



Appendix one – Response from agencies

Responses from Local Land Service, Office of Environment and Heritage & Biodiversity Conservation Trust



Planning,
Industry &
Environment

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Mr Ian Goodwin
Acting Auditor-General
NSW Audit Office
GPO Box 12
SYDNEY NSW 2001

Dear Mr Goodwin

Performance Audit – Managing Native Vegetation

Thank you for the opportunity to consider and respond to your *Performance Audit – Managing Native Vegetation*.

I welcome the findings and recommendations from the Performance Audit which identify areas for improving the Department of Planning, Industry and Environment's operations.

The audit recommended the department ensure sufficient systems and processes are in place to adequately investigate unlawful land clearing and the implementation of a number of measures to improve the administration of clearing native vegetation.

The Department accepts the recommendations of the Performance Audit noting Government approval is required to implement the recommendations to release unpublished map categories and for annual publication of data on the rate of land clearing. Please find attached the Departmental response to the audit recommendations.

I would like to express my appreciation for the significant work undertaken by the audit team and their ongoing commitment to working through issues with my team.

Should your office have any further questions, they may contact Emma Roxanas, Director Conservation and Planning Policy, on 9995 5472 or at emma.roxanas@environment.nsw.gov.au.

Yours sincerely

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Secretary

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Attachment 1 – Departmental response to NSW Audit Office's Performance Audit Recommendations

Local Land Services

Recommendation	Response	
Recommendation 1 By December 2019, improve the administration of the clearing of native vegetation by:	Agreed	LLS is committed to continuous improvement of its administration of the Land Management Code for regional communities in line with triple bottom line outcomes intended by the Land Management and Biodiversity Conservation Reform. LLS will respond to the Audit Office findings and recommendations to improve systems, processes, performance and customer service delivery.
a. ensuring notification forms include all relevant conditions of the Code to ensure these conditions are adequately communicated to landholders		The notification forms are available to landholders through the Local Land Services (LLS) website. The forms are regularly reviewed and updated to ensure the notification forms incorporate all relevant conditions of the Code. The findings of the final report will be used to inform this process to ensure all forms remain up to date. In addition, LLS will prioritise the development of an online notifications portal to further improve customer service.
b. enhancing the recording of areas authorised for thinning and clearing and set aside areas by capturing recent satellite images and on-ground photographs of these areas		LLS agrees mapping software, imagery and systems can be improved. LLS will ensure that it accesses the most up to date imagery available to assess treatment and set aside area and will regularly review and update its internal processes. For certifications, LLS will supplement the assurance of mapping products through site inspection and ground-truthing.
c. progressing ICT system improvements to ensure notifications and certificates, and associated spatial data, can be delivered to OEHS in a timely manner		LLS will improve the timeliness of data to Environment, Energy and Science (EES includes former OEHS). Documentation on notifications and certifications is shared with EES, in real time, while at present spatial data is provided every three months. LLS acknowledges real time provision of spatial data to EES is a priority. LLS is currently building a comprehensive ICT system that will provide EES with a direct portal to spatial data. This will greatly improve timeliness.

Recommendation	Response	
d. ensuring landholders are required to resubmit notifications that do not comply with the Code		The Government is committed to the continuous improvement of administrative processes and customer service for regional communities, consistent with the framework recommended by the Independent Panel and will adopt process improvements wherever possible. To address the findings of the final report LLS will ensure all landholder notifications are fully completed to meet the relevant Code requirements within the 14 day period. An online notifications portal is being developed. This will further enhance customer service and data integrity.
e. ensuring assessments of compromised groundcover are calculated at a time of year when the proportion of the native groundcover is likely to be at its maximum in compliance with the Code		LLS will provide further guidance on how to undertake on-ground assessments of compromised groundcover. The Code requires that assessments for compromised groundcover are undertaken at the correct time of year. LLS provides advice to landholders to assist them meet these requirements of the Code. The guidelines used by LLS to support landholders through this process will be improved to further support sound decision making for groundcover assessments.
f. establishing guidelines for: - the extent of clearing allowed under the allowable activity of sustainable grazing - treatment methods that result in nil and minimal ground disturbance, especially in relation to invasive native species and thinning other native vegetation - selection of set-aside areas that seek to maximise environmental benefits from these areas		LLS will review its guidance materials to address the issues identified by the Audit Office. The Government is committed to the continuous improvement of administrative processes and customer service for regional communities and results consistent with triple bottom line outcomes. LLS will develop guidance recommendations for sustainable grazing, invasive native species and thinning consistent with the risk based approach recommended by the Independent Panel for low risk activities. LLS is already revising its internal Set-Aside Management guidelines and will develop advisory material for landholders explaining these set aside requirements.
g. defining and reporting on measures to determine the impact of the Code on agricultural productivity, and the management of environmental risks.		The Government acknowledges the importance of having in place monitoring and evaluation programs. LLS has designed its monitoring and evaluation programs to inform the Government on the environmental, economic and social outcomes of the Code. LLS also

Recommendation	Response	
		has review processes in place through which evidence from these programs can be considered and recommendations made for changes in policy, where appropriate, for consideration by the Government. LLS will continue work to further refine and improve its processes for documenting and reporting on the outcomes from landholders applying the Code, both for agricultural productivity and for biodiversity.
Recommendation 2 By June 2020, review the Code to address issues identified in this audit, including:	Agreed	LLS will address the matters (Recommendations 2a – 2d), and amendments required, in a broader review of the Code by June 2020.
a. the inability of LLS to reject a notification or proposal for a certificate on the basis it would likely result in poor environmental outcomes		The Government has review processes in place through which evidence from the experience of Code implementation can be considered and recommendations made for changes in policy where appropriate. In this way, options for further improving the Code, including appropriate grounds for requiring amendment of proposals can be explored and provided to the Government for consideration. Under the Code LLS can only grant approvals that conform to the requirements of the Code. The Code has many detailed requirements; failure to meet any one of them is potentially grounds for requiring amendment of proposals. The LLS operations manual lists all of these requirements for all the Parts and Divisions of the Code.
b. the lack of oversight of authorisations for the clearing of compromised native groundcover		LLS will examine evidence from its monitoring and evaluation programs to assess the effectiveness of this policy setting for low risk activities. Compromised groundcover refers to paddocks containing a mix of native and introduced grasses. The Code establishes a risk-based regulatory framework that balances production with environmental risk. Compromised groundcover was deemed low risk, and therefore requiring notification only. This means landholders are required to retain written records of their assessment. LLS will review

Recommendation	Response	
		its comprised native groundcover assessment guidelines to further assist landholders with this process.
c. the absence of the requirement to demonstrate that a species is invading a landscape prior to approving the clearing of it as an invasive native species		LLS will examine evidence from its monitoring and evaluation programs to assess the effectiveness of this policy setting for low risk activities. Managing invasive native species (INS) has been regarded as an environmental improvement technique since native vegetation has been regulated in NSW. The management of INS by low impact methods as provided for under Part 2 Division 1 of the Code was therefore deemed low risk and requires notification only; however, use of moderate impact methods to control Division 2 activities requires an invasiveness test. LLS will review evidence from the experience of the Code and the risk levels presently assigned to invasive native species requirements to determine if an invasive test should also apply to Part 2 Division 1 activities.
d. discounts (i.e. reductions) in the area of land required in set asides when they contain threatened ecological communities or are of strategic landscape importance.		This aspect of the Code is designed to incentivise landholders to focus their conservation activities on high conservation value vegetation and their development activities in areas of lower conservation value. LLS will examine evidence from its monitoring and evaluation programs to assess the effectiveness of this policy setting to ensure it is having the effect intended.
Recommendation 3 By December 2019, ensure all field staff receive specific training in the identification of plant community types and threatened ecological communities, with regular refresher courses.	Agreed	LLS will implement a program of ongoing training for all staff on plant community types and threatened ecological communities. Currently the LLS workforce comprises highly qualified staff with expertise in on-ground flora and threatened ecological communities (TECs) identification, and these staff are supported by many ongoing initiatives to continuously improve their capability and efficacy in this technical discipline. However, further training will be made available to all staff to ensure technical knowledge and identification skillsets relating to TECs are up to date and regionally appropriate.

Recommendation	Response	
Recommendation 4 By June 2020, effectively monitor the establishment and management of set aside areas and provide support to landholders to achieve required restoration outcomes.	Agreed	LLS will establish a protocol for monitoring set aside management and assisting landholders with restoration activities. LLS has been developing this monitoring program for set-aside management for some time. It is scheduled to begin by early 2020.

Environment, Energy and Science (formerly the Office of Environment and Heritage)

Recommendation	Environment, Energy and Science response	
By December 2019, the Office of Environment and Heritage should improve the monitoring and regulation of land clearing by:		
Recommendation 5 Implementing a staged release of draft maps Category 1 - Exempt and Category 2 - Regulated land to the public, allowing sufficient time for stakeholder review and input.	Agreed – subject to Government approval	<p>The Department of Planning, Industry and Environment (DPIE) has developed a strategy for implementing a staged release of the remaining map categories Category 1 – Exempt land and Category 2 – Regulated land.</p> <p>The strategy can be implemented once approved by Government.</p> <p>The strategy involves releasing the map in stages to provide a reasonable opportunity for landholders to consider the draft map and to seek a map review before the draft map becomes final.</p>
Recommendation 6 Ensuring adequate resources are in place, during the release of the last two map categories, to process category explanation reports and NVR map reviews, and to update the NVR map.	Agreed	DPIE is reviewing resourcing needed for map releases, map updates and map reviews to ensure sufficient resourcing is in place for effective delivery of these functions.
Recommendation 7 Ensuring staff have sufficient systems and resources to adequately investigate unlawful land clearing and to gauge compliance with the Code, including accurate spatial data on all land clearing approvals.	Agreed	<p>DPIE has made improvements in compliance systems and resourcing:</p> <ul style="list-style-type: none">• an early change monitoring system became operational – this system will provide regular reporting on vegetation changes to facilitate timely detection of and rapid response to unexplained clearing and allow DPIE to more proactively work to minimise environmental harm• a Native Vegetation Taskforce was established to fast track resolution of cases under the <i>Native Vegetation Act 2003</i>• systems and operational guidance are being upgraded for effective case management.

Recommendation	Environment, Energy and Science response	
		DPIE is also progressing other mechanisms for ensuring that unlawful clearing is adequately addressed. DPIE will seek additional resourcing to support these measures for future years.
Recommendation 8 Continuing to improve systems and processes for monitoring the rate of clearing of woody and non-woody native vegetation.	Agreed	DPIE is continuing to improve systems and processes for monitoring the rate of clearing of woody and non-woody vegetation. Additional resources have been assigned to satellite monitoring in the short term to support the early change monitoring system and to reduce the timeframe for analysing annual satellite monitoring data. This will deliver a more effective monitoring program overall for native vegetation. DPIE will seek additional resourcing to support this initiative over future years. DPIE has developed a Biodiversity Indicator Program, as required under the <i>Biodiversity Conservation Act 2016</i> , intended to report on the status of biodiversity in NSW at the state-wide and regional level, examining long-term effects and short-term trends.
Recommendation 9 Publishing data on the rate of land clearing on an annual basis.	Agreed – subject to Government approval	Starting this year, DPIE will be able to regularly report on annualised clearing rates of woody and non-woody vegetation once approved by Government.

Biodiversity Conservation Trust

Recommendation	Response
By September 2019, the BCT should ensure:	
Recommendation 10 The published selection processes for conservation tenders, fixed rate offers, and land purchases accurately reflects the selection methodologies.	Agreed The recommendation is supported. By September 2019, the BCT will review and publish updated information on the BCT's website to accurately describe the processes used to competitively select tender bids and applications for fixed price offers, and the processes used to acquire land using the revolving fund.
Recommendation 11 The methodology used for tender selection aligns with BCT's investment priorities.	Agreed The recommendation is supported. The BCT queries the pretext for this recommendation: 'the funding provided to each region is not always consistent with these priorities.' The Biodiversity Conservation Investment Strategy (BCIS) made by the Minister guides the BCT's investment in private land conservation by identifying ranked priority investment areas, setting five investment principles, and setting targets for inadequately protected NSW Landscapes and income diversification. Cost-effectiveness is one of the five investment principles guiding the BCT. To meet these various aims, the BCT may fund agreements with differing Biodiversity Value Scores and value-for-money rankings (BVI) across different regions. The various drivers of BCT investment may lead to variable funding outcomes across regions that are nonetheless consistent with the BCIS's priority investment areas, investment principles and targets. The BCT will, by September 2019, publish further and clearer information to show how BCT investment decisions align with the priorities, principles and targets set in the Biodiversity Conservation Investment Strategy.