

19 December 2022



**Armidale Branch**  
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Legislative review team including Expert Advisory Panel Members  
NSW Local Land Services

sent by email to: [policy@lls.nsw.gov.au](mailto:policy@lls.nsw.gov.au)

Dear policy officers and panel members,

## **STATUTORY REVIEW OF NATIVE VEGETATION PROVISIONS OF THE LOCAL LAND SERVICES ACT**

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The Armidale Branch of the National Parks Association of NSW (NPA) appreciates the opportunity to contribute to the review Part 5A and Schedule 5A and Schedule 5B (native vegetation provisions) of the *Local Land Services Act 2013*. **and determine if the policy objectives of these provisions remain valid and whether they remain appropriate for securing the objectives of this part of the Act**

NPA's mission is to protect nature through community action. Our strengths include State-wide reach, deep local knowledge, evidence-based input to policy and planning processes, and over 65 years' commitment to advancing the NSW protected area network and its professional management. We also provide outstanding opportunities for experiencing and learning about nature through our unrivalled program of bushwalking, field surveys, bush regeneration and other outdoor activities.

### **Background**

The Armidale Branch of NPA has had a consistent interest in questions of what constitutes good, acceptable or unacceptable management of native vegetation on private as well as public lands, particularly across the Northern Tablelands and in the regions to the west and east. Our membership has always included people with ecological expertise, rural landholders, and others who appreciate the interdependence of rural communities, rural economies, rural landholders and all of the species that constitute rural ecosystems. Native vegetation from the groundcover to the trees is not only the core habitat for most native invertebrate and vertebrate animals, but also of great value to agricultural producers, other businesses, local residents, visitors, and very efficiently provides environmental services that far beyond its location to being of world-wide value, for example through carbon capture and storage. While non-native species can also have some diverse values, the indigenous species of an area have evolved adaptations to the local climate, soils and interactions with each other that give them of irreplaceable values. We raised concerns when the legislation now under review was introduced. We have watched what has been happening in this northern NSW area since then, are seen what the legislation has and has not achieved.

### **General comments**

The objectives of the legislation remain valid to the extent that there is a great need for government intervention to protect native vegetation and the wildlife that depend on it. While many landholders do regard themselves as stewards with responsibility to maintain the natural values of their land including native vegetation, others have either a selfish short-term perspective or lack understanding of the full range of values of native vegetation, particularly beyond their fence and to future generations. The impacts on planetary climate of the cumulative effects of incremental clearing as well as broadscale clearing are enormous, so individuals should not be free to destroy more – any further clearing must be strictly controlled.

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The object of the legislation, to ensure proper management of natural resources in the social, economic and environmental interests of the State, consistent with principles of ecologically sustainable development should be extended to expressly recognise the interests of the global community. There is increasing recognition that climate change cannot be adequately limited by changing our energy use over from fossil sources to renewable sources: we also have to manage vegetation to maintain existing carbon stores, including soil carbon that is tends to rapidly decline after surface vegetation is cleared. There has been a vast amount of carbon released into the global atmosphere as a result of past clearing in NSW: we and others worldwide are starting to feel its impacts along with the impacts of other sources of increased atmospheric carbon. Relatively little is being put back. Further incremental clearing will add to our global problem.

In practice we do not believe that the provisions of the legislation have ensured proper management of natural resources in the interests of the State, let alone the planet. They have allowed too much clearing to be consistent with ESD principles. The Act does not ensure application of the precautionary principle, polluter pays and inter-generational equity.

There is little or no conservation science embedded in any of the draft codes. Environmental impacts of clearing do not have to be thoroughly considered. The codes and assessment procedures should be revised to address this.

Our biodiversity has diminished alarmingly with more species and ecological communities classified as threatened or endangered: in many cases clearing of native vegetation is one of principal causes or threatening processes. The legislation is enabling further decline, not properly preventing this.

### Specific issues

**Equity provision:** This has already given people an opportunity to clear if they missed out previously. It has enabled too much clearing, including by speculative buyers. It is no longer needed and should be dropped.

**Threatened species, endangered ecological communities and other conservation values:** these should be protected from clearing. Current provisions are inadequate. This should apply to cultural values as well as natural values. While vegetation that now has highest environmental values (e.g. ecological communities on good soils that have been over-cleared) warrants special attention, the concept that all native vegetation has value should also be promoted by stronger protections. Common species should not become threatened and values such as carbon sequestration can apply everywhere.

**Isolated trees:** the trees that have been left in paddocks often have high values but these have been ignored by the current provisions. Paddock trees are of value to some wildlife struggling to find their way across largely cleared areas. They also have value as homes for bats and other species that may be useful in insect control, and when an area is used for grazing (notably by future owners) they can provide shade, especially in heatwaves, and may therefore increase pasture production in some situations.

**Inappropriate allowances:** the clearing permitted around fence lines are ridiculously wide. Many landholders in the Central Division do not clear a 30 m wide strip so this obviously isn't necessary and should not be allowed. If more took up the opportunity to do so, there would be little native vegetation left in some districts e.g. where brigalow (*Acacia harpophylla*) was cleared in a window-pain pattern, now what was initially retained can be destroyed.

Similarly, there are allowances that are supposed to enable clearing in situations where it is claimed that it will either be beneficial or not very harmful but which allow quite inappropriate clearing. Very large numbers of Australian animal species depend on hollows – some use very small hollows, notably in drier country where trees grow old without growing big but can have small hollows – yet only very large trees are protected. Most of the trees that either have hollows or would be the next generation of hollow-bearing trees are not protected.

**Set Aside Areas:** These are ineffective – they are not even required to be like-for-like, so ecologically valuable areas can be cleared while poor vegetation that isn't worth clearing is kept. The requirements for “offsets” under the biodiversity conservation rules have been worked out with a bit more rigour but are also inadequate, because some losses cannot be offset (e.g. a local population dying out and triggering decline of interacting species) and many intended benefits don't accrue for a long time.

The concept of setting areas aside is important. More encouragement and support to set aside and properly manage areas for their environmental values is needed. NPA supports the concept of “30 by 30” – setting aside by 2030 of 30% of all land and sea for nature as secure protected areas – which was adopted by the current and previous Australian Governments and by a growing number of other countries. We also support private conservation outside formal protected areas. In some bioregions, most of the remaining native vegetation is in small pockets and strips that are best managed by owners of the surrounding land that is used for production – there conserving 30% in national parks or formal protected areas may be impractical. In other bioregions where it will be possible for conservation agencies to protect at least 30%, we hope initiatives and efforts of private land owners may end up being extra to 30%. At present less than 10% of NSW is in formal protected areas and in most NSW bioregions the percentage is much lower, so native vegetation on private land is very important.

**Notification:** all clearing should be subject to approval by a trained officer – just self-approving and notifying is not appropriate, especially when significant areas are involved (e.g. clearing invasive native shrubs). The costs of the approval/refusal process should be paid by the would-be clearer.

**3 years before clearing:** Please consider introducing a new requirement that after someone buys land they have to own it for several years before doing any clearing, apart from whatever is essential for safety<sup>1</sup>. People should buy land that has the characteristics they want, not expect to change it into something different to what it is. The native vegetation should not be seen as something expendable, to be gotten out of the way so one can do something different to what the previous owner did on areas that have native vegetation. Once the native vegetation is cleared, the opportunity to learn why previous owners left it, to discover and experience what lives there and learn how it influences/interacts with the surrounding land and wider landscape, is lost. Landowners should get to know their land and its natural characteristics, including but not only its vegetation and wildlife, so they can be good stewards and build this into their planning. A rule that prevents any clearing of native vegetation for some years would not prevent other changes in that time. It takes a lot more than one season to understand most properties.

## Conclusions

Substantial changes are needed to this legislation, not just minor tinkering. More education is needed, targeted to help landholders who are production-focussed to understand nature’s productivity and diverse values, and to plan to maintain them. People do not have a right to destroy the natural values of land and heritage. The legislation should be strengthened to make this clearer and to ensure that only the most necessary and least impact clearing can occur. The concept of stewardship should be promoted, not as something landholders expect to be paid to implement in exchange for not clearing, but as an Aussie value.

Thank you for considering this submission.

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Yours sincerely

Kate Boyd

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*protecting nature through community action*

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<sup>1</sup> e.g. clearing around a house in bushfire prone land, similar to what would be required for a development application, or maintaining an existing fire break.