

# Hope on the horizon for new native vegetation reforms

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**NSW farmers have long fought against native vegetation legislation that has impacted their right-to-farm. Will recent reforms help to build trust between farmers and government?**



*Aerial view of farm land near Cowra in the central west of New South Wales.  
Source: iStock.*

**NEWS UPDATE:** the Minister for Agriculture officially confirmed an amnesty for farmers facing prosecution under the old Act on 1 August 2019.

FARMER John Seery, who has worked his Moree property for more than 40 years, is no fan of NSW biodiversity laws. In fact he, like many other farmers, believes he is the unwilling victim of such legislation, which aims to protect threatened native habitat and fauna.

“I am one of those farmers who feels he has been victimised in all this,” John said at NSW Farmers’ packed native vegetation workshop in Moree in July. “I feel as though I am being blamed for something that is not my fault.

“I, and many others, have been asked to give biodiversity a free run on my property at my own expense, and that’s been going on for years. But what’s being sacrificed in the rush is the economic potential of property that is my family’s major asset.

**“We as farmers seem to have to compensate for the rest of the community while everybody else gets a free ride,” says John.**

John is not alone. After years of battling with the complex and restrictive [NSW Native Vegetation Act](#), finally replaced in 2017, farmers are now getting to grips with a new set of legislative practices that aim to streamline administrative hurdles around land management, while protecting native vegetation and habitat of high conservation value.



*Atticus Fleming, an executive director at the Department of Planning, Industry and Environment, at NSW Farmers' native vegetation workshop in Moree. Photography by Robert Dunn.*

As many farmers have found, striking the balance between productivity and protection can be a convoluted and frustrating process. The Moree native vegetation workshop, organised by NSW Farmers in conjunction with the [NSW Local Land Services \(LLS\)](#), the [Biodiversity Conservation Trust](#), and the former NSW Office of Environment and Heritage (now known as the [Department of Planning, Industry and Environment](#)), aimed to open a dialogue between landholders and government authorities, and attracted more than 150 farmers from across the state's northern regions.



*Caleb Doyle and Julie Busuttill of the LLS Sustainable Land Management Office.*

Under discussion were the new land management codes governed by the [Biodiversity Conservation Act 2016](#) and the [Local Land Services Amendment Act 2016](#). The laws are meant to provide a flexible, science-based approach to protecting high-value biodiversity while allowing for the productive pursuit of agriculture to continue. They also offer new ways to assess and manage the impact of development.

To further ease the process, the reforms promise streamlined approvals and dedicated resources to help reduce the regulatory burden on farmers and

landowners. However many farmers, who found the previous legislation too rigid to allow them to manage their land, remain wary about the promises.

Authorities say they use the best available science and data to ensure a balanced approach to land management and biodiversity conservation. Yet that balance, say some farmers, remains heavily weighted against landholders and the viability of both the properties and businesses they run.

For example, if a farmer wishes to develop and clear a new paddock for cropping, then they need to apply for approval from LLS. The onus is on the farmer in their application to address the mitigation of any environmental impacts resulting from that development.

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That might mean agreeing to not use lights at night to lower impacts on local nesting bird populations, or it may mean setting aside land to offset the environmental impact, sometimes at a rate of up to six hectares for every one hectare cleared.



*Farmers Ted Norton and Sonia O'Keefe at the workshop.*

In an address to the Moree workshop, Kristian Holz, group director of the LLS Sustainable Land Management Office, said he accepts that farmers lack confidence

in the reforms, and stressed that all parties should work together for better outcomes.

“We have definitely had a lack of community confidence in the reforms, and with working with LLS, in this part of the world,” he said.

“I accept that challenge and I understand there are reasons for that problem, but we do have solutions. We can help you, and we want to help you. That is our main message today. We haven’t thoroughly addressed all the challenges that this reform faces and that you as farmers face, but if we work together then we’ll find a way forward.”

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The issue of native vegetation regrowth is central for many farmers. In August 1995, legislation known as the State Environmental Planning Policy No. 46, severely restricted the removal of regrowth that was more than 10 years old. It was a significant issue; on large properties, farmers may not get around to tending regrowth into cleared areas for 20 years or more.

The issue of native vegetation regrowth is central for many farmers. In August 1995, legislation known as the State Environmental Planning Policy No. 46, severely restricted the removal of regrowth that was more than 10 years old. It was a significant issue; on large properties, farmers may not get around to tending regrowth into cleared areas for 20 years or more.

Under the current reforms, that regrowth might be approved for management after consideration by authorities. But the legacy of the old legislation lingers on. “People’s farms are their businesses,” says Bronwyn Petrie, chair of NSW Farmers’ Conservation & Resource Management Committee, who attended the Moree workshop. “That 10-year regrowth was one of the most hurtful components of the previous legislation and it still is. This arbitrary date has really impacted people.



*Bronwyn Petrie, chair of NSW Farmers' Conservation & Resource Management Committee, with Association policy director Robert Hardie.*

"Farmers need to make business decisions based on market opportunities, modern technologies and climate.

**"To suddenly have laws telling farmers what they could and could not do on their farms was a very difficult pill to swallow. It ruined a lot of farmers; we've had a lot of people leave the land because of it," says Bronwyn.**

"A lot of farmers couldn't introduce innovations such as no-till cropping because of these restrictions. We were supposed to be able to get permission from the department to improve things, but it has taken years and years of outrageous proposed set-asides of 16 [hectares] to one. Some farmers would have had to buy their neighbours out, just to achieve a simple sensible farming outcome on their own land."

These are issues that NSW Farmers will never give up on, says Bronwyn. "I have never met a farmer who didn't love their land and who doesn't want to pass that land on to their kids in the same or in a better state," she says.

“At the same time, we are seeing not only the loss of productive opportunities and loss of existing opportunities through innovation and innovative technologies, but we are also seeing massive environmental losses. That’s why NSW Farmers has stuck with this as one of our major items on our agenda and we will not resile from that because farm viability is our bread and butter.”

The current legislative reforms go some way towards remedying these past problems. “We think that the reforms are definitely a step in the right direction,” says Bronwyn. “It’s probably not as far as we would like to see reform go, but for the time being it’s better than where we have been.

**“What we would like to see is a rebuilding of some of that lost trust between farmers and government. We’d like people to give these reforms a go and see what happens.”**

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One of the more innovative results of the reforms is the advantages offered by recent technology. In the past there has been concern, when mapping native vegetation areas, about the accuracy of just what constitutes original native vegetation areas – as opposed to invasive native vegetation regrowth.



*Ann Holden and Dane Roberts from the federal Department of the Environment and Energy taking questions from the floor.*

Jeremy Black, an executive director at the former OEH, told the workshop that satellite technology gives authorities the power to see what is happening across rural NSW in ever-increasing detail, a development that benefits both farmers and authorities. The former OEH is preparing a Native Vegetation Regulatory Map to cover all rural land in NSW, to guide the application of the land management codes. The map is currently in a transitional stage.



*Speaker Jeremy Black of the former Office of Environment and Heritage.*

“Through effective mapping, we can see where there has been minimal development in the past,” he said. “Those areas are minimal risk. We can also see which areas are highly vulnerable to the loss of vegetation and may result in disruption of ground cover and water retention because of development.

“We look very closely at the aerial views of the land to determine these factors,” he told the workshop. “Our ability to determine that is improving all the time, in line with technology. We can accurately see detail down to 5m by 5m, but potentially down to 0.5m by 0.5m. That’s an incredible amount of detail. And accuracy is important.”

## Mapping out of future of native vegetation on NSW properties

He reassured the meeting that any feedback from farmers concerning vegetative determinations on their property is always considered. “In practice we accept that the map will not be perfect from day one,” Jeremy said.

“You all know a lot about your property. You know about the land management history. You know what vegetation you have and where you have it. This is an opportunity to have a conversation about your property with government. It’s also a way of locking into the future what you understand and what we understand as government.”

He also said that satellite monitoring is improving. “Just the other day [tech entrepreneur] Elon Musk launched a number of satellites into space, six of them were for Australia,” he said. “They have better resolution, much more detail. From some satellites, we get updates every 16 days but from others we get updates every day. We also use high resolution drones as well.”

The native vegetation workshop covered a host of other topics including the difference between notification and certification over proposed developments; the future of private native forestry; attitudes surrounding compliance and prosecution, along with what constitutes an approved farm activity; and how to make an application with LLS.



*Association president James Jackson addresses the workshop.*

Biodiversity and environmental conservation are priorities for NSW Farmers, says president James Jackson, who addressed the meeting. “It’s important that we have economic underpinning to be able to tackle biodiversity,” he said.

“To have good outcomes for the environment, you must have good businesses surrounding and supporting those decisions. As for the government, I think they will have to dig a little deeper into the piggy bank to properly compensate farmers for setting aside some of their very valuable soil.

“I know many farmers feel the same as me in considering that the original legislation was little more than statutory theft. It is an achievement to have that legislation repealed and now to have a chance at making something that is workable and does not destroy our businesses. Looking after the environment shouldn’t lead to unrealistic demands on people’s businesses or unrealistic outcomes in terms of biodiversity.

**“What we have heard today is a glimmer of light. There appears to be some culture change certainly among some regulators in this space and certainly**

**among some politicians. There seems to be an appetite for reviewing some of the ways that environmental activity has been imposed on people," James Jackson said.**

The healing of the relationship may come at price, believes NSW Farmers' Moree branch chair Stuart Gall. "The main issue that was repeated through the day was that if the government is going to lock up environmental land for the community's good, then they need to pay an economic return to the farmers.

"We need to make an economic year-on-year return on any land that's locked up, or it's not worth doing. We're sick of wearing the burden for the rest of the community to feel good about environmental outcomes when they're not willing to pay for them."

## **Giving NSW Farmers a voice on native vegetation**

### **John Seery, Cotton farmer, Moree**



We came to the Moree area in 1974 and at that time we were encouraged to increase productivity. The area depends on dryland farming and some irrigation, and we were encouraged with water entitlements and the building of the Copeton Dam.

Conservation farming was a big thing in those days and the farmers here were progressive in that respect.

But what we find now is a complete change. Instead of being encouraged to develop land and change its activity according to market pressures, economic conditions and climate, it's the opposite. In the speeches to this meeting today, much mention was made of the environment. However, nothing was said about economics.

There's a need for all these environmental things. I am not against that. I understand climate change, and we as farmers have to change our farming models to suit the climate so we can survive economically.

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But much of what we are presented with by government and departments is just red tape that stops us getting anything done.

**By the time you get through that red tape... will you live long enough to get it all done? The problem is we are now creating red tape for no productivity.**

If you get somebody out to your farm to assess what you want to do, then what you get back are reasons why you can't do it. They are not giving you assistance to get where you want to go.

If you have to give up six hectares of land to get one hectare of irrigation land, then it's not worth doing. It just doesn't work.

**Robert Anderson, Mixed farming, Moree**



To the north and north-west of Moree this issue around native vegetation and land management is the number one issue for farmers.

It gets down to the fact that a lot of people want to change from grazing to cropping or they want to develop more land and their hands are tied. Even with these new codes their hands are still tied by the fact that they have got to have offsets. These offsets are the really big issues for many, and they are unrealistic.

With an offset of one to one, then you might manage. But if you are being asked to provide an offset of six to one, or eight to one, then that is bloody ridiculous. And so, while that land is not being productive, the bigger danger is that the government and department then put a caveat on the land, and that caveat remains on the title forever. You cannot remove it.

**As far as I understand it, if you have a caveat on your land then the real estate value crashes.**

The banks won't include it in your equity. If you are trying to sell land and you have a block up in the corner of your property with a caveat on – I don't care if it's only 10 acres – the first thing people say is, 'What's that?' And that's a big impediment to a successful sale.

If they want to get this biodiversity going, then they are going to have to pay for it on an annual basis. If you come to an environmental arrangement with them then they need to pay you to look after that land. If you bugger it up, then they pay you less or they don't pay you, but if you do a good job then they pay you more.

## **Sandy Munro, Cattle farmer, Moree**



The shire of Moree is one the wealthiest in Australia. Our electorates are constantly being increased in size so our [federal] politician represents about 40% of the land mass of NSW.

There's a huge diversity of interest that takes place in that vast area, from grain production, irrigation cotton production, silver, gold and copper mining, not to mention horticulture and gas in the Pilliga. How can one man put his finger to the wind and represent all those interests at the same time?

The things that we're faced with here in terms of the land management Act are being forced on us by city electorates who have lost their direct involvement with country people. Those of us who punch above our weight in export earnings for Australia provide the services that they require – hospitals, more dams, cheap water.

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**It's frustrating for us as farmers because we feel we are jumping through hoops to provide for others.**

Land use on our properties is almost being dictated to us. My land has been in my family since 1862. I am a fifth-generation farmer in this district, and it's in my interest to look after it. I want to pass it on to the next generation.

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It all seems to be going around in circles. I have spent more than \$200,000 in plans and presentations of what I can and can't do on my own land.



*President James Jackson, sitting in the front row (to the right), listening to speaker Atticus Fleming. James told the workshop that it was important for farmers to have economic underpinning in order to tackle biodiversity.*

## **A win in native vegetation for affected farmers across NSW**

One positive to come from the workshop was reassurance from NSW Minister for Agriculture Adam Marshall for those farmers facing prosecution and/or compliance

action for activity they carried out under the old Native Vegetation Act, which would be legal if it was undertaken today.

Speaking in a video address, the Minister, who is also the local MP for the Northern Tablelands, said: “As the Minister for Agriculture, but also as a local member and a farmer’s son, I’m firmly of the view that prosecution and compliance action should be halted if the activity undertaken by a landholder would now be permissible under the new land management laws, that is the new Biodiversity Conservation Act, and the new Land Management Code,” he said.

“I’ve been working pretty hard over the last few months to stand up for these affected farmers and I’ve had a number of frank conversations with my counterpart, Environment Minister Matt Kean, about a fairer and more reasonable way forward.”

Speaking in early July, he said, “I’m hoping, in the next few weeks, to make some announcements to bring this whole sorry saga completely to a close. And any reference or any action under the discredited Native Vegetation Act, end it immediately and instead focus on a much fairer system going forward under the new laws and the new code.”

NSW Farmers’ president James Jackson welcomed the Minister’s words. “There are a lot of people distressed at the moment because they have got compliance notices and that certainly is a problem, but hopefully we’ll see more negotiation and settlements and less prosecutions,” he said.