Friends of Grasslands
supporting native grassy ecosystems

[redacted]

CONSERVATION COUNCIL ACT REGION

Re. Options for restoring nature and enhancing value for rural land managers

Friends of Grasslands (**FOG**) and the Conservation Council ACT Region (**CCACT**) (together, '**we**') appreciate the opportunity to comment on options for: protecting and restoring biodiversity and ecosystem functions in regional landscapes; and enhancing value and support for land managers.

FOG is a community group dedicated to the conservation of grassy ecosystems in south-eastern Australia - natural temperate grasslands and grassy woodlands. FOG advocates, educates and advises on matters to do with the conservation of these ecosystems, and carries out surveys and on-ground work. FOG is based in Canberra and its members include professional scientists, landowners, land managers and interested members of the public.

The CCACT is the peak non-government environment organisation for the Canberra region. Since 1981, we have spoken up for a healthy environment and a sustainable future. We campaign for a safe climate, to protect biodiversity in urban and natural areas, to protect and enhance waterways, reduce waste, and promote sustainable transport and planning for our region.

In preparing this submission, we have had regard to the:

- *Biodiversity Conservation Act 2016* (**BC Act**)
- Independent review of the BC Act (**BC Act Review**)
- *Local Land Services Act 2013* (**LLS Act**)
- *Local Land Services Regulation 2014*
- *Land Management (Native Vegetation) Code*
- statutory review of the native vegetation provisions of the LLS Act (Part 5A and Schedules 5A and 5B) (**LLS Act Review**)
- *NSW Plan for Nature.*

Throughout this submission, we make numerous points that echo the views of experts expressed in the latest of a series of workshops convened by FOG on conserving grassy ecosystems.[1] The '**FOG Workshop**' held on 31 May 2024 focused on progress, and potential new ideas and collaborations, in the protection, management and restoration of 'Natural Temperate Grasslands of the South Eastern Highlands' *across its range in NSW*. The Workshop proceedings: collate information on relevant programs; identify gaps and lessons; and distil priorities and opportunities.[2]

<u>Summary</u>

Over recent decades, prohibitions and incentives in NSW have failed to protect and maintain, or to encourage the restoration of biodiversity and ecosystem function in regional landscapes, respectively. The BC Review noted the BC Act "is not meeting its objects and is very likely

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[1] FOG (online) *FOG Forums*, https://www.fog.org.au/forums.htm

[2] Friends of Grasslands (**FOG**)(ed)(2024) *Conserving grasslands of the South Eastern Highlands of New South Wales* (**Workshop proceedings**), FOG website, https://www.fog.org.au/Reports/FOGWorkshopProceedings20240531.pdf

never to do so".[3] This failure has been robbing future generations of land managers (and the public) of value, options and opportunities.

We support a great many reforms discussed in the *NSW Plan for Nature* (Attachment A) and we look forward to stronger environmental protections in the Land Management Framework. In Attachment B, we expand on specific, vital points.

The protection and restoration of biodiversity and ecosystem function on private land occurs in a context. Achieving good biodiversity outcomes on private land will only be efficient and effective if threats like invasive species are managed across whole regional landscapes.

Achieving landscape-scale conservation must have regard to ecological connectivity. This includes connections between land and NSW's rivers, lakes, ponds, wetlands and riparian zones which support biodiversity and provide crucial food, refuge and habitat to local wildlife.

The enormous task of improving the condition of land and inland waters will support the better protection of threatened species and threatened ecological communities. The task is now urgent as, like the rest of Australia, NSW is undergoing a biodiversity extinction crisis. The *NSW State of the Environment 2021* notes "more than 1,000 native plant and animal species and 112 ecological communities are currently listed as threatened under state legislation. The main threats to these species are habitat loss due to permanent clearing and degradation of native vegetation and the spread of invasive pests and weeds."[4]

In our region, grassy ecosystems, including natural temperate grasslands and grassy woodlands, need to be identified, classified for regulatory purposes, protected and actively managed. On protection, the sample that is protected right now is *grossly* under target; it is neither comprehensive nor adequate. To address this, we comment (beginning in Attachment B) on the structure of incentives needed to encourage land managers to value, protect, manage to retain and to restore grassy ecosystems using scientific methods so we learn as we go.

Where land managers are not willing to make binding commitments, retention of value should be encouraged, to buy time. We recognise these incentives are already available. To accelerate protections, the level of incentives may need adjustment; however, in our view education and extension is likely more important. Our submission is structured to outline these thoughts further, with greater detail offered (in Attachment C) with reference to national targets.

Management of the region's grasslands *must* improve. We consider the LLS Review got it right in finding "Effective regulation requires collaboration and communication with stakeholders and should be supported by extension and education programs to promote voluntary compliance".[5] We suspect compliance issues in the Monaro area including illegal clearing and a persistent *unusually* high level of unallocated clearing.[6] We recommend the landholder self-assessment route to clearing is closed. We recommend re-establishing a Conservation Management Network focussed on grassy ecosystems and either the Local Land Services (**LLS**) Aboriginal Ranger Program is expanded, or a new Indigenous Land and Sea Ranger Program is initiated.

[3] BC Act Review, p. 12

[4] State of NSW and the NSW Environment Protection Authority (2021) *NSW State of the Environment 2021: Tabled Report*, www.soe.epa.nsw.gov.au/sites/default/files/2022-02/21p3448-nsw-state-of-the-environment-2021_0.pdf

[5] NSW Plan for Nature, p. 25

[6] The LLS Review found there are "high levels of unallocated clearing" and that "unallocated clearing of native grasslands, including derived native grasslands and other groundcover, remains high, with 89% of all unallocated clearing occurring in groundcover-dominated landscapes with a history of agricultural grazing"; NSW Plan for Nature, pp. 22, 24

We consider grassy ecosystems, including the fauna and flora they support, are under the greatest *ongoing* pressure from not only clearing and invasive species but undue political interference. The clearing of native grasslands has long been a political issue in NSW. Experts in FOG have tracked the issue since 1995 when SEPP 46 was introduced; they say, ever since, landholder interests have *dominated* debate. This needs to be sorted out, once and for all.

We urge the NSW Government to step up measures to enhance First Nations engagement in biodiversity conservation, including measures to:

- establish (or expand) the Indigenous Land and Sea Ranger Program
- support First Nation communities looking to establish Indigenous Protected Areas on their lands.

We ask that the NSW Government assign *genuine* priority and adequate resourcing sufficient to arrest the ongoing decline, and to protect and restore the state's environment. Grassy ecosystems are the most degraded, most threatened and least well conserved of the state's biota. Conserving grassy ecosystems represent a litmus test of how effective these reforms will be.

Thank you

Thank you for the opportunity to contribute to this review. If you would like any further information, please contact [redacted]

Yours sincerely,

[redacted]

[redacted]

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Attachment A: Reforms in the *NSW Plan for Nature* that we support

Key points

In summary, we support:

- all reforms that will ensure the native biodiversity of NSW, including all its constituent genetic, species and ecosystem diversity, especially in threatened species and threatened ecological communities, is protected and well managed rather than 'lost' and subject to offsetting
- improvements to extension and education programs, which will boost compliance
- the many reforms that will assist in identifying the best indicators, in mapping and monitoring biodiversity, and in demonstrating and reporting accurately biodiversity status and trends, impacts and management achievements.

A more detailed outline of our support

We support the NSW Government in its intention to improve engagement with First Nations people. In our submission, we recommend other measures that will, if adopted, go further.

We support the adoption of a nature positive approach, proactively protecting and maintaining what is left at a landscape-scale, and restoring what has been degraded to set biodiversity on a path to recovery. To this end:

- We agree with the BC Act Review that:
  - "Substantial reform is needed to deliver a nature positive state for NSW. Nature positive demands a shift in mindset and a willingness to prioritise biodiversity concerns in decision making.[7]
  - "The recovery and restoration of species and ecosystems, and achieving zero extinctions, including threat abatement, will be most efficient and effective if delivered within the proposed Nature Positive Strategy."[8]
- We support the NSW Government's intention to reform laws and to develop and implement a NSW Nature Strategy that "will set goals and targets for conservation and restoration."[9]
- We strongly support the following responses, i.e., that the NSW Government will:
  - "review the biodiversity conservation program to support the objectives of no new extinctions and restoring threatened species and ecosystems"
  - "design cross-tenure, ecosystem-scale initiatives and interventions to protect, connect and restore multiple species concurrently at a landscape scale"
  - 'regularly report' on the "status and trajectory of listed threatened species and ecological communities and the key threatening processes impacting them"[10]
  - "Expand private land conservation initiatives", including by strengthening the private land conservation program administered by the Biodiversity Conservation Trust (**BCT**)[11]
  - "Build landholder capability to embed practice change and boost participation" in natural capital markets.[12]

[7] NSW Plan for Nature, p. 8
[8] NSW Plan for Nature, p. 14
[9] NSW Plan for Nature, p. 10
[10] NSW Plan for Nature, p. 16
[11] All points from: NSW Plan for Nature, p. 16
[12] NSW Plan for Nature, p. 19

It is of paramount importance that the NSW Government address the BC Review findings that:

- "Quality, curated data is required to ensure a transparent and open understanding of biodiversity status and trends and the impacts of threats and management interventions"
- "there is a need to monitor in real time what is causing the biodiversity decline, and what interventions are working to repair what has been lost. Robust monitoring, evaluation and reporting of outcomes is needed".[13]

Against these needs, we strongly support all the following responses, i.e., that the NSW Government will:

- improve the accuracy of the Biodiversity Values Map[14]
- "Improve and upgrade biodiversity data gathering and management"[15]
- "[continue] to refine the State Vegetation Type Map and [to recognise] it as the primary standard for understanding ecosystems distribution across NSW"[16]
- "commence comprehensive identification and mapping of threatened ecological communities"[17],

and all responses proposed under the headings:

- Deliver decision-ready information and tools
- Improve data quality, accessibility, sharing and custodianship.[18]

We support the release of the Native Vegetation Regulatory Map.[19]

Relevantly, in Attachment E, we suggest a way forward in the realm of mapping and modelling of the extent of remnant grassy ecosystems.

[13] NSW Plan for Nature, p. 17
[14] NSW Plan for Nature, p. 18
[15] NSW Plan for Nature, p. 17
[16] NSW Plan for Nature, p. 17
[17] NSW Plan for Nature, p. 18
[18] NSW Plan for Nature, p. 18
[19] NSW Plan for Nature, pp. 17-18

Attachment B: What to prioritise, and how have we been going

A long list of vital actions follows.

First Nations engagement including Indigenous Ranger Programs

We support statements in the *NSW Plan for Nature* relating to the importance of partnerships with Aboriginal communities.[20] We would go further, however, beyond "tailored engagement".[21]

We support giving greater recognition and decision-making power to First Nations people who are the traditional custodians of NSW's unique biodiversity. We support returning land to First Nations people under the *Aboriginal Land Rights Act 1983*.

Measures to enhance First Nations engagement in biodiversity conservation need to be stepped up, including measures to:

- establish (or expand) the Indigenous Land and Sea Ranger Program
- support First Nation communities looking to designate Indigenous Protected Areas on their lands.

These programs support and strengthen connection with and care for Country. The FOG Workshop heard "As native title is recognised, and more lands are returned to Indigenous nations, there is a need and an opportunity to support management of Country by these communities."[22]

Everywhere it is feasible and desired by First Nations people, the Government's commitments should be legislated.

Alignment of NSW statutes, policies and programs

Like Dr Ken Henry AC, we recommend primacy be given to legislation that will protect and restore the environment. We are disappointed Dr Henry's recommendation was not accepted by the NSW Government.[23]

Amendments to the BC Act and LLS Act and their associated instruments need to fully integrate with strategic programs and high-level policies like the planned NSW Nature Strategy.

Likewise complementary statutes that affect biodiversity outcomes, including NSW's planning legislation, must integrate with and give greater weight to the protection and restoration of biodiversity.

- We note complementary statutes will be reviewed for this purpose *by the agencies responsible for those Acts*. To achieve reforms that are essential to the continued existence of a functioning environment, in our view greater power must be vested in the authorities responsible to maintain and restore the environment.

Wherever possible, it would strengthen biodiversity outcomes if the provisions of each complementary statute were binding on decision-makers in the NSW and Commonwealth governments.

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[20] NSW Plan for Nature, p. 6
[21] NSW Plan for Nature, pp. 6, 25
[22] Pittock, J. (2024) Workshop summary, In FOG Workshop Proceedings n 2, p. 66
[23] NSW Plan for Nature, p. 8

We support substantive legal requirements for implementation, reporting and regular review of biodiversity outcomes against clear indicators.

Modernising the principles of ESD

It is not clear to us how the principles of ecologically sustainable development (**ESD**) will be modernised. We consider relevant reforms should include at least the following:

- improved consideration of climate change and cumulative impacts[24] - we discuss these points below under the heading regional planning
- the intention to "develop methods to identify and disclose nature-related risks and impacts"[25] – in our view, this intention needs adjustment to read "will develop methods to identify and disclose nature-related risks and" dependencies.

In support of the second point, in our view all portfolios need to investigate and respond to the fact the NSW economy is highly dependent on nature, which is in crisis. The *NSW Plan for Nature* speaks of 'identifying any unrealised conservation opportunities across portfolios".[26] A better approach would be for all portfolios to identify and build a risk-based knowledge system of conservation imperatives, i.e., of measures to minimise the impact of 'blind spots' that will, in future, *constrain* the state's economic opportunities.

Listing of Natural Temperate Grasslands of the NSW South Eastern Highlands

Of significance in our region, we look forward to the listing of 'Natural Temperate Grasslands of the NSW South Eastern Highlands' as a threatened ecological community under the BC Act; in our view, this listing is long overdue. In 2016, NSW agreed to implement the broadest form of the Common Assessment Method.[27] At its simplest level, this multi-jurisdictional agreement is intended to ensure consistent, scientifically rigorous assessment and listing of threatened species across Australia. NSW went as far as was possible, from the outset, i.e., in 2016, NSW agreed to implement the Common Assessment Method for threatened ecological communities as well.

With this commitment in mind, we are hopeful a listing under the BC Act will mirror the listing of the threatened ecological community 'Natural Temperate Grasslands of the South Eastern Highlands' (**NTG**) under the *Environment Protection and Biodiversity Conservation Act 1999* (Cth) (**EPBC Act**). In 2016, NTG was uplisted to the threat level 'critically endangered'.

A comprehensive and adequate *functioning* sample of natural grasslands

The secure establishment and the effective management of the National Reserve System (**NRS**) over public, private and First Nations peoples' land remains a cornerstone of conservation policy and practice in Australia. The intent is that the NRS include a comprehensive and adequate *functioning* sample of healthy intact biodiversity at broad scale.

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[24] NSW Plan for Nature, p. 9

[25] NSW Plan for Nature, p. 9

[26] Ibid, underline added

[27] On 28 October 2016, on behalf of the State of New South Wales, the then NSW Minister for the Environment signed and thereby opted in to apply the *Intergovernmental Memorandum of Understanding Agreement on a Common Assessment Method for Listing of Threatened Species and Threatened Ecological Communities* found here: https://www.dcceew.gov.au/sites/default/files/documents/mou-cam.pdf

- As at 30 June 2022, only 10.2 per cent of NSW was protected in the NRS[28] which is well short of the contribution needed to achieve the terrestrial component of the 30 by 30 target in NSW.

Natural grasslands and grassy woodlands are *grossly* under-represented in the NRS in NSW.

- The FOG Workshop identified that, of a total of 500,000 ha of natural grasslands estimated to have existed in SE NSW prior to European settlement, a fragmented area of around 6628 ha, only, is protected. That is a mere 1.3 per cent.
- The protection and management of natural lowland grasslands and grassy woodlands should be prioritised. We have renewed hope stemming from our belief that the sustainable future of some forms of agriculture will depend, in part, on the genetic material species within natural grasslands have to confer resilience and drought hardiness.

So, it is now critically important to protect more than just the scant remaining samples of natural grasslands identified as 'high-value native grasslands', because so little remains.

- We argue incentives should continue to be offered so more natural grasslands identified for regulatory purposes as 'medium-value native grasslands' can be securely protected, even if their degraded condition prevents their inclusion in the NRS.
- An essential prerequisite is ensuring the consistent classification of natural grassland according to a clear and appropriate condition standard, a matter continued below.
- 'Medium-value native grassland' sites are suitable for restoration efforts through natural capital markets like the nature repair market.
- Where such sites do undergo restoration, in our view they ought not be vulnerable to complete loss as soon as any time-limited repair project ends. We include here all sites to be restored as part of the nature repair market, and all sites that will undergo 'restoration actions', a form of compensatory offset expected if/once the much-anticipated national environmental law reforms are enacted by the Australian Parliament.

In Attachment C, we present brief detail suggesting how the protection and restoration of natural grassland should continue to be incentivised in NSW. Our discussion considers the national and international context, i.e., how NSW might work toward the protection of a comprehensive and adequate sample of natural grasslands and thereby assist Australia to meet its Global Biodiversity Framework (**GBF**) obligations.

Offsets

We applaud the strengthening of the Biodiversity Offset Scheme that came into effect, consistent with the *NSW Plan for Nature*, on 7 March 2025.

We support the NSW Government's intentions to use offsets as a genuine last resort. Wherever residual significant impacts do not occur, offsets are not required.

The context for offsets is changing at the national level. This matter is considered in Attachment C.

[28] CAPAD (2022) Terrestrial CAPAD 2022 NSW summary, DCCEEW website, https://www.dcceew.gov.au/sites/default/files/documents/capad2022-terrestrial-nsw.xlsx

Set asides

We note the NSW Government's intention to create a "new public register ... regarding 'avoid' and 'minimise' measures for approved developments".[29] We trust the Government intends to go further. Documenting the fact a developer says they will avoid an area in one project is not enough; they (or someone else) can then propose the clearance of that area in the next project.

We are concerned about the following statement: "Land that has been avoided through bio-certification will be considered for improved protection, such as through zoning or management actions."[30] 'Considered' for improved protection? 'Zoning'?

Neither gives credible assurance set asides will be "managed *in perpetuity*[31]. Zoning certainly does not support recognition of a set aside in the NRS. In the absence of secure protection, set asides remain exposed to complete loss such as via the next bio-certification process. Zonings change.

The quantum of set asides, compared to the area cleared, recognising that the area cleared may be (much) higher than is noted in LLS registers[32], is alarming. Between 25 August 2017 and 4 April 2025, we understand that, under section 60Y of the LLS Act, LLS certified the clearance of:

- across NSW, 990,623 hectares (**ha**) via at least 1614 certificates with corresponding set asides totaling around 108,000 ha[33]
    - Across NSW, the area certified for clearance is just over nine times the magnitude of the area of set asides.
- in the SE Division, at least 4731 ha via at least 141 certificates with corresponding set asides totaling 326 ha.
    - In SE Division, the area certified for clearance is just over 14.5 times the magnitude of the area of set asides.

How much NTG (if any) was cleared and set aside is unknown.

Demonstrating achievements

We consider it vitally important useful indicators are monitored in real time, and observations reported sufficient to ensure a transparent and robust understanding of biodiversity status and trends and the impacts of threats and management interventions.

Mapping of grassy ecosystems is woefully inadequate; this is a pervasive problem for two reasons, however, there is hope. Where they exist, most grassy ecosystems are situated on land subject to exclusive access. Their rate of decline due to land clearing or 'improvement' for agriculture purposes is unknown.

Resolving the first problem continues to be challenging because methods for mapping and monitoring of grasslands with remote sensing are still to be proven. Work is needed urgently to prove methods for determining if grasslands are native and, if they are native, for determining their ecological condition.

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[29] NSW Plan for Nature, p. 13

[30] NSW Plan for Nature, p. 13

[31] This is the promise in the NSW Plan for Nature, p. 22

[32] Under s 60X(1) of the LLS Act, the code can exempt landholders from giving notice of some kinds of clearing.

[33] In different LLS Registers, figures vary between 107,645 ha and 108,214 ha.

The *NSW Plan for Nature* states an intention to "identify and map areas of high biodiversity value."[34] This step would support the improved protection of all natural grasslands and grassy woodlands in our region. This is important because the Conservation Advice for NTG states "areas considered critical to the survival of the ecological community cover all patches that meet the key diagnostic characteristics and condition thresholds for the ecological community plus buffer zones."[35] Thus, all natural grassland that meets the EPBC Act standard is NTG that we consider should be recognised as a 'no-go' area.

It would be helpful if all the disparate databases that present snippets of information about the protection of biodiversity on private land revealed more and were consolidated into one record. At present, information about Biobanking Agreements is kept separate from information about Conservation Agreements and Biodiversity Stewardship Agreements (**BSAs**). In the case of Biobanking Agreements, the limited data that is accessible cannot be sorted, e.g., by Division. In each case, the matter protected is difficult or impossible to find, and only the Local Government Area or BCT Region or a form of sub-region is known. The detail about the location of protected areas, that would enable the public to monitor their condition remotely, is either hidden or at best very difficult to find.

Applying the right condition threshold for regulatory purposes

We urge the NSW Government to adopt and support via regulatory reform the clear condition threshold widely recognised in ecological circles for 'natural grassland'. Grassland is no longer 'natural', i.e., it is low conservation value, where it has greater than 50 per cent of its cover comprised of *exotic perennial* species. This holds true in areas that were once grassy woodlands but are now devoid of trees, i.e., in 'derived native grasslands'.

Below this threshold, restoration to anything like (the applicable reference) 'natural' condition is generally not possible. Such land typically represents a threat to biodiversity conservation, a vector for problem weeds. The restoration (or 'repair') of such sites is generally going to need a radical solution such as 'bulldozing for biodiversity'.[36]

At present, the threshold being applied under the Land Management Framework for recognition of low conservation value grassland is not the correct threshold. The IGGAM defines low conservation value grasslands and other groundcover as being areas that are comprised of greater than 50 percent non-native species.

The absence of the words 'exotic perennial' from the IGGAM definition creates a very important distinction, because a grassland can have a high cover of *exotic annual grasses* in a wet spring and show absolutely no cover of the same species in a drier season. The perenniality of an exotic species is directly related to its persistence in a grassland, with annual exotics appearing in wet spring or summer periods, and not be present at all in a drier autumn or in particularly dry springs and summers.

Extension and education programs

Once an acceptable threshold is determined, there is a clear basis for effective education and compliance.

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[34] NSW Plan for Nature, p. 11

[35] Threatened Species Scientific Committee (2016) *Approved Conservation Advice (including listing advice) for the Natural Temperate Grassland of the South Eastern Highlands (EC 152)*, https://www.environment.gov.au/biodiversity/threatened/communities/pubs/152-conservation-advice.pdf.

[36] Pittock, J. (2024) Workshop summary, In FOG Workshop Proceedings n 2, p. 65

The LLS Review found “Effective regulation requires collaboration and communication with stakeholders and should be supported by extension and education programs to promote voluntary compliance”.[37] The same review identified three ways to reduce unallocated clearing and strengthen public understanding and confidence, i.e., to:

- help land managers identify *native* grasslands and groundcover
- promote awareness of the values and regulatory categories of the land they manage
- all leading to improved monitoring and reporting via the new Land Management Monitoring, Evaluation and Reporting Framework.[38]

FOG is convinced many land managers cannot tell whether plants on land they manage are native or exotic and annual or perennial (yet, at present, in some situations, those same land managers can self-assess and categorise the land they manage for regulatory purposes). FOG is convinced many land managers do not recognise the importance of grassy woodlands devoid of trees, i.e., of ‘derived native grassland’ areas. Land managers will not be effective at maintaining conservation value if they do not recognise it.

We consider each of these measures would best be delivered by (or at the very least with) staff who hold a high degree of conservation expertise. We note the NSW Government’s intention is to focus its response through LLS as the agency administering incentives and delivering engagement.

We question whether LLS has sufficient personnel with the necessary expertise to identify high conservation value (**HCV**) grassy ecosystems on private lands. We consider, for our region at least if not elsewhere, greater responsibility should rest with officers administering the BCT’s conservation program and the NSW Environment Department’s Saving Our Species program.

Re-establishing a Conservation Management Network

We consider a Conservation Management Network to be the best most efficient and effective way to address our region’s compliance issues and strengthen public understanding and confidence.

The FOG Workshop heard very strong evidence from several sources concerning the need for a network specific to natural grasslands and grassy woodlands.[39] A network would:

- connect, inform and inspire managers of grassy ecosystems on all tenures
- deliver tailored management advice to landholders and others
- enable successful managers to share their experiences via workshops, field visits, forums and a newsletter
- be a unifying initiative, tying programs together and promoting inter-agency communication.

A network would initiate and boost participation in natural capital markets, e.g., by addressing “confusion in the market about stacking different agreement types, such as carbon and

[37] NSW Plan for Nature, p. 25

[38] NSW Plan for Nature, p. 24

[39] For example: Rehwinkel, R. (2024) The conservation status of [NTG] (NSW), In FOG Workshop Proceedings n 2, pp. 9-11; Armstrong, R. (2024) Conservation of grasslands in south-eastern NSW: a NSW DCCEEW perspective, In FOG Workshop Proceedings n 2, pp. 19, 22-23; Pittock, J. (2024) Workshop summary, In FOG Workshop Proceedings n 2, pp. 68-70. See also McLeish T., Rehwinkel R. & Oliver L. (2013) Conservation management networks for grassy ecosystems in New South Wales. In: Fitzsimmons J., Pulsford I. & Wescott G. (eds.) *Linking Australia’s landscapes: Lessons and opportunities from large-scale conservation networks*. Collingwood: CSIRO, https://www.researchgate.net/publication/259000037_Linking_Australia's_Landscapes_Lessons_and_Opportunities_from_Large-scale_Conservation_Networks.

biodiversity, nature repair markets, accounting for nature. People are keen to see real examples of where this has worked, before they jump in."[40]

Conservation management networks were active in NSW in the late 1990s and early 2000s but failed due to lack of funding. They were established in Victoria at the same time; there, they remain active.

Release of the Native Vegetation Regulatory Map

We encourage the NSW Government to expedite the release of the Native Vegetation Regulatory Map which we understand is accurate for its primary purpose. Landholders can have the map reviewed at any time. On-ground assessments will address any inaccuracies. The accuracy and functionality of the map will improve over time as new data become available.

Regional planning

In a move that could support achievement against all six national targets, albeit with considerable delay, we understand the Australian Government still intends to introduce 'regional planning'.[41]

We support the NSW Government's intentions to front-load nature and biodiversity considerations in regional planning.[42] In our view, regional planning offers hope better decisions will be made about where development should be situated by *first* identifying HCV areas to be avoided. *Then*, cautiously, these developments can proceed in identified zones elsewhere, with every sensible and necessary mitigation. Regional planning can provide for different land uses in landscapes while giving certainty to the environment and business.

We consider regional planning to be a logical extension of a 'nature positive spatial tool' that identifies 'no-go' areas where biodiversity impacts should be avoided[43]; so, we do not understand why the *NSW Plan for Nature* indicates its support for regional planning and then indicates its nature positive spatial tool is not intended to identify any 'no go' zone.[44] This undermines our confidence in the NSW Government's commitment to sound regional planning.

Assuming the NSW Government does have appropriate intent, we encourage good preparation by pro-active calls for information about the location and significance of valuable biodiversity. People and organisations need to be advised how to prepare and submit this information.

We consider relevant reforms to include to the improved consideration of climate change and cumulative impacts.[45] We argue consideration of both must be mandatory.

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[40] Edmonds, T. (2024) Involvement in the protection of Natural Temperate Grassland CEEC, In FOG Workshop Proceedings n 2, pp. 30-32.

[41] The planned regional planning reform is explained in two documents accessible here: DCCEEW (online) *Australia's new Nature Positive laws*: https://consult.dcceew.gov.au/australias-new-nature-positive-laws. Within the most recent consultation paper found at that site, a 55-page pdf document dated March 2024, here: https://storage.googleapis.com/files-au-climate/climate-au/p/prj2a856c124c355ffc31cc7/page/Mar_2024_consultation_document_pack.pdf, the 'draft National Environmental Standard for Regional Planning is at pp. 41-44 (of 55). An excellent explanation of regional planning is found in earlier consultation document published after meetings in Dec 2023. See 'Decision Making at the Landscape and/or Seascape Scale', on pp. 42-45 of 121, here: https://storage.googleapis.com/files-au-climate/climate-au/p/prj2a856c124c355ffc31cc7/public_assets/Consultation%20documents%20December%202023.pdf

[42] NSW Plan for Nature, p. 12

[43] NSW Plan for Nature, p. 11

[44] NSW Plan for Nature, p. 11

[45] NSW Plan for Nature, p. 9

Attachment C: Alignment with GBF and national targets

On 21 June 2024, Environment Ministers agreed to six national targets for Australia's environment. The targets are intended to steer Australia's biodiversity actions and enable Australia to meet our international GBF commitments. The targets are:

1. Protect and conserve 30% of Australia's landmass and 30% of Australia's marine areas by 2030 (30 by 30)
2. Priority degraded areas are under effective restoration by 2030 (the restoration target)
3. No new extinctions
4. Minimise the impact of climate change on biodiversity
5. Eradicate or control invasive species in priority landscapes and further minimise their introduction by 2030
6. Increase Australia's circularity rate and reduce pollution and its impacts on biodiversity by 2030.[46]

This attachment discusses in some detail the alignment between NSW programs and:

- *National target 1: 30 by 30* - protected area policy, including conserved areas and including the retention of the HCV of places that could but are not yet included in the NRS
- *National target 2: the restoration target* – restoration policy, including the newly-established nature repair market
- *National targets 1-5, together* – offsets policy, where the Australian Government is eschewing 'averted loss offsets' in favour or compensatory 'restoration actions' and/or 'restoration contributions'.

GBF Target 22 obliges Australian governments to "Ensure … representation and participation in decision-making … related to biodiversity by indigenous peoples and local communities, respecting their cultures and their rights over lands, territories, resources, and traditional knowledge … ."

National target 1: 30 by 30

To support achievement against the 30 by 30 target, in 2024, Environment Ministers agreed to the *National Roadmap for protecting and conserving 30% of Australia's land by 2030* (the **Roadmap**).[47] The Roadmap commits to implement *Australia's Strategy for the National Reserve System 2009-2030* (**NRS Strategy**)[48] and the 2024 *National Other Effective area-based Conservation Measures Framework* (**Conserved Areas Framework**).[49]

The Roadmap notes the importance of protecting, maintaining and connecting a comprehensive and adequate sample of intact regional ecosystems. The goal is advanced, first and foremost, by the establishment of protected areas over public and private land. To be eligible for inclusion in the

[46] Environment Ministers (21 June 2024) *Environment Ministers Meeting Communique*, https://www.dcceew.gov.au/sites/default/files/documents/emm-communique-21-june-2024.pdf

[47] Commonwealth of Australia (2024) *Achieving 30 by 30 on land: National Roadmap for protecting and conserving 30% of Australia's land by 2030*, www.dcceew.gov.au/sites/default/files/documents/30-by-30-national-roadmap.pdf, underline added; that Environment Ministers agreed is noted on the DCCEEW website here: https://www.dcceew.gov.au/environment/land/achieving-30-by-30/national-roadmap

[48] Natural Resource Management Ministerial Council (**NRM MC**)(2009) *Australia's Strategy for the National Reserve System 2009-2030* (**NRS Strategy**), https://www.dcceew.gov.au/sites/default/files/documents/nrsstrat.pdf, pp. 23, 40-44. All jurisdictions first agreed to similar standards in 2004, see: NRM MC (2005) *Directions for the National Reserve System – A Partnership Approach* (**Directions Statement**), https://www.dcceew.gov.au/sites/default/files/env/pages/35ded9a1-0a17-47fa-a518-05f7bfe045ce/files/directions.pdf

[49] Commonwealth of Australia (2024) *National Other Effective area-based Conservation Measures Framework* (**Conserved Areas Framework**), https://www.dcceew.gov.au/sites/default/files/documents/national-oecm-framework-2024.pdf; that Environment Ministers agreed is noted in the *Environment Ministers Meeting Communique* n 46

NRS, every protected area must be of HCV and meet standards found in the NRS Strategy for both security of tenure and management effectiveness.[50]

At present, several of NSW's formal (legal) protection mechanisms enable land managers to permanently and securely protect HCV private land (including leasehold land), resulting in its inclusion in the NRS. Once executed, these mechanisms are difficult to vary or revoke in favour of any intentional loss of conservation value. Examples include:

- Fixed Price Offers under the Conservation Management Program administered by the BCT
- Conservation Agreements under BCT's Conservation Partners Program[51]
- BSAs administered by the NSW Department of Climate Change, Energy, the Environment and Water.[52]

In our view, excluding offset arrangements[53], these incentives should continue to be offered to rural land managers to encourage these voluntary, permanent, irrevocable commitments over all areas of NSW recognised as being of HCV.[54] In our region, this is helping to protect natural grasslands that meet the current regulatory standard 'high-value native grasslands'.[55]

Some land managers of HCV private land are not willing to execute binding long-term commitments; in these cases, termed and revocable agreements offer temporary alternative mechanisms capable of encouraging *continued* good management. Where the stewardship of these land managers (or their predecessors in title) has to date retained HCV on land, we propose a modest level of financial incentive should continue to be offered, to encourage a continuation of that good management. This can be via a stewardship program or similar, anything to encourage the retention of the HCV. Examples that are available include the BCT's conservation tenders under the Conservation Management Program[56] and BCT's Wildlife Agreements under the Conservation Partners Program.[57] Regulatory controls also apply here. The existing or a future land manager may agree later to protecting this HCV land permanently, to bring it into the NRS at this later time.

In our region, it is now critically important to permanently and securely protect *additional* natural grassland (so little remains), where land managers are willing to do so. Where the condition of natural grassland does not enable its inclusion in the NRS, we consider it essential that permanent, irrevocable commitments be offered to willing land managers regardless. This would enable the secure protection of all areas of medium conservation value (**MCV**) natural grassland, which would include all areas that meet the minimum threshold for 'natural grassland' discussed in

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[50] NRM MC (NRS Strategy) n 48, pp. 23, 40-44

[51] Both are outlined in slightly more detail here: https://www.bct.nsw.gov.au/apply-for-a-conservation-agreement

[52] DCCEEW (NSW) (online) *Apply for a Biodiversity Stewardship Agreement*, https://www.environment.nsw.gov.au/topics/animals-and-plants/biodiversity-offsets-scheme/biodiversity-stewardship-agreement/generate-sell-credits/apply

[53] Targeted incentives are not required where any land manager is receiving (or is going to receive) payment to protect such an area as part of any offset arrangement.

[54] Note that BSAs can make biodiversity credits available for investment in conservation outcomes for philanthropic and corporate social responsibility purposes, see: State of NSW and Department of Climate Change, Energy, the Environment and Water (2024) *Biodiversity stewardship agreement application guide*, https://www.environment.nsw.gov.au/sites/default/files/biodiversity-stewardship-agreement-application-guide-240021.pdf, p. 2

[55] This footnote is solely about the voluntary nature of all permanent, irrevocable commitments. Where approval holders are 'required' by a condition of approval to establish an averted loss offset site to compensate for loss at an impact site, that approval holder has a choice. They can elect to not proceed with their approved development, in which case they are not required establish or manage an offset site.

[56] The scoring system in the *Biodiversity Conservation Trust Assessment Metric* gives greatest weight to *in perpetuity* agreements and greater weight to longer-term agreements relative to shorter-term agreements; BCT (2022) *Biodiversity Conservation Trust Assessment Metric*, https://www.bct.nsw.gov.au/sites/default/files/2022-06/BCT%20Assessment%20Metric%20Web%20Version%20March%202022.pdf, pp. 13-14

[57] BCT (online) *Apply for a conservation agreement*, https://www.bct.nsw.gov.au/apply-for-a-conservation-agreement

Attachment B of our submission under the heading 'Applying the right condition threshold for regulatory purposes'. Conservation of MCV areas is critical to retain a sufficiently large area and connectivity of natural grassy ecosystems habitats to conserve biodiversity. We discuss programs and incentives that will restore shortly, under Target 2).

- To the extent some private land conservation agreements do not securely and permanently protect sites of high biodiversity value from incompatible land uses[58], we support the Government's intention to strengthen the BCT's private land conservation program.

The Conserved Areas Framework establishes standards for the recognition of 'conserved areas' over any tenure, areas that are achieving biodiversity conservation outcomes despite their dedication to other purposes. Like protected areas, conserved areas must have conservation value; however, there is no security of tenure related to the achievement of their conservation outcome. For this reason, under the Roadmap, recognised conserved areas count toward the 30 by 30 target but they are not included in the NRS. We include for information a comparison of protected and conserved area standards (Attachment D).

Given there is no security of tenure for their conservation outcome, we consider it will generally not be appropriate to incentivise conserved area recognition (there may be exceptions on a case by case basis; we need time and cases to know).

National target 2: the restoration target

To support achievement against target 2, the restoration target, the Australian Government has created the nature repair market. When the Bill to establish the market was introduced, the Minister explained the intent was 'making it easier for businesses, philanthropists and other Australians to invest in activities that repair and protect nature'.[59] Various other incentive programs are understood to already exist around Australia to encourage commitments that involve the restoration of nature. Several NSW programs mentioned above are likely included in this set of programs.

We consider it vital that incentives encourage not just the retention (as described above, against the 30 by 30 target) but improvement in the condition of land with degraded conservation value, such as natural grassland remnants with MCV.

We question the efficacy of repairing conservation value such as natural grassland with MCV only to have it vulnerable to complete loss as soon as any time-limited repair project ends. This is how the nature repair market is construed, i.e., no land manager is constrained by any obligation once the so-called 'permanence period' of any nature repair project ends.

There is nothing to stop any jurisdiction incentivising additional, separate commitments by land managers who are applying (or are enabling agents with their consent to apply) to the Clean Energy Regulator to register a 'biodiversity project' in the nature repair market. The additional, separate commitment can be by the land manager executing a permanent, irrevocable *underlying* legal protection over the project area on which a registered biodiversity project is to proceed in the nature repair market.

[58] NSW Plan for Nature, p. 16

[59] House of Representatives Hansard (29 March 2023) *Nature Repair Market Bill 2023 Second Reading Speech*. Accessed via: https://parlinfo.aph.gov.au/parlInfo/genpdf/chamber/hansardr/26435/0045/hansard_frag.pdf;fileType=application%2Fpdf

In our view, before public funds are dedicated and land managers (or their agents) accept resources that enable them to restore conservation value via any time-limited restoration project, it should be an essential prerequisite that permanent and secure protection has been executed by the land manager over the land to be or that is being restored.

In the new nature repair market, such an instance would be the Secretary of the (Federal) Department of Climate Change, Energy, the Environment and Water executing a biodiversity conservation contract under s 79(1) of the *Nature Repair Market Act 2023* (Cth) for the purchase by the Commonwealth of a biodiversity certificate.

The existing formal legal mechanisms referred to above that exist in NSW, that secure HCV private land for inclusion in the NRS, are not fit for purpose for protecting and securing land under repair where that land does not (or does not yet) have the required degree of value or condition sufficient for inclusion in the NRS.

In our view, consideration must therefore be given to establishing a new mechanism(s) to permanently secure land under repair. In our region, this would enable the secure permanent protection of MCV native grassland fragments.

For this submission we label such a mechanism a 'nature repair covenant'. Like mechanisms that on execution over HCV land result in land being recognised in the NRS, we consider a nature repair covenant must:

- bind successors in land or lease title
- endure for the long term - for leaseholders, this could be 'for the term of the lease and any extension to the lease', or similar
- be difficult to vary or revoke in favour of development or more-intense forms of land use.

We note a permanent protection method is planned in the nature repair market's development.[60] We support the concept and look forward to reviewing its detail.

National targets 1-5, together: what is happening with offsets

In a reform that could support achievement against the first five of the six national targets, albeit with considerable delay, we understand the Australian Government still intends to shift from requiring 'averted loss offsets' as a matter of policy to regulatory control of a new form of compensatory offset via an amendment to, or a new statute replacing the existing, national environmental law (currently the EPBC Act).

In future, when developments expected to have residual significant impacts are approved anyway under national environmental law, the Australian Government intends to require compensatory offsets in the form of 'restoration actions' and/or 'restoration contributions'.[61] The 'old way'– 'averted loss offsets' that aim to protect and manage the best remaining 'like for like' habitat or community that is under threat–is out of favour.[62]

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[60] DCCEEW (Cth) (online) *Methods for the Nature Repair Market*, https://www.dcceew.gov.au/environment/environmental-markets/nature-repair-market/methods-for-the-nature-repair-market

[61] The planned offset reform is explained in two places within a document accessible here: DCCEEW (online) *Australia's new Nature Positive laws*: https://consult.dcceew.gov.au/australias-new-nature-positive-laws. Within the most recent consultation paper found at that site, a 55-page pdf document dated March 2024, here: https://storage.googleapis.com/files-au-climate/climate-au/p/prj2a856c124c355ffc31cc7/page/Mar_2024_consultation_document_pack.pdf, the 'draft National Environmental Standard for Restoration Actions and Contributions' is at pp. 36-40 (of 55), and a discussion paper titled 'Concept Model for Calculating Restoration Contributions' is at pp. 20-29 (of 55).

[62] DCCEEW (2022) *Nature Positive Plan: better for the environment, better for business*, www.dcceew.gov.au/sites/default/files/documents/nature-positive-plan.pdf, p. 21

Some approval holders who proceed with their approved developments might elect to carry out 'restoration actions' themselves; however, we expect many will not. Instead, they will make monetary 'restoration contributions', creating a pool of funds the Australian Government will use to deliver 'restoration actions' itself.[63]

Either way, i.e., wherever 'restoration actions' and/or 'restoration contributions' will compensate for permanent impacts at impact sites, we consider the sites on which restoration works are to be carried out should be protected for the same period, i.e., permanently. The mechanism we suggest above, a 'nature repair covenant' (or similar), would be suitable for this purpose also.

We note, at the national level, that it is proposed the restoration contributions approval holders will be required to pay will include an 'Access cost' component that *may* include the cost of accessing land to carry out a restoration action, *and may* include the cost of negotiating a conservation covenanting agreement.[64]

If the NSW Government intends to require offsets in the form of 'restoration actions', 'restoration contributions' or similar, and/or to promote engagement in markets such as the nature repair market, any one such intention begs the creation of a new form of legal protection mechanism such as a 'nature repair covenant' (or similar), one that will permanently and securely protect land under repair.

[63] DCCEEW (Cth) n 61, see pdf p. 20 (of 55), in the paper titled 'Concept Model for Calculating Restoration Contributions'

[64] DCCEEW (Cth) n 61, step 11 on pdf p. 26 (of 55), in the paper titled 'Concept Model for Calculating Restoration Contributions'

Attachment D: Comparison of Australia's Protected and Conserved Area standards[65]

Lens	**Protected Areas**[66] - security of tenure standard established to determine whether an area counts in the National Reserve System (p. 23)	**Conserved Areas**[67] - "identifies principles to guide [Conserved Area] recognition, provides information on implementation of these principles, and includes a site assessment tool. ... This framework was developed by the Australian, state and territory governments (p. 4)
Valuable	- enhances CAR[68] - primary purpose: protect and maintain biodiversity (p. 42)	- protecting biodiversity can be secondary or ancillary purpose - site "must have biodiversity values for which [it] is important (p. 8)
"Secure through legal or other effective means"	- land is under the control of an Act of Parliament that is focused on conservation	- "Landholders should commit to the continuation of management arrangements that deliver in-situ biodiversity conservation outcomes. ... Where there are underlying legal or land tenure restrictions or other constraints to securing in-perpetuity conservation, there should be a *formal or legal* commitment of at least 25 years coupled with a long-term conservation management commitment of at least 99 years (p. 22)
• Intention re permanence (at commencement)	- *in perpetuity* (legal standard recognised in Australia is a minimum of 99 years)	- "there should be no intention to sell or develop a site in a manner incompatible with biodiversity conservation. This indicates a long-term management intent, rather than an absolute prohibition on sale or development of a site (p. 38)
• Security how easy is it to revoke or vary?	- requires a Parliamentary process to extinguish or excise portions from the area	- referring to the landholder, "Consent for a site to be recognised as a Conserved Area can be withdrawn at any time, including after a site has been recognised. If consent is withdrawn, a site would no longer be recognised as a Conserved Area. (p. 16)
Well managed	recognising primary purpose: - IUCN category assigned - management is adaptive - mgt effectiveness is evaluated	- "The management of biodiversity values in a way that achieves their long-term maintenance (or improvement) is the fundamental basis for Conserved Areas (p. 8) - "There is no requirement for Conserved Areas to be managed in accordance with an IUCN ... category (p. 11)
Clearly defined	- area is accurately identified on a map (CAPAD[69])	- "Provide an accurate map that clearly shows boundaries agreed by the landholder/s (p. 48)

[65] Everywhere it appears, underline has been added.
[66] NRM MC (NRS Strategy) n 48, pp. 42-43
[67] Commonwealth of Australia (Conserved Areas Framework) n 49
[68] The best simple discussion of CAR principles is in: NRM MC (Directions Statement) n 48, p. 26
[69] The Collaborative Australian Protected Areas Database: https://www.dcceew.gov.au/environment/land/nrs/science/capad

Attachment E: A way forward in our understanding of the extent of remnant grassy ecosystems in SE NSW

There is a critical need to understand the extent of remaining grasslands in south-eastern NSW. In relation to this, FOG proposes that modelling techniques that were trialled during the late 1990s and early 2000s be re-examined. These trials, undertaken in the then Queanbeyan offices of NSW's environment department, employed multi-image spectral analyses of Landsat data informed by ground-truthing points. Three separate regions within SE NSW were covered sequentially: the Southern Tablelands region surrounding the ACT, the Monaro region and the upper catchment of the Shoalhaven River[70], [71], [72], [73]. In each project, methodologies were refined by reference to lessons learnt in previous projects. Each project is estimated to have cost some $60,000.00 (including consultancy fees for the analysis of the imagery, and the ground-truthing fieldwork). It was estimated that the accuracy of these grassy ecosystems models was in the order of between 70 to 80%. The models predicted the presence of native grassland within various classes, open grassy woodland, exotic pastures, and areas dominated by weeds (particularly African Lovegrass). FOG strongly urges the NSW Government to consult with its experts and explore way to further develop the techniques of modelling that were so successfully employed by the Queanbeyan office. The officer from that NSW department that supervised these projects has now retired and is now an active FOG volunteer.

[70] ERIC (2001) Remote sensing detection of native grasslands using multi-image spectral analysis. Prepared for National Parks and Wildlife Service by Environmental Resources Information Consortium. Canberra: ERIC.

[71] Rehwinkel, R. (2005) Draft Revision of Monaro Grassland Mapping. Report for the Southern River catchment management authority. Queanbeyan: NSW Office of Environment and Heritage.

[72] Walter, K., Schelling, K. (2004) Remote sensing mapping of grassy ecosystems in the Monaro. In: Report to the NSW Department of Environment and Conservation, Agrecon Pty Ltd. Canberra: Agrecon.

[73] Walter, K., Schelling, K. (2005) Remote sensing mapping of grassy ecosystems in the upper catchment of the Shoalhaven River (Southern Tablelands section). In: Report to the NSW Department of Environment and Conservation, Agrecon Pty Ltd. Canberra: Agrecon.

Abbreviations

BC Act	*Biodiversity Conservation Act 2016*
BC Act Review	*Final Report: Independent review of the* **BC Act**
BCT	Biodiversity Conservation Trust
BSA	Biodiversity Stewardship Agreement
CAPAD	Collaborative Australian Protected Areas Database
CCACT	Conservation Council ACT Region
Conserved Areas Framework	*National Other Effective area-based Conservation Measures Framework*
Directions Statement	*Directions for the National Reserve System – A Partnership Approach*
EPBC Act	*Environment Protection and Biodiversity Conservation Act 1999* (Cth)
ESD	ecologically sustainable development
FOG	Friends of Grasslands Inc
FOG Workshop	Workshop convened by FOG on 31 May 2024 on progress, and potential new ideas and collaborations, in the protection, management and restoration of **NTG** across its range in NSW
GBF	Global Biodiversity Framework
ha	hectares
HCV	high conservation value
LLS	Local Land Services
LLS Act	*Local Land Services Act 2013*
LLS Act Review	statutory review of the native vegetation provisions of the LLS Act (Part 5A and Schedules 5A and 5B)
MCV	medium conservation value
NRM MC	Natural Resource Management Ministerial Council
NRS	National Reserve System
NRS Strategy	*Australia's Strategy for the National Reserve System 2009-2030*
NTG	the ecological community 'Natural Temperate Grasslands of the South Eastern Highlands' which is listed as threatened under the **EPBC Act**
Workshop Proceedings	Proceedings of the **FOG Workshop**