

Terms of Reference:

Options to further protect and restore biodiversity and ecosystem functions in regional landscapes, and enhance value and support for landholders

The Premier, at the request of the Minister for Agriculture, requires the Natural Resources Commission (the Commission), with the support of an advisory panel, to undertake an independent review to provide the NSW Government with advice on options to further protect and restore biodiversity and ecosystem functions in regional landscapes, and enhance value and support for landholders.

This request is in accordance with s.13(1)(d) and (f) of the *Natural Resources Commission Act 2003*.

Background

In August 2023, the Minister for Agriculture tabled in NSW Parliament the final report of the statutory review of the native vegetation provisions of the *Local Land Services Act 2013* (LLS Act).

The statutory review of the native vegetation provisions of the LLS Act (Part 5A and Schedules 5A and 5B) was required to determine whether the policy objectives of those provisions remain valid, and whether the terms of those provisions remain appropriate for securing those objectives.

The object of the LLS Act most relevant to Part 5A and Schedules 5A and 5B is: “to ensure the proper management of natural resources in the social, economic and environmental interests of the State, consistently with the principles of ecologically sustainable development (ESD).”

The statutory review found that the policy objectives of the native vegetation provisions of the LLS Act remain valid, and that the terms of those provisions are appropriate for achieving the objectives.

The statutory review also made 13 recommendations to further improve the outcomes of the native vegetation provisions, including: better management of environmental risks, reducing levels of unallocated clearing, expand and support incentives for landholders, and improve transparency and awareness of the Land Management Framework.

On 17 July 2024, the NSW Government released the *NSW plan for nature – NSW Government response to the reviews of the Biodiversity Conservation Act 2016 and the native vegetation provisions of the Local Land Services Act 2013* (the NSW Plan for Nature).

The NSW Plan for Nature supported all the recommendations in the statutory review (two with variation) and proposed additional actions, including undertaking an independent review to provide advice to the NSW Government on options to further protect and restore biodiversity and ecosystem functions in regional landscapes, and enhance value and support for landholders.

Purpose and Scope

The purpose of this review is for the Commission to provide independent, evidence-based advice on options for the NSW Government's consideration to further protect and restore biodiversity and ecosystem functions in regional landscapes and enhance value and support for landholders.

The review is to consider these matters on private rural land, with reference to the Land Management (Native Vegetation) Code, the Local Land Services Regulation 2014 and Schedule 5A of the LLS Act. Other settings as relate to private land conservation in rural landscapes can be considered if required.

The Commission will also have regard to, but is not limited to, the following:

- NSW Government (2024) *NSW plan for nature - NSW Government response to the reviews of the Biodiversity Conservation Act 2016 and the review of the native vegetation provisions of the Local Land Services Act 2013*, July 2024
- NSW Government (2023) *Statutory Review of the native vegetation provisions (Part 5A and Schedule 5A and Schedule 5B) of the Local Land Services Act 2013*, 24 August 2023
- NSW Government (2023) *Independent Review of the Biodiversity Conservation Act 2016*, August 2023
- existing and proposed legislative settings for management of native vegetation, management of pathogens and invasive species, private land conservation, and biodiversity conservation and restoration in regional NSW
- Aboriginal input and Aboriginal land management practice
- settings relating to private land conservation, including private land conservation under the Biodiversity Conservation Trust, the Biodiversity Offsets Scheme in regional NSW and other opportunities to incentivise landholders to protect and enhance biodiversity and ecosystem functions
- the role of natural capital programs and access to markets to improve biodiversity outcomes and enhance value to landholders
- findings and outcomes of the Commission's review to identify and assess native grasslands and non-woody vegetation, if available
- findings and outcomes of the Commission's review to strengthen the management and conservation of widespread critically endangered ecological communities, if available
- available data and evidence, including from Department of Climate Change, Energy, the Environment and Water's annual land clearing data, LLS's Land Management Framework MER framework and any other relevant data and evidence from NSW monitoring programs
- the objective of the LLS Act in respect of Part 5A and Schedules 5A and 5B of the Act: *"to ensure the proper management of natural resources in the social, economic and environmental interests of the State, consistently with the principles of ecologically sustainable development"* (described in section 6 (2) of the *Protection of the Environment Administration Act 1991*).

Matters out of scope

The review is not to consider:

- public land and land managed by NSW Government agencies
- native forestry, which is subject to a separate review as part of the development of the NSW Government's Forest Industry Action Plan
- biodiversity matters dealt with under the *Fisheries Management Act 1994* and *Marine Estate Management Act 2014*
- the Marine Estate Management Strategy and its implementation, which is subject to a separate process.

Process

The review will be undertaken by the Commission, with the support of an advisory panel, and will be chaired by the Executive Director of the Commission. The advisory panel will include representation from:

- farmers and landholders
- conservation movement
- Aboriginal community and landholders
- scientific community

NSW Government agency observers to the advisory panel will include:

- the CEO of Local Land Services
- the Deputy Secretary, Biodiversity Conservation and Science, NSW Department of Climate Change, Energy, the Environment and Water
- the Chair of the Biodiversity Conservation Trust.

On request, NSW Government agencies will provide all necessary and relevant data they hold to support the Commission's review in a timely and efficient manner.

The Commission will deliver its report to the Premier and Minister for Agriculture in the first quarter of 2026. The Government will consider the report and its response within 6 months of the report's delivery, after which the report and agreed response will be publicly released.

The Premier or the Minister for Agriculture may request updates on the review at any time.

Final report

The final report must document the review's findings and options. In the absence of conclusive evidence, the Commission may make findings and options based on its judgement.

Confidentiality

All information presented to the Commission by agencies, as well as its findings and options, should be treated as confidential until the final report is published.