



## AUSTRALIAN NETWORK for PLANT CONSERVATION INC

28 June 2016

Dear Sir/Madam,

### **Submission on the proposed NSW Biodiversity reforms**

***(Biodiversity Conservation Act Bill 2016 and Local Land Services Amendment Bill 2016).***

#### **INTRODUCTION**

The Australian Network for Plant Conservation Inc. (ANPC) is a national, not-for-profit, non-government incorporated association of people and organisations founded in 1991. We are dedicated to the conservation of Australia's native plant species and vegetation communities which are part of our unique living national heritage and underpin the health and productivity of our continent. An outline of the ANPC's role and activity is appended to this submission.

While we are a national organisation, approximately 50% of our members are New South Wales residents, and this State is the scene of many of our educational and technical activities – most of them conducted to keen clientele in regional and rural areas. Practically all of our activities in this State are closely and demonstrably cooperative with NSW agencies and authorities (environmental, primary industry, NRM and other), and all are consistent with State legislative and policy goals for conservation and ecologically sustainable NRM. Many of our members in their individual capacities (often as experts) are directly involved in advising on or implementing programs in common with the NSW *Saving Our Species* Program for threatened species and ecological communities, or in other NSW programs aimed at preventing the decline of as-yet non-threatened species and systems.

This synergy and interaction with the operational and sometimes policy units of NSW government agencies has been the norm for us, across successive governments, over the 25 years of our existence as an organisation. It is something we value, not least because under various governments over that period NSW has had, broadly speaking, some of the best legislation and policy in the country for the conservation of native plant and animal species and natural ecosystems.

Australian Network for Plant Conservation Inc. (ANPC)  
GPO Box 1777 Canberra ACT 2601 Australia  
ABN: 70 861 480 818  
Telephone: (02) 6250 9509; Fax: (02) 6250 9528; Email: [anpc@anpc.asn.au](mailto:anpc@anpc.asn.au)  
Website: <http://www.anpc.asn.au>

The ANPC is not a campaign organisation – we work mainly in the area of translating and delivering the best available scientific and technical information to end-user practitioners in both government and non-government sectors, and in communicating the experience of on-ground practitioners back to scientists and biodiversity managers – and policy makers. We contribute to policy debates, sometimes through submissions such as this one, although more typically through synthesising new and relevant information and expertise into forms useful at both policy and practical levels, and that fill a need with both. Examples of this include our *Guidelines for the translocation of threatened plants in Australia* (2nd edition, 2004), which is now a *de facto* standard for conservation actions of that sort, and *Plant germplasm conservation in Australia – strategies and guidelines* (revised edition, 2009).

In this submission we are able to address only a few aspects of the complex changes in the *Biodiversity Conservation Act* exposure Bill and the *Local Land Services Amendment* exposure Bill.

## **AREAS OF OUTSTANDING BIODIVERSITY VALUE (AOBVs)**

*Consultation question: Is the proposed protection for Areas of Outstanding Biodiversity Value appropriate?*

In our view, the short answer to the consultation question is “Yes”. The introduction of this form of protected area, distinct from conservation reserves, is very welcome. It accords well with the use of similar though broader categories for sites of special biological, other scientific, or educational and heritage significance used in some overseas jurisdictions (e.g. the UK) with very beneficial effect.

However, the ANPC is of the opinion that some of the implications of the AOBV form of conservation instrument have not yet been adequately thought through, and that at least some of the potential problems need to be reassessed and remedied at the Bill stage, rather than via subsequent regulatory or operational tinkering.

### *1. How are potential AOBVs to be identified and assessed?*

It appears that there is no provision in the Bill for nomination of potential AOBVs by parties other than the Office of Environment and Heritage, and no guaranteed transparency of the assessment process. There is a welcome commitment to public consultation on proposed AOBV declarations, but for this to be meaningful it is essential that the fullest possible information that led to the proposed status be available to the public. This needs to be at least to a level similar to that currently provided for listable entities by the NSW Scientific Committee’s preliminary determinations. We do recognise that in the case of at least some potential AOBVs there will also be a need for assessment of cultural/social considerations.

Were public nomination of potential AOBVs to be considered, it would not be unreasonable to require a substantive level of evidence to be provided by the nominator/s. We are conscious of the fact that OEH resources are stretched and that the agency has lost a great deal of scientific and technical expertise in recent years. The Bill provides for “consideration of the views of the Scientific Committee and the Biodiversity Conservation

Trust” prior to recommendation of an AOBV, but these bodies too will be stretched given their existing workloads and it is likely that these bodies will require additional resourcing. It would be unfortunate if the excellent concept of the AOBV were (as with ‘critical habitat’) to fall short of its potential to contribute to biodiversity conservation simply because OEH has too many other priorities and because there is no provision for independent nomination and no reinforcement of the assessment apparatus.

## *2. Implementing AOBVs – complexity, and the interaction with respect to other legislative instruments.*

The four eligibility criteria that are identified in the Exposure Bill for AOBVs are: *multiple species or at least one ecological community; irreplaceable biological distinctiveness; ecological processes or integrity; outstanding ecological value for education or scientific research.* Sub-criteria for all are yet to be developed. The breadth and flexibility of these criteria are welcome; however they are likely to mean that AOBVs will be mainly based on, and managed for, multiple species/communities and ecological processes (none of which need necessarily be listed as Threatened – we think this is a good thing). Management requirements for the range of species and communities this will cover are likely to be varied and complex, and may well have to be applied in landscapes which are already complex in tenure and existing land-use, and in which there are varied and unpredictable constraints on the management options that will be available. Only one mechanism (‘funded private land conservation agreements’ for individual private land-owners), is canvassed in the consultation materials. We ask whether other tenure situations will be considered? Where a multiple-tenure approach is required, modifications to permitted development and other activities, possibly in part through the BCA taking precedence over other legislation, may be required for effective conservation *alongside* incentive-based mechanisms, in order to achieve both biodiversity aims and a continuation of human use, however modified. Again, comparable cases in the UK and Europe are instructive.

In the New South Wales context, as a hypothetical example, possibly eligible cases for AOBV status could be made for certain areas of exceptionally high diversity in terrestrial orchids – an iconic and socially valued plant family, but one with a high proportion of threatened species, and many more that are subject to decline through habitat loss. We know of four separate areas in NSW of exceptionally high orchid diversity: two large, diffuse areas (one each in the Hunter and Shoalhaven regions, in both of which orchid populations and the remnant communities in which they occur are complexly entwined with rural, peri-urban, industrial, public infrastructural, and conservation tenures) and two other much smaller areas (one in the Blue Mountains and one on the Southern Tablelands, both on non-reserve public or public corporation tenures subject to limited competing use). Clearly, the management prescriptions and necessary instruments for these species and areas will be varied, but all would require more than individual private landowner agreements. The draft Bill and the consultation material provide no indication of an overarching framework for how this complexity, and the necessary synergy with other government and non-government parties, will be handled – yet an ability to do so will be vital to the success of

the commendable AOBV concept. An all-of-government dimension, including modification of the planning laws, is needed.

## **THREATENED SPECIES AND ECOLOGICAL COMMUNITIES, AND THE NEW ‘RISK-BASED APPROACH TO REGULATING WILDLIFE INTERACTIONS’**

The ANPC welcomes the retention in the Bill of a number of provisions to be carried over from the *Threatened Species Conservation Act* 1995. These include the listing mechanism and criteria (we accept most of the threatened category modifications, although we think the loss of capability for population-level listing is a major step backwards), the independence of the Scientific Committee and its determinations (assuming this is fully reflected in the eventual Regulation), and the transparency of the listing process for threatened entities and KTPs. The current NSW legislation has been in advance of all other Australian jurisdictions in these respects, and it is good to see these key features preserved.

We note the extraordinary productivity of the NSW Scientific Committee (NSW SC) over the 20 years of its existence, with a throughput of assessments that has been well in advance of mechanisms in most other jurisdictions, and determinations that have been both scientifically and legally robust. The Committee’s work has been integral to a vast improvement in the state of conservation knowledge and practice over the period. The resources available to the Committee have always been limited and dependent in large part on the standard and expertise of its members and the in-kind time support provided by their home organisations. We recommend, as a matter of policy outside the immediate context of this Bill, that OEHL take great pains to help the NSW SC to maintain this level of work and to consider improving the resources available to it, particularly given the new tasks of prioritisation of nominations and commenting on AOBVs that the new Bill imposes.

On the issue of nominations for extinction-risk listing, the Bill provides for the NSW Scientific Committee to be able to invite nominations on particular themes, with the stated aim of ensuring the lists are more representative of under-represented groups of biota (e.g. fungi, invertebrates). While we do not disagree with this as an option for the Committee, it does not meaningfully address the reasons for the current shortfall in nominations for such groups. There is no current *procedural* impediment to such nominations; rather, the impediments are the shortfall of external scientific resources devoted to these groups and the resulting major knowledge gaps as to their diversity, biology, and extinction-risk status. Thematic calls for nominations will not remedy this basic problem. One solution to this dilemma (operational rather than legislative) would be for OEHL to devote some resources, with external expert input, to the preparation of provisional lists of species or higher level taxa for which adequate knowledge exists, to identify them as potentially ‘list-able’. This would not only enable a refined thematic call for nominations, but would provide a valuable aid to researchers and others in gathering more information to enable better assessments.

We welcome in principal the creation of a *Biodiversity Conservation Program* (Part 4, Div. 6), which has the potential to entrench a level of coherence of threatened species work by the NSW environment agency that was largely lost in the early 2000s and partially restored since through the *Saving Our Species* program. We assume from context that the BCP is the SOS program in legislated form. The supporting documents to the exposure Bill refer to the “success” of the *Saving Our Species* program. In the course of its investment prioritisation process, the SOS program has undoubtedly been successful in reviewing and updating knowledge for all listed species, and is currently approaching the more complex issue of threatened ecological communities. It has also been operationally successful in the sense that prioritised actions for prioritised species are underway (and we strongly welcome the allocation of \$100M over five years by the NSW Government). However, the SOS program is designed as a system for *OEH investment prioritisation*, and as such addresses only a limited set of ‘best bet’ sites or actions for each entity – a long-odds bet indeed for the 100-year survival time frame that is the program’s stated goal. The unspoken implication is that sites *not* prioritised for actions are in some sense expendable, or at least have to be supported by other mechanisms which are given no OEH investment priority and only a limited mandate for action by other parties. This methodological approach is not the same as, and is in some conflict with, an optimal biological approach which would seek to maximise the chances of species survival by directing recovery actions at a larger number of sites, or at least protecting these through those other mechanisms – strong regulation of vegetation clearing for example. Methodological criticisms from the science community were ventilated during the earlier stages of the SOS program, but *investment prioritisation* remains the program’s primary paradigm. The SOS approach cannot be seen as an adequate total approach to threatened species management and recovery in isolation from an overarching strategy (yet to be devised) that also provides strong levels of basic protection for sites and populations that are not immediately prioritised for investment. It would be desirable for the proposed Biodiversity Conservation Program to have a goal of developing such an overarching strategy for threatened entities and KTPs.

An even larger issue in the Bill is why the broadly titled *Biodiversity Conservation Program* as a strategic planning mechanism is limited only to listed threatened entities (species and communities). The conflation of *threatened species conservation* with the much broader set of entities and issues that constitute *biodiversity conservation*, is a common public misconception, and one which to some extent flawed the TSC Act. The new Act now provides a mechanism to redress that conflation since the use of ‘biodiversity conservation’ in the name of a program dealing only with threatened species, perpetuates this misconception. The trend of *overall* decline in native biodiversity over the last century, including over the last 20 years, is absolutely clear. The growth in the number of listed threatened entities does not just reflect a catch-up of documentation of historical declines, but also reflects actual ongoing declines for very many entities and the arrival of more at the ‘threatened’ threshold. Consequently, it is essential that the State’s conservation agency and its key biodiversity legislation give due weight *not only* to stabilisation and recovery of threatened entities, *but also* to stabilisation and recovery of native biodiversity. In this respect the ‘restoration’ goals that underlay the *Threatened Species Conservation Act 1995* and the *Native Vegetation Act 2003*, but which are missing from the *Biodiversity Conservation Act Bill*, are a

Australian Network for Plant Conservation Inc. (ANPC)  
GPO Box 1777 Canberra ACT 2601 Australia  
ABN: 70 861 480 818  
Telephone: (02) 6250 9509; Fax: (02) 6250 9528; Email: [anpc@anpc.asn.au](mailto:anpc@anpc.asn.au)  
Website: <http://www.anpc.asn.au>

critical flaw. In the absence of a strategic approach to halt the decline of sub-threatened biodiversity (primarily through addressing threatening processes, including land clearing) and facilitate recovery, the government is committing its lead agency to a perpetual role of crisis management of threatened entities, and is reinforcing in the public mind that ‘conservation’ is limited to such entities. This is in direct conflict with several government strategies and policy documents of the recent past that have made clear commitment to the notion that *conservation is everybody’s business*. It also conflicts with global trends of progressive land-use thinking that stress the need to maintain, improve and restore the integrity and extent of natural species and ecosystems across the board.

The ANPC would like to see the provisions of the Bill relating to the role of the Biodiversity Conservation Program broadened to reflect the above points.

The ANPC does not agree with a ‘risk-based’ approach to the overall management of threatened species and their essential habitats, although we recognise that best-guess/risk-based decisions are sometimes unavoidable in practice. We see particular problems with the adoption of a generalised system where the risk (of a threatened species/community being present at a particular site) is “assessed” on the basis of modelling only. This has been an increasing trend in recent years as support for on-ground assessment has declined, and a model-based approach to both species presence and to vegetation type mapping seems to be taking an unhealthy level of precedence over ground-truthing in what has been revealed so far of the new approvals system. Much of this modelling is based on presence/absence data but is often flawed since absence data can simply reflect that an area has not been surveyed or that specimen data has not been collected, not that a species is absent. The harm that can be done by an incorrect model-based assessment, or as a result of inaccurate vegetation typing or mapping, can very easily be irreversible, and where it is coupled with a landowner self-assessment methodology that allows clearing without either objective assistance *or* the keeping of clearance records, the chances of irreversible error and local extinctions are potentially high.

We also note a serious conflict between the components of the *Biodiversity Conservation Act* Bill that we have addressed so far (i.e. some of the core threatened species provisions) with other sections of that Bill and the accompanying *Local Land Services Amendment* Bill, that are vital if threatened species mechanisms are to be truly ‘successful’ over the longer term – especially those relating to land clearing, offsets and credits, and impact statement procedures and transparency.

## **NATIVE VEGETATION PROTECTION AND THE LAND CLEARING PROVISIONS OF THE BILLS**

The ANPC does not accept the proposition advanced in some government statements that the current law protecting native vegetation (the *Native Vegetation Act* 2003, NVA) has been “unsuccessful” or is “not working”. In fact, the advent of this Act, and the political *modus vivendi* between the farming and conservation sectors that accompanied it for some years, has been very successful in curbing large-scale land clearing, although problems

Australian Network for Plant Conservation Inc. (ANPC)  
GPO Box 1777 Canberra ACT 2601 Australia  
ABN: 70 861 480 818  
Telephone: (02) 6250 9509; Fax: (02) 6250 9528; Email: [anpc@anpc.asn.au](mailto:anpc@anpc.asn.au)  
Website: <http://www.anpc.asn.au>

with smaller scale clearing and disturbance of native vegetation do remain. As the Wentworth Group of Concerned Scientists have noted, clearance of native vegetation in NSW has dropped from levels around 100,000 ha per year in the 1980s to less than 12,000 ha per year at present. Much of this reduction occurred immediately prior to, and since, the enactment of the NVA and is a direct consequence of it.

Key elements of this success have been the requirements, embedded in the current legislation, for maintenance or improvement of environmental outcomes, use of the Environmental Outcomes Assessment Methodology (EOAM), and a like-for-like requirement for approved offsets within limited geographic scope.

These mechanisms are set to be jettisoned if the BCA and LLSA Bills are enacted in their current form. The ANPC believes that this would be a tragic and retrograde step for land management and biodiversity conservation in New South Wales.

One of the potentially most valuable measures available under the NVA was the mechanism of Property Vegetation Plans (PVPs), initially supported by investment via the then-Catchment Management Authorities. From a biodiversity conservation viewpoint there were failings of the PVP system, such as the exemption from post-PVP consideration of threatened species newly discovered on PVP tenures. However in general it provided support for landowners to closely engage with native vegetation on their land and to plan in a sensible and scientifically informed way for its preservation, within the added off-tenure context of a Catchment Action Plan and related incentive funding. Uptake of PVPs was significant although not huge (c. 1,000 PVPs approved), but this reflects the slow-and-steady approach that is necessary in modifying land use and land management culture.

The alleged failings of the NVA system were not intrinsic to the Act and its balanced approach of incentive and regulation, but rather were related to the failure to continue adequate resourcing of both the incentive and regulatory aspects after the first few years, disastrously compounded by the abolition of the CMAs and their replacement by the more narrowly focussed and even less well-resourced Local Land Services apparatus.

In the ANPC's opinion, the mechanisms proposed in the new BCA and LLSA Bills, for replacement of the NVA's balance of regulation, incentive, and regional planning, with a system of under-regulated codes, un- or under-assessed clearing, and model-based categorisation of land biodiversity values, is very retrograde.

Instead of LLS-supported assessment by landholders of their native vegetation assets, we will see unsupported self-assessment, with no consideration of the broader sub-regional and regional significance of most clearing actions. Instead of an emphasis on *in-situ* conservation of natural native vegetation, we will see an ability for landowners to clear native vegetation, with whatever levels of natural ecological function it still possesses, against an unenforced designation of 'set aside' areas with no necessary equivalence of composition or function which will be managed (or even planted on cleared ground!), as if these were somehow equivalent to the lost natural remnant. The notion that planted stands, on land with potentially highly modified hydrology and soil chemistry and biota, can assume a species composition and ecological function equivalent to even disturbed native remnant, has not been yet demonstrated. Nor do we have clear timeframes for even partial recovery to previous species

compositions but it is likely to be decades to hundreds of years. Since neither the technical nor the infrastructural prerequisites exist for successful biological engineering of this kind exist, and that even if these were available would be beyond the means of individual property owners, we expect significant ongoing inter-generational loss and decline of biodiversity to occur.

The removal of regulation for most land-clearing and its replacement by a largely unregulated and self-assessed code-based system, will be disastrous for the conservation of native vegetation and its related native biota across the wheat-sheep belt in particular, and quite possibly in much of the rangelands as well. We find it inexplicable, in the light of the surge in land-clearing following deregulation in Queensland in 2013, that the NSW Government has provided no estimates of how much clearing its proposed new system will lead to. The tragedy is that the losses, not only of biodiversity but of soil and hydrological function as well, will be essentially irreversible.

## **OFFSETS AND CREDITS**

Offset mechanisms are not in principle a bad thing. They allow necessary flexibility for truly essential disturbance, and if managed correctly including a sufficiently rigorous impact assessment, can actually contribute to the 'nett improvement' goals for biodiversity that have underpinned NSW legislation to date. At the time when offset mechanisms were first introduced in NSW, many environmentally concerned citizens and organisations were worried that this would be the thin end of the wedge and would lead to perfunctory practice where nett loss of natural biodiversity was the result, rather than nett gain. While the offsetting mechanisms that were legislated were not perfect, at least some of that initial fear was allayed by the relative rigour of the underlying assessment methodology and a reasonably judicious use of the bio-banking mechanism. Governments and regulatory agencies achieved a degree of social consensus over the extent and practice of offsetting.

Unfortunately the proposed 'relaxation' of offset mechanisms in the present reform package looks set to destroy both that social consensus and a great deal of our already diminished native biodiversity, including in some of the areas that we can least afford to lose any more. We have not been able, in the time available for submissions and given the low level of information yet released, to assess the proposed new Biodiversity Assessment Methodology (BAM) to any level of detail. The direction of the new system is however clear enough. Our concerns relate especially to:

- *The abolition of mandatory like-for-like requirements:* this almost guarantees the rapid loss of species and communities, threatened and non-threatened, from many regional landscapes, and the loss of the human amenity and cultural values that coincide with them. The new Biodiversity Conservation Trust will be encumbered with the task of finding ecologically acceptable offsets that may not exist, while clearing goes ahead regardless.
- *The ability to pay an offset fee into a general-purposes fund, rather than actually implement a nett-gain offset on ground:* for many larger-scale development projects, this will simply become a mildly irritating

Australian Network for Plant Conservation Inc. (ANPC)  
GPO Box 1777 Canberra ACT 2601 Australia  
ABN: 70 861 480 818  
Telephone: (02) 6250 9509; Fax: (02) 6250 9528; Email: [anpc@anpc.asn.au](mailto:anpc@anpc.asn.au)  
Website: <http://www.anpc.asn.au>

fee for the right to clear, and for the State there need be no nett gain, or even maintenance, of biodiversity, only a supplementary funding stream that may be deployed on quite unrelated areas. We are concerned that this is how the Government values our natural heritage.

- *The exposure of offset areas themselves to further destruction and offsetting:* This reduces native vegetation and biota being a commodity that can be easily moved or replaced. It ignores many basic ecological principles, and sends a signal to the Australian population that is diametrically opposed to the government's stated conservation goals and to any meaningful notion of ecologically sustainable development.
- *The abolition, under the new biocertification regime, of any requirement to 'maintain or improve' environmental outcomes.* This requirement has been central to NSW's hitherto leading role in environmental management, and is essential to any serious attempt to slow and eventually reverse the rate of biodiversity decline.

The proposed establishment of the Biodiversity Conservation Trust, and the five-year funding commitment of \$240M in a Biodiversity Conservation Fund, is welcome in principle, as is the dedication of part of this funding for private-land stewardship payments. But if the cumulative effect of 'relaxed' (largely abolished) regulation of native vegetation management leads to a surge in land clearing, and if the level of funding for stewardship support drops off after this short 5-year horizon, we will see a repeat of the resourcing failure of the PVP system of the mid-2000s, with further growth of private land conservation jeopardised, but a continuing clearing regime that actually encourages 'death by a thousand cuts'.

While we understand the biodiversity legislation review has been undertaken to both address the continuing decline in biodiversity and address concerns from some agricultural sectors regarding the Native Vegetation Act, the ANPC believes this review has missed an excellent opportunity to address the reasons for biodiversity declines, which is primarily vegetation loss for development, mining, roads, forestry, private native forestry, hazard reduction, electricity powerline maintenance, agriculture and more, and the use of offsets in some cases. For example, one species *Prostanthera junonis*, only occurs in the Somersby area on the Central Coast. Its population size has decreased considerably as a result of development approvals that have failed to secure it. It is a species that is heading towards extinction and the proposed legislation will do nothing to protect it. It is an endangered plant that now probably meets the criteria as critically endangered and if something isn't done soon, it could become extinct in the wild.

## **CONTRADICTION INTENT AND OUTCOMES: THE BCA BILL AND THE LLSA BILL.**

As the Wentworth Group of Concerned scientists has noted, less than 10% of native vegetation across the whole state remains in near-natural condition. As is also evident from the rate of growth in threatened species listings, and from past *State of the Environment* reports, the declines in species and ecological communities are in general continuing, although with some improvements resulting from sensible legislation over the past two decades.

In these circumstances, it would be reasonable to expect that new omnibus reforms for the State would continue the balanced and scientifically informed approach of the legislation and mechanisms that are now to be superseded. At the least it could be hoped that the two pieces of legislation in the package would not embody or lead to contradictory and perverse outcomes.

Unfortunately that seems very likely if the bills are enacted in their current form. Many potential examples could be adduced, but that advanced by the NSW Environmental Defenders Office recently is one of the most succinct. *Hollow-bearing trees* provide critical habitat for a large number of listed threatened (and as-yet unlisted) species. The loss of such trees is recognised in NSW as a Key Threatening Process. Nowhere is the ecological role of such trees more critical than in the already over-cleared wheat/sheep belt. Yet the *Local Land Services Amendment Bill* would allow unregulated and unrecorded destruction of remaining ‘paddock’ trees, individually and as patches. Recent research is pointing to older remnant trees and patches (irrespective of their hollow-bearing status) being important sources of genetically healthy seed, often far more so than regrowth or planted stands of the same species. As such they represent a standing genetic resource, yet to be fully analysed for future use – although it is clear enough already that large quantities of genetically healthy seed for ecological restoration are a vital necessity for maintenance and restoration of landscape function, and for the success of revegetation efforts (including in the ‘set-aside’ areas envisaged in the draft Bills). Under expected conditions over the next century, as the legacy of over-clearing is compounded by climatic change, future generations of Australians will bitterly regret the loss of both native vegetation cover and the genetic resources with which it might have been repaired.

Such perverse outcomes are almost guaranteed given the contradictions in aims and approach under the two Bills, and given the still far from complete societal transition to a more ecologically sustainable regime of land use.

The ANPC has additional concerns in relation to the methodologies likely to be used in implementing the reformed legislation; the reliability of the modelling and mapping to be used to determine area categories for clearing and for presence/absence of threatened species and communities; the loss of public (third-party) appeal mechanisms for some decisions; and the reduced transparency of information and process in some areas. We think some of the problems in these areas are entrenched in the proposed legislation and not liable or likely to be remedied in regulations or operationally.

## IN CONCLUSION

The ANPC's membership, in New South Wales and nationally, is made up of urban and rural biodiversity restoration practitioners (community and professional), environmentally concerned land-owners and managers, biodiversity science experts, native plant horticultural experts, and organisational members which themselves have similar constituencies. We are confident that the concerns we express in this submission reflect the feelings of our NSW members on the proposed reforms. Our membership in turn is only a tiny fraction of the environmentally aware population upon whose active support and involvement the success or failure of the biodiversity conservation effort of the State will turn. Hitherto, this very broad constituency has been able to work in close accord with NSW government objectives, knowing that this State has some of Australia's best legislation.

With regret, with respect to the agency employees who have toiled to produce the current draft Bills, and with the exception of some supportable features which we have noted above, the ANPC is of the opinion that the overall result of the Bills in their current form negatively impact biodiversity conservation and sound natural resource management. We must recommend that they be redrafted to reinstate a better balance between regulation, incentive and self-regulation, and to eliminate the contradictory trends embodied in the two Bills.

The ANPC appreciates the opportunity to contribute to this public comment process.

For contact with the ANPC, please phone our national office on (02) 6250 9509 or email [business@anpc.asn.au](mailto:business@anpc.asn.au).

Yours sincerely,



Ms Joanne Lynch  
Business Manager

On behalf of the ANPC Management Committee

Appendix (over): **ABOUT THE AUSTRALIAN NETWORK FOR PLANT CONSERVATION Inc. (ANPC)**

## **ABOUT THE AUSTRALIAN NETWORK FOR PLANT CONSERVATION Inc. (ANPC)**

The ANPC is a national, not-for-profit, non-government incorporation of people and organisations, founded in 1991. It is dedicated to the conservation of Australia's native plant species and vegetation communities, which are part of our living national heritage and underpin the health and productivity of our continent. Our membership encompasses more than 350 individuals and organisations, and includes professional botanists, ecologists, foresters, horticulturalists, restoration specialists, and community conservation practitioners. Our Management Committee includes leading conservation scientists and practitioners. ANPC is on the Commonwealth's Register of Environmental Organisations, and has Deductible Gift Recipient and Charity Concessions status with the Australian Taxation Office. Our income derives from membership fees, donations, course and conference fees, grants and service fees. Our expertise and delivery capability is mainly based on the voluntary and in-kind input of our individual and organisational members, many of whom are specialists in their field.

The ANPC exists to:

- Facilitate linkage and information flow across boundaries;
- Provide a conservation knowledge network with long-term continuity;
- Disseminate scientific knowledge and practical skills and insights; and
- Encourage dialogue and contact across the conservation sector.

We specialise in the exchange of knowledge and practical experience between scientists, land managers, and conservation practitioners by:

- delivering courses and workshops (more than 60 since 2003, mostly in regional centres);
- publishing the quarterly bulletin *Australasian Plant Conservation* as a plain-English forum for practitioners across the sector in the Australasian region;
- running biennial national conferences and forums;
- producing nationally recognised best practice guidelines on plant conservation techniques – e.g. *Guidelines for the translocation of threatened plants in Australia* (2nd edition, 2004), and *Plant germplasm conservation in Australia – strategies and guidelines* (revised edition, 2009);
- undertaking best practice on-ground works, specialising in the translocation of threatened plant species, and associated surveys, propagation, research and monitoring.

Please see [www.anpc.asn.au](http://www.anpc.asn.au) for more information.

Australian Network for Plant Conservation Inc. (ANPC)  
GPO Box 1777 Canberra ACT 2601 Australia  
ABN: 70 861 480 818  
Telephone: (02) 6250 9509; Fax: (02) 6250 9528; Email: [anpc@anpc.asn.au](mailto:anpc@anpc.asn.au)  
Website: <http://www.anpc.asn.au>