



Minister Greg Hunt
Minister for the Environment
Parliament House
Canberra 2600

December 3, 2015

RE: Biodiversity law reform in NSW and land based carbon emissions

Dear Minister Hunt

The NSW Government is currently considering implementing a new Biodiversity Act that will significantly increase land clearing by exempting more areas of vegetation from regulation and allowing most clearing in return for off-set payments.

Off-set payments will be used to provide stewardship payments in other areas not necessarily threatened with clearing. Furthermore the scope of allowable and code assessable clearing is set to broaden and the off-sets regime does not currently include key principles such as "like-for-like" and appropriate limitations through 'red flag' areas (the exact extent of these is still under consideration). There are many loop-holes and options to allow increased clearing in a very complex new regulatory regime. There is little doubt that land based emissions in NSW will increase under these proposed laws.

As you are aware, your Government has invested heavily in avoided deforestation and re-forestation in NSW through the Emissions Reduction Fund (ERF). In the two auctions held this year, 89 projects relating to vegetation have been funded in NSW. They are set to deliver 32.3 million tonnes of carbon abatement over the next decade at a cost of about \$420 million.

As the alarming increase in land based emissions resulting from weakened land clearing regulation in Queensland has shown, it is nonsensical for Federal and state based land management regimes to work independently as we struggle to stabilise and reduce Australia's carbon emissions.

We would like to see the NSW and Federal Government work together to ensure that tax-payers funds are not wasted with contradictory public policy at the state and federal levels. Ideally we would like the NSW Government to work with farmers and environmentalists to bring a proposal to you about how the Federal Government can work with NSW to reduce emissions, protect biodiversity and provide sustainable incomes for farmers.

We would appreciate a meeting to discuss this with you. NSW Environment Group Representative, Felicity Wade will be in touch. If you have any questions do not hesitate to contact Felicity on 0408 246 444.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Kate Smolski', with a stylized, cursive script.

Kate Smolski, Nature Conservation Council
on behalf of

Jeff Angel, Total Environment Centre
Kevin Evans, National Parks Association of NSW
Lyndon Schneiders, The Wilderness Society
Evan Quartermain, Humane Society International



The Hon. Greg Hunt, MP
Minister for the Environment
PO Box 6022
House of Representatives
Parliament House
Canberra ACT 2600

15 March 2016

RE: Biodiversity law reform in NSW

Dear Minister Hunt,

We refer to our earlier letter dated 3 December 2015 and our meeting with Erin Pears of your office on 17 February 2016 regarding the NSW Government's proposal to weaken land clearing and conservation laws in NSW.

As discussed with Ms Pears, there is a real risk that the Commonwealth will be left to intervene to protect matters of national environmental significance if NSW land clearing laws are weakened and land clearing increases due to weakened offset policies and ongoing reliance on self-assessable codes of practice.

We note that farmers in Queensland have already been caught out by Commonwealth enforcement action, unaware that despite relaxed land clearing rules in Queensland, land clearing activities may still require Commonwealth approval for clearing that could have a significant impact on a matter of national environmental significance (*Green tape double-up puts farmers at risk*, The Australian, 15 January 2016).

In our view, Commonwealth oversight is essential for protecting matters of national environmental significance, however we predict that the burden on the Commonwealth will increase as NSW is opened up to more land clearing.

With 40% of the NSW landscape already cleared, and only 9% of the existing vegetation considered close to natural condition, much of what is left is endangered and subject to protection under the *Environmental Protection and Biodiversity Conservation Act 1999*, including:

- More than 12,000 hectares of critically endangered *Cumberland Plain Shale Woodlands and Shale-Gravel Transition Forest* within the Cumberland subregion of the Sydney Basin bioregion, in and around Western Sydney;
- Approximately 330,000 hectares of endangered *Grey Box (Eucalyptus microcarpa) Grassy Woodlands and Derived Native Grasslands of South-eastern Australia* which occurs from central NSW, through northern/central Victoria into eastern South Australia; and

- More than 900,000 hectares of endangered *Coolibah - Black Box Woodlands of the Darling Riverine Plains and the Brigalow Belt South Bioregions*, situated in northern NSW and southern Queensland within the upper reaches of the Murray-Darling Basin and southern part of the Fitzroy River system.

In order to avoid the Commonwealth having to take increased compliance action in relation to native vegetation clearing in NSW, the Commonwealth Government should recommend that:

1. The use of self-assessable codes is strictly limited (i.e. consent must be required for land clearing applications) in order to ensure that a proper assessment of the environmental values and impacts of clearing is carried out by experts.
2. Offsetting methodologies must be consistent with Commonwealth requirements, and include 'red flags' that provide absolute protection for matters of national environmental significance.

We also note our previous concerns that increased land clearing in NSW will undermine Commonwealth efforts to reduce carbon emissions and increase tree coverage.

We would be happy to discuss these matters with you further. Please do not hesitate to contact Cerin Loane, Environment Liaison Officer, on (02) 9516 1488 or cloane@nature.org.au to make the necessary arrangements.

Finally, we ask that if you share our concerns in relation to the proposed changes to NSW laws that you discuss those concerns directly with NSW Minister for the Environment, the Hon. Mark Speakman, MP.

Yours sincerely,



Kate Smolski
Chief Executive Officer
Nature Conservation Council of NSW



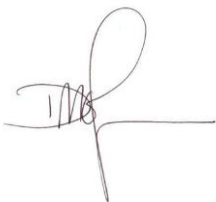
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Michael Kennedy
Director
Humane Society International



Dermot O'Gorman
Chief Executive Officer
WWF – Australia



Lyndon Schneiders
National Director
The Wilderness Society Australia

STAND UP FOR NATURE



The Hon. Greg Hunt, MP
Minister for the Environment
PO Box 6022
House of Representatives
Parliament House
Canberra ACT 2600

7 June 2016

RE: NSW *BIODIVERSITY CONSERVATION BILL 2016* AND *LOCAL LAND SERVICES AMENDMENT BILL 2016*

Dear Minister Hunt,

The Stand Up For Nature Alliance would like to draw your attention to the proposed reforms to NSW biodiversity laws being implemented by the Baird government. The reforms are outlined in two Bills: the *Local Land Services Amendment Bill 2016* (LLS Bill) and *Biodiversity Conservation Bill 2016* (BC Bill). A delegation of our alliance met with Bruce Male and Erin Pears on Monday 18th April 2016 to outline our concerns in regards the NSW reforms clashing with the Commonwealth *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act). We are now in a position to better articulate specific concerns.

1. Expansion of code-based clearing and exempt clearing

The codes that have been developed by NSW closely mirror those developed by the Newman government in Queensland. NSW proposes two additional codes to Queensland's: the 'equity code' that allows for the clearing of 500ha of native vegetation every three years, and a 'farm plan code' that allows for 25% of unencumbered vegetation to be cleared. There is no provision in the LLS Bill for LLS to refuse a clearing application made under a code. The table below compares codes in the two states:

Table 1: A comparison of relevant codes in NSW and Queensland

	Efficiency codes	Equity code	Farm plan code	Encroaching native vegetation	Fodder harvesting	Thinning
NSW	✓	✓	✓	✓	✓	✓
Qld	✓	X	X	✓	✓	✓

We know that 67% of clearing in Queensland occurred via exempt activities: i.e. in areas mapped as not requiring a permit for clearing. NSW also proposes to map the state into two categories for the purpose of land management: category 1 - exempt and category 2 - regulated. We are extremely concerned at the similarity of the NSW approach to that of Queensland, which we know resulted in dramatic acceleration of clearing to between 275-296,000ha in 2013-14^{1,2}.

2. Clashes with the *EPBC Act*

The LLS Bill, under which code-based clearing is to be regulated, makes no reference to the *EPBC Act* in regards avoiding clearing ecological communities or habitat of species listed under the *EPBC Act*. The LLS Bill specifically states that Ramsar wetlands listed under the *EPBC Act* should be mapped category 2 (i.e. permission must be sought for clearing) but does not require *EPBC* listed ecological communities to be mapped category 2. We believe that this presents a serious danger of such communities being mapped category 1 and being cleared.

Even if *EPBC* listed communities are mapped category 2, the breadth of the self-assessable codes permits substantial clearing on category 2 land (which is then often remapped as category 1, exempt land), and clearing of endangered ecological communities is expressly permitted under the new legislation. For example, the efficiency code provides for the clearing of 'islands' and 'peninsulas' of native vegetation; the farm plan code provides for clearing of unencumbered native vegetation; and the equity code provides for extensive clearing of up to 500ha of native vegetation every three years.

Examples of *EPBC* listed ecological communities that are often found as small islands are Buloke Woodland and Grey Box Grassy Woodlands—although there are several grassy woodland ecosystems that have been severely reduced in extent and may fall victim to code-based clearing. Also threatened are Brigalow as well as the critically endangered ecological community Seasonal Herbaceous Wetlands (Freshwater) of the Temperate Lowland Plains. The latter are often small patches occurring in a highly fragmented distribution, frequently on agricultural land. Because of their size and distribution, and the fact that maps perform very poorly at identifying wetlands, this community is likely to further decline.

The increase in clearing will also impact on *EPBC* listed species. There are a huge number of species that could potentially be impacted—including migratory species such as the swift parrot, but some high-profile examples are:

- a) Malleefowl: besides facilitating the clearing of smaller remnant fragments of malleefowl habitat via codes, in western NSW there remain large tracts of native vegetation which includes malleefowl habitat. The new laws will relax land clearing laws through various mechanisms, including the aforementioned 'equity code': this will lead to further fragmentation of malleefowl habitat—identified in the National Recovery Plan as a 'major limiting factor to halting and reversing the decline of the species'ⁱ;
- b) Superb parrot: the superb parrot utilises the agricultural landscape in central NSW³ for breeding and foraging and requires vegetated flight paths. Land clearing and the loss of large hollows are identified as key threats to the species in the national recovery planⁱⁱ. The new legislation will allow for increased clearing of paddock trees and patches of woodland which will reduce breeding habitat availability and reduce connectivity;
- c) Plains wanderer: the main threat to the critically endangered plains wanderer is clearing of native grasslandⁱⁱⁱ—now an extremely rare habitat type. Grassland is notoriously difficult to map and we

are concerned that the regulatory maps will mistake native grassland for category 1 land which places no restrictions on conversion.

3. Climate change

At the time of writing, the Emissions Reduction Fund had spent \$1.2 billion purchasing emissions via avoided clearing and revegetation. Yet emissions from the land sector are increasing more rapidly than any other sector⁴, and Queensland's land clearing has meant that emissions from deforestation will average 46 million tonnes per annum between 2014 and 2020—24% higher than 2013 levels¹. These emissions projections do not take into account increased emissions from NSW via the reforms.

Of equal concern is the fact that land clearing has been shown to influence regional climate. Research⁵⁻⁷ has shown that past clearing has had major impacts including:

- Increased surface temperature in eastern Australia and south-western Western Australia, particularly in summer;
- Warming and reduced rainfall in south-western Western Australia;
- Decreased summer rainfall in eastern Australia (4-12%) and south-western Western Australia (4-8%);
- An average 2 degree increase in temperature during the 2002/2003 drought in eastern Australia;
- Decreased rainfall intensity in the Murray-Darling basin;
- Decreased wet-day rainfall of 10-30mm per year in southern NSW and northern Victoria;
- Increased number of dry days in coastal NSW;
- Increased duration of droughts in central NSW and northern Victoria (0.25-0.5 months per year);
- Amplification of El Niño events.

In fact, the authors of these studies suggest that tightening regulation in regards land clearing and broad-scale reforestation are urgently needed to avoid irreversible regional climate change. Therefore the NSW policy response is exactly the opposite of what is required at the current time.

We urge you to engage with the NSW government to prevent the continuation of such contradictory and reckless policy. As the public consultation period on the draft Bills closes on the 28th June, engaging the NSW government will have to occur as one of the first tasks of government following the election if it is to effect meaningful outcomes. We would like to meet you following the election to discuss this matter, and will contact your office to make suitable arrangements.

Please do not hesitate to contact Cerin Loane, Environment Liaison Officer, on (02) 9516 1488 or cloane@nature.org.au in relation to this matter.

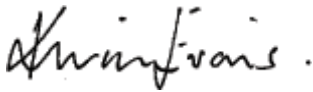
Yours sincerely,



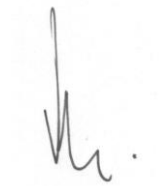
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Chief Executive Officer
Nature Conservation Council of NSW



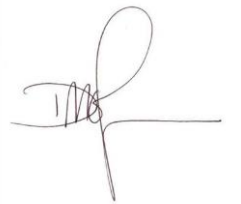
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Keith Muir
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Leanne Taylor
Chief Executive Officer
NSW WIRES



Brian Scarsbirck
Chief Executive Officer
National Trust of Australia (NSW)



Maryanne Large
Chair
Sydney Wildlife

References

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- 2 Maron, M. *et al.* *Land clearing in Queensland triples after policy ping pong*, <<https://theconversation.com/land-clearing-in-queensland-triples-after-policy-ping-pong-38279>> (2015).
- 3 Manning, A. D. & Lindenmayer, D. B. Paddock trees, parrots and agricultural production: An urgent need for large-scale, long-term restoration in south-eastern Australia. *Ecological Management & Restoration* **10**, 126-135, doi:10.1111/j.1442-8903.2009.00473.x (2009).
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- 5 Pitman, A. J., Narisma, G. T., Pielke, R. A. & Holbrook, N. J. Impact of land cover change on the climate of southwest Western Australia. *Journal of Geophysical Research: Atmospheres* **109**, n/a-n/a, doi:10.1029/2003JD004347 (2004).
- 6 McAlpine, C. A. *et al.* Modeling the impact of historical land cover change on Australia's regional climate. *Geophysical Research Letters* **34**, n/a-n/a, doi:10.1029/2007GL031524 (2007).
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ⁱ www.environment.gov.au/system/files/resources/dd346674-08ab-403d-8c11-5b88e8247e8f/files/malleefowl.pdf

ⁱⁱ www.environment.gov.au/system/files/resources/4d6611e8-0965-48f1-940d-1c32ec0e2b88/files/polytelis-swainsonii-recovery-plan.pdf

ⁱⁱⁱ www.environment.gov.au/biodiversity/threatened/species/pubs/906-conservation-advice.pdf