

Submission in response to
Discussion Paper about the
native vegetation provisions in the *Local Land Services Act 2013*

Consider the following case study:

Tea tree (*leptospermum*) is a woody weed (“invasive native species”) that encroaches then thickens on previously cleared portions of the south west slopes. It:

- Grows as a monoculture, preventing or long delaying succession to more bio-diverse communities
- On its perimeter, provides an environment for blackberry to become established
- Is highly flammable, meaning bushfires will burn hot and increase damage to native vegetation higher up the slopes
- Harbours feral animals, especially pigs, which then cause considerable environmental damage

What are the avenues for landholder management under the Act?

- Is controlling it an allowable activity? Perhaps it is allowable under the following:
 - during the course of “sustainable grazing”. Does this really mean a tea tree can be mechanically removed if sustainable grazing is being practised around it?!
 - “environmental protection works” since that is defined to mean “rehabilitation of land towards its natural state”. So provided the clearing includes replanting the species present prior to white settlement? By reference to “an appropriate local indigenous reference ecosystem”?
 - “reduce an imminent risks of damage to property” since tea tree increases damage caused by bushfire. But can the risk be said to be imminent?
- Clearing part of it for a firebreak would be a possibility, but for inscrutable reasons, that’s only allowed in the Western Zone, not the Central Zone.
- However part of it could be cleared for a “reasonably necessary” farm track; and certainly if you put a fence there, though with only 6 metres allowed on “vulnerable” land, that is probably not enough to meaningfully reduce bushfire heat up-slope

What are the consequences for getting it wrong? So suppose you remove tea tree during the course of sustainable grazing or in order to rehabilitate the land towards its natural state, and somebody complains? The penalties under the Act are draconian, and the lack of damage to the environment is no defense.

What about Code-based avenues for clearing it?

- Ahh, there is “Part 2 Invasive Native Species”. But this only applies to the species listed in the Schedule. Sadly, *leptospermum brevipes* is the only tea tree listed, and then only for the Central West. ***How do you get something added to the list?***
- Continuing use? It seems to be the case that you can clear back to the extent present on the arbitrary date of 1 January 1990. Why not back to earlier times? Well, there is a 1950 date provided you are doing rotational grazing. However that requires a red-tape certificate.

Then we come to some of the more complex areas of the Code:

- Pasture Expansion – Uniform thinning: you can reduce tea tree to 225 stems per hectare, which thins them considerably. Or to even less with a Certificate. But is tea tree one of the permitted Keith vegetation formations? In any case, the problem is that they will just grow back.
- Pasture Expansion – Mosaic thinning: it seems that if you have a 50 hectares treatment area of native vegetation, you could get a Certificate to clear 70% of it?! But that treatment area must be 30% or less of your total landholding. LLS may permit clearing of Category 2 vulnerable regulated land.
- Equity – Removal from Small Areas: you can clear 3 hectares per 250 per year. But only with a Certificate and only if it isn't Category 2 vulnerable regulated land. And you need a set aside area.

So it seems you can get a green light for rotational grazing or mosaic thinning. But the point is that there should be a clear provision which permits a landholder to rehabilitate the land by removing tea tree, without needing to jump through hoops to avoid fear of a \$250,000 fine.

The scale of clearing contemplated in Part 2 (90% of 1000 hectares) makes one wonder why it is so difficult to be confident that one can lawfully clear a much smaller area (from a single tree to say 1 hectare) of woody weed.

Turning now to the questions raised in the discussion paper:

1. Is it clear how different land use zonings are defined and treated in the Land Management Framework? What, if any, changes are needed? Please give reasons for your answer.

“land use zone” is not defined and so its meaning is unclear. The various “activity zones” – Coastal/Central/Western are clear.

2. How easy to understand are the land categories and the native vegetation clearing arrangements that apply under each category? What, if any, changes are needed?

If you are referring to Category 2 regulated, vulnerable etc, the meanings can be discerned with a bit of digging. The meanings should be made more obvious in the key to the native vegetation regulatory map.

3. How useful is the Native Vegetation Regulatory Map as a tool for categorising private rural land? What, if any, other tools could help landholders make decisions about their land?

The map basically works, but is not so useful on its own. It doesn't show rivers. It doesn't show contours.

Luckily data can be exported from it and put into a GIS system. However this will be out of reach for many affected landholders.

It doesn't provide any mechanism for land holders to make or suggest alterations or amendments.

4. How comfortable and capable are landholders in self-assessing their land according to the land categories? What, if any, improvements to the Transitional Arrangements should be made? Please give reasons for your answer.

Land holders are generally well placed to self assess their land. Their knowledge of it is typically finer grained than the information alleged on the regulatory maps produced using current technology.

It ought to be possible for landholders to amend/update the regulatory map based on their knowledge, then for LLS to assess/accept/reject these changes with reasons.

5. Do each of the approval pathways for native vegetation clearing provide landholders with adequate options while managing environmental risks? Please give reasons and/or examples to support your answer.

No; see case study above.

6. Is it clear what native vegetation clearing activities are “allowable” i.e. don’t need notification or approval?

Somewhat. But see case study above.

7. What, if any, other native vegetation clearing activities should be “allowable?” How could the requirements for allowable activities be improved?

Clearing/fuel reduction to reduce the intensity of bushfire.

Firebreaks in the Central Zone.

8. How effective are the requirements for establishing, managing, monitoring and reporting for set asides? Please give reasons for your answer.

The whole mechanism is complex enough that I would avoid it. The majority of my property is informally set aside as it is.

11. How adequate are the penalties for offences for illegal clearing and breaches of set aside obligations? Please give reasons and/or examples for your answer.

The penalties are draconian for small landholders going about their day to day business and trying to do the right thing. There needs to be a defense on the grounds that no significant harm was done.

13. Overall, how relevant are Part 5A and Schedule 5A and Schedule 5B of the Local Land Services Act in achieving the social, economic and environmental interests of the State? The other questions in this Discussion Paper consider the individual provisions of the Local Land Services Act in more detail and may provide you extra context when answering this question.

The prevalence of woody weeds such as tea tree will increase the severity of the next inevitable bush fire, worsening the effect of it on valuable native vegetation.

Landholders should be encouraged to make an effort to control same. In contrast, the existing arrangements make it difficult for landholders, and subject them to unreasonable penalties.

14. What if any other issues should be considered as part of the statutory review of Part 5A and Schedule 5A and Schedule 5B of the Local Land Services Act? Please give reasons why they should be considered in your answer.

How to add to the list of Invasive Native Species in the Schedule? Alternatively, give LLS discretion to permit clearing of an unlisted invasive species.