



Caldera Environment Centre

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PO Box 5090 South Murwillumbah 2484

To: Local Land Services, NSW

Re: Re: Part 5A LLS Act 2013 – Review

Caldera Environment Centre is based in the Tweed, Northern Rivers region of NSW. We have operated for 35 years as environmental advocates and educators. Over the past 5 years we have seen the policy settings in NSW completely fail to protect the natural environment. We find the current outcomes to be startling and dire. We believe the LLS Act Part5 and the BC Act need to be completely overhauled and rewritten. Environmental policy concerning the clearing of native vegetation in NSW does not protect the environment. Now more than ever NSW needs environmental policies that are effective, pro-active and genuine about their stated purpose.

CEC concerns with Approval Pathways:

Allowable activities – Response to Questions 5, 6, 7.

Due to very poor reporting/notification measures in this Act it is extremely difficult to tell if unlawful clearing has occurred. Self-assessment puts the onus on the landholder to work out what vegetation clearing is “allowable”. This is unacceptable and as we warned in previous submissions in 2017 this has led to significant native vegetation clearing throughout NSW. In the Tweed we have seen many hectares of clearing of high value lands bordering Nature Reserves such as Limpinwood Valley, Glengarrie, etc. Newcomers to the area feel free to clear native Rainforest for private housing and views.

CEC concerns with Native Vegetation Code (The Code):

Response to Questions 5, 8.

This Code has very little ability to refuse certification for broadscale clearing in rural areas. The Tweed is highly rural - mostly on private properties. The Tweed is also an area of extremely high and rare biodiversity. We have seen unfettered clearing for so-called Private Native Forestry and residential development over the past 5 years since this code was introduced in 2017. The Public Register shows the total area of native vegetation cleared under this code between 2018 & 2022 to be **780,000 ha**. This is an extraordinary area of loss and damage to native biodiversity in NSW.

- There is far too little environmental assessment and oversight in The Code for the large areas of clearing it allows.
- “Sensitive Land” is too narrowly defined under this Code. It only recognises especially rare vegetation and habitat but not broader native vegetation communities that support these core zones. Similarly, only “Critically endangered ecological communities” are off-limits to Native Vegetation Code based clearing but “vulnerable or endangered communities” are not.
- Set-asides are totally inadequate for their purpose. The Code does not state that vegetation to be set aside needs to be of the same ecological value and in the same condition as that which is cleared. This unacceptable as a measure of protection of existing native ecology.
- Threatened species are not protected. The Code allows landholders to harm threatened species *if they are ignorant of the fact*. It does not require a person to find out about



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threatened species beforehand and can do nothing to penalise them afterwards for damaging these species

- There is no longer a cap on clearing. This “Cap” was set in 2017 but has expired so is now a hole in the functioning of The Act.

CEC concerns with Native Vegetation Regulatory Map NVR:

Response to Questions 2, 3, 4.

This map was under revision in 2017 when the LLS Act 5A was introduced. However this map has never been finalised. It represents an integral part of the operation of the LLS Act. It was designed to act in tandem with land clearing regulations to show on which lands the rules would apply. The transitional NVR only shows the narrowly defined Sensitive Land areas and areas of vulnerable regulated lands. These are only a tiny percentage of the total area of Native Vegetation in NSW. For the remaining vast majority of the State landholders are expected to “self-categorise” unmapped land. We find it ludicrous to claim this situation acts as a protection measure. The situation is open to misuse. The NVR mapping was purported to underpin the Acts’ entire framework. Leaving it in limbo amounts to a failure of the entire LLS Act.

CEC concerns with Monitoring, reporting, compliance & enforcement:

Response to Questions 10, 11, 12.

A Public Register is required to monitor clearing actions and to assess the *cumulative effects* on an individual landholding or on a regional/landscape scale. In the 2017 Act Revision this information gathering register was severely curtailed. It remains highly concerning that Code-based clearing activities are not reported on a public register and only *an annual estimate* is required. Due to this defect, the Audit Office has found that the LLS conducts minimal monitoring of landholders for compliance with the code or with set-aside provisions.

The Natural Resources Commission has recommended that the roles of monitoring and enforcing the Code be reviewed. Also, that compliance with certificates and notifications to clear and set aside lands *must be strengthened and made much more transparent*.

The Audit Office found that regulatory processes are much too weak to effectively monitor clearing of native vegetation on rural land. There are no evidence-based assurances that clearing is being done in accordance with approvals. The Audit Office found the requirement to provide satellite imagery (to prove unlawful clearing) causes lengthy delays in assessment.

The Natural Resources Commission advised the NSW government to make it a priority to report unexplained clearing every 6 months and to investigate the causes behind high rates of unexplained clearing and to deal with the findings.

As a member of the public and an environmental protection volunteer, I am hamstrung in finding out if the law has been breached and in gathering evidence for a case. We have an ongoing serious land-clearing issue in our local area in Limpinwood valley. It has been reported to Council and is



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understood to be severely damaging to high value native vegetation and to be eroding and silting up waterways. However, both we and Council, are powerless to investigate or take legal action due to the absence of an NVR Map or Public Register of authorised clearing.

CEC Concerns with overall Policy Framework and Statutory Review Process:

Response to Questions 13, 14.

The policy objectives of Part 5A of LLS Act fall well short of the NV Act it replaced. The NV Act 2003 aimed to *prevent broadscale land-clearing and ensure clearing improves or maintains environmental outcomes*. Part 5A aims for much less than this. Its objectives do not come close to addressing the current state of the environment in NSW. A 2021 State of Environment Report confirmed the clearing of native woody vegetation has increased by 300% since 2015. It confirmed the continued rise in the number of species at risk of extinction. Additionally, severe drought, bushfires and floods have decimated areas of native landscape in NSW.

The policy objectives do not align with government policies ie doubling koala numbers by 2050. Its objectives fall far short of global ambitions to reduce and reverse forest loss and land degradation by 2030.

Independent reviews recommended and endorsed by CEC:

NSW Audit Office Review 2019 found that the new laws do not adequately prevent environmental risks but do allow landholders to increase agricultural activities. It found there to be significant delays in compliance and non-enforcement of penalties for illegal clearing activities.

The NSW Natural Resources Commission has some dire and alarming findings in its 2020 Report:

- Clearing Rated have increased 13 fold under the new Laws.
- Biodiversity in 9 out of 11 regions is currently at risk
- Unexplained clearing has increased to a point where it poses a major risk to the environment
- Proposed 'set aside' areas & conservation agreement areas are woefully inadequate being 33,743ha below minimum required area
- There is no NVR map publicly available
- Widespread use of Part 3 of the Code – thinning – poses a risk to biodiversity state-wide.

NSW Parliamentary Inquiry on koala populations – Upper House - found that regulating clearing on private land was vital to habitat protection and koala survival in NSW. Regulations needed to be greatly strengthened, if not we could expect koala extinction in NSW by 2050. This inquiry made a number of recommendations for strengthening the framework of the LLS Act.

The Environmental Defenders Office released a report in 2020 identifying 10 areas of failure and setting out a pathway of law reform consisting of 27 recommendations.

CEC concerns with the Statutory Review Process:



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We are greatly concerned that reviews of Pt 5A and 5B of the LLS Act are being reviewed separately from the BC Act. We expressed these concerns in submissions at the original introduction of the LLS Act in 2017. Thus far our concerns have been substantiated in the utter failure of this policy to protect NSW natural environment. The Act was introduced under the proviso of **working in conjunction with the BC Act**. The rationale for allowing increased clearing at a property scale was to increase *'set asides, biodiversity offsets and investment in private land conservation'* to balance the losses. We question how this policy review is possible if both policies are not revised in conjunction. Regardless, it is clear that this rationale did not play out. It is also clear from the data in the many reviews and reports that the Native Vegetation and LLS Act reforms have been an abject failure for our natural environment and biodiversity across NSW as well as in our own region of Tweed – an Internationally Significant area of biodiversity.

Yours Sincerely,

A handwritten signature in black ink, appearing to read 'Marion Riordan'.

Marion Riordan (Committee Member)