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Part 5A LLS Act Statutory Review  
Policy Division  
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Dear Madam/Sir

### **Submission – Local Land Services Act 2013 Vegetation Provisions**

I wish to make a submission in relation to the consultation relating to the review of the vegetation regulatory provisions in Part 5A of the Local Land Services Act 2013 (LLS Act).

There are two overriding matters that need to be considered in the review. The first is the confusion and ambiguity arising from the complexity of regulatory requirements and the difficult interrelationship between the LLS Act, Biodiversity Conservation Act 2016 and Environmental Planning and Assessment Act 1979. The second matter is the lack of clear legislative objectives for both planning and managing native vegetation in NSW.

It is important to recognise that the scope of the LLS Act review is not limited to the discussion questions identified in the discussion paper. It is clear that systemic issues need careful consideration in the review.

Options for simplifying and disentangling regulatory complexity need to be identified. The simplest and most effective option is for vegetation clearing approvals to be under one piece of legislation as was envisaged in the recommendations of the 2014 final report *A Review of Biodiversity Legislation in NSW* prepared by the Independent Biodiversity Legislation Review Panel.

Specific concerns in relation the current arrangements in Part 5A of the LLS Act are as follows:

1. Regulatory overlaps with the Environmental Planning and Assessment Act 1979 requirements cause confusion and inequity, and result in significant administrative inefficiency.
2. The overall objective for regulation of native vegetation is not clear. Policy objectives that should be reflected in legislative objects and provisions include protecting native vegetation and functional natural ecosystems, no net loss of biodiversity values, and limiting carbon emissions arising from land clearing.
3. Native vegetation mapping is inaccurate and problematic, yet the legislative provisions are based on the availability of this mapping and landholder acceptance of its accuracy.
4. Native vegetation regulation should not be based on Standard Instrument Local Environmental Plan zonings which have been established for a completely different purpose, are not related to biodiversity values, and are subject to change.
5. Current arrangements for clearing of native vegetation taking into account all legislative provisions are inequitable, inefficient, and do not adequately take into account the social and economic benefits of protecting and appropriately managing native vegetation.
6. There should be focus on enabling the preparation of site-based vegetation and land management plans that are legally enforceable and can be linked to the provision of financial and other incentives. This could be along the lines of former property vegetation plans (PVPs).

Effective and sustainable native vegetation regulatory provisions must consider the above matters.

The following proposals are suggested for the review of Part 5A of the LLS Act:

1. Additional objects should be introduced into the LLS Act to clarify the policy objective for native vegetation, and this should be no net loss of native vegetation in NSW, protection of native vegetation at the state, regional and local scales. Objects should facilitate consistency with regional natural resource management and land use planning objectives.
2. Native vegetation regulation should not be based on native vegetation regulatory mapping that is of poor accuracy at the site scale and subject to change. Decisions should be relevant to site and property specific

requirements, preferably linked to property scale management plans that are legally recognised.

3. A consistent approach to regulation of native vegetation should not be based on standard land use zones, but rather on the value and characteristics of the vegetation.
4. Native vegetation clearing should be regulated under one legislative instrument, namely the Environmental Planning and Assessment Act 1979. This is consistent with the 2014 recommendations of the Independent Biodiversity Legislation Review Panel.
5. A legislative framework enabling legally enforceable site-based vegetation and land management plans should be introduced.

Thank you for the opportunity to provide comments.

Yours sincerely

M Fallding

**Land & Environment Planning consultants**

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