



LEGISLATIVE COUNCIL

REGULATION COMMITTEE

**Local Land Services Amendment (Critically  
Endangered Ecological Communities)  
Regulation 2019 and Local Land Services  
Amendment (Allowable Activities)  
Regulation 2019**



Report 5

October 2019



Regulation Committee

**Local Land Services  
Amendment (Critically  
Endangered Ecological  
Communities) Regulation  
2019 and Local Land  
Services Amendment  
(Allowable Activities)  
Regulation 2019**

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## Table of contents

	<b>Terms of reference</b>	<b>iv</b>
	<b>Committee details</b>	<b>v</b>
	<b>Chair’s foreword</b>	<b>vi</b>
	<b>Recommendations</b>	<b>vii</b>
	<b>Conduct of inquiry</b>	<b>viii</b>
<b>Chapter 1</b>	<b>Local Land Services regulations</b>	<b>1</b>
	<b>Background to the regulations</b>	<b>1</b>
	<b>CEEC Regulation</b>	<b>2</b>
	<b>Allowable Activities Regulation</b>	<b>4</b>
	<b>Conclusion</b>	<b>5</b>
<b>Chapter 2</b>	<b>Key issues</b>	<b>7</b>
	<b>CEEC Regulation</b>	<b>7</b>
	Mapping of CEECs on the native vegetation regulatory map	7
	Strengthening of environmental protections for the CEECs	9
	Impact of the Code Amendment	10
	Committee comment	13
	<b>Allowable Activities Regulation</b>	<b>14</b>
	Weakening of environmental protections	14
	Consistency with former land management framework	17
	Cutting red tape for landholders	17
	Clarity for utilities providers	19
	Committee comment	20
<b>Appendix 1</b>	<b>Local Land Services Amendment (Critically Endangered Ecological Communities) Regulation 2019 and Local Land Services Amendment (Allowable Activities) Regulation 2019</b>	<b>23</b>
<b>Appendix 2</b>	<b>Submissions</b>	<b>31</b>
<b>Appendix 3</b>	<b>Witnesses at hearing</b>	<b>33</b>
<b>Appendix 4</b>	<b>Minutes</b>	<b>35</b>

## Terms of reference

1. That the Regulation Committee inquire into and report on the impact and implementation of the:
  - (a) Local Land Services Amendment (Critically Endangered Ecological Communities) Regulation 2019, and
  - (b) Local Land Services Amendment (Allowable Activities) Regulation 2019.
  
2. That the committee report by 24 October 2019.

The terms of reference were referred to the committee by the Legislative Council on 20 August 2019.<sup>1</sup>

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<sup>1</sup> *Minutes*, NSW Legislative Council, 20 August 2019, pp 354-355.

## Committee details

### Committee members

<b>The Hon Mick Veitch MLC</b>	Australian Labor Party	<i>Chair</i>
<b>The Hon Robert Borsak MLC</b>	Shooters, Fishers and Farmers Party	
<b>The Hon Catherine Cusack MLC</b>	Liberal Party	
<b>The Hon Greg Donnelly MLC</b>	Australian Labor Party	
<b>Ms Cate Faehrmann MLC*</b>	The Greens	
<b>The Hon Scott Farlow MLC</b>	Liberal Party	
<b>Mr Justin Field MLC**</b>	Independent	
<b>The Hon Ben Franklin MLC</b>	The Nationals	
<b>The Hon Matthew Mason-Cox MLC</b>	Liberal Party	

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\* Ms Cate Faehrmann MLC substituted for Ms Abigail Boyd MLC from 26 August 2019 for the duration of the inquiry.

\*\* Mr Justin Field MLC participated for the duration of the inquiry.

## Chair's foreword

In this inquiry, the Regulation Committee examined two regulations that concern the clearing of native vegetation on rural land, namely the Local Land Services Amendment (Critically Endangered Ecological Communities) Regulation 2019 (CEEC Regulation) and the Local Land Services Amendment (Allowable Activities) Regulation 2019 (Allowable Activities Regulation). This followed notices of motion for the Legislative Council to disallow the regulations given by Mr Justin Field MLC.

Both the CEEC Regulation and the Allowable Activities Regulation make specific amendments to the land management framework for native vegetation contained in the *Local Land Services Act 2013* and Local Land Services Regulation 2014. This regulatory framework was introduced in 2017, and it is fair to characterise it as complex and multifaceted.

In the case of the CEEC Regulation, the committee concluded that the regulation represents a strengthening of environmental protections for land containing the Monaro and Werriwa Critically Endangered Ecological Communities, in the absence of these communities being mapped as category 2-sensitive regulated land on the native vegetation regulatory map. The committee also acknowledged stakeholder concerns about the related Land Management (Native Vegetation) Code Amendment (Monaro and Werriwa Grassy Woodland Critically Endangered Ecological Communities) 2019, which permits code-based clearing of these ecological communities following a viability assessment by Local Land Services. Amendments to the Land Management (Native Vegetation) Code 2018 are not disallowable by Parliament.

In the case of the Allowable Activities Regulation, while the committee noted concerns expressed by some stakeholders that the amendments weaken laws governing the clearing of native vegetation, the evidence demonstrated that it is aimed primarily at simply reinstating the position as it was prior to the introduction of the new land management framework. In relation to the provisions in the Regulation regarding proximity areas to coastal wetlands and littoral rainforest specifically, the committee formed the view that the amendments apply an appropriate level of regulation over these areas.

Accordingly, the committee has ultimately come to the conclusion that both the CEEC Regulation and the Allowable Activities Regulation should not be disallowed, and we have recommended accordingly. However, we have also made a number of other recommendations aimed at increasing transparency, supporting landholders in conserving the Monaro and Werriwa Critically Endangered Ecological Communities through the Biodiversity Conservation Trust, and providing greater education, outreach and guidance to stakeholders.

I commend the report to the House.



The Hon Mick Veitch MLC  
**Committee Chair**



## Recommendations

- Recommendation 1** **13**  
That the Legislative Council not disallow the Local Land Services Amendment (Critically Endangered Ecological Communities) Regulation 2019.
- Recommendation 2** **14**  
That the NSW Government make funds available from the Biodiversity Conservation Trust within this financial year to support landholders to conserve the Monaro and Werriwa Critically Endangered Ecological Communities.
- Recommendation 3** **14**  
That Local Land Services publish the guidelines made under cl 19A(5) of the Land Management (Native Vegetation) Code 2018 by the end of this calendar year.
- Recommendation 4** **20**  
That the Legislative Council not disallow the Local Land Services Amendment (Allowable Activities) Regulation 2019.
- Recommendation 5** **21**  
That the NSW Government issue guidance on the application of the following instruments to coastal wetlands and littoral rainforest and relevant proximity areas, as a matter of urgency:
- Local Environment Plans
  - State Environmental Planning Policy (Coastal Management) 2018
  - State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017
  - *Local Land Services Act 2013*.
- Recommendation 6** **21**  
That the NSW Government provide additional funding to Local Land Services to deliver an education and outreach program to assist landholders in identifying threatened species and their habitats, and threatened ecological communities.

## Conduct of inquiry

The terms of reference for the inquiry were referred to the committee by the Legislative Council on 20 August 2019.

The committee received eight submissions.

The committee held one public hearing at Parliament House in Sydney.

Inquiry related documents are available on the committee's website, including submissions, hearing transcripts, tabled documents and answers to questions on notice.

## Chapter 1 Local Land Services regulations

This chapter provides an overview of the Local Land Services Amendment (Critically Endangered Ecological Communities) Regulation 2019 and the Local Land Services Amendment (Allowable Activities) Regulation 2019, including the background to the regulations, their purpose and how they operate in practice.

### Background to the regulations

- 1.1 The *Local Land Services Act 2013*, together with the Local Land Services Regulation 2013 and the Land Management (Native Vegetation) Code 2018, provide the regulatory framework for the management of native vegetation for rural and regional landholders in New South Wales. This land management framework was introduced in 2017 as part of broader land management and biodiversity reforms. According to Local Land Services, the development of the framework was informed by recommendations coming out of an independent review of biodiversity conservation legislation, which had identified an 'urgent need for clearer and simpler laws governing vegetation management in NSW, as the old laws were not working for either agriculture or the environment'.<sup>2</sup>
- 1.2 Under this framework, agricultural land is categorised based on certain criteria which determine how native vegetation on that land can be managed. The categories are as follows:
- **Category 1-exempt land** is typically land that was cleared of native vegetation prior to 1990 or lawfully cleared between 1990 and the commencement of the land management framework, and where native vegetation clearing is now allowed without approval from Local Land Services.
  - **Category 2 land** is typically land containing native vegetation and is in turn divided into three subcategories:
    - **category 2-regulated land** is any category 2 land that is not vulnerable or sensitive regulated land, and where clearing of native vegetation clearing may either occur under the Code (with authorisation from Local Land Services), or using allowable activity provisions (see below)
    - **category 2-vulnerable regulated land** is typically riparian areas, steep slopes or areas prone to erosion where clearing of native vegetation is restricted under the Code, and a limited suite of allowable activities apply
    - **category 2-sensitive regulated land** is land where clearing of native vegetation under the Code is not permitted, and a limited suite of allowable activities apply.<sup>3</sup>
- 1.3 Land that is regulated under this framework is identified on a native vegetation regulatory map.<sup>4</sup>
- 1.4 Schedule 5A of the *Local Land Services Act 2013* identifies certain clearing activities as 'allowable activities' that can be carried out without any authorisation required under the Act.

<sup>2</sup> Submission 7, Local Land Services, p 2.

<sup>3</sup> Submission 7, Local Land Services, pp 2-3.

<sup>4</sup> *Local Land Services Act 2013*, s 60E.

These allowable activities encompass day to day farming activities such as environmental protection works, and the construction and maintenance of fences, critical infrastructure and access tracks.<sup>5</sup> Schedule 5A is structured as follows:

- generally allowable activities are set out in Part 2
- clearing for rural infrastructure is set out in Part 3
- more limited allowable activities for category 2-vulnerable regulated land and category 2-sensitive regulated land are set out in Part 4.

1.5 Landholders are required to undertake these allowable activities within certain constraints, for example:

- maximum distances of clearing for rural infrastructure specific to coastal (15m), central (30m) and western zones (40m)
- landholders must only clear to the minimum extent necessary, regardless of maximum distances.<sup>6</sup>

1.6 Both the Local Land Services Amendment (Critically Endangered Ecological Communities) Regulation 2019 (hereafter, CEEC Regulation) and the Local Land Services Amendment (Allowable Activities) Regulation 2019 (hereafter, Allowable Activities Regulation) amend Schedule 5A of the *Local Land Services Act 2013*.

## CEEC Regulation

1.7 On 28 June 2019, the NSW Threatened Species Scientific Committee determined to list two grassy woodlands as critically endangered ecological communities (CEECs) under the *Biodiversity Conservation Act 2016*, namely:

- Monaro Tableland Cool Temperate Grassy Woodland in the South Eastern Highlands Bioregion
- Werriwa Tablelands Cool Temperate Grassy Woodland in the South Eastern Highlands and South East Corner Bioregions.<sup>7</sup>

1.8 These two woodlands, which may overlap, generally occur between Crookwell and the Victorian border, between the Snowy Mountains and the ACT in the West and the edge of the high plains to the East.<sup>8</sup>

1.9 The NSW Threatened Species Scientific Committee explained the basis for these listings as follows:

The NSW TSSC has made determinations under the [*Biodiversity Conservation Act 2016*] that Monaro Tableland Cool Temperate Grassy Woodland (MTCTGW) and Werriwa Tablelands Cool Temperate Grassy Woodland (WTCTGW) are eligible to be listed as

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<sup>5</sup> Submission 7, Local Land Services, p 3.

<sup>6</sup> Submission 7, Local Land Services, p 3.

<sup>7</sup> Submission 7, Local Land Services, p 7.

<sup>8</sup> Submission 7, Local Land Services, p 8.

Critically Endangered based on historical reduction in geographic extent ([International Union for the Conservation of Nature] criterion A, sub-criterion A3: reduction in geographic distribution exceeds 90% of the pre-1750 distribution) ... The status of critically endangered recognises that there is a very high risk of ecosystem collapse occurring in the near future and that any further reduction in extent constitutes a Serious and Irreversible Impact (SAII) as defined under the [*Biodiversity Conservation Act 2016*] (OEH 2107). Collapse of a community is analogous to the extinction of a species and refers to the point at which all examples of an ecological community have lost their defining features and the ecosystem no longer exists.<sup>9</sup>

- 1.10** The committee heard that these CEEC listings are the first to occur since the new land management framework was introduced in 2017.<sup>10</sup> Under the *Local Land Services Act 2013* and *Local Land Services Regulation 2014*, the listing of a CEEC triggers the following regulatory response:
- the Chief Executive of the Office of Environment and Heritage designates any land containing that CEEC as category 2-sensitive regulated land on the native vegetation regulatory map
  - category 2-sensitive regulated land is excluded from the application of the Code, with the clearing of native vegetation therefore subject to approval from the Native Vegetation Panel.<sup>11</sup>
- 1.11** The CEEC Regulation was published on the NSW Legislation website on 2 August 2019, together with the *Land Management (Native Vegetation) Code Amendment (Monaro and Werriwa Grassy Woodland Critically Endangered Ecological Communities) 2019*.
- 1.12** The object of the CEEC Regulation is to amend Schedule 5A to the *Local Land Services Act 2013* to allow some clearing of native vegetation on regulated land that contains the Monaro and Werriwa woodlands. In particular, the Regulation names the Monaro and Werriwa CEECs as land to which Part 4 of Schedule 5A applies, meaning that this land is now managed in the same way as category 2-sensitive regulated land for the purpose of clearing of native vegetation for allowable activities.
- 1.13** Clearing of native vegetation for allowable activities that is authorised under Part 4 includes:
- clearing for removing or reducing an imminent risk of serious personal injury or damage to property
  - clearing for environmental protection works
  - clearing for maintenance of electricity transmission infrastructure
  - clearing for construction or maintenance of boundary, internal and temporary fencing
  - clearing for construction or maintenance of farm tracks
  - clearing during the course of sustainable grazing.<sup>12</sup>

<sup>9</sup> Submission 6, NSW Threatened Species Scientific Committee, pp 4-5.

<sup>10</sup> Evidence, Mr Mark Tozer, Member, NSW Threatened Species Scientific Committee, 27 September 2019, p 4.

<sup>11</sup> *Local Land Services Act 2013*, ss 60I(2)(m) and s 60ZF(6); *Local Land Services Regulation 2014*, cl 108(2)(b) and 124.

- 1.14** The Land Management (Native Vegetation) Code Amendment (Monaro and Werriwa Grassy Woodland Critically Endangered Ecological Communities) 2019, in turn, allows the clearing of the Monaro and Werriwa CEECs under the Code if, in the opinion of Local Land Services, the vegetation does not form a functioning ecological community that is likely to be viable in the long term.<sup>13</sup> This amendment essentially overcomes the general restriction on clearing CEECs under clause 7 of the Code.<sup>14</sup>

## Allowable Activities Regulation

- 1.15** The Allowable Activities Regulation was published on the NSW Legislation website on 15 February 2019.

- 1.16** The object of the Allowable Activities Regulation is to:

- amend Schedule 5A to the *Local Land Services Act 2013* to allow the clearing of native vegetation for the following purposes:
  - maintaining water supply and gas infrastructure under Parts 2 and 4 of that Schedule
  - collecting firewood, clearing planted native vegetation and maintaining telecommunications infrastructure under Part 4 of that Schedule.
- amend the Local Land Services Regulation 2014 to require certain proximity areas for coastal wetlands and littoral rainforests to be designated category 2-regulated land (rather than category 2-sensitive regulated land).

- 1.17** The amendments to Schedule 5A of the *Local Land Services Act 2013* mean that:

- the clearing of native vegetation for maintenance of public utilities associated with water and gas supply infrastructure is now a generally allowable activity if carried out by or on behalf of the owner of the infrastructure or by or on behalf of the landholder
- the clearing of native vegetation on category 2-vulnerable regulated land and category 2-sensitive regulated land for collecting firewood, clearing planted native vegetation and maintaining telecommunications infrastructure, is now an allowable activity.

- 1.18** The amendment to the Local Land Services Regulation 2014 relates to clause 108 of the Regulation, which identifies land that is to be designated as category 2-sensitive regulated land. This includes 'coastal wetlands and littoral rainforests'.<sup>15</sup> The amendment clarifies that 'proximity areas' for coastal wetlands and littoral rainforest are not designated as category 2-sensitive regulated land, but rather just category 2-regulated land.

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<sup>12</sup> *Local Land Services Act 2013*, Sch 5A, cl 35.

<sup>13</sup> Land Management (Native Vegetation) Code 2018, cl 19A.

<sup>14</sup> Submission 2, Environmental Defenders Office NSW, p 7.

<sup>15</sup> Local Land Services Regulation 2014, cl 108(2)(b), referring to s 60I(2)(i) of the *Local Land Services Act 2013*.

## Conclusion

- 1.19** The NSW Government introduced the CEEC Regulation and the Allowable Activities Regulation regulations in order to make certain amendments to Schedule 5A to the *Local Land Services Act 2013*, and the Local Land Services Regulation 2014. The key issues and concerns raised by stakeholders in relation to these two regulations are discussed in Chapter 2.





## Chapter 2 Key issues

This chapter sets out the key issues and concerns raised by stakeholders in relation to the Local Land Services Amendment (Critically Endangered Ecological Communities) Regulation 2019 and the Local Land Services Amendment (Allowable Activities) Regulation 2019.

### CEEC Regulation

- 2.1 The key issues raised in the course of the inquiry in relation to the CEEC Regulation include the mapping of the Monaro and Werriwa CEECs on the Native Vegetation Regulatory map, the strengthening of environmental protections for these areas, and the impact of the related amendment to the Land Management (Native Vegetation) Code 2018.

#### Mapping of CEECs on the native vegetation regulatory map

- 2.2 As noted in Chapter 1, under the *Local Land Services Act 2013* and Local Land Services Regulation 2014, the Chief Executive of the Office of Environment and Heritage is responsible for preparing a native vegetation regulatory map which designates areas of the state categorised under the land management framework.<sup>16</sup> Land is to be designated as category 2-sensitive regulated land where the Chief Executive reasonably believes that the land contains a critically endangered ecological community.<sup>17</sup>

- 2.3 However, Local Land Services explained that the Monaro and Werriwa CEECs have not been mapped as category 2-sensitive regulated land on the native vegetation regulatory map due to their 'long agricultural history context', stating:

The majority of these two grassy woodlands occur on private agricultural land, and in productive areas with a long history of agriculture. The NSW Government has therefore developed an approach to balance flexible land management, with appropriate measures to preserve and protect instances of these CEECs.

In the instance of these two CEECs and their long agricultural history context, the Environmental Agency Head did not map their occurrence as category 2 – sensitive regulated land based solely on the presence of either of these CEECs. Instead, they were mapped as an advisory layer available publicly to landholders.<sup>18</sup>

- 2.4 Local Land Services stated that as a consequence of this approach, 'existing provisions to limit allowable activities on category 2-sensitive regulated land did not apply to these two CEECs'.<sup>19</sup> Accordingly, the purpose of the CEEC Regulation was to ensure that 'the higher environmental standard applied to category 2 – sensitive regulated land associated with

<sup>16</sup> *Local Land Services Act 2013*, ss 60E and 60G.

<sup>17</sup> *Local Land Services Act 2013*, s 60I(2)(m) and Local Land Services Regulation 2014, cl 108(2)(b).

<sup>18</sup> Submission 7, Local Land Services, p 8.

<sup>19</sup> Submission 7, Local Land Services, p 8.

limiting allowable activities also applies to these two CEECs'.<sup>20</sup> This is discussed further below.

**2.5** While it acknowledged the rationale for the CEEC Regulation, the Environmental Defenders Office NSW highlighted that the need for such a regulation was only because of 'the failure of the Framework to ensure that newly listed CEECs are properly mapped and categorised as category 2 - sensitive land in a timely manner'.<sup>21</sup>

**2.6** In relation to mapping more generally, the Environmental Defenders Office NSW noted that the complete native vegetation regulatory map has not been publicly released, and pointed to the difficulties this creates:

The NSW Auditor General has found that a lack of a complete NVR map can make categorising land more difficult for LLS staff, particularly for areas of groundcover such as shrubs and grassland, and the Natural Resources Commission has found that an incomplete map creates a risk in terms of ensuring providing consistent and accurate advice.<sup>22</sup>

**2.7** At the hearing, Mr Mark Tozer, Member, NSW Threatened Species Scientific Committee, told the committee that a native vegetation regulatory map was of assistance to landholders in identifying CEECs:

... [I]n terms of a pragmatic outcome, the committee sees that the existence of a map, provided it is approximately correct ... is an advantage. Instead [of] having complete uncertainty, for a laymen, over where the community might lie there is now some level of understanding of the approximate location.<sup>23</sup>

**2.8** In contrast, Mr Mitchell Clapham, Representative, Conservation and Resource Management Committee, NSW Farmers, commented on the difficulty of accurately mapping native vegetation and the problems this can create for landholders:

Approximately correct is not good enough, nowhere near good enough. We have baulked at maps all the time—and we have done a few dummy runs. The mapping as it stands cannot articulate canopy cover of exotic species from native species, or regrowth from your natural vegetation. Again, what it will do is catch a lot of people out.<sup>24</sup>

**2.9** For his part, Mr David Witherdin, Chief Executive Officer, Local Land Services, expressed the view that 'the barrier to the release of the maps has been the accuracy of them', and that '[i]n a grasslands community like the Monaro, they are probably unlikely to ever work well'.<sup>25</sup>

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<sup>20</sup> Submission 7, Local Land Services, p 8; see also Submission 2, Environmental Defenders Office NSW, p 7.

<sup>21</sup> Submission 2, Environmental Defenders Office NSW, p 7.

<sup>22</sup> Submission 2, Environmental Defenders Office NSW, p 3.

<sup>23</sup> Evidence, Mr Mark Tozer, Member, NSW Threatened Species Scientific Committee, 27 September 2019, p 8.

<sup>24</sup> Evidence, Mr Mitchell Clapham, Representative, Conservation and Resource Management Committee, NSW Farmers, 27 September 2019, p 14.

<sup>25</sup> Evidence, Mr David Witherdin, Chief Executive Officer, Local Land Services, 27 September 2019, p 42.

## Strengthening of environmental protections for the CEECs

**2.10** In its submission, Local Land Services stated that without the CEEC Regulation, land containing these two CEECs would have been subject to the general suite of allowable activities available on category 2-regulated land under Part 2 of Schedule 5A to the *Local Land Services Act 2013*:

Without the changes affected by the CEEC Regulation, landholders would be able to apply the full range of allowable activities on these newly listed critically endangered ecological communities, including clearing for:

- Gravel pits;
- Private power lines;
- Airstrips; and
- Firebreaks

In addition, the changes ensure that maximum clearing distances for fence lines are limited to 6 metres, compared to 15-40m for the general suite of allowable activities under Part 2 to Schedule 5A.<sup>26</sup>

**2.11** Accordingly, Local Land Services argued that the CEEC Regulation represents a strengthening of environmental protections for land containing these two ecological communities by restricting landholders to the limited suite of allowable activities in Part 4 to Schedule 5A, thereby 'mirroring the additional protections already afforded to areas identified as environmentally sensitive under the Land Management Framework'.<sup>27</sup>

**2.12** For this reason, a range of stakeholders, including the Environmental Defenders Office NSW, the Nature Conservation Council of NSW and NSW Farmers, supported retaining the CEEC Regulation.<sup>28</sup>

**2.13** In addition, the Environmental Defenders Office NSW argued that the Biodiversity Conservation Trust, which manages a new program of conserving high value vegetation on private land, and which has been funded with \$350 million over the next 5 years,<sup>29</sup> should be used to support landholders with either of these two CEECs on their land. Ms Rachel Walmsley, Director, Policy and Law Reform, Environmental Defenders Office NSW, commented in evidence that '[i]f you have a CEEC on your land then that is an area where you should be getting biodiversity funding so that landholder can get an income stream to manage that'.<sup>30</sup>

<sup>26</sup> Submission 7, Local Land Services, pp 8-9.

<sup>27</sup> Submission 7, Local Land Services, p 8.

<sup>28</sup> Submission 2, Environmental Defenders Office NSW, p 8; Submission 4, Nature Conservation Council of NSW, p 5; Submission 8, NSW Farmers, p 2.

<sup>29</sup> Submission 7, Local Land Services, p 2.

<sup>30</sup> Evidence, Ms Rachel Walmsley, Director, Policy and Law Reform, Environmental Defenders Office NSW, 27 September 2019, p 27.

## Impact of the Code Amendment

- 2.14** As noted in Chapter 1, under the *Local Land Services Act 2013* and the Local Land Services Regulation 2014, category 2-sensitive regulated land is excluded from the application of the Land Management (Native Vegetation) Code 2018, and the clearing of native vegetation is therefore subject to approval from the Native Vegetation Panel, which must refuse to grant approval if the proposed clearing is likely to have serious and irreversible impacts on biodiversity values.<sup>31</sup>
- 2.15** However, as also noted in Chapter 1, the Land Management (Native Vegetation) Code Amendment (Monaro and Werriwa Grassy Woodland Critically Endangered Ecological Communities) 2019, made on the same day as the CEEC Regulation, inserted new cl 19A into the Land Management (Native Vegetation) Code 2018. Clause 19A provides that code-based clearing on land containing the Monaro and Werriwa CEECs is permitted if, in the opinion of Local Land Services, the vegetation does not form a functioning ecological community that is likely to be viable in the long term. In forming such an opinion, Local Land Services is to have regard to:
- the structure, composition and function of the vegetation including the species present and the proportion of each species in each vegetation strata
  - the area over which the vegetation is present, including the shape of the area and the ratio of area to edge
  - the location of the vegetation in relation to other native vegetation in the landscape
  - impacts on the vegetation arising from activities or conditions on land immediately adjacent to the vegetation, including whether such activities or conditions are likely to have an adverse impact on the vegetation over time.<sup>32</sup>
- 2.16** The new clause also provides that the Secretary of the Department of Planning, Industry and Environment may approve guidelines to assist Local Land Services in determining whether vegetation does not form a functioning ecological community that is likely to be viable in the long term.<sup>33</sup>
- 2.17** Amendments to the Land Management (Native Vegetation) Code 2018 are not subject to disallowance by the Parliament. This is because such amendments are not a regulation, by-law or ordinance made by the Governor or subject to the approval of the Governor,<sup>34</sup> and because there is no provision in the *Local Land Services Act 2013* specifying that Code amendments are subject to disallowance.
- 2.18** Nevertheless, several stakeholders argued that the Land Management (Native Vegetation) Code Amendment (Monaro and Werriwa Grassy Woodland Critically Endangered Ecological Communities) 2019 was relevant in considering the CEEC Regulation. These stakeholders were highly critical of the amendment, with Ms Walmsley characterising the Code as an 'inappropriate regulatory tool' for clearing CEECs:

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<sup>31</sup> Local Land Services Regulation 2014, cl 124; *Local Land Services Act 2013*, s 60ZF(6).

<sup>32</sup> Land Management (Native Vegetation) Code 2018, cl 19A(3).

<sup>33</sup> Land Management (Native Vegetation) Code 2018, cl 19A(5).

<sup>34</sup> *Interpretation Act 1987*, s 21.

The use of codes should only ever be for genuinely low-risk activities. It is therefore entirely inappropriate for authorising clearing of communities that are at high risk of extinction. We reiterate our long-held position that the code-based clearing should not be allowed in any threatened ecological community, let alone a critically endangered one.<sup>35</sup>

- 2.19** A particular area of concern for these stakeholders was the appropriateness of LLS officers assessing whether vegetation does, or does not, form a functioning ecological community that is likely to be viable in the long term.<sup>36</sup> For example, the NSW Threatened Species Scientific Committee stated in its submission:

By virtue of the threats arrayed against [the Monaro and Werriwa CEECs], few examples remain in a state free of degradation. As such, the Head of the Environment Department has determined that any further loss of these communities would constitute a Serious And Irreversible Impact as defined under the Biodiversity Conservation Act (2016) (OEH 2017). It is appropriate, therefore, that any further clearing of the communities is subject to the highest level of scrutiny and oversight. The delegation of any part of this process to individual officers of the LLS is a significant departure from the intent of the LLS Act and represents an abrogation of NSW Government's responsibility to ensure that conservation management decisions are undertaken in a transparent manner, follow accepted scientific principles and demonstrate a just balance between the interests of farming and conservation.<sup>37</sup>

- 2.20** In evidence, Mr Tozer stated that the process envisaged under the *Local Land Services Act 2013* and *Local Land Services Regulation 2014*, involving assessment by the Native Vegetation Panel which comprises an ecologist, an economist and a farmer, 'achieves a higher level of scrutiny on any future clearing'.<sup>38</sup> Along similar lines, the Nature Conservation Council of NSW noted that Local Land Services officers are not ecologists and that there is no appeals mechanism from their decisions under cl 19A.<sup>39</sup>

- 2.21** In response to these concerns, Mr Witherdin explained the process for Local Land Services in assessing the viability of ecological communities under cl 19A of the *Land Management (Native Vegetation) Code 2018*, and highlighted the advantages of this approach:

... [O]ur officer goes out on farm, undertakes that assessment—once that is done that is then independently reviewed within LLS, at one step removed from the officer at the regional scale. That goes to a central assessments team and then has that independent review before anything happens. [...]

However, what we also do and what we have built in as part of this process is a feedback with EES. That information we are learning on ground is feeding back to them. The benefit of the viability testing is actually being out there on ground, is our staff getting out there with landholders on ground and they can identify the CEECs. Unless we get to go through the gate we cannot identify this stuff remotely. We know

<sup>35</sup> Evidence, Ms Walmsley, 27 September 2019, p 19.

<sup>36</sup> See, for example, Submission 2, Environmental Defenders Office NSW, pp 7-8 and Submission 4, Nature Conservation Council of NSW, p 5.

<sup>37</sup> Submission 6, NSW Threatened Species Scientific Committee, pp 8-9.

<sup>38</sup> Evidence, Mr Tozer, 27 September 2019, p 7.

<sup>39</sup> Submission 4, Nature Conservation Council of NSW, p 5.

it exists from Yass down to the border and all over the place in various pockets, but it is only by getting on ground that we can actually identify it.<sup>40</sup>

**2.22** Similarly, Mr Clapham highlighted the benefits of LLS officers assessing the viability of ecological communities on the ground, stating:

My point is to give your LLS officer the latitude to make the decision on the farm, looking at what he is looking at, talking to the farmer and seeing what is going on. I think that gives you are far more practical, realistic and, dare I say, less red-tape infused outcome.<sup>41</sup>

**2.23** In relation to the provision allowing the Secretary of the Department of Planning, Industry and Environment to approve guidelines to assist Local Land Services in determining whether vegetation does not form a functioning ecological community that is likely to be viable in the long term, Mr Witherdin told the committee that Local Land Services had recently prepared such guidelines, in consultation with the Environment, Energy and Science Group:

The approach that has been taken is that our staff work with staff from the Environment, Energy and Science [EES] Group, which replaced the former Office of Environment and Heritage [OEH]—our expert grasslands staff—worked together. They went out into the Monaro on the ground there and, over a period of, I think, three or four weeks, they developed a guideline there. Within the regulation currently there is a viability threshold process already. So they have used that as a basis and built on that. They have developed this assessment in agreement and that process has been independently approved by the Secretary of the Department of Industry and Environment.<sup>42</sup>

**2.24** Mr Witherdin agreed that the guidelines should be made publicly available.<sup>43</sup>

**2.25** Mr Witherdin also informed the committee of the process by which an assessment by Local Land Services under cl 19A could be challenged:

Should a landholder disagree with an LLS viability assessment, the relevant LLS on-ground officer will discuss the concerns with the landholder and seek to address these.

Should this not be possible and the landholder continues to disagree with the LLS assessment, there are several escalation points within LLS that can review the initial assessment. This includes escalation to team leaders and relevant senior executives, who can review the assessments and provide guidance back to the on-ground officer. LLS also has specific scientific and technical capabilities that can be utilised to assess viability assessments undertaken by LLS on-ground staff. ...

Should the landholder continue to disagree with the LLS assessment, the landholder could appeal the decision to the NSW Land and Environment Court.<sup>44</sup>

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<sup>40</sup> Evidence, Mr Witherdin, 27 September 2019, pp 35-36.

<sup>41</sup> Evidence, Mr Clapham, 27 September 2019, pp 11, 13.

<sup>42</sup> Evidence, Mr Witherdin, 27 September 2019, p 35.

<sup>43</sup> Evidence, Mr Witherdin, 27 September 2019, p 36.

<sup>44</sup> Answers to questions on notice, Mr David Witherdin, Chief Executive Officer, Local Land Services, 4 October 2019, p 1.

- 2.26** It was also noted that no assessment requests under the Code have yet been made in relation to the Monaro and Werriwa CEECs,<sup>45</sup> and that to date, a landholder has not challenged a Local Land Services viability assessment.<sup>46</sup>

### **Committee comment**

- 2.27** The committee notes that the purpose of the CEEC Regulation is to ensure that, despite not being mapped as category 2-sensitive regulated land on the native vegetation regulatory map, the Monaro and Werriwa CEECs are effectively treated as category 2-sensitive regulated land for the purposes of the allowable activities in Schedule 5A to the *Local Land Services Act 2013*. Put another way, the impact of this regulation is to avoid the perverse outcome of these CEECs being subject to the full suite of allowable activities and longer maximum clearing distances available on general category 2-regulated land.
- 2.28** The committee therefore agrees that this regulation in fact represents a strengthening of environmental protections for land containing these two ecological communities. On this basis, we recommend that the Legislative Council not disallow the Local Land Services Amendment (Critically Endangered Ecological Communities) Regulation 2019.
- 2.29** In this context, the committee notes stakeholders' views about failure to map these CEECs as category 2-sensitive regulated land on the native vegetation map. There are clearly competing perspectives amongst stakeholders as to whether grassy woodlands can be accurately mapped, and indeed on the efficacy of regulatory mapping more generally. We recognise the challenge involved in mapping CEECs such as the Monaro and Werriwa grassy woodlands, and believe that this underscores the importance of the CEEC Regulation in providing an alternative pathway to protecting this land.

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### **Recommendation 1**

That the Legislative Council not disallow the Local Land Services Amendment (Critically Endangered Ecological Communities) Regulation 2019.

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- 2.30** In furthering the goal of protecting the Monaro and Werriwa CEECs, the committee also believes that there would be real value in utilising the funds available through the Biodiversity Conservation Trust to support landholders with these grassy woodlands on their property to manage this land. We therefore recommend that the NSW Government make funds available from the Biodiversity Conservation Trust within this financial year to support landholders to conserve these CEECs.

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<sup>45</sup> Evidence, Mr Witherdin, 27 September 2019, p 36.

<sup>46</sup> Answers to questions on notice, Mr Witherdin, p 1.

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**Recommendation 2**

That the NSW Government make funds available from the Biodiversity Conservation Trust within this financial year to support landholders to conserve the Monaro and Werriwa Critically Endangered Ecological Communities.

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- 2.31** In relation to the Land Management (Native Vegetation) Code Amendment (Monaro and Werriwa Grassy Woodland Critically Endangered Ecological Communities) 2019, the committee acknowledges strongly held stakeholder concerns about the appropriateness of the Code as a regulatory tool for clearing of CEECs, and about the appropriateness of Local Land Services assessing whether vegetation forms part of a functioning ecological community that is likely to be viable in the long term.
- 2.32** However, we also note that no assessment requests under the Code have yet been made in relation to the Monaro and Werriwa CEECs. Further, in light of the evidence from Local Land Services about the development of guidelines for such assessments, and about the value in Local Land Services making these assessments on the ground, we do not believe the case has been made to recommend the repeal of the Land Management (Native Vegetation) Code Amendment (Monaro and Werriwa Grassy Woodland Critically Endangered Ecological Communities) 2019.
- 2.33** Having said this, the committee is of the view that the guidelines developed by Local Land Services in consultation with the Environment, Energy and Science Group should be made public, by the end of this calendar year, in order to increase stakeholder confidence in the process around these assessments.
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**Recommendation 3**

That Local Land Services publish the guidelines made under cl 19A(5) of the Land Management (Native Vegetation) Code 2018 by the end of this calendar year.

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**Allowable Activities Regulation**

- 2.34** The key issues raised by stakeholders in relation to the Allowable Activities Regulation include the weakening of environmental protections for regulated land, consistency with the former land management framework, cutting of red tape for landholders, and clarity for utilities providers.

**Weakening of environmental protections**

- 2.35** A key concern expressed by the environmental advocacy groups who participated in the inquiry was that the Allowable Activities Regulation represents a weakening of laws governing the clearing of native vegetation. For example:
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- the Environmental Defenders Office NSW stated that the regulation 'will further weaken already lax land clearing laws, contribute further to substantial increases in land clearing rates, and put native vegetation and wildlife at risk'<sup>47</sup>
- the Nature Conservation Council of NSW argued that '[g]iven the alarming rates of clearing and ongoing biodiversity crisis we are concerned that this amendment makes it easier to clear areas which have already been acknowledged as environmentally sensitive'<sup>48</sup>
- Humane Society International expressed the view that the regulation 'weakens environmental protections and will therefore facilitate increased land clearing'.<sup>49</sup>

**2.36** In this context, these stakeholders highlighted a recent report by the Audit Office of New South Wales, *Managing native vegetation*, in which it concluded that the clearing of native vegetation on rural land is not regulated effectively under the current land management framework:

The clearing of native vegetation on rural land is not effectively regulated and managed because the processes in place to support the regulatory framework are weak. There is no evidence-based assurance that clearing of native vegetation is being carried out in accordance with approvals. Responses to incidents of unlawful clearing are slow, with few tangible outcomes. Enforcement action is rarely taken against landholders who unlawfully clear native vegetation.

There are processes in place for approving land clearing but there is limited follow-up to ensure approvals are complied with.<sup>50</sup>

**2.37** Stakeholders also expressed specific concerns about different elements of the Allowable Activities Regulation.

**2.38** In relation to the expansion of allowable activities on category 2-vulnerable and category 2-sensitive regulated land, namely allowing clearing for collecting firewood, clearing planted native vegetation and maintaining telecommunications infrastructure, the Environmental Defenders Office NSW argued that allowable activities on such environmentally at risk land should be strictly limited, and that 'environmental assessment and approval should be required before any clearing can occur'.<sup>51</sup>

**2.39** In relation to collection of firewood specifically, Ms Walmsley also noted that although this allowable activity is prohibited if the vegetation comprises, or is likely to comprise, a threatened species or part of a threatened ecological community or the habitat of a threatened species under the *Biodiversity Conservation Act 2016*,<sup>52</sup> the prohibition on clearing:

<sup>47</sup> Submission 2, Environmental Defenders Office NSW, p 2.

<sup>48</sup> Submission 4, Nature Conservation Council of NSW, p 6.

<sup>49</sup> Submission 3, Humane Society International, p 2.

<sup>50</sup> Audit Office of New South Wales, *Managing native vegetation*, Performance Audit, 27 June 2019, p 2.

<sup>51</sup> Submission 2, Environmental Defenders Office NSW, p 5; see also Submission 4, Nature Conservation Council of NSW, p 6 and Submission 3, Humane Society International, p 2.

<sup>52</sup> *Local Land Services Act 2013*, Sch 5A, cl 15(3)(a).

... suppose[s] that the landholder knows that that is a likely threatened species or ecological community. It is assuming some knowledge there, and the Audit Office report finds there is just no evidence saying how that is monitored and what the cumulative impacts might be.<sup>53</sup>

**2.40** In relation to the part of the Allowable Activities Regulation clarifying that proximity areas for coastal wetlands and littoral rainforest are to be considered as category 2-regulated land (rather than category 2-sensitive regulated land), the Environmental Defenders Office NSW raised concerns that this 'seems to undermine the premise in the Coastal SEPP [State Environmental Planning Policy] that these proximity areas are sensitive and warrant additional environmental protection'.<sup>54</sup> It expressed the view that proximity areas should be designated as category 2-sensitive regulated land 'to ensure they can be maintained as appropriate buffer zones'.<sup>55</sup>

**2.41** Given such concerns, the Environmental Defenders Office NSW and Humane Society International both recommended that the Allowable Activities Regulation be disallowed in its entirety,<sup>56</sup> whereas the Nature Conservation Council of NSW argued that only the following parts of the regulation should be disallowed:

- provisions relating to the collection of firewood and clearing of planted native vegetation on category 2-vulnerable and category 2-sensitive regulated land
- provisions relating to the categorisation of proximity areas for coastal wetlands and littoral rainforest.<sup>57</sup>

**2.42** Given the challenge for landholders in identifying threatened species on their property and thus in ascertaining whether clearing is permissible, Ms Walmsley called for greater education and outreach:

I think there is a real opportunity with the allowable activities to do education for landowners on what kinds of threatened species might be in certain areas, so that they know. If there was compliance enforcement on allowable activities then the burden is on the landholder. If they have made an honest mistake and inadvertently not realised something is a threatened species, that is a problem. There is an opportunity to do outreach and education for landowners so they do not fall foul of that kind of limitation, if it was to be enforced.<sup>58</sup>

**2.43** In light of what it stated was a five-fold increase in the rate of agricultural clearing of native vegetation between 2010-2011 and 2017-2018,<sup>59</sup> the Nature Conservation Council of NSW called for an urgent review the *Biodiversity Conservation Act 2016*, *Local Land Services Act 2013*

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<sup>53</sup> Evidence, Ms Walmsley, 27 September 2019, p 25.

<sup>54</sup> Submission 2, Environmental Defenders Office NSW, p 5; see also Submission 4, Nature Conservation Council of NSW, p 6 and Submission 3, Humane Society International, p 2.

<sup>55</sup> Submission 2, Environmental Defenders Office NSW, p 6.

<sup>56</sup> Submission 2, Environmental Defenders Office NSW, p 6; Submission 3, Humane Society International, p 2.

<sup>57</sup> Submission 4, Nature Conservation Council of NSW, p 6.

<sup>58</sup> Evidence, Ms Walmsley, 27 September 2019, p 25.

<sup>59</sup> Evidence, Mr Chris Gambian, Chief Executive Officer, Nature Conservation Council of NSW, 27 September 2019, p 18.

and associated regulations, including the Land Management (Native Vegetation) Code 2018.<sup>60</sup> At the hearing, Mr Jack Gough, Policy and Research Coordinator, Nature Conservation Council of NSW, told the committee that this could be done by bringing forward the five-year statutory review.<sup>61</sup>

### **Consistency with former land management framework**

**2.44** During the inquiry, Local Land Services and other stakeholders emphasised that the Allowable Activities Regulation brings the land management framework into line with what was previously permitted under the 'Routine Agricultural Management Activities' (RAMAs) provisions in the now-repealed *Native Vegetation Act 2003* and Native Vegetation Regulation 2013.

**2.45** For example, in relation to the provisions in the Allowable Activities Regulation permitting collection of firewood and removal of planted native vegetation on category 2-vulnerable and category 2-sensitive regulated land, Local Land Services noted that these activities were also permitted under the RAMAs,<sup>62</sup> and explained their importance for rural landholders:

For people in regional areas, particularly in the cooler southern areas of the state, collecting firewood for personal use is necessary to heat their homes in winter. This is an activity that has been allowed for a number of years. In this respect, the Allowable Activities Regulation corrects an oversight that was made when the land management framework was introduced.<sup>63</sup>

**2.46** Stakeholders also pointed out that the provisions in the Allowable Activities Regulation allowing for clearing to maintain critical infrastructure on general category 2-regulated land as well as category 2-vulnerable and category 2-sensitive regulated land were also available under the former RAMAs.<sup>64</sup> Indeed, the Nature Conservation Council of NSW noted that '[f]or this reason, we are not recommending that the parliament disallow the sections of the Allowable Activities Regulation relating to water supply and gas supply and telecommunications infrastructure'.<sup>65</sup>

### **Cutting red tape for landholders**

**2.47** Local Land Services and NSW Farmers argued that a key purpose of the Allowable Activities Regulation was to remove unnecessary red tape for landholders managing native vegetation. For example, in relation to the collection of firewood, Local Land Services stated that the regulation 'has removed a significant regulatory and financial burden on many private

<sup>60</sup> Submission 4, Nature Conservation Council of NSW, pp 1-4.

<sup>61</sup> Evidence, Mr Jack Gough, Policy and Research Coordinator, Nature Conservation Council of NSW, 27 September 2019, p 27; see *Local Land Services Act 2013*, s 212.

<sup>62</sup> Submission 7, Local Land Services, p 4.

<sup>63</sup> Submission 7, Local Land Services, p 5.

<sup>64</sup> Submission 7, Local Land Services, p 5; Submission 8, NSW Farmers, p 2; Submission 4, Nature Conservation Council of NSW, p 6.

<sup>65</sup> Submission 4, Nature Conservation Council of NSW, p 6.

landholders who, without the amendments, were limited in how they could effectively manage their land',<sup>66</sup> explaining:

The making of this Regulation has released landholders from an unreasonable regulatory burden when seeking to collect firewood on their properties for their own use, as purchasing firewood for winter [is] difficult and costly for landholders in remote areas.<sup>67</sup>

**2.48** Similarly, NSW Farmers argued that the provisions relating to maintenance of water supply, gas supply and telecommunications infrastructure were critical for rural landholders and of little environmental impact:

This infrastructure provides vital amenities to those living in regional and remote communities and we do not believe unnecessary burden should be placed on this type of development and maintenance that poses very little environmental risk.<sup>68</sup>

**2.49** Removing an unnecessary regulatory restriction was also identified a key rationale for the provisions in the Regulation relating to proximity areas to coastal wetlands and littoral rainforest. By way of background, Local Land Services explained that agricultural land in the coastal wetlands and littoral rainforest areas of the coastal zone, as identified by the State Environmental Planning Policy (Coastal Management) 2018 (Coastal SEPP), is currently mapped as category 2-sensitive regulated land. However, an 'unintended consequence' of the Coastal SEPP was that proximity areas within 100 metres of such coastal wetland and littoral rainforest were also required to be designated as category 2-sensitive regulated land, 'despite the historical policy intent being that only the mapped coastal wetland and littoral rainforest areas were provided such protection'.<sup>69</sup> In evidence to the committee, Mr Witherdin described this situation as 'a significant overreach', explaining:

... [T]he impact of that is 100 metres out from a piece of sensitive, regulated land, you can be moving well out into what has been productive agricultural land for more than 100 years in some of these places.<sup>70</sup>

**2.50** Accordingly, Local Land Services outlined that the purpose of these amendments was to apply 'a more appropriate level of regulation over the proximity areas', given their lesser environmental value compared with the mapped coastal wetland and littoral rainforest areas themselves.<sup>71</sup>

**2.51** In a separate but related point, the Environmental Defenders Office NSW noted some 'confusion'<sup>72</sup> around the practical application of these provisions, stemming from the interaction between the local government Local Environment Plans, the Coastal SEPP, the State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017 (Urban SEPP)

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<sup>66</sup> Submission 7, Local Land Services, pp 4-5.

<sup>67</sup> Submission 7, Local Land Services, p 5.

<sup>68</sup> Submission 8, NSW Farmers, p 2.

<sup>69</sup> Submission 7, Local Land Services, p 6.

<sup>70</sup> Evidence, Mr Witherdin, 27 September 2019, p 37.

<sup>71</sup> Submission 7, Local Land Services, p 6.

<sup>72</sup> Evidence, Ms Walmsley, 27 September 2019, p 26.

and the *Local Land Services Act 2013*. In its submission, the Environmental Defenders Office NSW stated:

We expect that a number of proximity areas may be zoned as environment zones (under relevant Local Environment Plans) in which case the State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017 (clause 5(1)(b)) rather than the LLS Act applies to clearing of vegetation (section 60A(a) of the LLS Act).<sup>73</sup>

- 2.52** Expanding on this in evidence, Ms Walmsley told the committee that more guidance was necessary as to 'how much coastal littoral rainforest or coastal wetland land which comes under the LLS code, how much will actually come under an environmental zone or urban zone and how much will come under the SEPP'.<sup>74</sup>
- 2.53** When asked about this at the hearing, Mr Witherdin acknowledged that there is 'some complexity around this because they are areas where you end up in a dual approval process, one with us and one with local government, in certain areas'.<sup>75</sup>

#### **Clarity for utilities providers**

- 2.54** The two utilities providers who participated in the inquiry expressed support for the provisions within the Allowable Activities Regulation relating to maintenance of critical infrastructure.
- 2.55** In evidence to the committee, Mr Joe Dennis, General Manager, Government Relations, NBN Co, gave examples of the kinds of maintenance activities it carries out as a telecommunications network builder and operator that would be covered by the provisions of the Regulation:

Examples of the type of maintenance that NBN conducts include the removal of tree branches, impacting aerial cables after severe weather events and trimming of onsite vegetation impacting fixed wireless signals, for example, in regional areas where we have generally got towers based in bushland for visual amenity reasons. But there are many other examples where the ability to trim or conduct minor removal of vegetation is important to our ongoing operations.<sup>76</sup>

- 2.56** Mr Dennis pointed to three key benefits of the Regulation from NBN Co's perspective:
- providing 'greater surety and directions surrounding the permissible activities relating to vegetation removal'
  - creating 'parity between existing legislative provisions contained within the Commonwealth Telecommunications Act'

<sup>73</sup> Submission 2, Environmental Defenders Office NSW, p 6.

<sup>74</sup> Evidence, Ms Walmsley, 27 September 2019, p 26.

<sup>75</sup> Evidence, Mr Witherdin, 27 September 2019, p 37.

<sup>76</sup> Evidence, Mr Joe Dennis, General Manager, Government Relations, NBN Co, 27 September 2019, p 30.

- the ability to 'undertake vegetation removal without the need for additional approvals allowing for timely resolution of matters impacting our network'.<sup>77</sup>

**2.57** Along similar lines, Jemena Gas Networks (NSW) Ltd stated in its submission to the inquiry that '[t]hese amendments are simple and easy to understand, and ensure that Jemena is able to continue to manage its gas distribution assets safely, in accordance with law'.<sup>78</sup>

### **Committee comment**

**2.58** The committee acknowledges concerns expressed by environmental advocacy groups that the Allowable Activities Regulation weakens laws governing the clearing of native vegetation, particularly in the context of increased rates of native vegetation clearing. However, in relation to the allowable activities around the collection of firewood and clearing of planted native vegetation on category 2-vulnerable and category 2-sensitive regulated land, and the maintenance of critical infrastructure, the evidence clearly shows that the amendments merely reinstate the position as it was prior to the introduction of the new land management framework in 2017. To put it simply, these are activities that farmers have already been undertaking on their land for many years. They should be able to continue doing so without unnecessary red tape.

**2.59** It is also worth noting these allowable activities are only able to be undertaken within certain constraints, such as maximum clearing distances, clearing only to the minimum extent necessary, and that firewood can only be collected by landholders for their own personal use.

**2.60** In relation to the provisions in the Allowable Activities Regulation regarding proximity areas for coastal wetlands and littoral rainforest, the committee notes that if the Regulation were disallowed, all land within 100 metres of coastal wetland and littoral rainforest would be treated as category 2-sensitive regulated land. We accept that this would represent regulatory overreach.

**2.61** For these reasons, the committee recommends that the Allowable Activities Regulation not be disallowed.

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### **Recommendation 4**

That the Legislative Council not disallow the Local Land Services Amendment (Allowable Activities) Regulation 2019.

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**2.62** This being said, we are concerned at the confusion surrounding the interaction between Local Environment Plans, the Coastal and Urban SEPPs, and the *Local Land Services Act 2013*. The committee therefore recommends that the NSW Government issue guidance on the application of these instruments to coastal wetlands and littoral rainforest and relevant proximity areas, as a matter of urgency.

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<sup>77</sup> Evidence, Mr Dennis, 27 September 2019, p 30.

<sup>78</sup> Submission 5, Jemena Gas Networks (NSW) Ltd, p 1.

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**Recommendation 5**

That the NSW Government issue guidance on the application of the following instruments to coastal wetlands and littoral rainforest and relevant proximity areas, as a matter of urgency:

- Local Environment Plans
- State Environmental Planning Policy (Coastal Management) 2018
- State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017
- *Local Land Services Act 2013*.

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- 2.63** There is clearly also opportunity, as suggested during the course of this inquiry, for greater education and outreach to assist landholders in identifying threatened species and threatened ecological communities on their property. This will lessen the chance that farmers inadvertently clear threatened native vegetation in contravention of the *Local Land Services Act 2013*. We therefore recommend that the NSW Government provide additional funding to Local Land Services to deliver an education and outreach program to assist landholders in identifying threatened species and their habitats, and threatened ecological communities.

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**Recommendation 6**

That the NSW Government provide additional funding to Local Land Services to deliver an education and outreach program to assist landholders in identifying threatened species and their habitats, and threatened ecological communities.

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- 2.64** Finally, the committee notes that a statutory review of the native vegetation provisions in the *Local Land Services Act 2013* will be undertaken in August 2022, in conjunction with a review of the *Biodiversity Conservation Act 2016*. Given the complexity of this regulatory framework and the time needed to implement it on the ground, we believe this is appropriate.





# Appendix 1 Local Land Services Amendment (Critically Endangered Ecological Communities) Regulation 2019 and Local Land Services Amendment (Allowable Activities) Regulation 2019



## Local Land Services Amendment (Critically Endangered Ecological Communities) Regulation 2019

under the

Local Land Services Act 2013

Her Excellency the Governor, with the advice of the Executive Council, and on the joint recommendation of the Minister for Agriculture and Western New South Wales and the Minister for Energy and Environment, has made the following Regulation under the *Local Land Services Act 2013*.

ADAM MARSHALL, MP  
Minister for Agriculture and Western New South Wales

MATTHEW KEAN, MP  
Minister for Energy and Environment

### Explanatory note

The object of this Regulation is to amend Schedule 5A to the *Local Land Services Act 2013* to allow some clearing of native vegetation on regulated land that contains the following critically endangered ecological communities under the *Biodiversity Conservation Act 2016*:

- (a) Monaro Tableland Cool Temperate Grassy Woodland in the South Eastern Highlands Bioregion,
- (b) Werriwa Tablelands Cool Temperate Grassy Woodland in the South Eastern Highlands and South East Corner Bioregions.

This Regulation is made under the *Local Land Services Act 2013*, including sections 60R, 60ZP and 206 (the general regulation-making power).

Local Land Services Amendment (Critically Endangered Ecological Communities) Regulation 2019 [NSW]

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## **Local Land Services Amendment (Critically Endangered Ecological Communities) Regulation 2019**

under the

Local Land Services Act 2013

### **1 Name of Regulation**

This Regulation is the *Local Land Services Amendment (Critically Endangered Ecological Communities) Regulation 2019*.

### **2 Commencement**

This Regulation commences on the day on which it is published on the NSW legislation website.

## Schedule 1 Amendment of Local Land Services Act 2013 No 51

### [1] Schedule 5A Allowable activities clearing of native vegetation

Insert at the end of clause 34 (1) (b):

, and

- (c) the only clearing of native vegetation that is authorised on category 2-regulated land (other than land that is category 2-sensitive regulated land) that contains either of the following critically endangered ecological communities under the *Biodiversity Conservation Act 2016*:
  - (i) Monaro Tableland Cool Temperate Grassy Woodland in the South Eastern Highlands Bioregion,
  - (ii) Werriwa Tablelands Cool Temperate Grassy Woodland in the South Eastern Highlands and South East Corner Bioregions.

### [2] Schedule 5A, clause 34 (2) (d)

Insert at the end of clause 34 (2) (c):

, or

- (d) land that is subject to a private native forestry plan and designated as category 2-regulated land (other than land that is designated as category 2-sensitive regulated land) that contains either of the critically endangered ecological communities referred to in subclause (1) (c).

### [3] Schedule 5A, clause 35 (1) (c)

Insert at the end of clause 35 (1) (b):

or

- (c) on category 2-regulated land (other than land that is category 2-sensitive regulated land) that contains either of the critically endangered ecological communities referred to in clause 34 (1) (c),

### [4] Schedule 5A, clause 35 (1A) (d)

Insert at the end of clause 35 (1A) (c):

, or

- (d) land that is subject to a private native forestry plan and designated as category 2-regulated land (other than land that is designated as category 2-sensitive regulated land) that contains either of the critically endangered ecological communities referred to in clause 34 (1) (c).



New South Wales

## Local Land Services Amendment (Allowable Activities) Regulation 2019

under the

Local Land Services Act 2013

His Excellency the Governor, with the advice of the Executive Council, and on the joint recommendation of the Minister for Primary Industries and the Minister for the Environment, has made the following Regulation under the *Local Land Services Act 2013*.

NIALL BLAIR, MLC  
Minister for Primary Industries

GABRIELLE UPTON, MP  
Minister for the Environment

### Explanatory note

The object of this Regulation is to amend Schedule 5A to the *Local Land Services Act 2013* to allow the clearing of native vegetation for the following purposes:

- (a) maintaining water supply and gas supply infrastructure under Parts 2 and 4 of that Schedule,
- (b) collecting firewood, clearing planted native vegetation and maintaining telecommunications infrastructure under Part 4 of that Schedule.

This Regulation also amends the *Local Land Services Regulation 2014* to require certain proximity areas for coastal wetlands and littoral rainforests to be designated category 2-regulated land (rather than category 2-sensitive regulated land).

This Regulation is made under the *Local Land Services Act 2013*, including sections 60G, 60R, 60ZP and 206 (the general regulation-making power).

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Local Land Services Amendment (Allowable Activities) Regulation 2019 [NSW]

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## **Local Land Services Amendment (Allowable Activities) Regulation 2019**

under the

Local Land Services Act 2013

### **1 Name of Regulation**

This Regulation is the *Local Land Services Amendment (Allowable Activities) Regulation 2019*.

### **2 Commencement**

This Regulation commences on the day on which it is published on the NSW legislation website.

Local Land Services Amendment (Allowable Activities) Regulation 2019 [NSW]  
Schedule 1 Amendment of Local Land Services Act 2013 No 51

## Schedule 1 Amendment of Local Land Services Act 2013 No 51

### [1] Schedule 5A Allowable activities clearing of native vegetation

Insert after clause 27:

#### 27A Water supply and gas supply infrastructure

- (1) Clearing native vegetation for the maintenance of public utilities associated with water supply infrastructure and gas supply infrastructure.
- (2) The clearing is authorised if carried out by or on behalf of the owner of the infrastructure or by or on behalf of the landholder.

### [2] Schedule 5A, Part 4

Insert after clause 35 (8):

#### (9) Collection of firewood

Clearing native vegetation on land for the purpose of obtaining firewood for use by the landholder on that land or on other land of the landholder, in accordance with clause 15, but not within a buffer distance from a water body as set out in the *Land Management (Native Vegetation) Code 2018* as in force on the commencement of this subclause.

#### (10) Planted native vegetation

The clearing, in accordance with clause 17, of native vegetation that has been planted, but not within a buffer distance from a water body as set out in the *Land Management (Native Vegetation) Code 2018* as in force on the commencement of this subclause.

#### (11) Water supply and gas supply infrastructure

Clearing native vegetation for the maintenance of public utilities associated with water supply infrastructure and gas supply infrastructure.

The clearing is authorised if carried out by or on behalf of the owner of the infrastructure or by or on behalf of the landholder.

#### (12) Telecommunications infrastructure

Clearing native vegetation for the maintenance of telecommunications infrastructure.

The clearing is authorised if carried out by or on behalf of the owner of the infrastructure or by or on behalf of the landholder.

Local Land Services Amendment (Allowable Activities) Regulation 2019 [NSW]  
Schedule 2 Amendment of Local Land Services Regulation 2014

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## **Schedule 2      Amendment of Local Land Services Regulation 2014**

**Clause 108 Additional sub-category of regulated land: category 2-sensitive regulated land (s 60G (3) (c))**

Insert after clause 108 (4):

- (5) Despite subclause (2) (b), land that is identified as “proximity area for coastal wetlands” or “proximity area for littoral rainforest” by *State Environmental Planning Policy (Coastal Management) 2018* is to be designated category 2-regulated land (and not category 2-sensitive regulated land) if that land is required to be designated as category 2-regulated land only by section 60I (2) (i) of the Act.





## Appendix 2 Submissions

No.	Author
1	NBN Co Limited
2	Environmental Defenders Office NSW
3	Humane Society International Inc
4	Nature Conservation Council of NSW
5	Jemena Gas Networks (NSW) Ltd
6	NSW Threatened Species Scientific Committee
7	Local Land Services
8	NSW Farmers' Association



## Appendix 3 Witnesses at hearing

<b>Date</b>	<b>Name</b>	<b>Position and Organisation</b>
27 September 2019 Macquarie Room Parliament House, Sydney	Mr Mark Tozer	Member, NSW Threatened Species Scientific Committee
	Mr Mitchell Clapham	Representative, NSW Farmers' Association Conservation & Resource Management Committee, NSW Farmers
	Mr Chris Gambian	Chief Executive, Nature Conservation Council of NSW
	Mr Jack Gough	Policy and Research Coordinator, Nature Conservation Council of NSW
	Ms Rachel Walmsley	Director, Policy & Law Reform, Environmental Defenders Office NSW
	Mr Joe Dennis	General Manager, Government Relations, NBN Co
	Mr Joel Ginges	State Team Lead (NSW/ACT), Land Access and Statutory Approvals, NBN Co
	Mr David Witherdin	Chief Executive Officer, Local Land Services



## Appendix 4 Minutes

### Minutes no. 3

Friday 23 August 2019

Regulation Committee

Room 1136, Parliament House, Sydney, 10.01 am

#### 1. Members present

Mr Veitch, *Chair*

Mr Banasiak (substituting for Mr Borsak)

Ms Cusack

Mr Donnelly

Ms Faehrmann

Mr Farlow

Mr Franklin (from 10.04 am)

Mr Graham (participating)

Mr Mason-Cox

#### 2. Draft minutes

Resolved, on the motion of Ms Cusack: That draft minutes no. 2 be confirmed.

#### 3. Correspondence

The committee noted the following item of correspondence:

##### *Received:*

- 18 August 2019 – Email from Mr Benjamin Cox, Regulatory Policy Director, Don't Kill Live Music, to secretariat, providing to the committee a bibliography of relevant literature in the field of drug and alcohol policy.

#### 4. Inquiry into the Local Land Services Amendment (Critically Endangered Ecological Communities) Regulation 2019 and Local Land Services Amendment (Allowable Activities) Regulation 2019

##### 4.1 Terms of reference

The committee noted the following terms of reference were referred by the House on 20 August 2019:

1. That the Regulation Committee inquire into and report on the impact and implementation of the:
  - (a) Local Land Services Amendment (Critically Endangered Ecological Communities) Regulation 2019, and
  - (b) Local Land Services Amendment (Allowable Activities) Regulation 2019.
2. That the committee report by 24 October 2019.

##### 4.2 Proposed timeline

Resolved, on the motion of Mr Donnelly: That, the committee adopt the following timeline for the administration of the inquiry:

- Sunday 15 September 2019 – submission closing date
- Friday 27 September 2019 – hearing
- Friday 18 October 2019 – report deliberative
- Thursday 24 October 2019 – table report.

#### 4.3 Stakeholder list

Resolved, on the motion of Ms Cusack: That the secretariat circulate to members the Chairs' proposed list of stakeholders to provide them with the opportunity to amend the list or nominate additional stakeholders, and that the committee agree to the stakeholder list by email, unless a meeting of the committee is required to resolve any disagreement.

#### 4.4 Advertising

The committee noted that all inquiries are advertised via social media, stakeholder emails and a media release distributed to all media outlets in New South Wales. It is no longer standard practice to advertise in the print media.

### 5. Inquiry into Music Festival Licensing Regulations

#### 5.1 Supplementary submission

Resolved, on the motion of Mr Mason-Cox: That the committee authorise the publication of submission no. 39a.

#### 5.2 Answers to questions on notice and supplementary questions

Resolved, on the motion of Mr Farlow: That the following answers to questions on notice and supplementary questions be published:

- answers to supplementary questions from Ms Evelyn Richardson, Live Performance Australia, received 20 August 2019
- answers to questions on notice and supplementary questions from Ms Natasha Mann, Executive Director, Liquor & Gaming NSW, received 20 August 2019
- answers to supplementary questions from Mr Philip Crawford, Independent Liquor & Gaming Authority, received 20 August 2019
- answers to questions on notice and supplementary questions from Dr Michelle Cretikos, NSW Ministry of Health, received 20 August 2019
- answers to supplementary questions and additional information from Ms Julia Robinson, Australian Festivals Association, received 20 August 2019
- answers to questions on notice from Ms Adelle Robinson, Fuzzy Operations, received 20 August 2019
- answers to supplementary questions from Ms Naomi Bower, Inner West Council, received 20 August 2019
- answers to supplementary questions from Ms Linda Scott, President, Local Government NSW, received 21 August 2019
- answers to supplementary questions from Ms Trish Hepworth, Foundation for Alcohol Research and Education, received 21 August 2019
- additional information from Mr John Wardle, Live Music Office, received 21 August 2019
- answers to supplementary questions from Cr Jessica Scully, Councillor, City of Sydney, received 22 August 2019.

#### 5.3 Consideration of Chair's draft report

The Chair submitted his draft report entitled '*Inquiry into Liquor Amendment (Music Festivals) Regulation 2019 and Gaming and Liquor Administration Amendment (Music Festivals) Regulation 2019*', which, having been previously circulated, was taken as being read.

Resolved, on the motion of Mr Donnelly: That the list of findings and recommendations on pages viii-ix be amended by listing all findings before recommendations.

### Chapter 2

Resolved, on the motion of Ms Faehrmann: That paragraph 2.4 dot point 3 be amended by omitting 'only requiring higher risk music festivals' and inserting instead 'only requiring music festivals assessed by the NSW Government to be higher risk'.

Resolved, on the motion of Mr Donnelly: That paragraph 2.65 be omitted: 'Liquor & Gaming NSW advised that 'Every effort was made to give impacted festival organisers prior notice, but given the

sensitive nature and urgency of the announcement, we were unable to notify all of them in time', and insert instead:

'In response to questions about whether festivals were notified by text message, or not notified at all ahead of the release of the list of high risk festivals, Liquor and Gaming NSW supplied the following information:

“One festival operator was unable to be contacted by phone before the Minister's media release was provided to media outlets. This festival operator was contacted by email and text message asking them to contact Liquor & Gaming NSW to discuss their festival whenever was convenient for them. The festival operator responded by email on 25 February indicating that they wanted to be contacted later that evening. This contact occurred. This festival operator has had ongoing engagement with Liquor & Gaming NSW and NSW Health since that time.”

“Every effort was made to give impacted festival organisers prior notice, but given the sensitive nature and urgency of the announcement, we were unable to notify all of them in time.” [FOOTNOTE: Answers to questions on notice, Liquor & Gaming NSW, 20 August 2019, p 6.]

Ms Faehrmann moved: That paragraph 2.147 be amended by omitting 'We also note that within the state stakeholders have raised concerns with the inconsistent application of user pays charges' and inserting instead 'We also note stakeholders concerns with the inconsistent application of user pays charges across the state, as well as the much higher charges for policing the same festival in New South Wales compared to other states'.

Question put.

The committee divided.

Ayes: Ms Faehrmann.

Noes: Mr Banasiak, Ms Cusack, Mr Donnelly, Mr Farlow, Mr Franklin, Mr Mason-Cox, Mr Veitch.

Question resolved in the negative.

Ms Faehrmann moved: That the following new finding be inserted after Finding 2:

**'Finding X**

That there has been significant and unsustainable cost increases for the music festival industry as a result of the changed regulatory environment, particularly high user pays policing charges.'

Question put.

The committee divided.

Ayes: Mr Banasiak, Mr Donnelly, Ms Faehrmann, Mr Veitch.

Noes: Ms Cusack, Mr Farlow, Mr Franklin, Mr Mason-Cox.

There being an equality of votes, question resolved in the affirmative on the casting vote of the Chair.

Ms Cusack moved: That Recommendation 5 be omitted: 'That, based on broad industry support, the Legislative Council disallow the Liquor Amendment (Music Festivals) Regulation 2019 and the Gaming and Liquor Administration Amendment (Music Festivals) Regulation 2019.'

Question put.

The committee divided.

Ayes: Ms Cusack, Mr Farlow, Mr Franklin, Mr Mason-Cox.

Noes: Mr Banasiak, Mr Donnelly, Ms Faehrmann, Mr Veitch.

There being an equality of votes, question resolved in the negative on the casting vote of the Chair.

Mr Donnelly moved: That:

- a) The draft report as amended be the report of the committee and that the committee present the report to the House;
- b) The transcripts of evidence, submissions, tabled documents, answers to questions on notice and supplementary questions, and correspondence relating to the inquiry be tabled in the House with the report;
- c) Upon tabling, all unpublished attachments to submissions be kept confidential by the committee;
- d) Upon tabling, all unpublished transcripts of evidence, submissions, tabled documents, answers to questions on notice and supplementary questions, and correspondence relating to the inquiry, be published by the committee, except for those documents kept confidential by resolution of the committee;
- e) The committee secretariat correct any typographical, grammatical and formatting errors prior to tabling;
- f) The committee secretariat be authorised to update any committee comments where necessary to reflect changes to recommendations or new recommendations resolved by the committee;
- g) Dissenting statements be provided to the secretariat by 5.00 pm Monday 26 August 2019;
- h) That the report be tabled on 28 August 2019; and
- i) That the Chair hold a press conference on 28 August 2019.

Question put.

The committee divided.

Ayes: Mr Banasiak, Mr Donnelly, Ms Faehrmann, Mr Veitch.

Noes: Ms Cusack, Mr Farlow, Mr Franklin, Mr Mason-Cox.

There being an equality of votes, question resolved in the affirmative on the casting vote of the Chair.

## 6. Adjournment

The committee adjourned at 10.26 am, *sine die*.

Sarah Dunn

**Committee Clerk**

## Minutes no. 4

Friday, 27 September 2019

Regulation Committee

Macquarie Room, Parliament House, Sydney, at 9.16 am

### 1. Members present

Mr Veitch, *Chair*

Mr Blair (substituting for Ms Cusack)

Mr Buttigieg (substituting for Mr Donnelly)

Ms Faehrmann (substituting for Ms Boyd for the duration of the inquiry into Local Land Services Regulations)

Mr Farlow

Mr Franklin

Mr Mason-Cox (until 12.15 pm)

### 2. Apologies

Mr Borsak



### 3. Previous minutes

Resolved, on the motion of Mr Farlow: That draft minutes no. 3 be confirmed.

### 4. Correspondence

The committee noted the following items of correspondence:

#### *Received*

- 24 August 2019 – Email from Ms Boyd advising that Ms Faehrmann will be substituting for her for the duration of the inquiry
- 11 September 2019 – Email from Mr Patrick Tegart, Secretariat, NSW Threatened Species Scientific Committee, to secretariat, requesting an extension to lodge a submission to the Local Land Services Regulation inquiry
- 11 September 2019 – Email from Ms Elysia Harradine, A/Executive Officer to the CEO, Local Land Services, to secretariat, requesting an extension to lodge a submission to the Local Land Services Regulation inquiry
- 12 September 2019 – Email from Ms Julia Jelbart, Policy Advisor – Environment, NSW Farmers, to secretariat requesting an extension to lodge a submission to the Local Land Services Regulation inquiry
- 17 September 2019 – Email from Mr Evan Quartermain, Head of Programs, Humane Society International to secretariat, declining the committee's invitation to appear at the Local Land Services Regulation inquiry as he will be overseas
- 20 September 2019 – Email from Ms Elysia Harradine, A/Executive Officer to the CEO, Local Land Services to secretariat, regarding the CEO's appearance at the hearing for the Local Land Services Regulation inquiry
- 23 September 2019 – Email from Mr Cameron Herbert, Senior Legal Counsel, Jemena Gas Networks (NSW) Ltd, to secretariat, declining the committee's invitation to appear at the Local Land Services Regulation inquiry.

### 5. Inquiry into the Local Land Services Amendment (Critically Endangered Ecological Communities) Regulation 2019 and Local Land Services Amendment (Allowable Activities) Regulation 2019

#### 5.1 Submissions

The committee noted that the following submissions were published by the committee clerk under the authorisation of the resolution appointing the committee: submission nos. 1-8.

#### 5.2 Provision of documents to participating member

Resolved, on the motion of Mr Mason-Cox: That Mr Field, who has advised the committee that he intends to participate for the duration of the inquiry into the Local Land Services Amendment (Critically Endangered Ecological Communities) Regulation 2019 and Local Land Services Amendment (Allowable Activities) Regulation 2019, be provided with copies of all inquiry related documents.

#### 5.3 Timeframe for answers to questions on notice and supplementary questions

Resolved, on the motion of Mr Farlow: That:

- any supplementary questions from members be provided to the secretariat 24 hours following receipt of the transcript
- any responses to questions taken on notice and/or supplementary questions for witnesses appearing at the 27 September hearing be due within 5 calendar days from the receipt of those questions.

#### 5.4 Public hearing

Witnesses, the public and the media were admitted.

The chair made an opening statement regarding the broadcasting of proceedings, adverse mention and other matters.

The following witness was sworn and examined:

- Mr Mark Tozer, Member, NSW Threatened Species Scientific Committee

The evidence concluded and the witness withdrew.

The following witness was sworn and examined:

- Mr Mitchell Clapham, Representative, NSW Farmers Association Conservation & Resource Management Committee, NSW Farmers

The evidence concluded and the witness withdrew.

The following witnesses were sworn and examined:

- Mr Chris Gambian, Chief Executive, Nature Conservation Council of NSW
- Mr Jack Gough, Policy and Research Coordinator, Nature Conservation Council of NSW
- Ms Rachel Walmsley, Director, Policy & Law Reform, Environmental Defender's Office NSW

Ms Walmsley tabled the following document:

- Information from the Local Land Services Public Information Register

The evidence concluded and the witnesses withdrew.

The following witnesses were sworn and examined:

- Mr Joe Dennis, General Manager, Government Relations, NBN Co
- Mr Joel Ginges, State Team Lead (NSW/ACT), Land Access and Statutory Approvals, NBN Co

The evidence concluded and the witnesses withdrew.

The following witness was sworn and examined:

- Mr David Witherdin, Chief Executive Officer, Local Land Services

The evidence concluded and the witness withdrew.

The media and the public withdrew.

The public hearing concluded at 2.31 pm.

### **5.5 Tendered documents**

Resolved, on the motion of Mr Farlow: That the committee accept and publish the following documents tendered during the public hearing:

- Information from the Local Land Services Public Information Register, tendered by Ms Rachel Walmsley

### **5.6 Report deliberative date**

Resolved on the motion of Mr Franklin: That the report deliberative meeting be rescheduled from Friday 18 October 2019 to Tuesday 15 October 2019 at 12.30 pm.

## **6. Adjournment**

The committee adjourned at 2.34 pm until Tuesday 15 October 2019 at 12.30 pm (report deliberative).

Sharon Ohnesorge  
**Committee Clerk**

**Draft minutes no. 5**

Tuesday 15 October 2019

Regulation Committee

McKell Room, Parliament House, Sydney, 12.33 pm

**1. Members present**Mr Veitch, *Chair*

Mr Blair (substituting for Ms Cusack)

Mr Donnelly

Ms Faehrmann

Mr Farlow

Mr Franklin

Mr Mason-Cox

**2. Apologies**

Mr Borsak

**3. Previous minutes**

Resolved, on the motion of Mr Farlow: That draft minutes no. 4 be confirmed.

**4. Correspondence**

The committee noted the following item of correspondence:

***Received***

- 1 October 2019 – Email from Ms Rachel Hargreaves, Administration Officer, Productivity Commission to the committee, requesting input for Productivity Discussion Paper.

**5. Inquiry into the Local Land Services Amendment (Critically Endangered Ecological Communities) Regulation 2019 and Local Land Services Amendment (Allowable Activities) Regulation 2019****5.1 Answers to questions on notice**

The committee noted that the following answers to questions on notice were published by the committee clerk under the authorisation of the resolution appointing the committee:

- answers to questions on notice from Mr David Witherdin, Chief Executive Officer, Local Land Services, received 4 October 2019
- answers to questions on notice from Dr Anne Kerle, Chairperson for Mr Mark Tozer, Member, NSW Threatened Species Scientific Committee, received 8 October 2019.

Resolved, on the motion of Mr Donnelly: That the committee authorise the publication of answers to questions on notice from Mr Mitchell Clapham, Representative, Conservation and Resource Management Committee, NSW Farmers, received 9 October 2019.

**5.2 Consideration of Chair's draft report**The Chair submitted his draft report entitled '*Local Land Services Amendment (Critically Endangered Ecological Communities) Regulation 2019 and Local Land Services Amendment (Allowable Activities) Regulation 2019*', which, having been previously circulated, was taken as being read.

Resolved, on the motion of Mr Blair: That:

The draft report be the report of the committee and that the committee present the report to the House;

The transcripts of evidence, submissions, tabled documents, answers to questions on notice, and correspondence relating to the inquiry be tabled in the House with the report;

Upon tabling, all unpublished attachments to submissions be kept confidential by the committee;

Upon tabling, all unpublished transcripts of evidence, submissions, tabled documents, answers to questions on notice, and correspondence relating to the inquiry, be published by the committee, except for those documents kept confidential by resolution of the committee;

The committee secretariat correct any typographical, grammatical and formatting errors prior to tabling;

That the report be tabled on 21 October 2019.

**6. Adjournment**

The committee adjourned at 12.37 pm, *sine die*.

Sharon Ohnesorge  
**Committee Clerk**



