



Natural  
Resources  
Commission

# Audit of Local Land Services' implementation of sustainable land management reforms

October 2018

## Enquiries

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## List of acronyms

BC Act	<i>Biodiversity Conservation Act 2016</i>
BCT	Biodiversity Conservation Trust
CATI	Computer Assisted Telephone Interview
DPE	Department of Planning and Environment
EPBC	Environmental Protection and Biodiversity Conservation
IT	information technology
LLS	Local Land Services
LLS Act	<i>Local Land Services Act 2013</i>
LMDB	Land Management Database
NV Panel	Native Vegetation Panel
OEH	Office of Environment and Heritage
SLM	Sustainable Land Management

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# 1 Executive Summary

The 2014 report of the Independent Biodiversity Legislation Review Panel concluded that fundamental and transformational change was required to conserve biodiversity and support sustainable development in NSW. The NSW Government's response was the sustainable land management reforms. These reforms comprise a broad range of actions across government that will contribute to achieving a balanced approach to rural land management and biodiversity conservation.

The Natural Resources Commission (the Commission) has audited the Local Land Services' (LLS) implementation of aspects of these reforms relating to the *Biodiversity Conservation Act 2016* (NSW) (BC Act) and the associated amendments to the *Local Land Services Act 2013*. LLS' Sustainable Land Management (SLM) group is the body responsible for administering the new rural Land Management Framework, including providing extension and support to landholders, as part of the reforms.

The audit was conducted over four stages. In stage one, the Commission assessed the extent to which LLS has systems and procedures to ensure it can provide accurate, consistent and timely advice. Stage two tested the implementation of those procedures in delivering this advice. Stage three focused on the likelihood that landholders will engage with the SLM group and examined customer satisfaction. Stage four examined whether advice is recorded and stored in a consistent manner.

Overall, the Commission found that the SLM group has comprehensive systems and processes for providing accurate, consistent and timely advice. These systems and processes require applications to go through multiple levels of review to assist quality control. The SLM group's operations manual provides guidance on the oversight and quality assurance process, including team leader review and validation by the assessments team. The assessments team review, while sometimes time-consuming, is critical to ensuring applications are fully compliant and accurate.

The review process allows for contentious issues to be raised for additional input and review from a range of groups including the policy and legal teams and the contentious issues committee. Staff consistently reported a highly supportive culture within the SLM group that allows them to feel comfortable raising issues and seeking guidance from peers and management. This culture has been important in successfully delivering services to date, and the SLM group should be commended for developing this positive culture.

The SLM group has taken steps to address early learnings, undertaking an organisation-wide review and making operational improvements. These steps helped to significantly reduce the timeframe for assessment and approval of applications, which is likely to contribute to enhanced customer satisfaction.

In stage one of the audit, the Commission identified several aspects of the *Land Management (Native Vegetation) Code 2018* (the Code) that require SLM staff to exercise professional judgement. This is consistent with the intent of the reforms, but puts at risk consistent and accurate implementation of the Code. The SLM group recognises the risks inherent with discretionary decision making and have taken steps to mitigate them, including developing and disseminating policies on contentious issues and discretionary areas.

The SLM group's systems are largely consistent with the NSW Ombudsman's guidance for managing discretion. However, there is no consistent and transparent procedure for documenting use of discretion. Staff indicated in interviews and a survey that additional guidance on record keeping and minimum requirements for certain aspects of the Code would be beneficial.

Record keeping generally conforms with the codes of best practice approved by NSW State Archives and Records. However, information technology (IT) systems are not integrated, which can affect accuracy in reporting, transparency and document version control. This creates a significant risk that notification and certification data is not accurately recorded. As a matter of urgency, the SLM group should implement an integrated IT system that eliminates duplicative data entry and incorporates basic quality assurance checks. In the interim, it should maintain and reinforce its quality assurance processes.

The SLM group provides training and guidance on a range of issues, including implementing the Code, customer service and record keeping. Staff indicate that training and guidance materials have been continuously improving since the SLM group began operations. A strong culture of peer support has been a major factor in delivering its reforms to date and is a key component of training and guidance for staff. Training and guidance relating to record-keeping requirements and applying certain portions of the Code could be enhanced, including ensuring that training is offered consistently across all regions.

The Commission identified that the SLM group's processes and systems for ensuring consistent, accurate and timely advice could be further strengthened by:

- reviewing the process for prioritising applications and ensuring it is consistently implemented and transparent to stakeholders
- evaluating the feasibility of reducing review requirements for low-risk applications without compromising quality assurance
- clarifying the policy on approval of activities that SLM staff have indicated may require approval under the *Environment Protection and Biodiversity Conservation Act 1999* (Cth) (EPBC Act) when landholders have signed statutory declarations indicating the EPBC Act doesn't apply.

An assessment of landholder engagement identified that approximately half of landholders are aware of the Code and are generally willing to engage with it, though most were not aware of how it works. The vast majority who responded had engaged with LLS at some level, regularly reviewed their farm management practices, and thought farmers should be supported in making land management decisions. The survey provides useful insights for the SLM group that may allow it to further enhance its customer service strategy and reach a wider range of landholders.

## 1.1 Recommendations

Recommendation	Priority
1 The SLM Group should consistently implement, and make publicly available their process for prioritising applications.	Low
2 The SLM Group should consider a more streamlined review process for lower risk applications in the future.	Low
3 The SLM Group should implement a more integrated IT system as a matter of urgency to improve efficiency and accuracy of data collection that: <ul style="list-style-type: none"> <li>▪ eliminates duplicative manual data entry and the need to reconcile records manually</li> <li>▪ integrates with the SLM group’s daily record keeping protocols</li> <li>▪ collects customer interaction and transaction data within one system.</li> </ul>	High
4 Until an integrated system is in place, SLM should: <ul style="list-style-type: none"> <li>▪ take steps to ensure team leader reviews are consistently undertaken and address common mistakes</li> <li>▪ continue to ensure that staff are well trained in the use of primary record keeping systems to ensure data continues to be accurately documented and maintained</li> <li>▪ maintain data quality assurance measures to check manual data entry</li> </ul>	High
5 The SLM group should formalise the process for recording the application of discretionary decision making to ensure use of discretion is transparently documented and reviewed.	Medium
6 SLM should provide additional support and oversight for: <ul style="list-style-type: none"> <li>▪ the application of the farm plan code and continuing use provisions of the Code</li> <li>▪ determination of a functioning ecological community, and</li> <li>▪ management of EPBC Act issues.</li> </ul>	Medium
7 SLM group should implement their policy on management of EPBC Act referrals as a matter of priority and continue to actively engage with the Commonwealth to try to facilitate a more efficient approach to EPBC Act approvals.	High
8 SLM should review its current communications strategy based on the findings of the landholder survey and ensure that it targets a range of communication channels and aligns with landholder preferences for sourcing information and advice.	Low
9 SLM should strengthen relationships with other agencies involved in land management (such as the Biodiversity Conservation Trust) to ensure that they are providing landholders with comprehensive land management advice.	Medium

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10 The SLM Group should take steps to further improve training and guidance including:

- enhancing guidance in regards to recording keeping requirements including recording of discretionary decisions
- providing additional formal training in key aspects of the Code such as plant identification and evaluation of endangered ecological communities
- additional training in regards to the areas of the Code where staff are less confident
- ensuring training is consistently provided across all regions.

**Medium**

## 2 Background and methodology

### 2.1 Reform overview

The Natural Resources Commission (the Commission) has audited the Local Land Services' (LLS) implementation of major reforms relating to the *Biodiversity Conservation Act 2016* (NSW) (BC Act), and associated amendments to the *Local Land Services Act 2013*.

Following the 2014 report by the Independent Biodiversity Legislation Review Panel, a series of reforms were undertaken to:

- simplify the Land Management Framework, enabling landholders to better manage their native vegetation
- establish a market-based system for offsetting biodiversity impacts
- establish a risk-based approach to reduce negative impacts on native plants and animals
- invest in conservation on private land through establishing the NSW Biodiversity Conservation Trust.

To facilitate these reforms, legislative changes were introduced via the new BC Act and amendments to the existing *Local Land Services Act 2013* (NSW) (LLS Act). The BC Act repeals the:

- *Native Vegetation Act 2003* (NSW)
- *Threatened Species Act 1995* (NSW)
- *Native Conservation Trust Act 2001* (NSW)
- sections of the *National Parks and Wildlife Act 1974* (NSW).

#### 2.1.1 Overview of organisational responsibilities

LLS' Sustainable Land Management (SLM) group is responsible for implementing the Land Management Framework under the LLS Act and conducting Division 6 assessments under the BC Act. The group provides support to landholders and handles frontline customer queries on operating within the framework.

The core responsibilities of the SLM group include:

- providing appropriate information, guidance and advice to enable landholders to understand the requirements of the reformed legislation
- encouraging landholders' timely engagement with LLS
- reliably differentiating between 'high impact' and 'low impact' activities, and adequately addressing both
- managing customer queries effectively
- navigating the various 'pathways' through the Land Management Framework to ensure positive customer experiences.

The Office of Environment and Heritage (OEH) is responsible for compliance and enforcement. Several partner agencies are responsible for administering other components of the new legislation. These are The Biodiversity Conservation Trust (BCT), OEH, the Department of Planning and Environment (DPE), the Native Vegetation Panel (NV Panel) and local government.

Reforms have been broken up into four areas, with responsibility delegated to different agencies and organisations:

**1. Land management Framework and regulatory map** – the Land Management Framework for allowable activities and the *Land Management (Native Vegetation) Code 2018* (the Code) are administered by the SLM group; Division 6 approvals<sup>1</sup> are administered by the NV Panel<sup>2</sup>; the Native Vegetation Regulatory Map is administered by OEHL; and State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017 is administered by DPE and local government.

**2. Biodiversity Offsets Scheme** – includes rules governing how biodiversity offsets will be used in developments and is administered by OEHL.

**3. NSW Biodiversity Conservation Trust** – oversees the new Private Land Conservation Program, which is linked to the offsets scheme.

**4. Native plants and animals** – includes the new Biodiversity Conservation Program to maximise the long-term protection of threatened species and communities, which is administered by OEHL.

The SLM group has transitional arrangements as roles and responsibilities for administering some components of the reform are still evolving.

## 2.2 Methodology

The Commission's audit of the SLM group was carried out consistent with the audit scope approved by the Minister for Primary Industries on 15 January 2018 and endorsed by LLS (Appendix 1).

The audit was conducted in four stages:

- Stage 1: Identify and review the processes, systems, records and guidelines relating to providing accurate, consistent and timely advice to customers.
- Stage 2: Test the application of the systems, processes and guidelines identified in Stage 1.
- Stage 3: Assess the likelihood that landholders will contact the SLM group for advice before undertaking land management activities, and their subsequent satisfaction with the service provided by the group.
- Stage 4: Identify and review processes and systems used by the SLM group to record advice, actions and other data. Assess whether the right data is being captured and recorded in a consistent manner.

The evidence the Commission analysed across the four audit stages includes:

- surveys of SLM group staff and landholders as described in 'Section 2.2.1: Surveys'.

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<sup>1</sup> Landholders who intend to clear native vegetation on rural land that does not meet the requirements of allowable activities or the Code under the LLS Act may apply for a native vegetation clearing approval under Division 6 of Part 5A of the LLS Act.

<sup>2</sup> The NV Panel is an independent body established under the LLS Act. Its function is to determine applications for approval to clear native vegetation under Division 6 of Part 5A of the Act. The Panel will consist of three members, including:

1. the Chairperson, who will be an expert in planning, public administration or social assessment
2. a person with expertise in economics, agricultural economics or agricultural land production systems
3. a person with expertise in ecology or protecting and conserving biodiversity.

- 29 interviews with group staff, including team leaders, senior land services officers, land services officers and executive staff
- observations from field visits in four of the group's five regions.

The Commission also engaged experts in audit processes and social research to assist with analysis and provide input. They were Michael Pitt from Pitt Group; Jencie McRobert from RMCG group; Shona Bates from the Social Policy Research Centre at the University of New South Wales (UNSW); and Maurice Pignatelli from GHD Pty Ltd.

## 2.2.1 Surveys

### Staff survey

The Commission engaged RM Consulting Group to conduct an online survey of regional service officers and assessments team staff members. These surveys were undertaken during August 2018 and had a response rate of 89 percent.

The surveys were designed to better understand how the new land management reforms are being implemented in NSW by asking staff members about the following six areas:

1. staff experience – in implementing native vegetation legislation
2. nature and volume of work – the number of enquiries, types or reasons for contact, level of landholder knowledge of reforms and the Code, individual work load and the number of certificate packages to assess or validate
3. managing timeframes – response times to enquiries, processing and validation times for certificates and notifications, and issuing of certificates
4. navigating the Code – frequency of use, confidence in interpreting and using different areas of the Code, and support systems
5. managing discretion (or using judgement) – frequency and confidence in applying judgement and discretion, areas where discretion is most often used and reporting requirements for discretionary decision making
6. record keeping – consistency, ease of use, and training and guidance.

### Landholder survey

The Commission engaged the Social Policy Research Centre at UNSW to assist in assessing:

- the likelihood that landholders will contact SLM for advice before undertaking land management activities
- landholder satisfaction with the group's service and advice.

UNSW led a computer-assisted telephone interview (CATI) survey of approximately 500 landholders across all NSW LLS regions, which had around 50 eligible respondents for each region (see Appendix 5 for a list of questions asked).

## 3 Systems and processes

### Findings

- The SLM group has comprehensive systems and processes for providing accurate, consistent and timely advice. As the legislation is inherently complex, so too are the systems and processes for implementing it. There are a number of potential risks to successfully implementing the reforms.
- The SLM group has internal review processes to ensure robust assessment of applications, including:
  - a quality control process that is designed to require applications to go through multiple levels of review
  - an assessments team review, which while sometimes time-consuming, is critical to ensuring applications are fully compliant and accurate.
- The SLM group has informal processes to prioritise applications and has recently updated the prioritisation criteria. However, it does not consistently apply the prioritisation criteria and the process is not transparent.
- Implementation of the Code relies on the Native Vegetation Map, which is not yet fully available. In the absence of the map, the SLM group has interim arrangements for categorising land.
- The SLM group's record keeping generally meets the NSW State Archives and Records' codes of best practice.
- IT systems are not integrated, which can affect the accuracy and transparency of reporting, and document version control. This creates a significant risk that notification and certification data is inaccurate.

### 3.1 Systems for implementing the Code

The reform has resulted in the BC Act and amendments to the LLS Act. The Commission reviewed the most relevant legislation relating to the Land Management Framework; that is, the Code and the Local Land Services Amendment (Land Management–Native Vegetation) Regulation 2017.

The Code comprises the most complex aspects of the reform administered by the SLM group. The Code is detailed and the alternative management pathways available to landholders under the Land Management Framework are quite complex (see Appendix 2). The group has developed guidance, including detailed process maps, to help staff implement the Code. While it has attempted to make the guidance as straightforward as possible, the inherent complexity of the Code means the process maps are similarly complex. Appendix 3 outlines the group's processes and systems for assessing applications.

The Code is comprised of six parts (See Appendix 4), including Part 1: Definitions and other specifications; Part 2: Invasive Native Species; Part 3: Pasture Expansion; Part 4: Continuing Use; Part 5: Equity; and Part 6: Farm Plan. The SLM group has clear processes and systems that align with each part of the Code except for Part 5, Division 2: Clearing compromised native ground cover (notification). Part 5 of the Code does not yet have a formally documented process map, but the Commission understands it is being developed and is informed by the ongoing Cooma-Monaro pilot project. The systems are comprehensive and the Commission found only minor inconsistencies with the Code, which the group had already identified and is addressing.

## 3.2 Prioritising internal reviews

A review of documentation indicates that the SLM group has a 'priority projects' tool for prioritising the review of certifications. However, it does not appear to have a consistent approach to using this tool and the criteria appears to be subjective, with minimal guidance. For example, the prioritisation process considers the following criteria: days since an expression of interest (EOI) was lodged; days since a proposal was submitted for assessment; landholder urgency; whether the project is a case study; and reputational impact. While the time-specific components are relatively straightforward, the processes for quantifying landholder urgency and reputational impact are not clearly defined. Additionally, the above prioritisation criteria are not risk-based and a review of the documentation suggests this template has not been consistently applied to submissions for certification.

Interviews with SLM group staff also indicate that, due to the volume of certifications being managed earlier in the year, the process for prioritising certification reverted to a more informal process of triage. The Commission understands this process involves assessments team staff members simply phoning regional teams to ask them to identify their highest priority projects and the assessment progresses from there.

As a result, some applications were processed more quickly than others, regardless of when they were lodged. Further, all applications were subject to the same review process. While this approach is thorough, it has the potential to over-resource lower risk applications and delay processing times. The prioritisation process should be transparent and well documented to ensure there is no appearance of favouritism or preferential treatment.

The SLM group should introduce a more transparent and equitable approach to prioritising and triaging certifications considered to be high or low risk. It should ensure the process is fully and consistently implemented and transparent to customers. The group should also assess whether the review process could be simplified for lower risk applications to improve efficiency without compromising the quality and accuracy of the certifications and notifications.

## 3.3 Internal review process

The SLM group has a number of internal review processes to ensure it accurately and consistently applies the Code. These processes are designed to require applications go through multiple levels of review for quality control purposes. The group's operations manual provides guidance on the oversight and the quality assurance process, including team leader reviews and validation by the assessments team (see Figure 1).

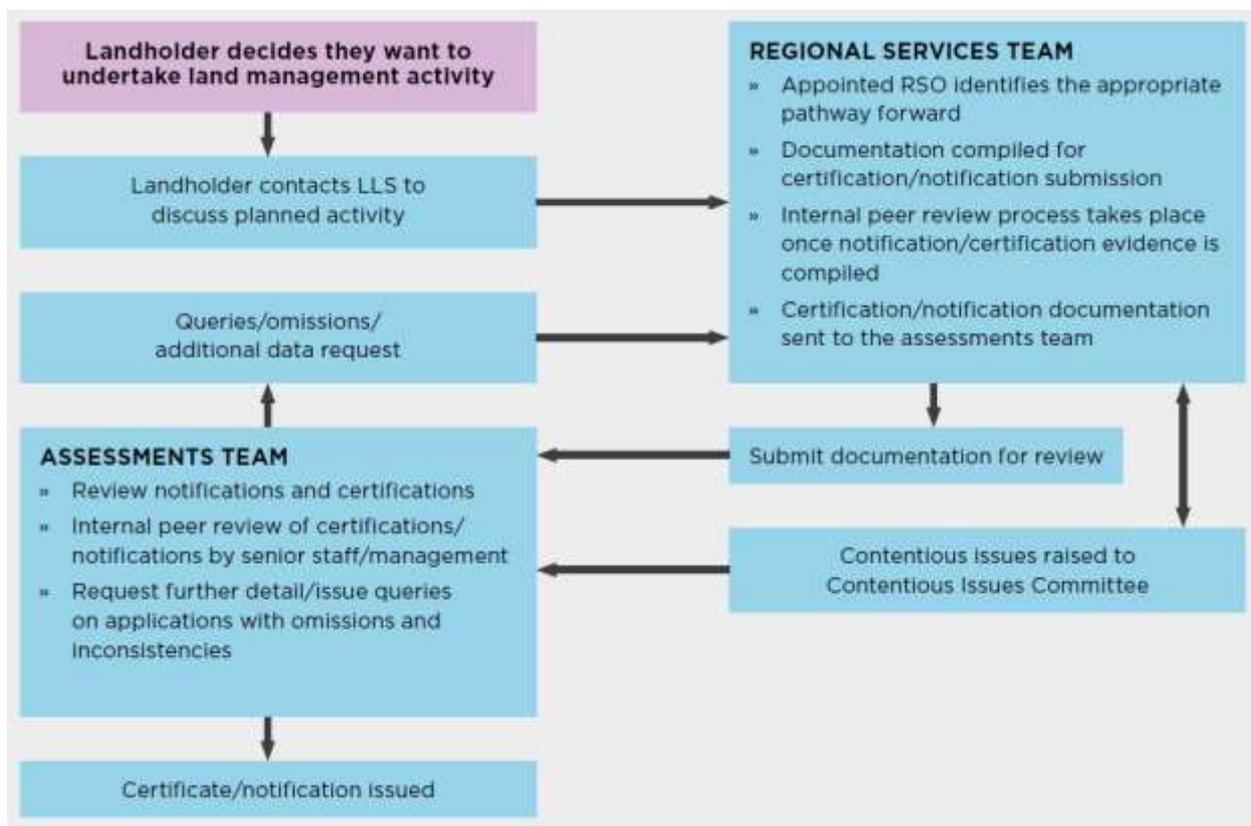


Figure 1: Overview of regional services and assessment team review process

The review process includes the option for an additional review of contentious issues. Staff may raise issues for additional guidance, particularly where they require guidance on discretion. Contentious issues are managed by a number of committees and senior staff and supported by specialist teams (for example, legal, science and policy teams). An example of the escalation procedure is shown in Figure 2.



Figure 2. Example of the SLM group contentious issue escalation process

When a team leader or regional services officer raises an issue before the Contentious Issues Committee they receive direction through guidance or advice communicated directly from the Committee. More complex issues may be referred to the SLM group's legal team and a policy paper may be developed to clarify the group's position on the discretionary item. In either case, the communication systems ensure consistent messaging across the regions.

These communication channels include:

- updating regional team leaders at weekly team leader meetings
- issuing an email alert if discretionary advice has been provided on a contentious issue. The alert will be distributed to all regional teams, advising them on how to handle this issue in future
- distributing policy papers on contentious issues to all regional teams.

Overall, evidence indicates that the SLM group's approach to quality assurance is robust, with the assessments team returning any validation packages that require clarification or additional supporting documentation to regional service officers.

### **3.4 Assessments team review process**

The SLM group has a dedicated assessments team to manage discretion and ensure that notifications and certifications are approved in accordance with the Code.

A review of the assessments team's processes indicates that if it didn't review all documentation, it is highly likely that applications would not be completed correctly and some certifications may not comply with the Code. As such, the internal review of applications by the assessments team is currently critical to implementing the Code.

The Commission found that the assessments team returns validation packages for clarification or additional supporting documentation. However, this review process can delay the processing of applications, causing frustration for staff members and landholders.

Feedback from interviews with regional services officers and assessments team staff members indicates that increased familiarity with the systems and processes for reviewing applications has contributed to making the review process more efficient. This feedback aligns with the Commission's data analysis of the assessments team's records, which indicates that the time taken to process reviews has improved significantly (see 'Section 5.3: This data suggests that communication strategies to encourage behavioural change among landholders needs to include multiple media channels to influence individuals as well as professional networks, local farming families and communities.

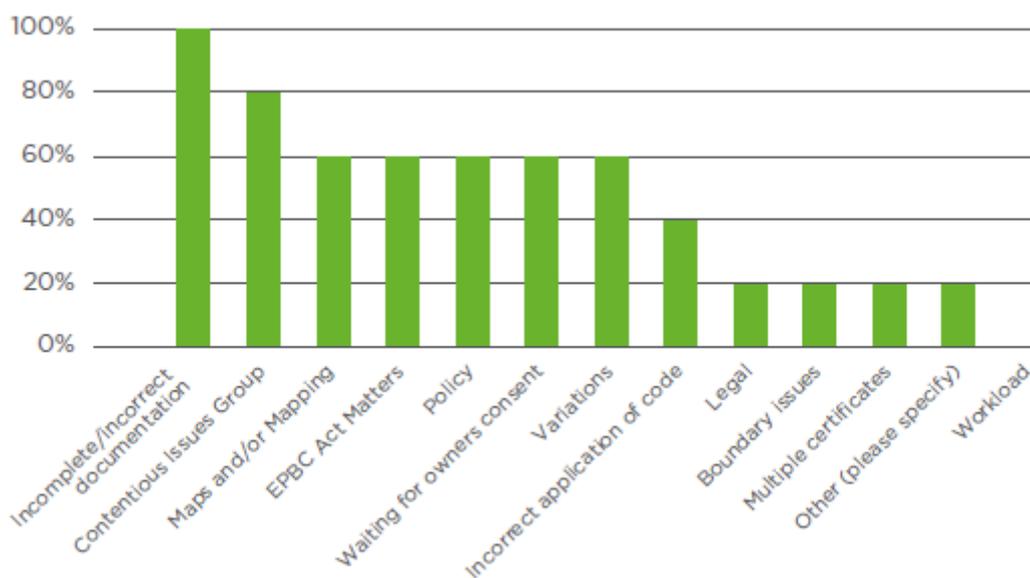
To date, the SLM group has conducted a number of workshops, attended field days and published in online and print media, demonstrating a broad approach to engagement. Survey data highlights other channels the group could use to relay information to landholders, such as through community and agricultural groups.

Given landholders' relatively low levels of trust in local government, it is encouraging that almost half of respondents indicated they were likely or highly likely to consult with the SLM group before undertaking land management activities. Further, 84 percent of respondents indicated they had engaged in some way with LLS in the past, demonstrating that the group has a strong presence in the community. The majority of landholders were of the view that government should play a role in regulating farming practices (67 percent) and that farmers

should be supported in making land management decisions (87 percent). This data demonstrates that landholders are likely to be willing to engage with the SLM group. Timeliness of processes' for more detail). However, there are opportunities to make the processes even more efficient.

Survey results from the assessments team indicated that the leading reason for extended processing times was 'incomplete or incorrect documentation', with 100% of respondents indicating that this was a key factor in extending processing times (See Figure 3). The main issues reported relating to incomplete or incorrect documentation included:

- maps being inaccurate, incomplete (such as not including important layers) or not in accordance with the template (for example, the scale bars and labels)
- out-of-date or incomplete compliance checks (for example, relating to restrictions on land titles)
- inaccurate information (for example, incorrect lot/DP information)
- lack of clarity in reporting the basis of decisions, particularly regarding endangered ecological communities, EPBC Act requirements, and the 'landscape scale biodiversity importance'.



**Figure 3: Reported reasons for extended internal review processing times**

To improve the efficiency of the assessments review, the SLM group developed a checklist of items for the team leader to review before submitting applications to the assessments team. This was intended to capture common mistakes early. Several respondents indicated that the team leader review process does not consistently pick up incomplete or incorrect documentation before a package is submitted for internal review.

The Commission notes that many of these issues relate to the IT platform SLM is currently using, which is underpinned by a predominately paper-based process that requires duplicative data entry. Addressing the IT issues (as discussed in 'Section 3.6: Records management') would allow the assessments team to focus on material issues and reduce tension between the groups. The assessments team should work with the regional team leaders to ensure that the updated IT systems are designed to address areas where recurring mistakes have been identified.

In the absence of improved IT systems, the SLM group should take steps to ensure the team leader review process is working as intended. The group may wish to consider whether additional administrative support is warranted until the IT systems have been improved.

The SLM group should also consider opportunities to improve the documentation of decisions made by the regional services officers. This would ensure their reasoning is clear and transparent, particularly where they are required to apply professional judgement. It would also allow the assessments team to more easily review whether the application complies with the Code. The issues around managing and recording discretionary decisions are discussed further in Chapter 4.

### **3.5 Native Vegetation Map**

Under Part 5A of the LLS Act, the Chief Executive of the OEH is required to prepare and maintain a Native Vegetation Regulatory Map. The map is intended to provide an accurate visual guide of the different land categories and inform decisions on how, where and under what conditions land can be cleared.

The map is being released in stages, with Stage 1, 'Category 2: Vulnerable Land' and 'Category 2: Sensitive Land' already available. This map came into full regulatory force in August 2017. Release dates have not been provided for the additional outstanding mapping layers.

The lack of a publicly available map for all categories of land means the SLM group is operating under interim arrangements and creates a risk for providing consistent and accurate advice. As the requirements for notification and certification depend upon the category of the land in question, the SLM group's operations manual explains the interim arrangements for categorising land in the absence of a map. The group's staff currently spend significant time assessing vegetation types onsite, which can delay the processing of applications and compromise the customer service experience. Despite the constraints, the group is currently managing the lack of a map appropriately.

The manual specifies that it is up to landholders to use criteria in the manual to identify the categories on their land. The manual states that a regional services officer can assist the landholder in determining these categories. A regional services officer may also provide the landholder, upon request, a letter that outlines the SLM group's opinion on the distribution of Category 1 land based on the history of land use on the property and the criteria in the LLS Act.

While the absence of a map results in relatively minor delays in processing certifications and notifications, the presence of a map would clarify communication for landholders and improve customer satisfaction. The map would also reduce the level of judgement staff need to use in assessing vegetation types, thereby reducing potential risk areas. The Commission notes, however, that the release of a map in the short term may well increase the number of challenges to the map and increase workloads and potential confusion. The Commission supports the group's continued engagement with OEH to set a clear timeline to finalise and publish the map.

### **3.6 Records Management**

It is important that the SLM group maintain accurate and secure records to preserve important environmental data for reference and re-use. These records will be vital in supporting decision making and documenting the rights and entitlements of stakeholders. Accurate records will

also contribute to managing reputational risk and give stakeholders confidence in the group's operations.

The Commission undertook a high-level analysis of the SLM group's compliance with the provisions outlined in the *State Records Act 1998* (NSW) and the standards on records management under Part 2 and Part 3 of this Act.

The key provisions that apply to public offices are:

- **Provision 1:** Make and keep records that fully and accurately document their operations and administration.
- **Provision 2:** Establish and maintain a records management program in conformity with standards and codes of best practice approved by NSW State Archives and Records.
- **Provision 3:** Ensure that records are stored in conditions appropriate to their format and preservation requirements.
- **Provision 4:** Ensure that records held in digital or other technology-dependent formats are accessible for as long as required.

The Commission found that the SLM group has broadly met the provisions. However, the Commission identified opportunities relating to provisions 1 and 2 where the group could improve record management. These improvements are discussed below.

### **Provision 1: Make and keep records that fully and accurately document their operations and administration**

The SLM group has systems and processes for documenting operational and administrative practices. It uses three main reporting systems (CM9, IRIS and the land management database (LMDB)) to record information relating to business operations, including storing files on customer interactions, customer transaction data and land management data.

The Commission has identified a number of opportunities for improvements to ensure fully accurate documentation. These relate to the IT systems being used to manage and maintain records within the group.

The CM9, IRIS and LMDB systems are not integrated across the various functions and teams within the SLM group. Staff report that this can affect accuracy in reporting, transparency and document version control, and lead to duplication of records.

The Commission found other areas where the lack of integrated systems is compromising accuracy. For example, the assessments team diligently uses Excel to manage the accuracy of certification and notification data. But the volume of certifications has reached a level at which manual reconciliation of this data is inefficient and impractical, and increases the risk of inaccurate reporting.

At the time of the Commission's analysis, the certificate tracker indicated that the SLM group had issued and recorded approximately 168 records. Each record has 91 possible columns in which data may be entered. This leaves more than 15,000 possible entry points for manually inputting, reconciling and managing data.

The Commission agrees with feedback from interviews that this process, while operational with small case loads, is not sustainable as case loads increase. Transcription errors could be

remedied by implementing an IT system that requires data to be entered only once and has rules against which data is checked to ensure it is compliant when entered.

The SLM group should implement an IT system that can integrate daily record-keeping protocols and coordinate customer interaction and transaction data more efficiently. This would increase accuracy, efficiency and ultimately customer satisfaction. This IT system should include functions that eliminate manual record keeping, conflicting and duplicative data entry and the need to reconcile records manually.

**Provision 2: Establish and maintain a records management program in conformity with standards and codes of best practice approved by NSW State Archives and Records**

The Standard on Records Management (the Standard) is designed to assist public offices to discharge their obligations under parts 2 and 3 of the State Records Act and establishes the requirements for effective records and information management.

The Standard sets out three principles for effective records and information management:

- **Principle 1:** Organisations take responsibility for records and information management.
- **Principle 2:** Records and information management support business.
- **Principle 3:** Records and information are well managed.

The SLM Group broadly meets the compliance requirements for the principles set out above through:

- having a records management policy that directs how records and information should be handled within the group
- taking a planned approach to records and information management and taking steps to ensure that comprehensive records are maintained across the SLM group
- taking steps to ensure that records are accurate, accessible, accountable and managed in a content management system that protects against unlawful access, deletion or alteration.

The SLM group could improve its records management training and systems to further enhance compliance with principles 1 and 2.

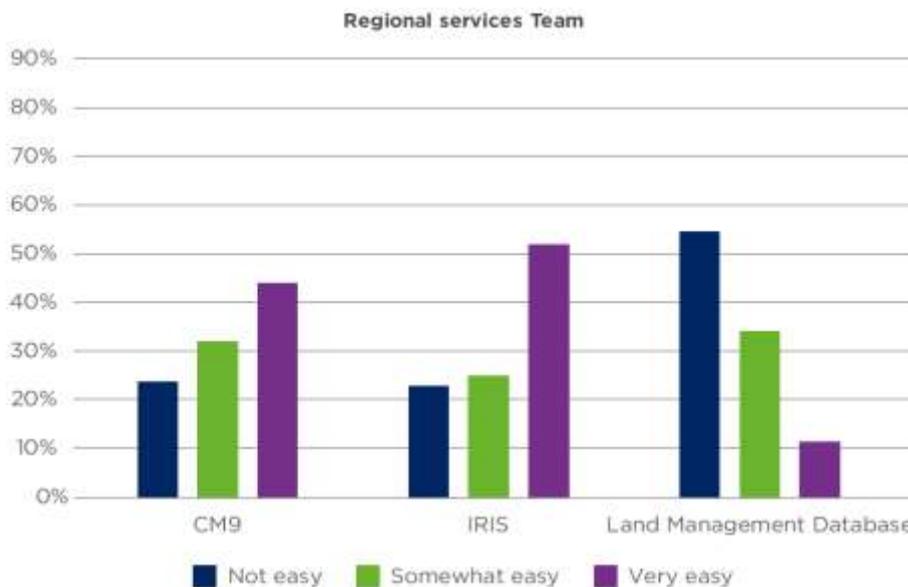
The group provides training and guidance material to staff members in maintaining records management standards. There are multiple sources of guidance on reporting, including the operations manual, 'splash page'<sup>3</sup> and process guidance sheets. The operations manual and process checklists provide clear information on the requirements for each part or division of the Code. These include requirements around file-naming protocols.

The Commission examined how proficiently the SLM group's regional services staff and assessments team operated the CM9, IRIS and LMDB systems. IRIS is mainly used to manage customer relationship data. CM9 is mostly a content management database and secure repository for customer files. LMDB is an ArcGIS-based system used to record details of proposed on-ground NRM activities in NSW.

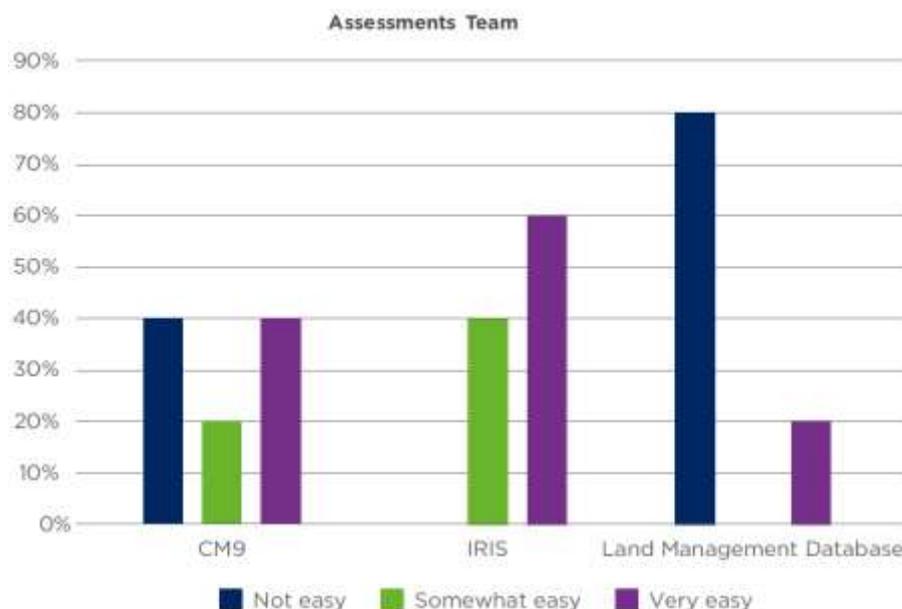
Interviews, site visits and an internal staff survey found that staff members' ability to navigate and use these records management systems varied as shown in Figures 4a and 4b.

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<sup>3</sup> The 'splash page' is an internal intranet webpage used to communicate policies, procedures and other information to staff.



**Figure 4a: Regional services officers’ view on ease of use of record management systems**



**Figure 4b: Assessments team staff’s view on ease of use of record management systems**

As shown in Figure 4a and 4b, responses from the assessments team and regional services officers suggest that staff have mixed experiences using the CM9, IRIS and LMDB systems. There did not appear to be any significant problems with using IRIS. Responses for CM9 were slightly mixed and LMDB appears to be the most problematic for the assessments team and regional services staff, with 80 percent and 55 percent, respectively, reporting that it is ‘not at all’ or ‘not very easy’ to use.

Responses from both the regional services and assessments team surveys suggest the current approach to record keeping is complicated and inefficient. Staff reported that using three systems that all rely on manual data entry and transfer increases processing times (for both regional services officers and the assessments team) and substantially heightens the risk of recording errors.

The following regional services officers' responses to the open question on record keeping highlighted some frustration with the existing interim system:

*"We need a one-stop shop or 'future state'<sup>4</sup>, not three separate and different process and programs."*

*"We need the future state system."*

*"Perhaps Salesforce will be a better user-friendly system that will encourage people to record absolutely everything."*

Until an integrated system is implemented, staff need to be well trained in using the primary record-keeping systems to ensure data is accurately documented and maintained.

In the absence of an integrated content management system capable of highlighting duplicative and conflicting data entries, the SLM group has assigned a staff member to periodically manage, check and reconcile data on the notification and certification tracker. While this is time-consuming, it is critical that the group continues to manually reconcile and manage data to ensure it maintains accurate reporting for the Minister's office.

The SLM group would benefit from using an IT platform that integrates managing and storing customer transaction data with customer relationship data. This would also allow staff to easily access and review the extensive supporting material submitted with certifications.

### Recommendations

- 1 The SLM Group should consistently implement, and make publicly available their process for prioritising applications.
- 2 The SLM Group should consider a more streamlined review process for lower risk applications in the future.
- 3 The SLM Group should implement a more integrated I.T. system as a matter of urgency to improve efficiency and accuracy of data collection that:
  - eliminates duplicative manual data entry and the need to reconcile records manually
  - integrates with the SLM group's daily record keeping protocols
  - collects customer interaction and transaction data within one system.
- 4 Until an integrated system is in place, SLM should:
  - take steps to ensure the team leader reviews are consistently undertaken and address common mistakes
  - continue to ensure that staff are well trained in the use of primary record keeping systems to ensure data continues to be accurately documented and maintained
  - maintain data quality assurance measures to check manual data entry remain in place.

<sup>4</sup> The SLM group is working towards a future-optimised arrangement of operational systems and processes, which is internally referred to as the 'future state' system. It is understood the system is on hold while its integration with broader LLS IT reforms is considered.

## 4 Managing discretion

### Findings

- The Native Vegetation Code by design allows for considerable discretion in developing certifications. SLM recognise the inherent risks associated with discretionary decision making and have taken steps to mitigate them.
- SLM group has processes, guidance documents and committees in place to help ensure consistent and appropriate use of discretion.
- A survey of staff indicated that experience and confidence in exercising discretion is varied and that processes for the use of discretion are not consistently applied by regional service officers.
- SLM group does not have a clear policy or processes to ensure transparent documentation of discretion, which is inconsistent with best practice.
- SLM group has actively engaged with the Commonwealth to try to improve efficiency in regards to approvals under the EPBC Act. The SLM group has procedures for assessing EPBC Act implications and has recently developed an agreed approach for handling approvals for properties where staff have noted EPBC Act implications.

### 4.1 Managing use of discretion

The new Land Management Framework aims to provide a more flexible, pragmatic and risk-based approach to land management compared to previous legislation.<sup>5</sup> Key to meeting this aim is the ability of SLM staff to use discretion in making decisions about land management proposals. This audit highlighted a number of areas within the Code that rely on discretionary or expert judgement and decision making. While this is consistent with the intent of the reforms, these areas pose an inherent risk to delivering consistent and accurate advice. The potential impact of using discretion ranges from fairly low risk (as with allowable activities) to potentially very high risk (relating to EPBC Act-listed species and threatened ecological communities).

To manage this risk, the SLM group has developed policies and guidance on contentious issues and discretionary areas. Policy papers and staff guides are circulated to group staff members to provide clarity on identified areas of discretion and contention. Site visits and staff surveys conducted by the Commission indicate that when in doubt staff members refer matters of discretion to senior staff members and team leaders, who may escalate issues if uncertainty remains.

#### 4.1.1 Good practice guidelines for managing discretion

The Commission assessed the SLM group's systems and processes relating to good practice. The NSW Ombudsman's 'Good conduct and administrative practice guideline' states:

" ... policies should include an explicit statement on the objective(s) the policy is intended to achieve and the criteria to be used in decision making to help ensure that:

- all relevant legal requirements are complied with
- all relevant factors are considered in decision making
- there is consistency in decision making
- the decision making process is open and accountable."

<sup>5</sup> <https://www.lls.nsw.gov.au/sustainable-land-management/land-management>

To ensure that decisions are consistent and objective, the guideline states:

“ ... the criteria used in decision making should be:

- clear and simple
- unambiguous
- relevant
- capable of objective application.”

## 4.2 The SLM group’s guidance for managing use of discretion

The Commission identified areas within the Code that rely significantly on the discretion of the SLM group staff members making decisions. The SLM group’s operations manual provides the following guidance on using discretion under these components of the Code, which are broadly consistent with the Ombudsman’s guidance:

- **identifying map categories (interim):** As discussed in ‘Section 3.5: Native Vegetation Map’, the operations manual explains the interim arrangements for categorising land in the absence of a publicly available map.
- **granting variations:** The manual provides a brief overview of the steps required to apply a variation of one of the conditions within the Code, which includes preparing a file note with justification, and review by a team leader and the assessments team.
- **EPBC-listed species:** The operations manual specifies the process for EPBC Act checks and refers to an additional resource for staff, the ‘SLM EPBC Act policy’. There are numerous discretionary points in this process and a detailed discussion can be found in ‘Section 4.4: Assessing EPBC Act applicability’.
- **endangered and vulnerable ecological communities:** The manual specifies that native vegetation is taken to be a viable ecological community or an endangered ecological community (for certificates) where, in the opinion of LLS, the vegetation forms a functioning ecological community that is likely to be viable over the long term. (For notifications, this is determined solely by the community being listed under the BC Act). The operations manual specifies criteria that must be considered when forming an opinion about whether vegetation forms a functioning ecological community that is likely to be viable over the long term. Further, more detailed guidance is provided in guidelines and checklists.
- **set-aside requirements:** Landholders implementing the Code may have an obligation to actively manage set-aside areas to improve native vegetation integrity or achieve revegetation. Regional services officers are required to advise on management actions and, once agreed with the landholder, impose management obligations for set-aside areas as an addendum to the mandatory Code-compliant certificate. The operations manual and supporting documents, including ‘Guidelines for Set-Aside Management’ and ‘Set-Aside Area Management Record’ provide information to assist regional services officers advising landholders on the choice of management action(s) in set-aside areas. The manual also summarises the native vegetation triage process that can assist in selecting set-aside areas.

While the SLM group’s processes meet the majority of the Ombudsman’s guidelines, processes for documenting discretionary decision making are not fully consistent with the guidelines. Further, the group could better align with good practice by improving staff consistency and confidence in exercising discretion.

## 4.3 Consistency and transparency in use of discretion

### 4.3.1 Recording use of discretion

The Ombudsman's guidelines state that 'adequate documentation' is an essential element of using discretionary power, and that 'the decision-making process [must be] open and accountable'. The Commission has not identified a formal process for guiding and facilitating record keeping of any judgement-based decisions. This is important from a quality-assurance perspective; it is also crucial if any clearing comes under future scrutiny relating to, for instance, the potential impacts on environmental protection and biodiversity conservation matters or threatened ecological communities.

Evidence indicates a lack of clear and transparent documentation regarding use of discretion. For example, nearly a quarter of regional services officers (22 percent) stated they were unsure whether they were required to document when they had used discretion in managing a case. Regional services officers suggested that 'unofficial' reporting expectations were addressed through the assessments process. For example, one stated:

*"The answer is 'not officially', when looking at the process and steps you must take, but when the assessments team look over cases they will regularly ask for documentation you did not know you needed."*

The SLM group should review its requirements for recording when and how discretion is used. These policies should be publicly available to ensure transparent decision making, consistent with the Ombudsman's guidelines.

### 4.3.2 Consistency in use of discretion

Survey responses confirmed that SLM staff members need to use their judgement often and in a range of areas. For some aspects of the Code, the existing process for using discretion is clear and robust. For example, for variations, there is a clear process for internal review of any discretionary decisions and a requirement to record that process in a file note. Feedback suggests the use of variations is limited to exceptional circumstances and regional services officers feel this process is well managed.

However, results from the internal staff survey suggest staff members have mixed experiences and confidence about making judgements based on discretion. For example, survey results regarding staff confidence in applying all parts of the Code indicate:

- around 50 percent of staff are very or extremely confident
- 30 percent are only somewhat confident
- 15 percent are not confident in applying parts 2 and 3 of the Code specifically
- 30 percent are not confident in applying Part 6 of the Code specifically.

The Commission acknowledges that such variability in confidence in a new organisation operating in a new, complex and highly contested regulatory area is understandable.

Feedback from staff and a review of documentation indicates that the SLM group relies heavily on the assessments team’s reviews to ensure discretion is being applied in an open, consistent and objective manner. The following survey responses highlight inconsistencies in using discretion:

*“Every region seems to do ‘business’ slightly different, which makes it difficult to be consistent.”*

*“Judgement is great for flexibility; however, it creates a high degree of inconsistency in regard to the application of the Code. It can allow regional services officers to pick their own adventure, which is not good.”*

*“We need decisions to be made at a high level and for a process to be consistently applied. It is very ad hoc at the moment.”*

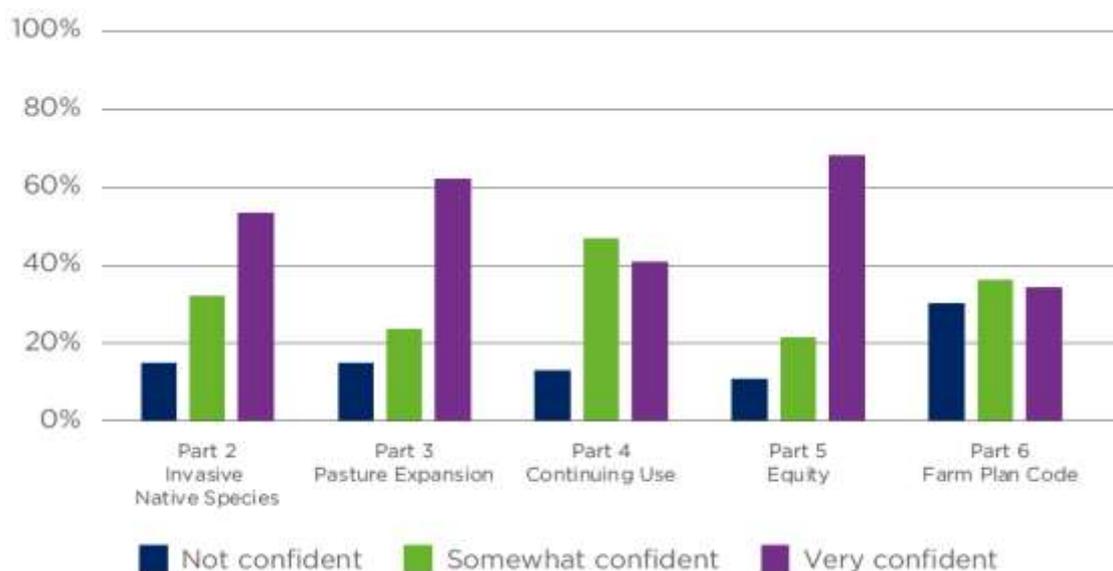
Regional services officers identified the following areas where they were concerned about exercising discretion:

- **Determination of a functioning ecological community (endangered and viable ecological communities)**

Interview feedback highlighted some concerns with identifying a ‘viable ecological community’. This was particularly evident in landscapes with diverse native vegetation types unfamiliar to regional services officers assessing their level of functionality. The survey responses relating to areas where judgement was used suggested some respondents experienced uncertainty in ecological assessments, with some noting a lack of access to data held by other agencies that would be helpful.

- **Categorisation of land for continued use and equity**

Regional services officers indicated they were less confident about exercising judgement relating to parts 4 (Continuing Use) and 6 (Farm Plan) of the Code (see Figure 5). Some officers reported challenges categorising land and calculating land areas where there had been historic clearing and regrowth, particularly where this relies on historic aerial imagery. Often revegetation is in a state of flux, so this decision relies on judgement and there may not be an obvious answer. They have needed to rely on landholders’ recollection and own evidence of past clearing practices and levels of subsequent agricultural activity in the potential treatment area.



**Figure 5: Reported levels of confidence in using parts of the Code: regional service officers**

While the review by the assessments team provides consistency, the SLM group should consider taking steps to ensure regional services officers are consistently applying their discretion and documenting their decision making. This will enable the assessments team to more easily assess the decision making, improve transparency and reduce processing delays. The group should also consider enhancing its training to target the areas of the Code where staff report less confidence (discussed further in Chapter 6).

#### **4.4 Assessment of EPBC Act applicability**

The *Environment Protection and Biodiversity Conservation Act 1999* (Cth) (EPBC Act) is the Australian Government's key legislation to protect and manage matters of national environmental significance (MNES) across Australia, including NSW. Activities proposed by landholders may be subject to approval under the EPBC Act as well as the NSW Code. This overlap creates confusion for landholders, impedes efficiency and creates regulatory risk.

Interviews with the SLM group have identified that, to date, the key focus of the Commonwealth in relation to the EPBC Act in NSW has largely been infrastructure, mining and tourism developments. As states and territories have responsibility for matters of state and local significance, there is little information for NSW landholders on how the EPBC Act applies to extensive agriculture on private land.

The SLM group identified concerns about overlap with the EPBC Act early in the reform process. It has been working towards greater efficiency and to ensure it can provide the best advice to landholders. It recently provided a submission to the independent review being undertaken on behalf of the Australian Government into the interactions between the EPBC Act and the agriculture and food production sector. It is awaiting the outcomes. The group should continue to engage with the Australian Government to address constraints to regulatory clarity and landholder customer service.

The SLM group's operations manual specifies the process for handling EPBC Act checks and refers to its policy on the EPBC Act. The group's policy makes it clear that responsibility for seeking Commonwealth approval rests with the person or business undertaking the activity. This policy further states that its role is to recommend designs that will avoid significant impacts on matters of national environmental significance.

While the SLM group provides advice on whether land management activities are likely to be subject to EPBC Act approval, it is not currently authorised by the Commonwealth to provide these approvals. The Commission understands the group has offered to be accredited by the Commonwealth, thereby streamlining the process and providing certainty, but this offer has not been accepted.

The Commission identified differences in staff members' understanding of handling approvals for properties where they have noted EPBC Act implications but the landholder has signed a statutory declaration indicating the EPBC Act doesn't apply. Some staff members thought these applications could be approved (if NSW requirements had been met). Other staff members thought they would need to be deferred to the Contentious Issues Committee for further review. Issuing certification where the actions may be subject to EPBC Act requirements, even if the landholder has provided a statutory declaration, creates a potential risk for the SLM group.

In response to the Commission's early feedback on this audit finding, the SLM Group has already developed a policy for handling notifications or certifications where evidence is contrary to the landholder's declaration should be clarified.

## Recommendations

- 5 The SLM group should formalise the process for recording the application of discretionary decision making to ensure use of discretion is transparently documented and reviewed.
- 6 SLM should provide additional support and oversight for:
  - the application of the farm plan code and continuing use provisions of the Code
  - determination of a functioning ecological community
  - management of EPBC Act issues.
- 7 SLM group should implement their policy on management of EPBC Act referrals as a matter of priority and continue to actively engage with the Commonwealth to try to facilitate a more efficient approach to EPBC Act approvals.

## 5 Landholder awareness and satisfaction

### Findings

- Results of a survey of more than 500 landholders indicate that:
  - approximately half are aware of the Code and are generally willing to engage with it
  - they are open to changing management practices and make decisions based on seasonal conditions
  - they prefer non-governmental channels when seeking advice on land management activities; however, almost half of respondents indicated they were likely or very likely to contact the SLM group before undertaking land management activities.
- There were insufficient responses from landholders who had actually engaged with the SLM group when undertaking land management activities to draw meaningful conclusions about their satisfaction with its services.
- The Commission was able to assess the timeliness of approving applications, which is likely to significantly affect customer satisfaction. The Commission found that:
  - between the legislation being enacted and June 2018, the SLM group reviewed and responded to 95 percent of notifications within two weeks of being contacted by a landholder
  - the timeframes for approving certifications has improved significantly since the remake of the Code in March 2018. Under the previous Code, timeframes for issuing advice were often very protracted, particularly for more complex assessments under parts of the Code requiring certification.
- the SLM group does not have a clear strategy for aligning with other agency programs, such as the NSW Biodiversity Conservation Trust, to provide landholders with comprehensive land management advice.

### 5.1 Landholder awareness of the Code

Stage 3 of the audit assessed:

- the likelihood landholders will contact the SLM group for advice before undertaking land management activities
- landholder satisfaction with the group's service and advice.

The Commission engaged the Social Policy Research Centre at UNSW to assist with this stage of the audit. UNSW led a computer-assisted telephone interview (CATI) survey of approximately 500 landholders across all NSW LLS regions (see Appendix 5 for a detailed list of questions asked of landholders).

The results of the survey indicate there is some awareness of the Code among landholders, with 56 percent of respondents indicating they had heard of the current Code, though most were not aware of how it works. This level of awareness was similar to the understanding of the previous Native Vegetation Code (Figure 6).

Those who had heard of the current Code were asked about their engagement with it. The vast majority (84 percent) had not applied for anything under the Code and did not intend to do so within the next 12 months. Ten percent had not applied but intended to apply within 12 months, and 6 percent had applied within the last 12 months.



**Figure 6: Landholder engagement with the Native Vegetation Code**

Table 1 outlines the breakdown of regional alignment between the SLM group’s regions and LLS regions.

**Table 1: Alignment of SLM regions with LLS regions**

SLM Region	LLS Region
Central	Central West
	Central Tablelands
	Greater Sydney
Northern	North West Tablelands
	North West
North East	Hunter
	North Coast
Southern	Riverina
	Murray
	South East
Western	Western

## 5.2 Landholder views on land management

### 5.2.1 Engaging with the SLM group

Landholders were asked how likely they would be to contact the SLM group before undertaking certain aspects of land management, such as removing invasive native species, removing paddock trees, or thinning or removing native vegetation. Almost half (48 percent)

reported they would be either ‘somewhat likely’ or ‘very likely’ to contact the SLM group, while more than one in four (28 percent) were very unlikely to do so.

A small number of those interviewed (less than 10 percent) had lodged applications with the SLM group under the Code. Of those, 63 percent indicated the group’s staff had communicated well with them during their application process. Furthermore, 63 percent of landholders who had engaged with the Code were either satisfied or very satisfied with the outcome. This compares with 77 percent for those who had previously engaged with the previous property vegetation plan process. However, the number of respondents is too few to draw any meaningful conclusions about satisfaction with the group or the new Code.

### 5.2.2 Management practices

Almost all surveyed landholders indicated they were open to improving their farming practices, with 55 percent sometimes trying new approaches and 42 percent always trying new approaches. Only 3 percent indicated they always follow the way their farm was managed in the past.

This openness to new and improved ways of land management was reflected by the large proportion (95 percent) of landholders who reported thinking about their farming practices from season to season, to varying degrees. Similarly, most respondents reported having long-term plans for the environmental and financial sustainability of their land. These long-term plans did not appear to necessarily rely on future generations of their family, with 36 percent not expecting their children to continue to farm the land.

### 5.2.3 Preferred forms of communication

Survey results highlighted the information channels landholders prefer to use. Results indicated landholders are most likely to obtain information about land management from six to seven different channels. The most common sources of land management information included agricultural publications, field days and agronomists, while the least commonly used sources were social media, local government, and TV and radio. Furthermore, Figure 7 shows that family was the most trusted group, followed by friends and the local community. The media was the least trusted of the groups listed, followed by local government. LLS was not included in this particular survey question.

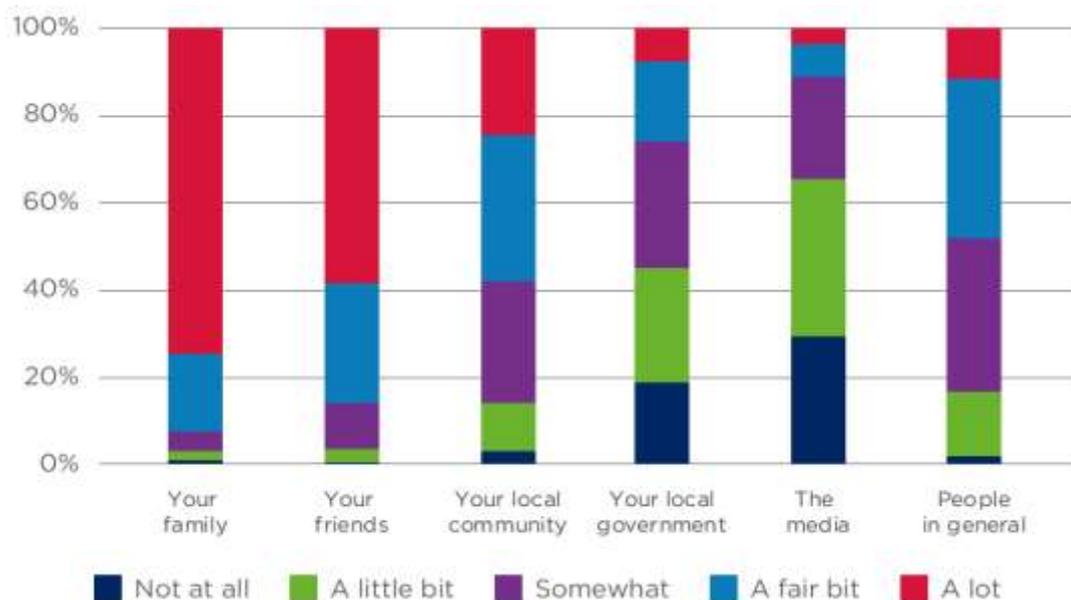


Figure 7: Level of trust of landholders have for various groups

This data suggests that communication strategies to encourage behavioural change among landholders needs to include multiple media channels to influence individuals as well as professional networks, local farming families and communities.

To date, the SLM group has conducted a number of workshops, attended field days and published in online and print media, demonstrating a broad approach to engagement. Survey data highlights other channels the group could use to relay information to landholders, such as through community and agricultural groups.

Given landholders' relatively low levels of trust in local government, it is encouraging that almost half of respondents indicated they were likely or highly likely to consult with the SLM group before undertaking land management activities. Further, 84 percent of respondents indicated they had engaged in some way with LLS in the past, demonstrating that the group has a strong presence in the community. The majority of landholders were of the view that government should play a role in regulating farming practices (67 percent) and that farmers should be supported in making land management decisions (87 percent). This data demonstrates that landholders are likely to be willing to engage with the SLM group.

### **5.3 Timeliness of processes**

One of the intentions of the biodiversity reforms was to allow for more timely assessments of landholder notifications and applications. Landholders wishing to undertake land management on their land under the Code may be required to notify LLS or seek certification, depending on the extent of the proposed clearing. The timeframes for processing applications is likely to be a major factor in landholders' satisfaction with their interactions with the SLM group's staff and their overall perception of the new legislation.

#### **5.3.1 Notifications**

Landholders may be required to notify the SLM group of low-impact land management activities. The Code outlines primary time components associated with reviewing and processing notifications by the group. Schedule 6: Notification Requirements of the Code states that the notification must "... be provided to local land services at least two weeks prior to the first date on which the proposed clearing is intended to be carried out", enabling the group to review the proposal and contact the landholder, if required. The SLM group is not required to approve the notification activities within two weeks, but to review the request and respond with any additional information requests.

To better understand the time periods associated with this business function, the Commission analysed the time the assessments team took to review and issue notifications. The Commission analysed 169 notifications the team received between 6 August 2017 and 9 June 2018 and found that more than 95 percent were reviewed and issued in less than two weeks, with the majority (84 percent) being reviewed and issued on the same day.

#### **5.3.2 Certifications**

Landholders are required to seek certification from the SLM group for undertaking land management activities with a higher risk of adversely impacting the environment. The Code does not specify a timeline for the SLM group's response to applications for certifications. However, the SLM group has set time-related performance indicators for processing certifications, to provide good customer service and manage customer expectations, as outlined in its customer service strategy.

The following are key elements of processing, reviewing and issuing certifications:

- A landholder contacts the SLM group with an enquiry relating to land management activities.
- The regional services team responds and arranges a meeting and/or site visit.
- The assigned regional services officer works with the landholder to develop a certification request for submission to the SLM group.
- Once complete, the regional services officer submits the certification request to the assessments team for review.
- The assessments team assigns an assessment officer to review the submission and, if necessary, requests additional supporting information.
- If the submission succeeds, the assessments team issues the landholder with certification.

The Commission analysed two separate time elements within the process of issuing certificates described above. These included the timeframes associated with assigning an assessments team officer to review certification and the time taken to process and issue certification.

It is important to note that interviews with SLM group staff members identified that processing of applications was briefly put on hold leading up to the remake of the Code in March 2018. As a result, the Commission divided the analysis into two timeframes: applications received before, and those received after, 15 March 2018. As Figure 8 shows, the time taken to assign an assessments officer to review an application between August and December 2017 was significant, typically between 50 and 60 days.

After this period, there was a steady downward trend until the remake of the Code in March, as highlighted in Figure 8. As noted, there was an increase in March due to the backlog of applications that were on hold while the Code was remade. After March 2018, the time taken to assign staff to assess certification continued on a downward trend and continued to improve over time, even in months where the volume of applications increased.



**Figure 8: Average time taken to assign an officer to a certification for review (days)**

This analysis highlights that the time taken to assign an officer after the assessments team received an application was on average 36 days if an application was received before 15 March 2018. Applications received after this date showed the time taken to assign an officer was 18

days, representing a decrease of 18 days in the processing time - a 51 percent improvement on pre-15 March 2018 timeframes.

The Commission also reviewed the time the assessments team took to process a certification once a staff member was assigned. As shown in Figure 9, the average time taken has decreased significantly.



**Figure 9: Average time taken to process a certification (days)**

Both Figure 8 and Figure 9 above clearly demonstrate that the timeframes associated with the issuing of advice regarding certifications were very protracted early on, but have improved significantly.

The data for this analysis was also aggregated into pre- and post-March 2018 categories. This analysis indicates that the assessments team took on average more than 100 days to process an application received before 15 March 2018. For applications received after this date, the data shows it took around 20 days, indicating the SLM group is processing applications around five times faster than during pre-March 2018 timeframes.

The Commission's analysis highlights that the time taken to process applications has significantly improved since August 2017. Further, the time taken to process applications has significantly improved compared with the previous system of Property Vegetation Plans, when it took an LLS officer an average of 13 week to *first visit a property*.

### 5.3.3 Efforts to improve timeliness

Improved turnaround times are to be expected as staff familiarity with the Code increases, understanding of the SLM group's systems and processes improves, and the legal aspects of delivering the Code become clearer.

In addition to staff members becoming more familiar with systems, the SLM group has made significant efforts to increase efficiency and decrease processing times. The group recognised that initial timeframes were lengthy and introduced measures to manage and reduce the time taken to assess applications without compromising the quality-assurance process.

The SLM group initiated a major review of operational processes in November 2017 to identify areas of inefficiency, confusion or difficulty for staff. As a result, it took several steps to address the accuracy and efficiency of internal processes, including adopting a number of operational

changes. The outcomes of this review resulted in the development of an operations manual, training for senior staff (that is, a 'train the trainer' program), subsequent regional training for regional staff by the trained trainers, and standardisation of content management procedures.

The peer review process was enhanced to reduce the burden on the assessments team, which was also provided with additional staff. These efforts demonstrated management's ability to adapt and improved processing times, as seen in Figure 8 and Figure 9.

While the SLM group has significantly improved the time taken to issue certifications, the timeline still exceeds the performance metrics laid out in its customer service strategy. This strategy outlines a variety of customer service metrics and key performance indicators, some of which have time-response components. For example, the certification metric states that SLM is to, 'provide an approved Certification within 21 business days of date of being received from regional services'. Since 15 March 2018, the assessments team takes, on average, 36 days to assign a staff member and process an application, exceeding the target. Nonetheless, the data indicates the group is progressing towards its goal.

The Commission has highlighted opportunities to further improve timeliness in Chapter 3 of this report. These include introducing integrated IT systems, revising the review process for lower risk applications and enhancing implementation of the team leader review of applications.

## **5.4 Satisfaction with flexibility of the Code**

The success of the biodiversity reforms relies on landholders having a greater understanding of their land management obligations and the available options for managing their land – and effective and efficient customer service is vital for achieving this. It is expected that having regional officers who provide clear and consistent advice will build trust in the new system, while allowing for flexibility and discretion in interpreting the Code.

The reform adopts a risk-based approach that focuses on creating broader options in land management through a new Land Management Framework. This is intended to be flexible, pragmatic and transparent, to encourage landholders to be proactive and participate in the process.

As noted, the survey results provided minimal insights into whether landholders believe their options have improved under the Code, due to the small number of respondents (16) who had engaged with the Code. Of this limited sample, just under half indicated they felt the certification process was tailored to their needs. The vast majority indicated that LLS consulted with them in making decisions about the application.

The Commission visited a small number of landholders during regional visits. These landholders were all highly satisfied with the SLM group's services and indicated they were given options for achieving their land management objectives.

In interviews, the Commission examined the extent to which the group is engaging with other agencies and regional LLS staff to enhance guidance on economic, environmental and social outcomes. The level of engagement of SLM staff with LLS and their level of awareness of regional LLS programs varied across regions. Regional staff reported minimal engagement with agencies outside LLS. Senior management indicated they intended to examine ways that staff members can better leverage other programs, such as the NSW Biodiversity Conservation Trust, the NSW Environmental Trust and LLS programs, to provide advice to landholders. They

acknowledged the limited engagement and said they have not yet developed a specific strategy in this regard.

Survey results indicate SLM staff members feel confident about engaging with staff from LLS and the NSW Biodiversity Conservation Trust, which is positive and should provide a basis for providing advice that is likely to achieve triple-bottom-line outcomes.

### Recommendations

- 8 SLM should review its current communications strategy based on the findings of the landholder survey and ensure that it targets a range of communication channels and aligns with landholder preferences for sourcing information and advice.
- 9 SLM should strengthen relationships with other agencies involved in land management (such as the Biodiversity Conservation Trust) to ensure that they are providing landholders with comprehensive land management advice.

## 6 Training and guidance

### Findings

- The SLM group staff are given training and guidance through a range of methods, to support decision making and help ensure the Code is consistently and accurately applied.
- Training and guidance materials have been continuously improving since the SLM group began operating.
- A strong culture of peer support has been a major factor in delivering the SLM group's reforms to date, and is a key component of training and guidance for staff.
- Staff members feel additional guidance is warranted in some areas relating to using discretion, including minimum requirements for certification data and how to report key attributes of certifications to ensure consistency.
- Only about one-third of survey respondents viewed training on record keeping as very (or extremely) useful. One third of respondents also said training was not provided consistently across all regions.

In the early stages of scoping the audit, the Commission identified that successful implementation of the SLM group's reforms relied heavily on well-trained staff members located in the group's regional offices.

Well-trained staff members are required to:

- ensure the Code is accurately and consistently applied and that applications are compliant
- provide effective and efficient customer service.

Additionally, informed by the Biodiversity Legislation Review Panel's recommendations and the Productivity Commission's 2004 report, customer service is a priority for the SLM group.

The group has a number of tools, and training and guidance documents available to help staff deliver the reforms. For example, customer service training provided by Service NSW is available to all existing and new employees alongside process checklists and guidance on managing client services and customer queries.

The Commission found that the SLM group has developed a strong peer support culture. It is one of the group's greatest assets in delivering the reforms. The positive culture, in which staff feel comfortable raising issues with peers and managers, was consistently cited as contributing to the current success in delivering the reforms.

To test staff responses to training and guidance, the Commission assessed whether they feel they have been given the appropriate training and tools to do their jobs. The Commission conducted a number of site visits and interviews with staff members. It also surveyed all regional services officers and assessments team staff members to support its findings.

The survey indicated that further training and guidance should be undertaken in regards to documentation requirements. Training is also needed to increase staff confidence relating to parts 4 and 6 of the Code, and aspects such as plant identification. Improvements in these areas will improve the integration and timely processing of applications.

## 6.1 Adequacy of training and guidance

The SLM group has a number of controls to try to ensure staff are fully trained in relation to the Code, the group's procedures and customer service. These include:

- undertaking training modules on the Code, policies and procedures
- providing staff with guidance documents and manuals
- having an induction process that includes online training modules that provide an overview and introduction to land management and biodiversity reforms, the Code and the *Local Land Services Amendment Act 2016* (NSW)
- a buddy program, which pairs new staff members with more experienced senior staff members who provide support and guidance.

The Commission undertook an internal staff survey to assess the extent to which they feel these training and guidance tools are sufficient to support them to do their job. The survey included questions on:

- their workload
- timeframes for processing applications
- which parts of the Code they were using most
- their level of confidence in using discretion in applying the Code
- their opinions about how well the SLM group's support systems and processes work.

The survey was conducted in August 2018 and sought responses from both regional services officers and the assessment services team. Staff engaged well with the survey, with 89 percent responding. The adequacy of training and guidance was also discussed in interviews and site visits.

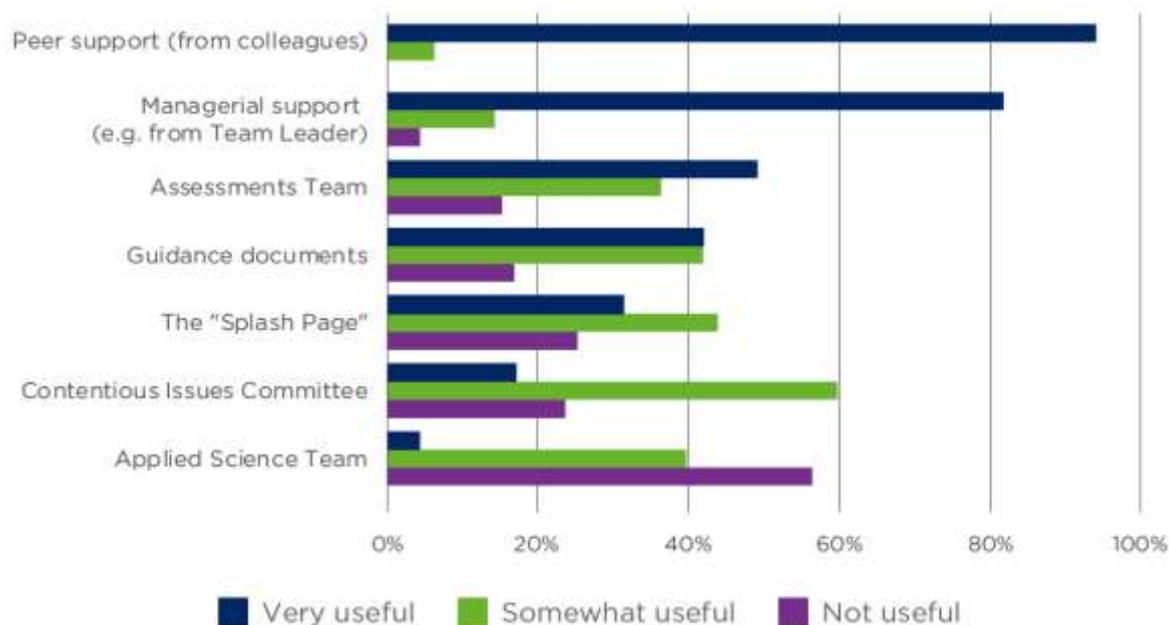
### 6.1.1 Guidance on applying the Code

There was broad recognition that, although training and guidance is improving, a number of areas would benefit from specific additional support. Staff indicated that further guidance is warranted in relation to using discretion and record keeping, including minimum requirements for recording certain aspects of applications.

Survey data indicates that regional services officers find peer support from colleagues highly beneficial, with more than 90 percent of respondents reporting it is 'extremely useful'. Managerial support from team leaders was also regarded as very useful by 80 percent of regional services officers.

As with the regional services officers, members of the assessments team identified peer support as a very important source of guidance, mentoring and other assistance. All respondents stated that it was either 'very' or 'extremely' useful. Some respondents were very positive about this aspect:

*"The system is working well. Staff who have questions ask more experienced staff for assistance. Processes and procedures are evaluated [...] and it is improving all the time. The staff at all levels are approachable and supportive. SLM is the best organisation I have ever worked for."*



**Figure 10: Perceived usefulness of alternative sources of support and guidance: Regional services team**

In interviews, staff frequently noted the buddy program, whereby junior staff members are paired with senior staff members who help train them in a range of issues. Staff found this highly beneficial, though somewhat dependent upon the strength of the relationship between the junior and senior staff members. Respondents felt they would benefit from additional standardised training in some key aspects of their role, such as plant identification, to supplement peer-to-peer learning.

Guidance documents (including the operations manual) were also identified as particularly useful sources of support and guidance. Of respondents, 60 percent of the assessments team and 40 percent of regional services officers stated that these were ‘very useful’.

By contrast, almost 60 percent of respondents stated that support from the applied science team<sup>6</sup> was either ‘not very’ or ‘not at all’ useful (44 percent and 13 percent, respectively) (see 10).

Survey responses from the assessments team also suggested that support from the applied science team could be improved (40 percent stated it was currently ‘not very useful’). Further guidance was desired regarding the basis of decisions, in particular those relating to ‘landscape scale biodiversity importance’.

The ‘Splash Page’ was identified by survey respondents as the least useful source of support for the assessments team, with 60 percent stating it was ‘not very useful’. Responses suggest a lack of recent updates and current information may have contributed to this perception.

### 6.1.2 Training and guidance in using discretion

Proper training and guidance are crucial to consistently applying the Code. In their survey responses, regional services officers noted they exercise their judgement and discretion frequently in developing certifications, with 65 percent or more for land categorisation, functioning ecological communities and species identification decisions requiring expert

<sup>6</sup> The applied science team provides an advisory and review function for contentious issues.

judgement. The majority of staff indicated they were confident in exercising their judgement.

However, staff members were less confident about certain parts of the Code, including:

- Part 4: Continuing Use
- Part 6: Farm Plan.

Further discussion of the levels of confidence in exercising discretion is provided in Chapter 4.

Evidence suggests that additional training and guidance regarding use of discretion may be warranted to improve consistency of decision making. In survey responses, the assessment services team highlighted they had noticed increasing variation in discretionary decisions across the regions. One respondent noted:

*“It is important to have a central issuing point to avoid regions developing inconsistent approaches to the reforms, as occurred under previous reforms. [The assessment services team] sees this starting and are raising this with management to address the issues. The central approach is important to ensure consistency.”*

A majority (67 percent) of regional services officers who responded to the survey stated that the guidance and systems currently available to support their use of discretionary judgement were ‘somewhat useful’ and 20 percent felt they were not useful. The SLM group would benefit from examining how it could improve guidance materials to ensure they are more useful to staff and better enable consistency in decision making.

### 6.1.3 Training on record keeping and processes

Among regional services officers, 68 percent of survey respondents reported they had received training and support information (for example, guidance documents) relating to record keeping. Similar responses were seen across all regions, with the exception of the Western region, where a significant majority (75 percent) reported they had not received training or guidance on record-keeping requirements.

Nearly a third of respondents stated that the training and guidance relating to record keeping had been ‘not at all useful’ (11 percent) or ‘not very useful’ (21 percent), while 69 percent stated it was either ‘somewhat’ or ‘very useful’ (40 percent and 29 percent, respectively) (Figure 11).

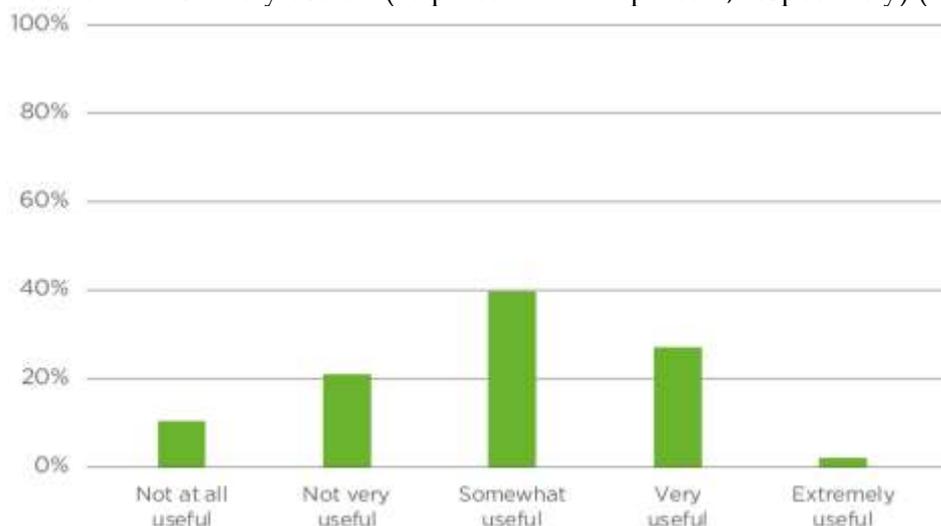


Figure 11: Usefulness of training and guidance material in supporting staff with record keeping

Almost half of regional services officers stated that the training and guidance materials for record keeping were not adequate.

In their survey responses, members of the assessment services team made a number of suggestions about the types of training and support they felt would be beneficial. Suggestions included:

- improving forms and checklists that require regional services officers to indicate when and how they made a judgement-based decision
- providing training and guidance on minimum standards and best practice for completing a certification package, including examples demonstrating required standards, such as the minimum information to be captured in an EPBC Act due diligence report or file note for a Code variation
- improving training and guidance for team leaders to enhance the process for reviewing certification packages before submitting them to the assessments team (related to the point above)
- providing specific guidance and training on correct and consistent terminology in recording plant community types in treatment area and set-aside area records.

### Recommendations

- 10 The SLM Group should take steps to further improve training and guidance including:
- enhancing guidance in regards to recording keeping requirements including recording of discretionary decisions
  - providing additional formal training in key aspects of the code such as plant identification and evaluation of endangered ecological communities
  - additional training in regards to the areas of the code where staff are less confident
  - ensuring training is consistently provided across all regions.