasons that land is cleared is important. On its own though, this measure will not contribute to the Government's goal of reducing land clearing rates.
- This amendment will build a slightly improved picture of the incentives for ongoing clearing, but does not come close to providing comprehensive data on the clearing of rural habitat.
- The fact that no amendment was made to the Division permitting clearing of native trees and shrubs that have regrown since 1 January 1990 undermines the effectiveness of any improvements to management and monitoring conditions.

Box 2: The ecological value of regrowth

The changes to the Code proposed here do not address the deeply problematic baseline permitting clearing of native trees and shrubs that have regrown since 1 January 1990.

In 2025, such lands could contain regrowth vegetation that is over 35 years old. New [Australian research](#) has found that regrown forests and woodlands provide valuable habitat and food for native wildlife after an average of 15 years. The research found that some species, such as the koala, could use regrowth as young as nine years old, while the brush-tailed rock wallaby could use vegetation as young as 11 years old – two species classified as endangered in NSW.

Such research demonstrates that a blanket exemption on land cleared before 1990 is not scientifically or environmentally sound and permits the unregulated clearing on potentially ecologically important lands, undermining the effectiveness of any improvements to management and monitoring conditions. The baseline of 1990 should be removed as part of the current reform, and updated to reflect an ecologically responsible benchmark.

7. Authorisation periods

Plan for nature commitment: To support amendments which improve the administration and outcomes of authorisations to manage environmental risk.²

Comments on proposed amendments to the Code:

- This amendment reduces future clearing authorisation periods down from 15 years to 3 years for higher risk parts of the Code (Part 3 Division 3) and 7 years for 'lower risk' parts of the Code.
- The shorter timeframe for authorisations recognises that regrown forests and woodlands provide valuable habitat and food for native wildlife after a much shorter period than 15 years (as raised above, this should be complemented by addressing the current exemptions for vegetation cleared pre-1990)
- This amendment is supported, and NCC notes its urgency.
- The amendment does not address the well understood problem, flagged repeatedly by environment groups and the government's own bodies, that the amount of clearing currently approved vastly outstrips the clearing actually undertaken. If all of the clearing approved occurred, it would be a disaster to biodiversity statewide.³ The frightening reality of potential clearing must be urgently tackled.
- Any exemptions or exceptions to this timeframe need to be strictly limited and very carefully applied, including due to the impacts of natural disasters. Natural disasters should trigger a review of current settings and approvals in impacted areas, with a view to ensuring biodiversity does not suffer even further.

Recommendations

Ahead of the 2023 election, the NSW Labor government committed to end excess land clearing and strengthen environmental protections. That intention must be translated into legal frameworks and policy implementation. Ambitious policies and incentives are needed, combined

² This is not a specific commitment in the plan for nature, however in the Plan for Nature, the Government supports improving the outcomes of authorisations to manage environmental risks (see page 39).

³ As flagged in a cabinet-in-confidence report in July 2019 by the Natural Resources Commission, and by environment advocates, for example: <https://www.smh.com.au/environment/conservation/more-than-half-a-million-hectares-of-land-cleared-in-nsw-20220419-p5aed5.html>

with effective regulations. The proposed amendments do not meet this threshold. We therefore recommend that the NSW Government:

1. **Accept and implement the changes proposed in the Land Management (Native Vegetation) Code 2018 Amendment Order 2025, including the suggestions for improvement in this submission**, immediately as an interim measure. A reformed land management framework which is capable of protecting and restoring biodiversity and ecosystem functions in regional landscapes and enhancing value and support for landholders must be urgently developed.
2. **At a minimum, the following additional changes must be made to the Land Management Codes and related regulations:**
 - a. Remove the Exempt category of vegetation, so habitat across millions of hectares is brought under regulation.
 - b. Exclude Code-based clearing from all vulnerable, endangered, and critically endangered ecological communities by expanding Category 2 – sensitive regulated land – to cover a wider range of high conservation value areas.
 - c. Prohibit unassessed clearing in the entire coastal zone, steep and erodible areas, travelling stock reserves, and all small holdings.
 - d. Go beyond reinstating caps and remove Part 5 Equity and Part 6 Farm Plan of the Code in full.
 - e. Prohibit all Code-based clearing of koala habitat and complete koala habitat mapping using a broader definition of koala habitat.
 - f. Require landscape-scale assessments for Code-based set-asides and clearing approvals, to ensure optimal connectivity and conservation outcomes.
 - g. Deliver and implement robust tools to ensure decision-makers in all land management decisions adequately account for the cumulative impacts of clearing in the context of a changing climate.
 - h. Strengthen the power of decision-makers to refuse Code-compliant certificates by making refusal under clause 16 mandatory and defining “excessive or broadscale clearing” with objective, evidence-based criteria and guidelines. Authorities must be adequately resourced for monitoring and enforcement.
 - i. Enhance civil and criminal penalties for breaches.
 - j. Properly protect Areas of Outstanding Biodiversity Value.

3. Implement a requirement for overall benefit to biodiversity

The environment movement has consistently advocated for the primacy of environmental laws across the NSW legislative landscape. Although this position was supported by Ken Henry, it was not adopted by the NSW Government.

In the absence of legal primacy, land management regulation must commit to a central objective: biodiversity must be protected, restored, and improved. This is essential to safeguard ecosystem services, resilience, and cultural values.

A key outcome of this review should be policy recommendations which will allow the NSW government to establish an overarching requirement that land clearing must stop in habitats important to the survival of species and ecosystems, and efforts must be made and resourced to maintain or improve environmental outcomes on regional land overall. This approach is critical to restoring biodiversity and maintaining ecosystem function in regional areas.

This requirement must apply across the entire land management framework and its operative provisions, including allowable activities and Code-based clearing.

4. Accompany reforms with strong communications and engagement

Regulations cannot succeed unless landholders are aware of, understand, and can apply them. Similarly, financial and other incentives must be easy to access and navigate. Reforms must be supported by a clear, multi-format communications strategy, including in-person community education.