



The Honorable Senator Sarah Hanson-Young
Chair
Senate inquiry into Australia's Faunal Extinction Crisis
Parliament House
CANBERRA ACT 2600

Dear Senator Hanson-Young

The Department has reviewed information provided to the Committee in responding to written questions on notice, specifically questions;

- number 5 dated of 28 August 2019
- number 1 of 23 September 2019
- number 9 of 29 October 2019

I wish to correct these answers and have enclosed a revised responses to each as an attachment to this correspondence.

The explanation for these errors is contained in the answer to question on notice number 230 which is also attached for your information.

I apologise for the error in these answers.

Yours sincerely

Kate Lalor
A/g First Assistant Secretary
Legal and Compliance Division

16 January 2020

Senate Environment and Communications
References Committee
Answers to questions on notice
Environment and Energy portfolio

Inquiry name: Inquiry into Australia's faunal extinction crisis

Hearing date: 23 August 2019

Question No: 5

Question Date: 28 August 2019

Question Type: Written

Question Text:

5. On what dates has the department provided to the offices of (a) Mr Frydenberg (b) Ms Price (c) Ms Ley and (d) any other minister, including assistant ministers, any information about the compliance action relating to land owned by Jam Land Pty Ltd.

Answer:

Information relating to Jam Land has only been provided to the office of Minister Frydenberg (2017-2018) and Minister Ley (2019). Dates that briefing, or other information about the Compliance investigation have been provided are:

2017:

28 February

28 July

3 August

12 and 25 October

2019

11 June

In addition to the above, a weekly report on assessment and compliance matters is prepared by the Department is provided to the Office of the Environment Minister. The compliance matter relating to the land owned by Jam Land Pty Ltd has been on this report since 2 December 2016.

**Senate Environment and Communications
References Committee**
Answers to questions on notice
Environment and Energy portfolio

Inquiry name: Inquiry into Australia's faunal extinction crisis

Hearing date:

Question No: 1

Hansard Page: na

Question Date: 23 September 2019

Question Type: Written

Senator Gallagher asked:

Question Text:

Have any current or previous Ministers or their offices sought advice in relation to the compliance action relating to the land part owned by Minister Taylor?

- a. Further to the answer provided to QoN #6 from the hearing of 23 August 2019 (received 6 September 2019), please confirm whether Ministers Price or Ley or their offices sought advice from the Department in relation to compliance actions.
- b. If yes, please identify which Minister or which Minister's office, the date on which advice was sought, the dates on which advice was provided, and whether in seeking advice any Minister or their office communicated the relevant interest to Minister Taylor.

Answer

- a) Ministers Price and Ley (and their offices) have not sought advice relating to the Jam Land compliance action.
- b) Minister Frydenberg's office sought advice on:
 - (i) 15 February 2017
(advice provided 28 February 2017)
 - (ii) 28 July 2017
(advice provided 28 July 2017)
 - (iii) 31 July 2017
(advice provided 3 August 2017)

**Senate Environment and Communications
References Committee**
Answers to questions on notice
Environment and Energy portfolio

Inquiry name: Inquiry into Australia's faunal extinction crisis

Hearing date:

Question No: 9

Hansard Page: na

Question Date: 29 October 2019

Question Type: Written

Senator Gallagher asked:

Question Text:

With respect to the requests from Minister Frydenberg's office for a briefing in relation to the compliance action involving the property which is partly owned by Jam Land:

- a. How many requests did the Department receive from Minister Frydenberg?
- b. What was the date of each request?
- c. Did any requests make reference to the matter being raised in Parliament, and if so what was the nature of the reference?
- d. Did any of the requests make reference to Minister Taylor?

Answers

- a. Minister Frydenberg's office requested briefing in relation to the compliance action involving the property which is partly owned by Jam Land on three (3) occasions.
- b. The dates the requests were made are:
15 February 2017
28 July 2017
31 July 2017
- c. Yes, the Minister's Office advised that the matter had come up in Parliament.
- d. No.

Senate Standing Committee on Environment and Communications
Legislation Committee
Answers to questions on notice
Environment and Energy portfolio

Question No: 230
Hearing: Supplementary Budget Estimates
Outcome: Outcome 1
Program: Legal and Compliance Division
Topic: Dates provided regarding Jam Land compliance action
Hansard Page:
Question Date: 20 November 2019
Question Type: Written

Senator Waters asked:

Dates advice provided to Ministers

On 28 August 2019, a question on notice was submitted to the Department asking for the dates on which the Department provided information regarding the Jam Land compliance action to the Minister. In a response received on 6 September 2019, the Department said: Information relating to Jam Land has only been provided to the office of Minister Frydenberg (2017-2018) and Minister Ley (2019). Dates that briefing, or other information about the Compliance investigation have been provided are:

2017: 15, 16 and 21 February, 7 March, 28 July, 3 August, 12 and 25 October

2018: 30 January

2019: 11 June

On 23 September 2019, a further QON was submitted asking whether advice regarding the Jam Land compliance action was sought by Ministers Price or Ley and, if yes, when the advice was provided.

The Department response received on 4 October 2019 said YES, advice had been sought by Ministers Price or Ley, but only gave the dates on which advice was provided to the office of Minister Frydenberg as 15 February 2017, 28 July 2017 and 12 October 2017.

On 28 October 2019, another QON was submitted asking how many times in the past 3 years a Minister or Minister's office had requested talking points or other advice on compliance actions in relation to Jam Land. The answer received on 6 November 2019 stated: Information relating to Jam Land has only been requested by the office of Minister Frydenberg (2017-2018). Dates that briefing, or other information have been requested are 15 February 2017, 28 February 2017, 28 July 2017 and 31 July 2017

QUESTIONS:

Which of these responses is correct?

What is the explanation for the discrepancies in the information provided in response to previous QONs?

Please confirm which of the advices / information referred to in the various responses have been released under Freedom of Information and provide details of the dates on which the documents were released and to whom.

If any of the advices / information referred to in the various responses to QONs has not been released under Freedom of Information, why have those documents not previously been disclosed? Please provide copies of any advices / information that have not already been released under FOI.

Answer:

The three responses are different as they relate to different questions. An interpretation was applied and the response included dates when information was prepared internally by the Department to inform discussion or future briefing to the Minister's Office.

The response of 6 September 2019

- included dates when information was prepared internally by the Department to inform discussion or future briefing to the Minister's Office (15, 16 and 21 February 2017, and 30 January 2018), which were beyond the scope of the request
- omitted to provide that information was provided to the Minister's office on 28 February 2017 (that email is publicly available)
- included information provided to the Minister's Office on 7 March 2017 which provided information on the grassland but did not include information on the Jam Land investigation.

The correct answer should be 28 February 2017, 28 July 2017, 3 August 2017, 12 and 25 October 2017, and 11 June 2019.

The response of 4 October 2019

- contained an editorial error. The "yes" answer provided was in response to question 1 (whether advice was requested by any current or previous minister) rather than 1a (whether advice was requested by Ministers Price and Ley). To be clear, Ministers Price and Ley (and their offices) have not sought advice relating to the Jam Land compliance action.

The correct answer should be Minister Frydenberg's office sought advice on 15 February 2017, 28 July 2017, and 31 July 2017. This answer will also apply to the response submitted on 6 November 2019.

The documents which have been released under FOI are included in FOI 190416 (released 11 June 2019) and FOI 190723 (released 4 October 2019). The documents which have not been in scope for these FOI requests are attached.

The Department has written to the Chair of the Senate Committee to correct the answers as outlined above.

[REDACTED]

From: [REDACTED]
Sent: Wednesday, 15 February 2017 11:04 AM
To: [REDACTED]
Cc: [REDACTED]
Subject: RE: Possible Compliance Action [SEC=UNCLASSIFIED]

Hi [REDACTED]

I believe the only active compliance case we have for impacts to Natural Temperate Grassland of the South Eastern Highlands relates to herbicide application to approximately 30 Hectares of the ecological community near Delegate in southern NSW. Below is talking points that I believe went to the Minister's Office about the matter. It would be good to find out who is asking and why.

Corrowong/Delegate land clearing

- The Department is investigating an allegation that about 30 hectares of the nationally listed critically endangered Natural Temperate Grassland of the South Eastern Highlands ecological community has been cleared in the Corrowong region of Southern NSW.
- As this matter is ongoing it would be inappropriate to comment further.

[REDACTED] from the Ecological Communities Section may be able to assist with the query about the revision to the listing.

Cheers,

[REDACTED]
A/g Compliance Manager
Compliance Section
Environment Standards Division
Department of the Environment and Energy
GPO Box 787 CANBERRA, ACT 2601
[REDACTED]

From: [REDACTED]
Sent: Wednesday, 15 February 2017 10:38 AM

To: [REDACTED]

Subject: Possible Compliance Action [SEC=UNCLASSIFIED]

Hi [REDACTED]

Please find below a copy of the note I have been provided. This was recorded by a colleague from a phone call with the minister's office so I apologise for the detail.

'Possible compliance action

South East Highland Grassland

- Hunt made a change (listing status priority)
- What was change, when, why, implications

ACT/NSW Border'

[REDACTED] and I have assumed this probably refers to Natural Temperate Grassland of the South Eastern Highlands. I am not 100% on what we actually need to provide in response to this but if you are able to provide any info on compliance actions occurring that relate to this community then that would be great.

Regards,

[REDACTED]

[REDACTED]

Assessment Officer
Southern NSW & ACT Assessments
Environment Standards Division
Department of the Environment and Energy
[REDACTED]

From: [REDACTED]
Sent: Thursday, 16 February 2017 10:35 AM
To: Collins, Monica
Cc: [REDACTED]
Subject: FW: Clearing of Grasslands [SEC=UNCLASSIFIED]

Monica

General Information on listing of *Natural Temperate Grassland of the South Eastern Highlands*

- Natural Temperate Grasslands in the ACT and Southern Tablelands, with core areas around Canberra and Cooma, have been protected under the *Environment Protection and Biodiversity Conservation Act 1999* since the Act was introduced in 2000.
- The *Natural Temperate Grassland of the South Eastern Highlands* ecological community was listed in the Critically Endangered category on 6 April 2016.
- Between 16 July 2000 and 5 April 2016, the extent of this ecological community was included with the listed endangered *Natural Temperate Grassland of the Southern Tablelands of NSW and the Australian Capital Territory* ecological community.
- The Natural Temperate Grassland of the South Eastern Highlands ecological community came about as a result of a review of the Natural temperate grassland of the Southern Tablelands of NSW and the Australian Capital Territory (listed as endangered in 2000). This review was conducted to take account of new information, and to recognise a broader distribution than was acknowledged in the original listing.

General Information on current investigation

- The Department is investigating relating to clearing of the *Natural Temperate Grassland of the South Eastern Highlands* ecological community in the Corrowong region of Southern NSW.
- The Department has undertaken inspections on the property. Expert advice indicates that up to 30ha of the protected ecological community has been impacted.

Parliament Hansard Search

I can only find two references to land clearing in the recent Hansard for the Senate and House (7-15 Feb)

Senator ROBERTS (Queensland) South-West Queensland Tuesday, 7 February 2017 pp 99 Hansard

"... property rights are fundamental, and the destruction of property rights is allied to red tape, green tape and blue tape, which are choking the farmers in our state. . . . Sheep graziers . . . cannot comply with the tree clearing guidelines, which are senseless.

http://parlinfo.aph.gov.au/parlInfo/download/chamber/hansards/272a29a0-c557-4988-bcb8-227d6f4fffc8/toc_pdf/Senate_2017_02_07_4668.pdf;fileType=application%2Fpdf#search=%22chamber/hansards/272a29a0-c557-4988-bcb8-227d6f4fffc8/0000%22

Senator RHIANNON (New South Wales) Environmental Conservation 7 February 2017 pp 108

The amount of land in New South Wales being cleared for crops and pasture is accelerating, . . . indicating that land-clearing regulations were not enforced. . . . legislation land clearing will certainly escalate further, leading to an increased loss of biodiversity and serious negative impacts on the climate. land-clearing rules has the shameful record of having the highest rate of species extinctions in the world . . .etc

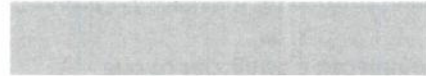
http://parlinfo.aph.gov.au/parlInfo/download/chamber/hansards/272a29a0-c557-4988-bcb8-227d6f4fffc8/toc_pdf/Senate_2017_02_07_4668.pdf;fileType=application%2Fpdf#search=%22chamber/hansards/272a29a0-c557-4988-bcb8-227d6f4fffc8/0000%22

[REDACTED] | Assistant Director |

Compliance

Environment Standards Division |

Department of Environment and Energy
GPO Box 787 Canberra ACT 2601



[REDACTED]

From: [REDACTED]
Sent: Thursday, 16 February 2017 4:02 PM
To: Collins, Monica
Cc: CEBWorkflow; [REDACTED]
Subject: [REDACTED]

Monica

As requested some talking points below for your information prepared by [REDACTED]

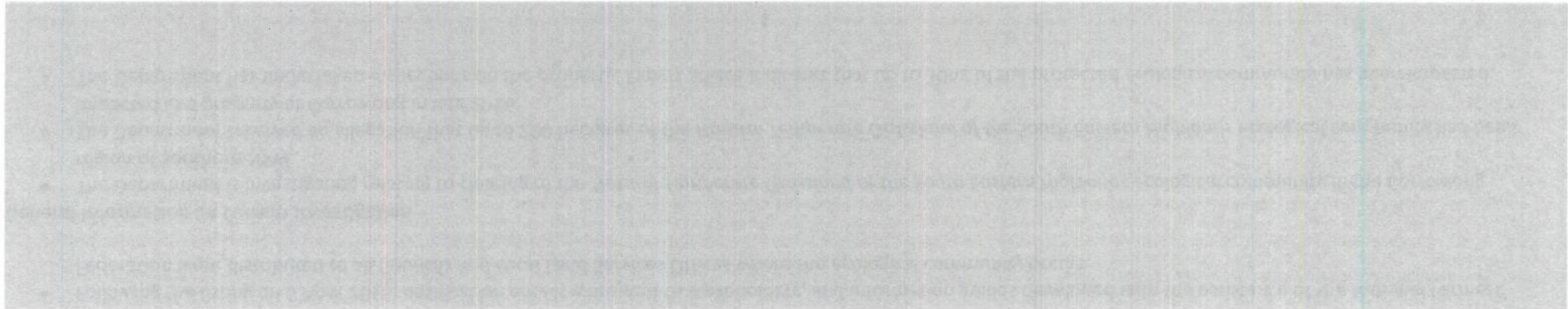
[REDACTED]

General Information on listing of *Natural Temperate Grassland of the South Eastern Highlands*

- The native grasslands in the Southern Tablelands region of NSW and the ACT have been listed as a threatened ecological community since the start of the EPBC Act (16 July 2000), and before that under the Commonwealth Endangered Species Protection Act 1992.
- The Natural Temperate Grassland of the South Eastern Highlands ecological community was listed on 6 April 2016 as a result of a review of the original listing, which was known as Natural temperate grassland of the Southern Tablelands of NSW and the Australian Capital Territory. This review was conducted to take account of new information, in line with the 2006 National Recovery Plan for this ecological community.
- The revised listing added a 'minimum condition threshold', which identifies which areas of grassland are protected by the EPBC Act. Low quality grasslands that do not meet this threshold are not protected, whereas some of these areas would have been included in the previous listing.
- The process which led to the 2016 listing included public consultation. The Department sent notifications to a wide range of stakeholders to make them aware of the consultation process, including all relevant Councils, Local Land Services and other State Agencies, the National Farmers' Federation and NSW Farmers' Association. A farmer specific consultation guide was available as part of the consultation package.
- Following the listing on 6 April 2016, notification emails were sent to stakeholders, and information guides developed with the assistance of the National Farmers' Federation were distributed to all Councils and Local Land Services Offices where the ecological community occurs.

General Information on current investigation

- The Department is investigating relating to clearing of the *Natural Temperate Grassland of the South Eastern Highlands* ecological community in the Corrowong region of Southern NSW.
- The Department received an allegation that up to 200 hectares of the *Natural Temperate Grassland of the South Eastern Highlands* ecological community had been impacted at a property at Corrowong in late 2016.
- The Department has undertaken inspections on the property. Expert advice indicates that up to 30ha of the protected ecological community has been impacted.



| A/g Director |

Compliance

Environment Standards Division |

Department of Environment and Energy
GPO Box 787 Canberra ACT 2601



[REDACTED]

From: [REDACTED]
Sent: Tuesday, 21 February 2017 9:25 AM
To: Collins, Monica
Cc: [REDACTED]
Subject: FW: URGENT TALKING POINTS Clearing of Natural Temperate Grasslands NSW [SEC=UNCLASSIFIED]

Monica

As requested I have prepared a summary to inform your discussions with by [REDACTED] from the MO that relate to alleged clearing of a critically endangered ecological community in southern NSW.

NSW Legislative Changes

On Thursday 17 November 2016 the Biodiversity Conservation Bill 2016 and the Local Land Services Amendment Bill 2016, were passed by the NSW Parliament. These Acts come into full effect in July 2017 and repeal and replace the *Threatened Species Conservation Act 1995*, the *Native Vegetation Act 2003* and the *Nature Conservation Trust Act 2001*.

The legislative changes will introduce a suite of land-clearing Codes, regulatory mapping and Regulations aimed at assisting NSW rural landholders identify areas of their property that can be cleared of native vegetation, either without need for further state approval or through a defined process such as biodiversity offsetting. This schema may result in increased land clearing rates within the rural sector in New South Wales. Because the State process does not fully consider the potential impacts on matters of national environmental significance protected under the *Environment Protection and Biodiversity Conservation Act 1999* it is likely that some landholders, operating within, and in accordance with, the state regulations will contravening Part 3 of the *Environment Protection and Biodiversity Conservation Act 1999* through taking a controlled action without an approval being in place under national environmental law.

General Information on listing of the *Natural Temperate Grassland of the South Eastern Highlands* ecological community

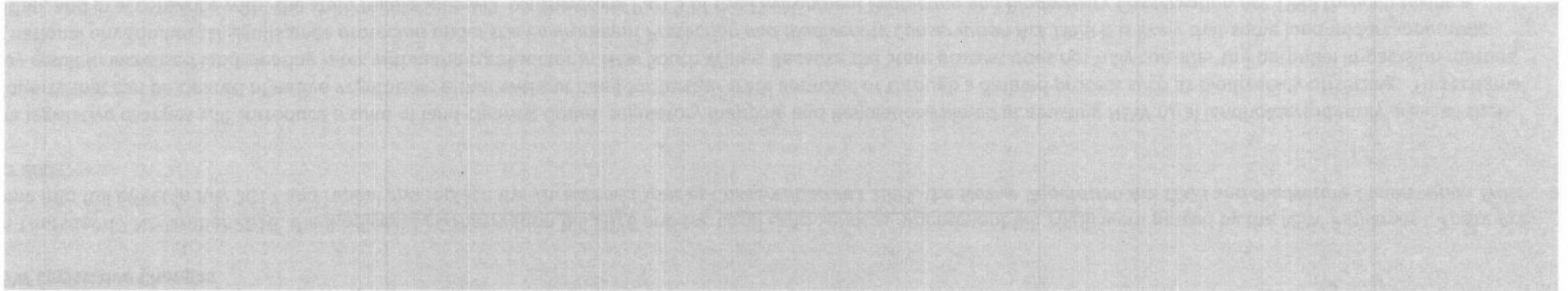
- The native grasslands in the Southern Tablelands region of NSW and the ACT have been listed as a threatened ecological community since the start of the *Environment Protection and Biodiversity Conservation Act 1999* (16 July 2000), and before that under the Commonwealth *Endangered Species Protection Act 1992*.
- The Natural Temperate Grassland of the South Eastern Highlands ecological community was listed on 6 April 2016 as a result of a review of the original listing, which was known as Natural temperate grassland of the Southern Tablelands of NSW and the Australian Capital Territory. This review was conducted to take account of new information, in line with the 2006 National Recovery Plan for this ecological community.
- The revised listing added a 'minimum condition threshold', which identifies which areas of grassland are protected by the EPBC Act. Low quality grasslands that do not meet this threshold are not protected, whereas some of these areas would have been included in the previous listing.
 - To be considered the listed ecological community, grassland patches must be at least 0.1 Hectare in size, must have a greater percentage cover of native vascular plants (including annual and perennial species) than the percentage cover of perennial exotic species (ie >50% native cover) , and must meet

additional condition thresholds. These thresholds relate to the diversity of non-grass native species, the presence of particular 'indicator species' or the floristic value score.

- The process which led to the 2015 listing included public consultation. The Department sent notifications to a wide range of stakeholders to make them aware of the consultation process, including all relevant Councils, Local Land Services and other State Agencies, the National Farmers' Federation and NSW Farmers' Association. A farmer specific consultation guide was available as part of the consultation package.
- Following the listing on 6 April 2016, notification emails were sent to stakeholders, and information guides developed with the assistance of the National Farmers' Federation were distributed to all Councils and Local Land Services Offices where the ecological community occurs.

General Information on current investigation

- The Department is investigating relating to clearing of the *Natural Temperate Grassland of the South Eastern Highlands* ecological community in the Corrowong region of Southern NSW.
- The Department received an allegation that up to 200 hectares of the *Natural Temperate Grassland of the South Eastern Highlands* ecological community had been impacted at a property at Corrowong in late 2016.
- The Department has undertaken inspections on the property. Expert advice indicates that up to 30ha of the protected ecological community has been impacted.

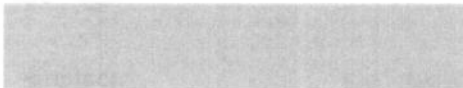


[Redacted] | A/g Director |

Compliance

Environment Standards Division |

Department of Environment and Energy



From: Monica Collins
To: [REDACTED]
Cc: Papps, David; [REDACTED]; de Brouwer, Gordon; Office of Compliance; [REDACTED]
Subject: RE: NSW Monaro/Corrowong media [SEC=UNCLASSIFIED]
Date: Thursday, 3 August 2017 12:55:06 PM
Attachments: Brief_QIB_170728_Monaro_Land_Clearing.docx

Hello [REDACTED]

Please see the extended notes attached to address your questions below. While some of the media comments related to State legislation, I have addressed from a Commonwealth perspective.

Monica

Monica Collins
Chief Compliance Officer
Office of Compliance
Department of the Environment and Energy
[REDACTED]
[REDACTED]

From: [REDACTED]
Sent: Monday, 31 July 2017 3:50 PM
To: Collins, Monica [REDACTED]
Cc: Papps, David [REDACTED]
[REDACTED] de Brouwer, Gordon
[REDACTED] Office of Compliance
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Subject: RE: NSW Monaro/Corrowong media [SEC=UNCLASSIFIED]

Thanks. Can we please add some further information as set out below.

In terms of the TPs provided, can we elaborate on the awareness point to include consultation with NFF, etc during the listing process.

Is it worth adding TPs for the following:

- “In the situation as it stood two days ago, for 80 per cent of the Monaro, we could not spray out a paddock - which is a very routine farming practice - without government authorisation. We’d have to get a government officer to come in here and certify if we could do that and that’s on 80pc of our country - not 20pc or 30pc.” - Can we say that EPBC listing is only expected to impact x% of the Monaro grasslands?
- “Top of the list of the farmer’s six demands was to see “strict criteria” in terms of what would activate the mapping and how accuracy was defined” – Although the

demands may be in relation to state regulation, can we refer to Cth actions where we have provided greater specificity/certainty to farmers.

- “other concerns were: having a short, simple explanatory document for farmers on the process and impacts of regulating land given the complexity;” – Although the concerns may have been in relation to state regulation, can we refer to Cth explanatory document
- Mr Taylor said he couldn't find anyone within the NSW Local Land Services division who knew of the federal listing of the region under the EPBC Act and the federal government had made “zero effort” to get information out to farmers. – Have we briefed LLS?
- He said the listing's definition of native versus non-native grasslands also excluded annuals. “That was a major point for us in the state legislation but they've also done it with the EPBC Act,” he said. – Can we refer to Cth seeking to make Cth and state regulation consistent as requested by farmers?
- Mr Taylor said he found out about the listing under the Act when he sprayed some of his property at Delegate but a letter was sent by the federal government saying they believed the EPBC Act had been breached. – The potential breach being investigated relates to the previous law and not the law as amended. Can we also refer to awareness actions as the law previously applied?
- Mr Green said lack of communication in the negotiating process around the developing legislation in recent times had also been frustrating, with NSW Farmers required to sign a deed of confidentiality to be at the table and therefore unable to disseminate information to members effectively. – Is this correct? Can we refer to opportunities for consultation without confidentiality restrictions?
- Mr Green said his understanding of the EPBC Act was that the only time federal laws were supposed to come into play was in the absence of a state's native vegetation plan. – Not correct. The two systems work in parallel, with actions taken to align, etc wherever possible. Can we point to Cth action to explain how EPBC Act works?

From: Collins, Monica

Sent: Friday, 28 July 2017 5:09 PM

To: [REDACTED]

Cc: Papps, David

[REDACTED] de Brouwer, Gordon

[REDACTED] Office of Compliance

Subject: RE: NSW Monaro/Corrowong media [SEC=UNCLASSIFIED]

Hi [REDACTED]

Please see talking points, including table as requested.

Regards

Monica

Monica Collins

Chief Compliance Officer

Office of Compliance

Department of the Environment and Energy

From: [REDACTED]

Sent: Friday, 28 July 2017 1:57 PM

To: Collins, Monica <[REDACTED]>

Cc: Papps, David <[REDACTED]>

[REDACTED] de Brouwer, Gordon

[REDACTED] Office of Compliance

Subject: Re: NSW Monaro/Corrowong media [SEC=UNCLASSIFIED]

Could you please provide a table of the different accusations and our response to each.

I note they mention strict criteria which I understand is consistent with a lot of our recent work.

Thanks

Sent from my iPhone

On 28 Jul 2017, at 13:08, Collins, Monica <[REDACTED]> wrote:

Hi [REDACTED] and [REDACTED]

Please see media at link below. I will update the talking points this afternoon.

Monica

<http://www.farmonline.com.au/story/4815592/farmers-fear-regulatory-double-strike-on-native-vegetation/>

Monica Collins

Chief Compliance Officer

Office of Compliance

Department of the Environment and Energy

CLEARING OF GRASSLANDS IN THE MONARO REGION, NEW SOUTH WALES

Issues

Agricultural land holders have raised concern about protection of native grasslands in the Monaro Region of NSW.

Talking points

- The Department is investigating clearing of the *Natural Temperate Grassland of the South Eastern Highlands* ecological community in the Corrowong region of Southern NSW.
- The Department is working with the land holder to resolve the matter.

Background

State governments have the primary role for regulating land clearing for agriculture

- State Governments have primary carriage of planning and development decisions within their jurisdiction, including for land clearing.
- The Commonwealth only regulates actions which are likely to result in a significant impact to matters protected under the *Environment Protection and Biodiversity Conservation Act 1999*. These actions need to be approved under the Act before they can be undertaken.
- The Act applies nationally, and can apply to activities already approved by state governments under state laws.

New native vegetation laws are due to commence in NSW on 25 August

- The Department is working with NSW Farmers, National Farmers Federation and NSW co-regulators on opportunities to support landholders to know about their obligations under national environmental law.

The Department is working with the land holder to resolve the matter

- The Department has undertaken inspections on the property. Expert advice indicates that up to 30ha of the protected ecological community has been impacted.

Contact Officer: [REDACTED]

Telephone: [REDACTED]

Cleared by (SES level): Monica Collins

Telephone: [REDACTED]

Listing of Natural Temperate Grassland of the South Eastern Highlands

- Natural Temperate Grasslands in the ACT and Southern Tablelands, with core areas around Canberra and Cooma, have been protected under the *Environment Protection and Biodiversity Conservation Act 1999* since the Act was introduced in 2000.
- The *Natural Temperate Grassland of the South Eastern Highlands* ecological community was listed in the Critically Endangered category on 6 April 2016.
- Between 16 July 2000 and 5 April 2016, the extent of this ecological community was included with the listed endangered *Natural Temperate Grassland of the Southern Tablelands of NSW and the Australian Capital Territory* ecological community.
- The Natural Temperate Grassland of the South Eastern Highlands ecological community came about as a result of a review of the Natural temperate grassland of the Southern Tablelands of NSW and the Australian Capital Territory (listed as endangered in 2000). This review was conducted to take account of new information, and to recognise a broader distribution than was acknowledged in the original listing.

There was broad consultation with farmers, Local Land Services and farmers representatives

- There was statutory public consultation on the original listing and throughout development of a recovery plan for the grasslands in the mid to late 2000s.
- In addition, public consultation on the 2016 review exceeded the statutory requirements of the EPBC Act. Targeted emails were sent to a wide range of stakeholders, including all councils, Local Land Services, and state agencies where the ecological community occurs, and the National Farmers' Federation (NFF) and NSW Farmers' Association. These Farmers' groups were contacted by the Department's Environment Liaison Officer with the NFF, and the Department met with the NFF to discuss the listing on multiple occasions.
- In response to the call for public comments, a submission by the NFF did not oppose the listing but asked for further clarification on some issues with the listing assessment and raised some concerns about complexity for farmers. The Department's response to the NFF addressed their concerns and some broader issues around the EPBC Act that were being discussed with them at the time. The NFF did not reply in writing again, but there were ongoing conversations with the NFF about the grasslands listing review over almost 2 years following their submission and before Minister Hunt made the final listing decision on 6 April 2016. This culminated in publication of a post-listing information guide that the NFF helped the Department draft to address their concerns about helping farmers better understand the listing.
- With changes to the NSW legislation there is an opportunity to increase awareness of the listing and EPBC Act in general. Agencies such as Local Land Services can play a big role in this by using their connections with local communities and individual landholders.

Talking points as they relate to Commonwealth matters raised in the FarmOnline media are included in the table below.

Issue raised in FarmOnline	Talking Points
<p>Article claims duplication between state and federal laws.</p>	<ul style="list-style-type: none"> • State Governments have primary carriage of planning and development decisions within their jurisdiction, including for land clearing. • The Commonwealth only regulates actions which are likely to result in a significant impact to matters protected under the <i>Environment Protection and Biodiversity Conservation Act 1999</i>. These actions need to be approved under the Act before they can be undertaken. • The Act applies nationally, and can apply to activities already approved by state governments under state laws. This point is made in guidance documents published by the Department- see below.
<p>Farmers want certainty about when Commonwealth legislation applies (strict criteria; explanatory notes, condition thresholds).</p>	<ul style="list-style-type: none"> • The Department has published guidelines to assist land holders to determine whether approval is required for a proposed action, and can provide advice on a case-by-case basis. • Under Australia's national environmental law, approval is required to take an action that is likely to significantly impact on a matter protected by the EPBC Act. • Through the revision of the listing of the natural temperate grasslands ecological community, strict criteria were put in place to establish minimum condition thresholds, below which grasslands are not protected under national environmental law. • The Department has published explanatory documents relating to the Natural Temperate Grassland of the South Eastern Highlands ecological community on its website. • The Department has published guidelines about the operation of the EPBC Act, and what it means for farmers. • The Department welcomes the opportunity to discuss with landholders the potential application of the EPBC Act to their properties. <p>Relevant links:</p> <p>Farming and national environmental law</p> <p>Farmers and the national environmental law (EPBC Act)</p>

	<p><u>Natural Temperate Grassland of the South Eastern Highlands: a nationally protected ecological community</u></p>
<p>Condition thresholds</p>	<ul style="list-style-type: none"> • The revised ecological community listing requires that grassland patches must be at least 1000m² (0.1 Hectare) in size, must have >50% native cover (compared to exotic species), and in some cases must meet additional condition thresholds (e.g. the diversity of non-grass native species, the presence of particular 'indicator species'). This is intended to exclude low conservation value grasslands, such as low diversity native pastures. • Detailed information about how to recognise a patch of the grassland and what condition it might be in are given in the approved conservation advice and information guide for the grasslands developed in consultation with the NFF. Most usefully, the information guide provides a simple flowchart to help landholders determine the condition of the grassland. • Most landholders have a great knowledge of the species occurring on their properties and would be able to apply the flow chart to determine if they are likely to have the threatened grasslands community. If there is still a question as to whether the ecological community is present, then landholders may seek further guidance from the Department, or Local Land Services officers.
<p>Article claims that 80 per cent of the Monaro could not be sprayed without government authorisation.</p>	<ul style="list-style-type: none"> • The Monaro is made up of a range of different vegetation types, of which native grasslands is a key type. Much of the native vegetation has been converted to pastures, which has led to a major loss of extent and condition in native vegetation. The EPBC Act listing assessment estimates that around 10% of the nationally-defined grassland ecological community remains. • Continuing use provisions in the EPBC Act mean that any areas that have sprayed on a regular basis are likely to be exempt from further approval. • Through the revision of the listing of the natural temperate grasslands ecological community, strict criteria were put in place to establish minimum condition thresholds, below which grasslands are not protected under national environmental law. • Even if the condition thresholds are met for a particular area, many farming activities will not be considered a significant impact, requiring approval.
<p>Mr Taylor says that farmers in the region had zero awareness about the listing</p>	<ul style="list-style-type: none"> • At the start of the consultation period on the review of the ecological community listing, notification emails were sent to a wide range of stakeholders, including all councils, Local Land Services, and state agencies where the ecological community occurs, amongst others. The

<p>of the grassland community under the EPBC Act.</p>	<p>Department also met with the National Farmers Federation to discuss the listing.</p> <ul style="list-style-type: none"> • Following the listing, email notifications were sent to the stakeholders listed above. • The Department is working with NSW government co-regulators to support land owners to know about their obligations under national environmental law.
<p>Mr Taylor says NSW Local Land Services are not aware of the federal listing and the federal government made no effort to get information to farmers.</p>	<ul style="list-style-type: none"> • As well as familiarity with the previous listing, officers from South East Local Land Services were involved throughout the listing re-assessment from 2014-16, including participating at a workshop. South East Local Land Services were also notified of the public consultation period for the re-assessment, and the listing after it occurred; and were sent notification and hardcopies of the listing information guide (to all Local Land Services offices within the South East region) in mid-2016. • South East Local Land Services has also received Australian Government grants to protect and manage the EPBC Act listed grasslands.
<p>The federal government requires consideration of impacts down to 0.1 hectares. This scale is unworkable.</p>	<ul style="list-style-type: none"> • The Department has published guidelines to assist land holders to determine whether approval is required for a proposed action, and can provide advice on a case-by-case basis. • Under Australia's national environmental law, approval is required to take an action that is likely to significantly impact on a matter protected by the EPBC Act. • Low value grasslands are not included in the national listing because condition thresholds are specified in the listing. • While 0.1 hectare is the threshold size to be considered the <i>Natural Temperate Grassland of the South Eastern Highlands</i> ecological community, it also has to meet the condition thresholds. In addition, it does not follow that this is also the threshold to be considered a significant impact, requiring approval.

From: [REDACTED]
To: [REDACTED]
Cc: [REDACTED]; [REDACTED]; [REDACTED]
Subject: FW: Corrowong investigation [DLM=Sensitive]
Date: Friday, 13 October 2017 8:07:27 AM
Attachments: Corrowong talking points 121017.docx

[REDACTED]

FYI and for file

[REDACTED]

From: Collins, Monica
Sent: Thursday, 12 October 2017 6:50 PM
To: [REDACTED]@environment.gov.au>
Cc: Pratt, Finn [REDACTED]@environment.gov.au>; Knudson, Dean [REDACTED]@environment.gov.au>; Office of Compliance [REDACTED]@environment.gov.au>; [REDACTED]@environment.gov.au>
Subject: Corrowong investigation [SEC=UNCLASSIFIED]

Hello [REDACTED]

Please see attached update for the Corrowong investigation into an allegation that land holders have significantly impacted about 30 hectares of the *Natural Temperate Grassland of the South Eastern Highlands* ecological community which is listed as critically endangered under the *Environment Protection and Biodiversity Conservation Act 1999*.

Please note the sensitivity of the information in relation to an active compliance investigation.

Monica

Monica Collins
Chief Compliance Officer
Office of Compliance
Department of the Environment and Energy
P: 02 6274 [REDACTED]
M: [REDACTED]

SENSITIVE: Compliance and Enforcement

DEPARTMENT OF THE ENVIRONMENT AND ENERGY

Division/Agency: Office of Compliance

NATURAL TEMPERATE GRASSLANDS OF THE SOUTH EASTERN HIGHLANDS: COMPLIANCE MATTER

Issue

The Department is investigating an allegation that land holders have significantly impacted about 30 hectares of the *Natural Temperate Grassland of the South Eastern Highlands* ecological community which is listed as critically endangered under the *Environment Protection and Biodiversity Conservation Act 1999*.

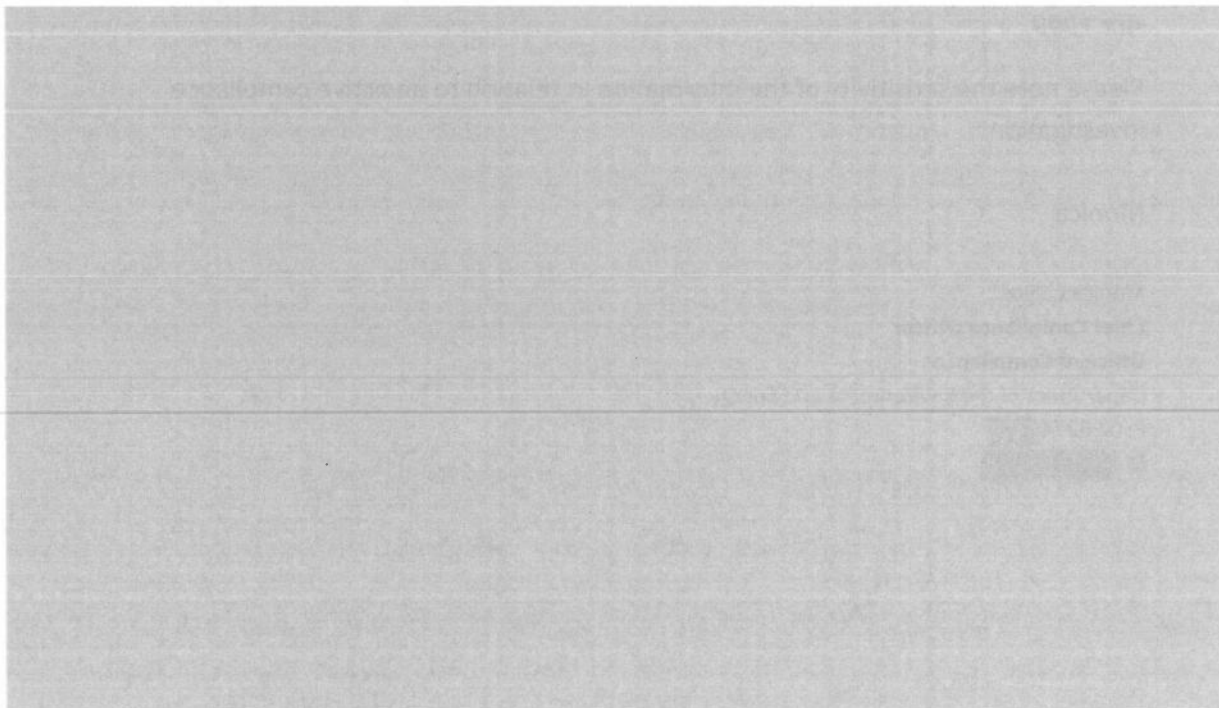
Talking points

- I am aware of allegations of potentially unlawful clearing of native temperate grasslands in the Monaro region of NSW.
- As the matter is currently under investigation, I will not comment further.

Background

This brief concerns our proposed compliance and enforcement approach for potential breaches of the *Environment Protection and Biodiversity Conservation Act 1999* in connection with land clearing in agricultural areas. Inappropriate disclosure may prejudice our compliance and enforcement processes for these and other matters.

In November 2016 the Department received an allegation that up to 200 Hectares of the critically endangered *Natural Temperate Grassland of the South Eastern Highlands* ecological community had been sprayed with herbicide at a property near Corrowong, NSW.



Contact Officer: [REDACTED]
Telephone: (02) 6274 [REDACTED]

Cleared by (SES level): Monica Collins
Telephone: (02) 6274 [REDACTED]
Last updated:

From: [REDACTED]
To: [REDACTED]; [REDACTED]
Subject: FW: template for Minister PM briefing (002) [DLM=Sensitive]
Date: Tuesday, 30 January 2018 2:46:26 PM
Attachments: [template for Minister PM briefing \(002\).docx](#)

[REDACTED] and [REDACTED]

Very little changes – thanks heaps for the great work on this.

[REDACTED]

From: Knudson, Dean
Sent: Tuesday, 30 January 2018 2:26 PM
To: [REDACTED]@environment.gov.au>
Cc: [REDACTED]@environment.gov.au>; Richardson, Geoff
[REDACTED]@environment.gov.au>
Subject: template for Minister PM briefing (002) [DLM=Sensitive]

Brief on the grasslands for the Minister's meeting with the PM.

Thanks [REDACTED] and Geoff for pulling this together. I made minor changes.

EPBC GRASSLANDS

What is the issue?

- Land holders have raised concerns about the potential for production losses resulting from the protection of native grasslands in the Monaro Region of NSW.
- The Department is making inquiries into an allegation that land holders at Corrowong in NSW sprayed at least 30 hectares of the critically endangered *Natural Temperate Grassland of the South Eastern Highlands* ecological community with herbicide, in contravention of the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act).

Where are we up to?

- Contrary to media statements that the grassland is imposing new regulatory requirements on farmers, it has been listed under the EPBC Act since 2000. An updated definition in 2016 reduced the potential regulatory responsibility for farmers on the Monaro.
- The revised definition was part of a comprehensive reassessment in 2016 by the national Threatened Species Scientific Committee that also upgraded the listing from endangered to critically endangered. This was based on data indicating that up to 90% of the community had been lost and large high quality remnant patches are very rare. The grassland provides habitat for 20 nationally threatened species and for other declining native species.
- Most landholders in the region do not need to be assessed under the EPBC Act because either: they do not have native grassland on their property, particularly of the size and quality required to meet the EPBC definition; or ongoing grazing is a continuing use that predates the EPBC Act and is therefore exempt (on the Monaro, most farming involves long term grazing); or typical changes in grazing practices would not have a significant impact.
- Since listing of the grassland in 2000, a large number of government grants have been provided to assist with common threats to the grassland and farming, particularly weeds.

What are the next steps?

- The Department is working with NSW Local Land Services and agricultural organisations such as the National Farmers' Federation (NFF) to ensure that NSW landholders are aware of their responsibilities under the EPBC Act.
- In recent discussions with the Department, the NFF have indicated they are considering submitting a public nomination to request the grassland re-assessed by the Threatened Species Scientific Committee. The Department is unaware of any evidence to support a new assessment at this time.
- The Department will continue to engage with the land owner to resolve the compliance matter, consistent with the Department's Compliance and Enforcement Policy.

From: Monica Collins
To: [REDACTED]; Finn Pratt; Dean Knudson; [REDACTED]; [REDACTED]
Cc: [REDACTED]; Geoff Richardson; Kylie Jonasson; Office of Compliance
Subject: FOI request - The Guardian - Corrowong grasslands investigation [SEC=OFFICIAL]
Date: Tuesday, 11 June 2019 2:54:54 PM
Attachments: FOI 190416 Combined Redacted.pdf

Hi [REDACTED],

On 12 April 2019, the Department received a request from the Guardian (Lisa Cox) under the *Freedom of Information Act 1982* seeking information about the alleged land clearing of protected grasslands at a property near Corrowong in NSW.

The request primarily sought access to communications between the Department and Mr Angus MP and/or his brother Mr Richard Taylor that relate to the allegation.

A search of departmental records identified 50 documents relevant to the scope of the FOI request, of these documents 7 will to be released in full or in part. The remaining documents will not be released on the basis that their release may prejudice the Departments investigation or its administration of the *Environment Protection and Biodiversity Conservation Act 1999*.

The FOI request will be released to the applicant by close of business on 11 June 2019. A redacted copy of the documents to be released is attached for information.

Regards

Monica

Monica Collins

Chief Compliance Officer
Office of Compliance

Department of the Environment and Energy

P: 02 6274 [REDACTED]

M: [REDACTED]

