Submission on "Statutory Review of the native vegetation provisions (Part 5A and Schedule 5A and Schedule 5B) of the Local Land Services Act 2013 Discussion Paper November 2022"

This submission is comprised of the following elements:

1. My comments from my observations and other available evidence and reviews
2. Summary of the key reports that relate to the 2016 Biodiversity Conservation Act and Part 5A and Schedule 5A and Schedule 5B of the Local Land Services Act, with comments and questions on these reports and the Government and LLS response to these reports
3. My response to the discussion questions (provided in the Discussion paper)

Comments on the Land Management Framework

Part 5A and Schedule 5A and Schedule 5B of the Local Land Services Act establish a number of key elements of the Land Management Framework.

These elements are:

- publish a Native Vegetation Regulatory Map,
- establish three pathways for a landholder to manage native vegetation,
- establish offences and penalties for carrying out illegal native vegetation clearing, and
- require public reports on the estimated rates of allowable clearing and maintaining a public register of the level of notifications, certifications and areas set aside under the Code.

My comments are based on: observations of extensive clearing that have occurred since the 2016 reforms, the 2014 report of the review panel that formed the basis of the 2016 legislative changes and the 3 extensive reviews that relate to the 2016 Biodiversity Conservation Act and the LLS Land Management Framework (Audit Office 2019, Natural Resources Commission 2019, NSW Parliament Legislative Council 2022).

The Government approach through the LLS

It evident that the Government through the LLS has a clear objective to assist and promote the clearing of native agriculture to increase agriculture production with little to no regard for stated goals of the 2016 Biodiversity Conservation Act and public statements by the Government, its relevant ministers and LLS officials. The evidence provided by the Audit Office, the Natural Resources Commission and the New South Wales Parliament Legislative Council Portfolio Committee No. 7 clearly show a Land Management Framework managed by the LLS that has greatly increased the annual rate of clearing of native vegetation without providing mechanisms for biodiversity conservation.

Legislation has been simplified, development has increased, compliance and administrative burdens have been reduced but conservation of biodiversity has declined. The legislation recommended by the 2014 review has failed to meet one of its primary goals "to minimise future losses of native biodiversity" and ultimately this threatens the long term viability of agriculture which relies on effectively functioning

ecosystems. The 2014 review argued for regulation to be outcomes focused, and the outcomes have been focused on the expansion of agriculture at the expense of biodiversity through the clearing of native vegetation and ultimately this will be at the expense of the long term sustainability of agriculture.

LLS through its administration of Part 5A and Schedule 5A and Schedule 5B in the Local Land Services Act (the Land Management Framework) has assisted and been instrumental in the acceleration of the clearing of native vegetation of the loss of biodiversity at an unprecedented rate. The implementation of the Land Management Framework by the LLS has undermined and worked against the objectives of the Biodiversity Conservation Act 2016 to "…arrest and ultimately reverse the current decline in the state's biodiversity …" (Audit Office Report 2019, p.1)

There are many avenues available to obtain approval or to notify the intention to clear with no assessment of the impacts of this for biodiversity. Even in one of its promotional videos where LLS shows how it has helped farmers to clear paddock trees to install a 40 ha irrigation project, there is no discussion of the habitat loss and the implications for threatened species of removing these trees. The LLS officer simply says as they have planted trees in the past they are exempt of the need for a compensating set aside, even though the farmer sounded concerned about removing the trees and may have been happy to put in place a set aside area. The irrigation project is likely to cost tens of thousands of dollars and involve extensive planning, but the removal of trees that may have hollows and could have taken hundreds of years to form and be part of a complex ecosystem, appears to be of no environmental consequence.

The implementation of the Land Management Framework

The release of Native Vegetation Regulatory Maps is not complete and for large parts of the state there are no publicly available maps to assist landholders determine if they can clear native vegetation with impunity as unregulated land.

- It is a requirement of the Local Land Services Act 2013 to publish a Native Vegetation Regulatory Map

- Clearing of native vegetation is occurring that maybe illegal and this has been assisted by the failure of LLS to publish Native Vegetation Regulatory Maps

- These maps will not be finalized until stakeholders that would be regulated by these maps (mostly farmers) have confidence in the maps. This means farmers are effectively "in charge" of setting regulations that they must abide by, instead of the Department of Planning and Environment determining the maps based on the best available evidence

- in the absence of Native Vegetation Regulatory Maps, landholders are allowed to self assess the categorization of their land and they do not have to notify LLS of this self assessment ,so this is a huge risk for the loss of biodiversity through the clearing of moderate and high quality native (Category 2 regulated land) and the clearing of endangered ecological communities and plants

- landholders can self assess the categorization of their land even if they do not have the knowledge to do this assessment and there appears to be little to no consequences if the self assessment is incorrect

The LLS provides 5 pathways to assist landholders to clear native vegetation and provides one-on-one assistance to help landholders though this, but when it comes to protecting biodiversity the LLS does not appear to have mechanisms in place to achieve this. There is no measurement of changes in biodiversity from clearing activities, no monitoring or oversight of the impact of allowable activities, pasture expansion, clearing compromised native ground cover, removal of paddock trees, removing native regulation from small areas, removing native vegetation from regulated areas, continuing use, uniform thinning of native vegetation, mosaic thinning of woody native vegetation and clearing of invasive native species.

Many of the LLS fact sheets that explain the allowable activities and the land management codes (equity, continuing use, pasture expansion, invasive native species) include statements such as, “Native vegetation to be cleared must not be a threatened species, or be part of a Threatened Ecological Community (TEC), or be the habitat of a threatened species” but there are no mechanisms in place to ensure that TECs or threatened species are protected. It is also not evident that the clearing codes have been based on a detailed scientific assessment to determine how the clearing activities will impact on biodiversity or the threatened ecological communities or species.

There is no monitoring and reporting system in place to measure changes in biodiversity that occurs with the wide range of clearing activities that are permitted. Many of these clearing activities (eg. low impact clearing of native invasive species, removing paddock tree areas, removing compromised native groundcover, pasture expansion) do not need approval, the landholder simply needs to notify LLS 2 weeks before the clearing takes place.

No compliance actions are evident for illegal clearing.

The Outomes

There is accelerated clearing , with “The NSW State of the Environment Report 2021 finding that 'permanent clearing of native woody vegetation in NSW has increased about three-fold since 2015', going from an average of 13,000 hectares cleared on average per year from 2009 to 2015, to 35,000 hectares per year from 2017 to 2019. It noted permanent clearing of non-woody vegetation, such as native shrubs and ground covers, occurred at an even higher rate.” (New South Wales Parliament Legislative Council 2022). p68

There is a very low set aside to clearing ratio of less than one compared to the Minister's goal in 2016 that between two and four hectares will be set aside and managed in perpetuity (Natural Resources Commission 2019). With a set aside ratio of less than one, this means biodiversity will decline even before consideration is given to how effective management of these set aside areas is.

Three pathways have been introduced in the Land Management Framework to support landholders to clear native vegetation (allowable activities, Land Management Native Vegetation Code, Native Vegetation panel) and all of these pathways will result in a loss in native vegetation and biodiversity. While these pathways generally state, “Native vegetation to be cleared must not be a threatened species, or be part of a Threatened Ecological Community (TEC), or be the habitat of a threatened species” nothing is done by LLS to effectively monitor whether TECs or the habitat of threatened species

are being destroyed. It is doubtful that many landholders would be able to determine if they have a TEC on the land holding

Land clearing codes assist farmers to reduce biodiversity and to replace it with large scale monoculture cropping systems and they also providing a pathway for other non- agricultural developers to clear land and avoid triggering offsetting obligations that might otherwise be required for development applications (many Councils reported this practice in their submissions to the 2022 NSW Parliamentary enquiry into the NSW Biodiversity Offsets Scheme p.73).

The invasive native species code allows the removal of invasive native species that have reached unnatural densities and dominate an area. These activities are supposed to be used to promote the regeneration and regrowth of native vegetation. However there is no monitoring of the clearing of invasive native species to see if this is promoting regeneration and regrowth of native vegetation. It is highly likely that exotic species are replacing native species.

What ecological assessments have been undertaken by the relevant NSW Government agencies of the impacts of removing species that are listed as invasive? Bursaria Spinosa is listed as invasive but is also an important refuge for small birds such as Blue Wrens and is used in medical research. Often invasive native species occur in response to overgrazing and are pioneer species to help stabilize the soil until grasses and forbs become established, with acacias also providing nitrogen that eventually results in grasses becoming dominant once the wattles die out.

Pasture expansion – enables the removal of woody native vegetation by uniform or mosaic thinning to promote native pastures and increase farm efficiency and productivity. There is no monitoring of these activities to see if promoting regeneration and regrowth of native vegetation.

Continuing use – enables the continuation of lawful land management activities that have been in place between 1990 and 25 August, 2017. Just because landholders have undertaken certain land management activities in the past, does not justify that these activities should continue into the future if it is threatening to reduce biodiversity and the long term sustainability of agriculture.

Equity – enables the removal of paddock trees, compromised native groundcover, and native vegetation from small areas and regulated rural land. It is hard to see how it is equitable to remove the habitat of endangered species such as Gang Gangs.

Farm plan – enables the removal of paddock tree areas and clearing regulated rural land in exchange for set aside areas containing vegetation or set aside areas where revegetation will be required. There appears to be little oversight of these set asides.

The Reviews

There have been 3 major reviews (Audit Office Report 2019, Natural Resources Commission 2019, NSW Parliament Legislative Council 2022) that have considered the effectiveness of the land management reforms introduced in 2016 which include the Land Management Framework administered by the LLS.

The Audit Office Report stated, “The clearing of native vegetation on rural land is not effectively regulated and managed because the processes in place to support the regulatory framework are weak. There is no evidence-based assurance that clearing of native vegetation is being carried out in accordance with approvals. Responses to incidents of unlawful clearing are slow, with few tangible outcomes. Enforcement action is rarely taken against landholders who unlawfully clear native vegetation.” While LLS responded to each of the recommendations of the report, none of these responses have halted the accelerated clearing of native vegetation and the net loss of biodiversity that is occurring. Comments on the recommendations and the LLS responses are detailed below.

The Natural Resources Commission Report identified three key risks to the reforms – regarding policy implementation, biodiversity and compliance – that should be addressed immediately

- 2 of the 6 core policies were identified as not being operational (Native Regulatory maps not complete and reform specific monitoring and evaluation program)
- Unexplained clearing has increased since the introduction of the policy changes in 2016
- The combined annualized area of set asides and conservation agreements is under the target of 41,747 ha is 33,743 ha under target to achieve two times the area approved to be cleared
- High biodiversity risk ratings for 9 of the 11 regions

NSW Parliament Legislative Council Portfolio Committee No.7 (2022)

The findings of this committee reinforce and add to the findings of both the Audit Office report and the Natural Resources Commission Reports and show that the Government and the LLS have not adequately taken action to prevent the decline in biodiversity across the state.

“At the time the Biodiversity Offsets Scheme was introduced, other elements of the Land Management and Biodiversity Conservation Framework made clearing of native vegetation on rural land easier. Even the government noted in 2016 that the changes could result in increased land clearing, and all evidence suggests that is exactly what has occurred. While the broader issue of rural land clearing is outside the scope of this inquiry, the committee observes that having pathways under the Local Land Services Act 2013 to clear rural land without biodiversity assessment or offsetting undermines the broader conservation intentions of the Biodiversity Conservation Act 2016 and the scheme.”p.73

“In light of evidence that the reform package appears to have enabled accelerated rates of land clearing rather than 'arresting or reversing' the decline of biodiversity across the state, the committee believes that this review should reconsider the appropriateness of land clearing pathways under the Local Land Services Act 2013. We recommend, therefore, that the NSW Government work with landholders to review and reconsider the appropriateness of land clearing pathways under the Local Land Services Act 2013, with the aim of increasing and incentivising biodiversity protections on rural land.” p.73

“Recommendation 10: That the NSW Government review and reconsider the appropriateness of land clearing pathways under the Local Land Services Act 2013, working with landholders, with the aim of increasing and incentivising biodiversity protections on rural land.p.73

“The introduction of less stringent rural land clearing laws appears to have enabled some developers to bypass the scheme and its obligations by clearing land under the provisions of the Local Land Services Act 2013, prior to development. We are particularly alarmed by reports from local governments that this is taking place without repercussions. This is something that should be monitored and rectified.” p.73

Summary of Key Reports that relate to the 2016 Biodiversity Conservation Act and the Land Management Framework

Independent Biodiversity Legislation Review Panel (2014), Dr Neil Byron (Chair) Dr Wendy Craik AM Dr John Keniry AM Professor Hugh Possingham 18 December 2014

Below are extracts from the 2014 review that resulted in a new *Biodiversity Conservation Act* and the repeal of the *Native Vegetation Act 2003*, repealing the *Threatened Species Conservation Act 1995* and parts of the *National Parks and Wildlife Act 1974.* This review had a goal of, "… to minimise future losses of native biodiversity.", but it appears that this goal is not being achieved.

"The aims of the review were to recommend a simpler, streamlined and more effective legislation which improves the conservation of biodiversity and supports sustainable development thereby reducing the compliance and administrative burdens." p.1

"Fifty-nine percent of all native mammals in NSW are now listed as threatened with extinction, along with 34 percent of amphibians, 30 percent of birds and 14 percent of native plants (OEH 2014b, NSW Scientific Committee 2014)."p.3

"The Act overregulates ongoing farm management practices, such as managing invasive native species, native grasslands and construction of on-farm infrastructure, and is creating an unnecessary barrier to innovation, sustainable agricultural production and efficient land management."p.4

The regulatory system for managing native vegetation has led to some significant perverse outcomes. For example, the current way in which the Native Vegetation Act 2003 is administered does not adequately support rotational farming and management of native grasses and seasonal practices. Landholders also maintain that the current arrangements are not sufficiently flexible to deal with clearing isolated paddock trees, which inhibits innovative agricultural techniques and farm productivity (submission 347 & Evidentiary 2014).p.5

These are not perverse outcomes but outcomes that may not meet the profit maximizing goals of agricultural production. Rotational farming may increase agricultural production but it does not necessarily improve biodiversity and clearing isolated paddock trees removes habitat for threatened species such as the Gang Gang Cockatoo. Being innovative would be to use new technology to farm around and protect these trees that can be hundreds of years old and irreplaceable in our lifetimes.

The panel recommends that all development should be required to determine how biodiversity impacts should be avoided, minimised and/or offset in accordance with a single, transparent and peer-reviewed method for biodiversity assessment. The biodiversity offsetting scheme should be expanded to all development to achieve this and to drive a positive market for landholders to opt into stewardship contracts. p.7

The expansion of biodiversity offsetting has resulted in a net loss of biodiversity and

No single, transparent and peer reviewed method for biodiversity assessment is in place to determine the biodiversity impacts of development. Offsetting has been expanded and this has accelerated the loss of biodiversity across NSW.

The panel recommends that agricultural land management activities which generally present very low risks to biodiversity, be allowed to be carried out without the need for formal approval. The panel recommends that the Government should make codes of practice, in consultation with the community, to guide land management activities that can cause potential environmental impacts. The panel recommends that a risk-based approach be taken to regulation that emphasises education and voluntary compliance while still giving regulators the tools to take strong enforcement action against those who do the wrong thing. P.8

The regulations that have been introduced have failed to protect biodiversity.

Audit Office of NSW (2019), Managing native vegetation 27 JUNE 2019

Extracts from this report are copied below.

Conclusions

The clearing of native vegetation on rural land is not effectively regulated and managed because the processes in place to support the regulatory framework are weak. There is no evidence-based assurance that clearing of native vegetation is being carried out in accordance with approvals. Responses to incidents of unlawful clearing are slow, with few tangible outcomes. Enforcement action is rarely taken against landholders who unlawfully clear native vegetation.

There are processes in place for approving land clearing but there is limited follow-up to ensure approvals are complied with.

The rules around land clearing may not be responding adequately to environmental risks

The release of the Native Vegetation Regulatory (NVR) map has been delayed, limiting landholders' ability to determine if their plans for clearing are lawful

There are significant delays in identifying unlawful clearing and few penalties imposed

Land clearing and private land conservation investment have both increased

Key Findings of the Report

- The decision not to release the two largest categories of the NVR map makes it harder for landholders to determine if they can clear
- LLS has limited oversight of notifications for land clearing
- LLS has detailed processes for assessing proposals that are generally higher risk
- There is limited monitoring of whether requirements of approvals are being met
- The Code may not be responding adequately to environmental risks
- There are lengthy delays in identifying unlawful land clearing
- The amount of land clearing has increased but the latest data is yet to be publicly released

- There is a lack of enforcement activity in response to unlawful land clearing
- Processes to guide conservation investment decisions could be improved

Recommendations from the Report

Local Land Services should:

1. By December 2019, improve administration of the clearing of native vegetation by:

a) ensuring notification forms include all relevant conditions of the Code to ensure these conditions are adequately communicated to landholders
   - are all relevant conditions of the Code included on the forms and do landholders have the knowledge to identify a critically endangered ecological community, a critically endangered species (plant or animal) and can they accurately assess if less than 50% of the vegetation cover in the treatment area is comprised of native species of vegetation?

b) enhancing the recording of areas authorised for thinning and clearing and set asides by capturing recent satellite images and on-ground photographs of these areas
   - LLS agreed to supplement the assurance of mapping products though site inspections and ground truthing, does this happen and how and where is this recorded?

c) progressing ICT system improvements to ensure notifications and certificates, and associated spatial data, can be delivered to OEH in a timely manner
   - has LLS built a comprehensive ICT system that provides EES with a direct portal to spatial data?

d) ensuring landholders are required to resubmit notifications that do not comply with the Code
   - has this been addressed

e) ensuring assessments of compromised groundcover are calculated at a time of year when the proportion of the native groundcover is likely to be at its maximum in compliance with the Code
   - have the guidelines been improved to support landholders make sound decision making for groundcover assessments and what guidance has been provided to landholders to make on ground assessments of compromised groundcover?

f) establishing guidelines for:

   - the extent of clearing allowed under the allowable activity of sustainable grazing

   - LLS agreed to develop guidance recommendations for sustainable grazing, invasive native species management and thinning of other native vegetation, has this been done and are these publicly available

   - treatment methods that result in nil and minimal ground disturbance, especially in relation to invasive native species and thinning other native vegetation

   - Have guidelines been developed to minimize ground disturbance with regard to treatment methods in relation to invasive native species and thinning other native vegetation?

- selection of set-aside areas that seek to maximise environmental benefits from these areas

- what advisory material has been developed to maximize the environmental benefits from set aside areas as was committed to be LLS?

g) defining and reporting on measures to determine the impact of the Code on agricultural productivity, and the management of environmental risks.

- What measures have been defined to determine the impact of the Land Management Code on environmental risks and how have these been reported?
- What measures and associated reports have been developed and published on changes in biodiversity since the Land Management Code was introduced?

2. By June 2020, review the Code to address issues identified in this audit, including:

• the inability of LLS to reject a notification or proposal for a certificate on the basis it would likely result in poor environmental outcomes

• the lack of oversight of authorisations for the clearing of compromised native groundcover

- What review of its compromised groundcover guidelines has been undertaken by LLS and how have the associated guidelines to assist landholders been changed?

• the absence of the requirement to demonstrate that a species is invading a landscape prior to approving its clearing as an invasive native species

- What has LLS done to review the need for a test to determine if the removal of invasive native species is warranted, currently only notification of removal is required?

• discounts (i.e. reductions) in the area of land required in set asides when they contain threatened ecological communities or are of strategic landscape importance.

- Why are threatened and vulnerable ecological communities allowed to be cleared?

3. By December 2019, ensure all field staff receive specific training in the identification of plant community types and threatened ecological communities, with regular refresher courses.

- Have all field staff been provided with training in the identification of plant community types and threatened ecological communities?

4. By June 2020, effectively monitor the establishment and management of set asides and provide support to landholders to achieve required restoration outcomes.

- What protocols have been developed for the management of set asides and has a monitoring program been established as agreed to by LLS?

By December 2019, the Office of Environment and Heritage should improve the monitoring and regulation of land clearing by:

5. Implementing a staged release of draft maps Category 1 - Exempt and Category 2 - Regulated land to landholders and the public, allowing sufficient time for landholder review and input.

- Why have these maps not been released in South East LLS as well in many other LLS areas when this was committed to in 2019 and why has clearing been allowed to happen using self-assessment without these maps being released? Why has the precautionary principle not been used to prevent clearing until maps have been finalized for Category 1 and Category 2 land?

6. Ensuring adequate resources are in place, during the release of the last two map categories, to process category explanation reports and NVR map reviews, and to update the NVR map.

- Why have adequate resources not been in place?

7. Ensuring staff have sufficient systems and resources to adequately investigate unlawful land clearing and to gauge compliance with the Code, including accurate spatial data on all land clearing approvals.

- Why does LLS not assist DPIE to monitor unlawful clearing as LLS staff are constantly in the field and should have a good knowledge of land clearing activities?
- Do LLS field staff have a conflict of interest in that they are seen by landholders to be working for them, with LLS staff there to assist landholders on how to find a pathway to clear their land to increase agricultural output?

8. Continuing to improve systems and processes for monitoring the rate of clearing of woody and non-woody native vegetation.

- Has the Biodiversity Indicator Program been developed by DPIE as required under the Biodiversity Act 2016 and what results have been reported to measure changes in Biodiversity since 2016?

9. Publishing data on the rate of land clearing, including woody and non-woody vegetation, on an annual basis.

- Why is no data published on the area cleared according to the type of ecological community?

By September 2019, the Biodiversity Conservation Trust should ensure:

10. The published selection processes for conservation tenders, fixed rate offers, and land purchases accurately reflects the selection methodologies.

11. The methodology used for tender selection aligns with BCT's investment priorities.

Natural Resources Commission (2019), Land management and biodiversity conservation reforms Final advice on a response to the policy review point July 2019

Findings of this report

The current trigger is not appropriate for its intended use

A new trigger framework is needed to monitor key risks

> "… a NSW Government-wide indicator of biodiversity value is necessary to properly assess and implement the reforms and would be the preferred biodiversity trigger. However, agencies have not developed a single measure that is a reasonable proxy for biodiversity value. Although there has been significant scientific progress in developing credible proxies for monitoring biodiversity value, it is likely to take some time to develop and reach agreement on such a measure."

The new trigger framework has identified three key risks to the reforms – regarding policy implementation, biodiversity and compliance – that should be addressed immediately

- 2 of the 6 core policies were identified as not being operational (Native Regulatory maps not complete and reform specific monitoring and evaluation program)
- Unexplained clearing has increased since the introduction of the policy changes in 2016
- The combined annualized area of set asides and conservation agreements is under the target of 41,747 ha is 33,743 ha under target to achieve two times the area approved to be cleared
- High biodiversity risk ratings for 9 of the 11 regions

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

- the data that is available for the first 5 months of the reforms indicate that there is a major risk from unexplained clearing.
- The long term average of just under 60 percent of agricultural cleared land being unexplained is a concern.
- This trend, coupled with a significant increase in approvals to clear poses a significant risk to biodiversity and the legitimacy of the reforms.

Widespread use of Part 3 of the Code – which relates to thinning – poses a risk to biodiversity state-wide

- The current trigger values indicate that there is a state-wide risk to biodiversity value from native vegetation clearing and that the policy intent of the reforms is not being achieved.
- In 2018/19, over 37,000 hectares were approved to be cleared (excluding clearing for invasive native species). This is around 13 times the annual average rate of approval pre-reform, which was approximately 2,700 hectares on average per year between 2006/07 and 2016/17.
- In the second reading speech to Parliament for the Biodiversity Conservation Act 2016, the then Minister for Primary Industries stated that "for each hectare cleared under the framework, it is

estimated that between two and four hectares will be set aside and managed in perpetuity" in order to conserve biodiversity values. No Local Land Services (LLS) region is achieving this benchmark. Instead of setting aside an area for conservation equivalent to two to four times the area approved for clearing, nine of the eleven regions are setting aside less than the area approved for clearing (between 6 and 69 percent of the area approved to be cleared4). These low set aside ratios are driven mainly by the extensive use of Part 3 of the Code (pasture expansion).

- Part 3 of the Code relates to thinning for pasture expansion purposes. Thinning is a form of clearing under the Code that does not require set asides. This part of the Code was not part of the Independent Biodiversity Legislation Review Panel's recommendations. The rules of this part of the Code and its application by LLS should be immediately reviewed. The NSW Government should not wait until the proposed three-year review to do this.

A coordinated, reform-specific MER (Monitoring Evaluation and Research) program is needed to report on reform outcomes

- A coordinated, reform-specific MER program is considered a critical reform component in the policy implementation trigger. There is currently no overarching MER program for the reforms. Has a MER program been developed yet?

Discussion Questions (Provided in the Discussion paper and my responses provided in blue)

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.
    - It would be clearer if there were Native Vegetation Regulatory Maps published
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?
    - The land categories are not easy to understand
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 is useless as it does not exist for all areas across the state
    - Landholder training in identifying and managing native vegetation at a certificate 3 level would be useful, there would be few landholders that could identify and name 10 native grasses and forbs
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.
    - Very few landholders are capable in self assessing their land according to the land categories
    - Landholders are generally comfortable self assessing their land categories as there are no tangible consequences from getting the self assessment wrong
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.
    - The approval pathways include:

        - Allowable activities permitting landholders to undertake everyday land management activities without approval (imminent risk, firewood collection, construction timber, planted native vegetation, private power lines, airstrips, traditional aboriginal cultural activities, environmental protection works, sustainable grazing, firebreaks, mulga species for stock fodder)
            - In many cases environmental risks are not managed when firewood is collected and why are landholders allowed to still burn piles of timber to “clean up” paddocks and also remove dead trees (standing and fallen) which removes vital habitat for a range of threatened birds
            - Sustainable grazing is not sustainable for native vegetation as it is allows native vegetation to be cleared, over-sown and fertilised and at the same time this grazing is supposed to be limited so it does not, “…result in the substantial long-term decline in the structure and composition of native vegetation.” The clearing of native vegetation, over sowing and

fertilization will of course result in the long term decline in structure and composition of native vegetation.

- The Land Management (Native Vegetation) Code, which supports landholders to manage their land for agricultural production while managing environmental risks. To clear under the Code, landholders must notify Local Land Services before carrying out the clearing or seek Local Land Services approval for a certification. The level of approval required depends on the impact of the proposed clearing. In some cases, clearing under the Code requires areas to be 'set aside' and managed for conservation in perpetuity.
    - The Native vegetation code supports landholders to clear their land of native vegetation, it is deceptive for the code to pretend that the code does anything to manage environmental risks. It allows paddock trees to be cleared at the rate of 1 paddock tree area for each 50 ha of landholding every year for ever (without any set asides) thereby destroying habitat for many species that rely on these trees for their homes and their sustenance. This is death by a thousand cuts and it gives the message that if an area is small it is of no consequence that it is cleared and it ignores the cumulative impact of clearing lots of small areas.
- Clearing of native vegetation that does not meet requirements of allowable activities, or the Code can be assessed and approved by the Native Vegetation Panel, which requires the application of the Biodiversity Offsets Scheme and triple bottom line decision-making.
    - The biodiversity offsets scheme is a farce that just aids the loss of biodiversity that has been shown by the recent NSW Parliament Legislative Council Report

6. Is it clear what native vegetation clearing activities are "allowable" i.e. don't need notification or approval?
    - There are very few activities that are not allowable and because many of the activities only require the landholder to notify the LLS of the clearing without any monitoring or assessment by LLS, landholders can virtually clear what ever they like
    - If the landholders happen to get the assessment wrong, is highly likely there will be no compliance consequences for the clearing
7. What, if any, other native vegetation clearing activities should be "allowable?" How could the requirements for allowable activities be improved?
    - No more clearing activities should be allowed
    - There should be rigorous research undertaken to measure the impacts of the allowable activities on biodiversity
    - Requirements could be improved by providing guidelines for firewood collection that prevents trees with hollows being cut up or burned

- Landholders should not be allowed to clear native vegetation for sustainable grazing as it by definition results in the substantial long-term decline in the structure and composition of native vegetation

8. How effective are the requirements for establishing, managing, monitoring and reporting for set asides? Please give reasons for your answer
    - From the publicly available reports I have seen there seems to be no meaningful monitoring and reporting of set asides in terms of the biodiversity outcomes
9. What are the barriers to using the Native Vegetation Panel approval pathway and how could this pathway be improved?
    - No barriers that I can see
    - This approval pathway should be removed, it is amazing that such a panel is thought to be necessary given the many pathways that already exist to assist landholders to clear native vegetation
10. Is the public register for reporting on native vegetation certificates and notifications accessible, and is the information useful and easy to understand? What if any improvements to reporting should be made? Please give reasons for your answer.
    - The reports should classify the ecological community that is being cleared and make an assessment of the biodiversity impacts that are expected to result
    - Where, "Clearing invasive native species will promote the regeneration and regrowth of native vegetation that is not an invasive native species" there should be identification of the native vegetation and regrowth that is expected to replace the invasive native species
    - Where clearing is for pasture expansion and "… the Code allows the removal of woody native vegetation by uniform or mosaic thinning to promote native pastures" the notification should identify the species of native pastures that will be promoted
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.
    - I have not seen any cases where penalties have been imposed for illegal clearing so it is impossible to say if the penalties are adequate
    - Where is the public information to be found on the illegal clearing and breaches of set asides that has occurred?
12. To what extent does the public have confidence in compliance and enforcement of native vegetation regulation? How could public confidence be improved?
    - I think the public have very little confidence in compliance and enforcement
    - LLS should have a role in compliance as they know the clearing regulations and know the country but unfortunately they appear to ignore illegal clearing even when they see it happening
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.

- These parts of the act directly work against the environmental interests of the state and ultimately will also work against the social and economic interests of the state as the resulting loss of biodiversity will threaten the ability of agriculture to survive without a massive increase in the use of pesticides, fertilisers and herbicides
- The increased use pesticides, fertilisers and herbicides will be a major threat to our waterways and we may end up with waterways that are polluted and unusable as is the case across much of New Zealand

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.
    - It is amazing that that Discussion Paper identifies that Ecologically sustainable development can be achieved by implementing the following principles and programs:
        - the precautionary principle, which includes avoiding serious and irreversible damage to the environment;
        - inter-generational equity; i.e.: the present generation should ensure the health, diversity and productivity of the environment is maintained or enhanced for future generations;
        - conservation of biological diversity and ecological integrity; and
        - improved valuation, pricing and incentive mechanisms, where environmental factors are included in the valuation of assets and services.
    - Part 5A and Schedule 5A and Schedule 5B of the Local Land Services Act as it is implemented by the LLS appears to actively work against all these principles by:
        - not applying the precautionary principle (allowing self assessment, no effective monitoring, evaluation and assessment of the impacts of clearing),
        - not fulfilling inter-generational equity (poorer, health, diversity and productivity of the environment for future generations),
        - reduced conservation of biological diversity and ecological integrity
        - environmental values do not seem to be valued as biodiversity is being reduced
    - It is like somebody has written up a wonderful set of Ecologically Sustainable Principles and then these have been completely ignored in the implementation of Part 5A and Schedule 5A and Schedule 5B of the Local Land Services Act

References

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