

14 June 2016

Biodiversity Reforms - Have Your Say  
PO Box A290  
Sydney South  
NSW 1232

**Submission: 'Sustain. Invest. Protect. A new approach to land management and conservation in New South Wales'**

I make this submission on behalf of a large number of constituents who are concerned that the proposed repeal of the *Native Vegetation Act 2003* and the *Threatened Species Conservation Act 1995* and replacement with the proposed Biodiversity Conservation Bill and Local Land Services (Amendment) Bill will have devastating impacts on the state's biodiversity and natural environment.

Protecting biodiversity is vital: biodiversity not only has intrinsic value but it supports human life, clean air, clean water, fertile land and pollination. It is even more important at a time when climate change will cause significant changes to rainfall, temperature and extreme weather events, all of which will challenge our future.

Australia has a shameful record of biodiversity loss with the highest rates of species loss among developed countries and New South Wales has the worst world extinction record for middle-sized mammals. Nearly 1,000 animals and plants are at risk and 59 per cent of animals are listed as threatened. We have already lost over a third of our native vegetation and almost all of our rainforests.

***Any changes to existing land management must reduce the rapid loss of species, provide biodiversity gains and protect habitat.***

I share widespread community concern that the proposed bills replace a world-class regime that significantly helped reduce the massive rate of native vegetation loss in this state with one that will substantially increase clearing rates, potentially returning New South Wales to the dark days of broadscale clearing. Fundamental protections have been removed or relaxed and there is little oversight and few safeguards.

My submission identifies some of the key measures in the proposed bills that will significantly erode the state's biodiversity legal framework and lead to massive loss of natural habitat. These must be addressed to avoid biodiversity devastation.

**Removal of 'Maintain and Improve Biodiversity' Standard**

The Native Vegetation Act and the Threatened Species Conservation Act require landowners to maintain and improve biodiversity, providing a clear objective for the protection of native habitat, plants and animals. It provides a legal assurance that landowners cannot erode biodiversity.

I share widespread alarm that this standard is slated for removal – its exclusion will open the way for intense land clearing.

Preventing the loss of biodiversity and enhancing remaining native vegetation must underpin any biodiversity management scheme and this vital standard must be retained.



## **New Methodology and Expansion of Offsetting**

A new weaker Biodiversity Assessment Methodology will replace existing biodiversity assessment processes and offset regimes such as species impact statements and the BioBanking Assessment Methodology.

The new methodology has a number of serious flaws, which include:

- Adoption of the lowest threshold for offsetting, currently used only for major projects and which does not require offsets to be 'like for like';
- Limited use of no-go zones or red flag areas that identify and protect areas of high conservation value: a 'red flag' will only be *triggered* where it could cause serious and irreversible biodiversity loss in yet-to-be defined situations, and in the case of major projects, clearing will not be excluded;
- Inclusion of mine rehabilitation as a form of offset that can be traded;
- Inclusion of measures that do not necessarily improve biodiversity, such as paying for research to count as offsets for biodiversity loss; and
- Discretion for consent authorities to lower offset requirements.

Each of these changes represents a reduction in protection. Land currently off limits from clearing will be subject to clearing including high conservation value land.

The current offsetting regime would be significantly watered down with offsets that provide no direct conservation of vegetation, including payments and rehabilitating mines, which should occur irrespective of clearing elsewhere under conditions of consent. The loss of 'like for like' offsets will put all unique ecological communities at risk. The proposed methodology will result in a net loss of native habitat.

Using offsets to compensate for loss of biodiversity is complex and provides few guarantees. Loss of high conservation land can never be compensated and offset land may not produce the intended benefits. If offset regimes are to be used, they must be scientifically evidence-based and adopt the most rigorous conditions aimed at achieving biodiversity outcomes. The proposed bills fail in this regard.

## **Land Categories**

The draft legislation would zone the entire state into three categories: blue (exempt), yellow (regulated) and grey (excluded). This system provides for a significant increase in the types of clearing that will be permitted without any oversight.

### Blue (Exempt)

The bill would allow clearing of any land that has already been cleared, is grassland deemed 'low conservation' or that previously has been subject to a biodiversity assessment without any notification or approval process.

A wholesale exemption on any land is problematic and could see land with conservation value cleared. Regrowth occurs in land that has been cleared and this has potential to provide much needed future habitat for native animals. Of concern is that the bill proposes to include regrowth land and land cleared up to 26 years ago, which could include land showing signs of regeneration. Most of New South Wales land has been cleared; this will result in significant levels of land exempt from the land management regime and subject to clearing. There will also be political pressure to have land categorised as 'blue' to enable unchecked clearing.

### Yellow (Regulated)

All other non-urban land will be regulated under the Native Vegetation Regulatory Framework; this includes vulnerable land, high conservation grasslands and privately held land with littoral rainforests or Ramsar wetland features.

Clearing on 'yellow' land that is deemed 'routine land management' and 'management of infrastructure' will be permitted without the need to get approval or even notify authorities. It will not

be difficult to meet criteria for these, providing a dangerous wholesale exclusion from assessment and oversight that will lead to massive losses of native vegetation.

A number of other clearing activities will be subject to one of four self-assessable codes that the Minister for Primary Industries will develop.

Introduction of self-assessable codes largely contributed to the colossal clearing of high value conservation land in Queensland. Very close to 300,000 hectares of bushland was cleared just in 2013-14 – three times the rate of what was cleared in 2008-09 – including in catchments that drain onto the Great Barrier Reef. The proposed bills go beyond Queensland with a new ‘equity code’ that will allow land owners to clear up to 500 hectares over a three year period. It should be noted that there is strong evidence about the failed outcomes of the Queensland model and this is widely seen as the worst example to follow.

New South Wales already experienced destruction from allowing self-assessed clearing of trees and vegetation under the 10/50 Code in fire prone areas: over 5,000 trees were removed in less than a year including habitat trees used by threatened species.

Proposed codes will enable compensation for cleared land under inadequate rules that don’t require protected land to be of equivalent quality if it meets other thresholds like size, or if it will be rehabilitated or regenerated. This will result in a net loss in biodiversity because the land that will be set aside, rehabilitated or regenerated will not have equivalent value to that cleared for decades, if ever. Weather conditions like drought could impact on regeneration achieving its intended growth.

The proposed regime is grossly inadequate and merely relaxes laws to let landowners clear vast amounts of land without any oversight.

#### Grey (Excluded)

The bill proposes to exclude towns and urban land such as Sydney, Newcastle and Wollongong from the provisions of land clearing legislation; instead clearing of land categorised as ‘grey’ will come under the *Environmental Planning and Assessment Act 1979*.

It is expected that a yet to be developed State environmental planning policy and a development control plan will provide for native vegetation clearing under three conditions: without approval, with a permit or following a Biodiversity Assessment Methodology assessment.

This process will likely reduce protections and lead to the loss of biodiverse land within towns and urban areas. The focus appears to be geared at fast tracking approvals on the assumption that towns do not provide important flora and fauna, or that existing native vegetation in town environments is not important. This is false: cities and towns continue to support vital habitat for wildlife.

***What remains of the natural environment within towns significantly contributes to the liveability of urban areas: existing biodiverse land in urban areas must be protected, not slated for removal.***

#### **Ministerial Functions**

The responsibility of biodiversity management under the proposed regime will be largely transferred from the Minister for the Environment’s portfolio to the Minister for Primary Industries’.

The Minister for the Environment is the traditional custodian of the environment and this role does not sit effectively with the Minister for Primary Industries whose responsibility is to industry. I am very concerned that the bills give the primary industries minister the approval role for land clearing applications and discretion to discount biodiversity offsetting credits.

The shift in portfolio signals a clear ideological change in biodiversity policy away from conservation.

I am also concerned that the Minister for the Environment's role in biodiversity management in urban areas will be replaced by the Minister for Primary Industries, the Local Land Services, local councils and the Minister for Planning. This sends a strong message that development and industry will not be limited by environmental concerns.

***Management of biodiverse rich land should always be the responsibility of the environment minister.***

### **Reliance on Government Funding**

While I strongly welcome the \$240 million over five years committed to private land conservation, this cannot replace robust laws that prevent damaging clearing.

There are no guarantees that financial incentives will be more attractive to landowners than the benefits of clearing, particularly given the trend for large global agribusinesses to buy-up and amalgamate multiple smaller farms. Budget decisions are short term and may not continue beyond the current budget. Funding does not provide a reliable regime for protecting biodiversity.

Conservation guarantees require strong laws that prevent clearing of biodiverse rich land with a vigorous and well-resourced enforcement system. Funding incentives to retain, maintain and rehabilitate biodiverse lands should be in addition to this in order to help landowners meet their obligations.

### **In Summary**

There is no question that decades of broadscale land clearing caused devastation to our natural environment: fragmenting the habitat of native species, killing threatened plants, animals and ecosystems, eroding water, soil and air quality, and releasing massive amounts of climate change inducing carbon dioxide into the atmosphere.

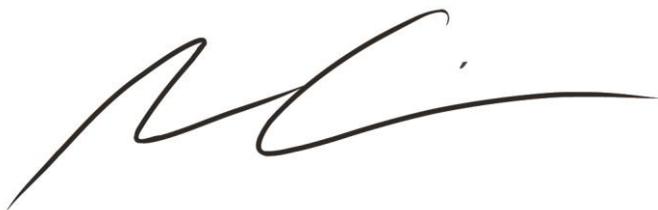
The end of broadscale land clearing under the *Native Vegetation Act 2003* and similar legislation in Queensland is the only reason Australia was able to meet its Kyoto targets while emissions from other sources were rising. Our native vegetation provides significant carbon sinks and the Commonwealth Government's current climate change strategy relies on land use management to achieve any reduction in the release of damaging carbon dioxide.

The regime under existing laws already legally permits the clearing of 10,000 hectares of native vegetation, a significant amount given much of our biodiversity is under threat and climate change will greatly add to that threat. An increase in clearing will cause unacceptable and destructive losses to the New South Wales landscape.

The proposed bills and scheme focus on significantly expanding landowners' potential to clear native vegetation. This is a recipe for massive devastation of the state's native vegetation and biodiversity and will put threatened species at risk of extinction and potentially add new species to the threatened species list.

***I strongly oppose the proposed approach and call on the government to withdraw this damaging approach and continue the review with a clear aim to tighten protection of diminishing biodiversity.***

Yours sincerely



Alex Greenwich  
**Member for Sydney**