



**NSW WILDLIFE
INFORMATION
RESCUE AND
EDUCATION
SERVICE Inc.**

29th December 2022

NSW Government
Local Land Services Policy Team

Re: Submission to the Review of the native vegetation provisions (Part 5A and Schedule 5A and Schedule 5B) of the Local Land Services Act 2013

NSW Wildlife Information, Rescue and Education Service Inc. (WIRES) welcomes the opportunity to make a submission to the Local Land Services Policy Team for the Review of the Native Vegetation Provision of the Local Land Services Act 2013 (hereafter referred to as “the Framework”) to discuss impacts to biodiversity from land clearing.

WIRES is Australia’s largest wildlife rescue organisation, with over half a million supporters, and has been rescuing and caring for sick, injured and orphaned native animals for over 35 years. Our ongoing mission is to actively rehabilitate and preserve Australian wildlife and inspire others to do the same. WIRES operates a dedicated Wildlife Rescue Office assisting wildlife and the community across Australia 24-hours a day, 365 days a year, providing rescue advice and assistance for over 130,000 animals annually as well as providing full-time mobile Wildlife Emergency Responders, operating across Greater Sydney, South-East Queensland and Tasmania.

During our more than three decades in the conservation sector, it has become abundantly clear that loss of habitat in Australia is a major contributing factor to native species, and overall biodiversity decline across our vast regional landscapes. The Federal Government’s recent State of the Environment Report¹ (hereafter referred to as “the *SoE Report 2021*”) revealed that Australian biodiversity is declining, and the number of threatened species is increasing. The top three reasons for this alarming finding are climate change, invasive species and habitat loss and degradation. All of these are directly impacted by land clearing and vegetation loss.

WIRES’ mission is to preserve Australia’s native wildlife. We have developed partnerships and programs across the nation which are forward thinking and act to increase Australia’s biodiversity as a result of protection efforts. We believe the Framework neglects its purported aim to meet similar goals by failing to properly address to the impacts of land clearing on our precious ecosystems and their inhabitants.

WIRES primary concerns with the Framework proposal are as follows:

1. The Framework fails to acknowledge its oversight, and therefore participation, in the destruction of native vegetation through increased land clearing.
2. Weakened biodiversity offset strategy cannot provide ‘like for like’ offsets.
3. Without native vegetation and terrestrial ecosystems, Australia does not have an effective economy.
4. Does the Framework align with the Federal Minister for the Environment’s plan for the future?

¹ Australia State of the Environment 2021. (2022). Australian Government Department of Agriculture, Water and the Environment < <https://soe.dcccew.gov.au/> >



1-5 / 117 Old Pittwater Rd, Brookvale NSW 2100
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The rationale supporting our key concerns is summarised below.

1. The Framework fails to acknowledge its oversight, and therefore participation, in the destruction of native vegetation through increased land clearing.

According to assessments in the *SoE Report 2021*, Australia's terrestrial ecosystems and native vegetation are in a state ranging from "poor to good", with a trend toward deterioration². The primary pressure on native vegetation and above-ground carbon stock loss are human pressures such as land-use practices and clearing. This factor is largely overlooked in the Framework's provisions relating to Part 5A and Schedule 5A of the *Local Land Services Act 2013*.

As an example of oversight, the Framework established a Native Vegetation Panel (NVP) comprised of members who hold various unknown qualifications, appointed to oversee land-clearing applications for rural and non-rural areas. These applications must adhere to certain provisions under the *Biodiversity Conservation Act* (BCA) to identify biodiversity values of the areas to be cleared and define the number of credits required to offset those values, with the Panel making determinations based on those terms. At the time of this submission, only one has been determined since the Panel was formed 7 years ago.³

Additionally, the calculations used to assess the values of the land to be cleared are fixed and do not consider threatened species or ecosystems into the equation, a significant lapse in the decision-making process. This lack of transparency and consideration as to whether requirements are being met through the Panel's evaluation raises concern regarding the efficacy of the Panel and questions the overall operation of the Framework.

Furthermore, audits conducted by the Natural Resources Commission, the NSW Audit Office, a parliamentary inquiry, and by the NSW Government's published land clearing data have revealed the Framework has failed from a regulatory standpoint as a mechanism against mass land-clearing.⁴ Reasons for failure include increased land clearing for agricultural purposes since the introduction of the reform, significant delays in compliance and enforcement activity to address unlawful clearing, and key elements of the Framework still missing or underutilised. The NSW Audit Office reported its key findings, with noted emphasis on lack of follow-up or guidance from the LLS:

- *"The decision not to release the two largest categories of the Native Vegetation Regulatory map makes it harder for landholders to determine if they can clear;*
- *LLA has limited oversight of notification for land clearing;*
- *LLA has detailed processes for assessing proposals that are generally higher risk, (using outdated satellite imaging);*
- *There is limited monitoring of whether requirements of approvals are being met;*
- *The Land Management (Native Vegetation) Code 2018 may not be responding adequately to environmental risks;*
- *There are lengthy delays in identifying unlawful land clearing; and*

² Australia State of the Environment 2021. (2022). Australian Government Department of Agriculture, Water and the Environment <<https://soe.dcceew.gov.au/overview/environment/ecosystems>>

³ Native Vegetation Panel. NSW Government. [Public Register - NVP New \(nsw.gov.au\)](https://www.nsw.gov.au/public-register-nvp-new)

⁴ Restoring the balance in NSW native vegetation law – Report (2020). Environmental Defenders Office.



- *The amount of land clearing has increased but the latest data is yet to be publicly released”.*⁵

The audit’s findings indicate a lack of abidance to the very core of the Framework’s outlined strategy and objectives. The aim to maintain or improve biodiversity are not evident in the actions undertaken by the entities appointed to the task. This is evidenced by the fact NSW has experienced increased land-clearing since the inception of the Framework.

2. The weakened Biodiversity Offset Scheme cannot provide ‘like for like’ offsets.

The new 2017 Framework repealed previous laws⁶ which prevented land clearing on a broad scale unless it was able to show maintenance or improvement of environmental outcomes in favour of a more flexible Biodiversity Offsets Scheme (BOS).

The Framework outlines the plan for biodiversity offsets to reduce the decline of biodiversity, a system that, according to the *SoE Report 2021* and a 2021 EPA report on native vegetation in NSW, has failed its core aim to preserve habitat and species due to land-clearing. According to the NSW Government website, the Biodiversity Offsets Scheme (in effect from August 2017) is a “world-leading scheme that aims to ensure no net loss of biodiversity from development”⁷. However, “in area, **26,200 hectares of woody vegetation was permanently cleared in 2016**, the year before the new regulatory framework (*Biodiversity Conservation Act 2016*) came into effect in August 2017. The subsequent rate of permanent clearing from 2017 to 2019 was **34,933 hectares per year on average** (the subsequent years after the regulatory framework).”⁸

Land-clearing, along with introduced invasive species (which is often preceded by land-clearing), has led to an 8% increase in the number of species listed as threatened, or listed in a higher category of threat, since 2016 when the scheme was first introduced.⁹

The flexible system under the BOS has created options for those wishing to clear land which do not provide true like-for-like offsets, resulting in the statistics seen above. It has generated a market where biodiversity is turned into an article of trade and the highest bidder sets the price for the extinction of native wildlife and ecosystems. The Framework suggests biodiversity offsetting can be achieved through payments to the Biodiversity Conservation Fund, mine rehabilitation in lieu of genuine offsets, credit discounts, and setting credit pricing (of which are inconsistent and overlook the true cost of biodiversity loss). These options do not parallel the intended outcomes of the BOS, or like-for-like offsets, defined as rules that “seek to ensure

⁵ Managing Native Vegetation (27 June 2019). Audit Office of NSW. <[Managing native vegetation | Audit Office of New South Wales \(nsw.gov.au\)](https://www.audit.nsw.gov.au/reports-and-articles/managing-native-vegetation)>

⁶ Restoring the balance in NSW native vegetation law – Report (2020). Environmental Defenders Office.

⁷ Improvements to the Biodiversity Offsets Scheme (2022). NSW Government. <https://www.environment.nsw.gov.au/topics/animals-and-plants/biodiversity-offsets-scheme/about-the-biodiversity-offsets-scheme/improvements-to-the-biodiversity-offsets-scheme>

⁸ Native Vegetation (Report). NSW EPA. <<https://www.soe.epa.nsw.gov.au/all-themes/land/native-vegetation#:~:text=In%20area%2C%2026%2C200%20hectares%20of,hectares%20per%20year%20on%20average.>>

⁹ Australia State of the Environment 2021. (2022). Australian Government Department of Agriculture, Water and the Environment <<https://soe.dceew.gov.au/overview/environment/biodiversity>>



biodiversity impacts are offset with biodiversity that is very similar to the biodiversity that is being impacted”¹⁰.

The justification for the system stems from the idea that the scarcer the species or ecosystem, the higher the price goes. This theory has failed in practice as it does not address core causes of biodiversity loss due to land-clearing.

3. The state of our natural environment has direct implications for human wellbeing and local economies.

It is widely accepted in the sciences and environmental economics sectors that without a functioning natural environment, the world does not have a functioning economy¹¹. Australia’s natural resources are its greatest asset to human, animal and plant life. Native vegetation and the biodiversity they support hold comprehensive environmental and financial significance and play a broad role in global environmental health and productivity, acting as a:

- Soil stabiliser
- Beneficial pollinator supporter
- Water purifier
- Habitat for biodiversity
- Foundation for the food chain¹²

To highlight the extent of land use mismanagement, a report released earlier this year by the Department of Agriculture, Fisheries and Forestry revealed Australia uses 55% of its land for agriculture, with around 72% of agricultural output exported to other countries. The GDP generated is 1.9% of value added, and accounts for only 2.5% of employment in Australia for 2020-2021¹³. Land-clearing, as stated before, is the number one risk to biodiversity collapse in Australia and is not showing any signs of slowing. Risking what natural reserves are left for so little returned value disregards the truly dire implications for human, animal and plant life.

The financial implications of land use mismanagement can be seen in March 2022 when Australia experienced its most expensive flood ever, and third costliest natural disaster, totalling \$3.35 billion in insured losses¹⁴. Annually, flooding in NSW costs taxpayers an average of \$250 million¹⁵. These figures will

¹⁰ NSW Department of Planning and Environment - Offset Rules. NSW Government.

<https://www.environment.nsw.gov.au/topics/animals-and-plants/biodiversity-offsets-scheme/offset-obligations-and-credit-trading/offset-rules>

¹¹ WWF. “Our Forests, Rivers and Oceans are worth so much to us”. <https://www.wwf.org.uk/what-we-do/valuing-nature>

¹² Australia State of the Environment 2021. (2022). Australian Government Department of Agriculture, Water and the Environment <<https://soe.dcceew.gov.au/overview/environment/ecosystems>>

¹³ “Snapshot of Australian Agriculture 2022”. Department of Agriculture, Fisheries and Forestry.

<https://www.agriculture.gov.au/abares/products/insights/snapshot-of-australian-agriculture-2022#:~:text=Around%207%25%20of%20agricultural%20output,agricultural%2C%20fisheries%20and%20forestry%20production.>

¹⁴ Insurance Council of Australia. “Updated data shows 2022 flood was Australia’s costliest” (3 May 2022).

<https://insurancecouncil.com.au/resource/updated-data-shows-2022-flood-was-australias-costliest/>

¹⁵ NSW Government. Climate change impacts on storms and floods.

<https://www.climatechange.environment.nsw.gov.au/storms-and-floods>



continue to climb as Australia's landscapes are forever impacted by weak regulatory and enforcement strategies such as those currently recommended within the Framework.

The natural world also plays a vital role in human wellbeing. According to the *SoE Report 2021*, the importance of "ecosystem services" (water purification, food source, cultural connection) cannot be downplayed and goes beyond physical health. It plays into people's living standards, security and safety, social connection, freedoms, rights and self-determination, and connection to Country and nature¹⁶. Access to quality food, water and air is a basic human right, and without a functioning environment, these are lost.

As the World Health Organization states:

"Biodiversity supports human and societal needs, including food and nutrition security, energy, development of medicines and pharmaceuticals and freshwater, which together underpin good health. It also supports economic opportunities. Land use change, pollution, poor water quality, chemical and waste contamination, climate change and other causes of ecosystem degradation all contribute to biodiversity loss and can pose considerable threats to human health. Human health and well-being are influenced by the health of local plant and animal communities, and the integrity of the local ecosystems that they form."¹⁷

Our land must be managed in a way that supports life for future generations. Without potable water, good soil, clean air and access food due to short-sighted land management, life as humans know it will no longer exist.

4. How does the Framework align with the Federal Minister for the Environment's plan for the future?

The Federal Minister for the Environment, Tanya Plibersek, has recently made clear the Federal Government's intentions to establish a new Environmental Protection Agency (EPA) in 2023-2024. The commitments provide a clear pathway towards improved future land management with the EPA appointed powers to decide on outcomes of development applications and enforce laws designed to protect and restore nature. The intention of the EPA will be to address the cumulative impacts that development has on Australia's environment.

The Minister has committed to protecting our environment, restoring degraded landscapes, and actively manage Australia's land, waterways and oceans to avoid degradation or neglect. Further assurances were made to set clear environmental standards with explicit targets, ensuring proper protections are in place.

The approach of the Framework should aim to reflect the progression this government is making towards land conservation. With the current provisions in place, the outcomes side-step progressive actions by utilising weak systems and enforcement models that encourage poor land management practices. The

¹⁶ Australia State of the Environment 2021. (2022). Australian Government Department of Agriculture, Water and the Environment <<https://soe.dcceew.gov.au/overview/environment/human-society-and-wellbeing>>

¹⁷ World Health Organization. Biodiversity and Health (June 2015). <https://www.who.int/news-room/fact-sheets/detail/biodiversity-and-health#:~:text=Biodiversity%20supports%20human%20and%20societal,that%20contribute%20to%20overall%20wellbeing.>



outdated BOS has no clear or objective measure to reduce loss of biodiversity, and the nominated enforcement authorities are essentially reduced to “in name only” status.

WIREs Recommendations

Upon review of the Framework’s provisions, it is WIREs’ recommendation that Local Land Services (LLS) reconsider weakened biodiversity offsets and focus wholly on enforcement of stronger land protections. It is the duty of the LLS to assist land holders to make better decisions about the land they manage and natural resources. The BOS downplays the objectives of this role and does not assist communities long-term. There have been numerous submissions over the years, from concerned citizens to organisations invested in environmental conservation, to LLS and the NSW Government to strengthen land management regulations. These individuals want progressive environmental initiatives that are in alignment with how they voted in early 2022 – the environment matters.

Strengthening enforcement can begin with the NVP. It is an underutilised resource with potential to play a crucial role in effective and meaningful native vegetation conservation while educating landholders on the benefits of natural resources found on their properties. The concept of an independent agency under the authority of the *Local Land Services Act* who have the expertise to effectively review land-clearing applications is an exceptional concept. However, available information on the official website reveals the true practice of the NVP does not hold water. It is unclear why the NVP have assessed one application in the past seven years, therefore WIREs recommend that this agency is:

1. Reviewed in their overall function to assess effectiveness;
2. Transparent about their level of involvement in native vegetation clearing;
3. Involved in all native vegetation clearing applications;
4. Keeping updated, public record of all native vegetation clearing application; and
5. Keeping updated, public record of their meetings for determination.

Furthermore, strengthening the BOS is imperative to native vegetation conservation in NSW. In keeping with the Framework’s objective to see maintenance and improvement of biodiversity, WIREs recommend setting a “no net loss or better” standard for land-clearing under the BOS and BCA. This would trigger a requirement for land-clearing to avoid long-term negative impacts to native wildlife and vegetation and protect areas that may have been otherwise cleared under the current provisions. Furthermore, this principal would set stricter rules for like-for-like offset requirements, tighten payment options to the BCT, and mitigate loss of threatened ecosystems and wildlife through positive amendments to credit pricing formulas.

Generally, WIREs suggest future reviews of the Framework take into consideration the growing movement towards progressive, meaningful actions that genuinely preserve our native vegetation, and therefore Australia’s environment.

It is our sincere hope that the above comments are regarded when planning for the future of Australia’s native vegetation and the wildlife and humans that depend on them.



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Leanne Taylor
WIRES CEO