Nature Conservation Council
The voice for nature in NSW

27 April 2026

To the Local Land Services Policy Team,

Thank you for the opportunity to comment on the remake of the Local Land Services (LLS) Regulation. We appreciate attempts to improve the clarity and interpretation of the regulations. However, we are concerned about the following:

1. That the opportunity to improve environmental outcomes has been overlooked, and
2. The wording in some sections, particularly what is/isn't category 2 land, has been diluted and is more confusing.

Below we detail seven specific, minor changes that would better integrate environmental outcomes into the regulation. Such changes are in line with intentions from the Plan for Nature. **Addressing these during the current remake of the regulation would be a logical, efficient and time-saving step** towards improved consideration of the environment, ahead of any major recommendations that may arise from the Natural Resource Commissions broader review of native vegetation management on private land.

Improving the definition and scope of category 2-regulated lands to better protect threatened species habitat

Recommendation 1: *Use powers within the regulation to expand definition of category-2 regulated land to include land mapped as containing any plant or animal species classified as threatened under the NSW Biodiversity Conservation Act 2016. The regulations should then designate such land as category-2 sensitive regulated land.*

The *Local Land Services Act 2013* (LLS Act) provides clear instruction that the regulations can set what is to be mapped as category 2-regulated land:

> Div 2, 60I
>
> (2) Land is to be designated as category 2-regulated land if the Environment Agency Head reasonably believes that-
>
> (n) the land is of a kind prescribed by the regulations as category 2-regulated land.

There is a clear opportunity for the remake of the regulations to reconsider and define what should be category 2-regulated land to improve consistency with environmental decision making.

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It is an offence to knowingly damage the habitat of any threatened species of plant or animal listed under the *Biodiversity Conservation Act 2016* (NSW). The existing definition of Category 2-regulated land only captures habitat of 'critically endangered' plant species. Regulatory powers should be used to classify mapped habitat of plant and animal species across all threatened classifications under NSW legislation (i.e. vulnerable, endangered and critically endangered) as category 2-regulated sensitive land. This change would make the LLS regulations clear and consistent with environmental provisions in other legislation.

Recommendation 2: *Redraft proposed section 50 in the affirmative to clearly define what constitutes category 2-regulated land. The current reliance on negative phrasing ("must not be… unless") creates unnecessary complexity and increases the risk of misinterpretation.*

The existing regulation states "Land may be mapped by the Environment Agency Head as category 2-regulated land because it contains critically endangered species of plant…" (Div 2, Sec 112). The new proposed wording uses the negative frame "must not be designated as category 2… unless". This is confusing and hard to interpret. Changes to the regulations should improve clarity, not backtrack.

Restoring transparency in reporting on approved native vegetation clearing

Recommendation 3: *Insert a new section into the regulations titled 'Public register of Certificates issued under The Act, s 60Y' requiring the register to include: the location of each certificate, the relevant clearing code(s) and the number of hectares approved for clearing under each code. The register should provide a level of transparency equivalent to the 'Public Register of PVPs' published under the repealed Native Vegetation Act 2003.*

Recommendation 4: *Insert a new section into the regulations titled 'Public register of determinations made by the Native Vegetation Panel- The Act, Div 6', requiring the register to include the location of proposed clearing and the area (in hectares) to be cleared.*

Recommendation 5: *Insert a new section into the regulations titled 'Public register of notifications under section 60X', requiring the register to include the location, date, area (in hectares) to be cleared, and the relevant authorisation (including any certificate, code or other approval) under which the clearing is being carried out.*

As per Div 6, 60ZO (4) of the LLS Act "The regulations may make further provision for or with respect to public information registers (including the information to required to be included in, or excluded from, the registers and the correction of the registers). The existing public registers present aggregated information – the minimum requirement set out in the LLS Act (Div 6, 60ZO (1)). The public register under the repealed *Native Vegetation Act 2003* offered much greater transparency of approved clearing, including the GPS location of approved clearing and the area to be cleared (in hectares). The remake of the regulations is an

opportunity to return to this level of transparency. A more transparent form of reporting is evident in the current 'Set aside area public register'.

Recommendation 6: *Insert a requirement in proposed section 63 (2) for the register to include the values and area of land proposed to be cleared that triggers the requirement for a set-aside.*

While the existing set-aside public register provides transparency regarding the location and obligations of set-aside areas, it does not identify the clearing activity that gives rise to those requirements. As a result, it is not possible to understand from the register why a set-aside has been established. Including the area and values of land proposed to be cleared would improve interpretability of the register and provide clearer insight into the decisions that give rise to set-aside requirements.

Closing gaps in clearing certificate application and assessment processes

Recommendation 7: *Amend proposed section 62 (1) (b) to require that information provided indicates whether state threatened flora and fauna records have been checked, and whether relevant Commonwealth environmental assessments or approvals have been undertaken.*

As per Div 5, 60Y (12) of the LLS Act "The regulations may make provision for or with respect to certificates under this section, including for or with respect to the following – (a) the making of applications for certificates (including information to be provided by the landholder".

Recommendation 5 seeks to improve transparency and consistency around the assessment processes underpinning clearing approvals. While the current application form requires certain information to be recorded, it does not clearly indicate whether relevant threatened flora and fauna records have been checked, or whether any applicable Commonwealth environmental assessment or approval requirements have been considered. Including this information would enhance applicants' awareness of biodiversity considerations required prior to clearing, provide greater clarity about the due diligence undertaken prior to approval, and provide clearer accountability on how both State and Commonwealth biodiversity obligations are considered along the application process to clear native vegetation.

We note – we are aware LLS couldn't refuse to grant an LLS certificate on the basis that Commonwealth environmental assessment has not been undertaken. However, prompting applicants on such information during the application process is a crucial intervention point for education and awareness, and would allow LLS to advise whether the matter should be referred to the Commonwealth for assessment.

Beyond the current remake, we note an urgent need to update the *Local Land Services Act 2013* and Regulation to align with recent changes to the federal *Environment Protection and Biodiversity Conservation Act 1999*, which strengthen protections for vegetation that has not been cleared for at least 15 years. This threshold reflects scientific evidence that many threatened species rely on regrowth habitat from around this age, and this recognition at the federal level is a positive step that NSW should follow.

We look forward to your consideration of our recommendations and would be happy to discuss our suggested changes further.

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