

Policy Team  
Local Land Services  
Dubbo NSW 2830  
Online submission, cc: [policy@lls.nsw.gov.au](mailto:policy@lls.nsw.gov.au)

27 January 2023

Dear Local Land Services policy team,

**Re. Native vegetation provisions in *Local Land Services Act***

Greening Australia welcomes the opportunity to take part in the NSW Government's statutory review of the native vegetation provisions of the *Local Land Services Act 2013*. It is these provisions that establish a framework used to inform and regulate native vegetation management on NSW rural land.

Greening Australia is happy for this submission to be published.

**About Greening Australia**

Greening Australia has a vision for '*healthy and productive landscapes where people and nature thrive*' and has been leading ecological restoration and land rehabilitation for 40 years. A key focus of our work is to protect and restore Australia's unique and remarkable biodiversity. Our core strategy for achieving this is by restoring native vegetation at scale across Australia's cleared landscapes. We believe that together, in partnership with government, the private sector, traditional owners, science institutions and the community we can meet this challenge.

Greening Australia are part of an ecological restoration sector that restores thousands of hectares of land nationally every year. The sector exists to restore the landscapes that have been historically cleared to combat the linked challenges of biodiversity loss and climate change but the ongoing and accelerating rate of land clearing, puts NSW and Australia on a course to fail to meet both its biodiversity and climate related targets.

**High Level Comments**

As raised by ALCA, the conclusions of the Audit Office of NSW's June 2019 report, *Managing Native Vegetation*, are deeply concerning, and point to the 2014 change to the legislative regime for managing native vegetation as a significant step backwards for nature and biodiversity in New South Wales.

As noted in the Commonwealth's 2021 State of the Environment Report, "***In New South Wales, there has been a steady increase in clearing, presumably for agricultural purposes, but substantial areas of clearing were not authorised.***"<sup>1</sup>

As identified in the Environmental Defender Office's report *Restoring the Balance in NSW Native Vegetation Law*, and a review released by the Natural Resources Commission (NRC) *Final Advice on Land Management and Biodiversity Conservation Reforms*, July 2019:

- Clearing rates have increased almost 13-fold – from an annual average rate of 2,703ha under the previous legislation to 37,745ha approved for clearing under the current legislation;
- Biodiversity in 9 out of 11 regions is now at risk;
- Unexplained clearing has increased, with the NRC concluding that "compliance frameworks are inadequate and high rates of clearing pose a major risk";
- The proposed 'set aside' areas and areas managed under conservation agreements that were supposed to offset cleared areas – i.e. the NSW Government's justification for relaxing rules and introducing self-assessable codes – are woefully inadequate, being 33,743ha below the minimum required area;
- A Native Vegetation Regulatory Map showing all map categories is not publicly available;
- Compliance frameworks are inadequate and high rates of unexplained clearing pose a major risk;
- Widespread use of Part 3 of the Code – which relates to thinning – poses a risk to biodiversity across NSW.

In addition the [Healthy Seeds project](#) (funded by the NSW Government) noted:

- Current seed collection supplies (2019-20) are down by 40-80% due to a run of drought years, reduced demand, reduced funding and reduced areas of native vegetation (as a result of clearing and disturbance).
- Decline in seed availability was cited by c. 84% of participants. Respondents reported 40% decline in seed availability in the season surveyed, erratic and declining rainfall and increase in extreme/ unseasonal events, reduced and declining areas of native vegetation (clearing, fires, incremental loss), vegetation health decline- lower seed yields and decreased areas of land access.

Further, a 2019 review by the Audit Office of NSW, *Managing Native Vegetation* found that "the clearing of native vegetation on rural land is not effectively regulated and managed. The processes supporting the regulatory framework are weak and there is no evidence-based assurance that clearing of native vegetation is carried out in accordance with approvals."

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<sup>1</sup> See: Government of Australia, 2021 State of Environment Report;  
<https://soe.dcceew.gov.au/overview/pressures/people#land-clearing>

Greening Australia is a member of Australian Land Conservation Alliance (ALCA) and supports the recommendations provided by ALCA in their submission to this consultation including the following:

1. Except in exceptional circumstances, land clearance of native vegetation should immediately cease<sup>2</sup>, noting that the clearance of remnant vegetation is a major driver of biodiversity loss.
2. The current legislative and regulatory regime for protecting native vegetation in NSW is insufficient and needs to be substantially strengthened. This recommendation must be seen in the context of a key finding of the Commonwealth's State of the 2021 Environment Report: *"In New South Wales, there has been a steady increase in clearing, presumably for agricultural purposes, but substantial areas of clearing were not authorised."*<sup>3</sup>
3. Currently there is a perverse incentive to illegally clear native vegetation prior to the finalisation of the Native Vegetation Regulatory Map as the new baseline for land use. The Government needs to release the entire Native Vegetation Regulatory Map as soon as possible to limit the perverse incentive to illegally clear native vegetation.
4. Noting the NSW Audit Office's 2019 finding that "There is a lack of enforcement activity in response to unlawful land clearing"<sup>4</sup>, the illegal clearance of native vegetation should become a strict liability offence. This will reduce the complexity, government resources, and delays in enforcement action.
5. Private land conservation should continue to receive substantial support from the NSW Government as a key means of safeguarding – and improving – outcomes for NSW biodiversity.

### **Native seed sources for conservation and restoration**

The need for native seed for government, philanthropic and commercial ecological restoration and landscaping is increasing and a significant proportion of this shortfall must necessarily come from collection from existing remnants. Ecological restoration customers are increasingly monetising biodiversity through environmental credit schemes and market-based instruments. The nature-based solutions market is expected to be valued at \$7trillion over the next 10 years<sup>5</sup> but is entirely reliant on seed supply for ecological restoration. By not addressing issues around monitoring, tracking and enforcement of illegal clearing also has a significant negative economic impact. Consideration should also be given to relevant recommendations in [Project Phoenix](#) a ten year Strategy for the Native seed sector, funded and supported by the Australian Government.

The value of remnant vegetation for seed supply should not be underestimated. It is needed for conserving genetic diversity, local adaptation, availability of seed from wild harvest and seed sourcing for the development of seed production areas.

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<sup>2</sup> Greening Australia notes that some clearing may be required for critical services, and where this is the case, it should always be offset with high integrity offsets.

<sup>3</sup> As above, n1

<sup>4</sup> See: Audit Office of New South Wales, *Managing Native Vegetation*, June 2019; <https://www.audit.nsw.gov.au/our-work/reports/managing-native-vegetation>

<sup>5</sup> Taskforce on Nature Markets

Greening Australia wishes to highlight the risks related to native seed supply and the critical importance of native seed supply for conservation and restoration. Maintaining remnant vegetation on private and public land may become a value generating opportunity through the provision of access for sustainable seed collection activities. Healthy intact remnant vegetation is a critical seed resource for conservation and restoration and for the development of seed production areas.

These issues were also identified in the [Healthy Seeds Project](#), funded by NSW Environmental Trust.

Thank you again for the opportunity to contribute to the New South Wales Government's review of native vegetation provisions in *Local Land Services Act*.

Greening Australia looks forward to ongoing engagement with the New South Wales Government to ensure that its policies on native vegetation recognise and reflect the critical importance of biodiversity conservation to New South Wales' economic, social, and environmental prosperity.

If you have questions regarding the submission, please do not hesitate to contact Greening Australia via [hwareham@greeningaustralia.org.au](mailto:hwareham@greeningaustralia.org.au) (Hugh Wareham).

On behalf of,

**Greening Australia Limited**