Submission to Five Year Review of NSW Local Land Services Act 2017

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As outlined in the NSW Auditor General and other NSW parliamentary reviews, the LLS Act 2017 has been an abject failure in controlling land clearing and meeting carbon reduction and biodiversity conservation targets – that is due to its original design. Times have moved on and it is time to fix it or write a better law.

Other submissions to this NSW Local Land Services Act five-year review will suggest rewordings for specific sections of the LLS Act and address your publicised "discussion points." I am not going to do that. I provide a brief perspective with points to address shortfalls. Time is running out for natural ecosystems. We have a moral and economic responsibility to act.

Politics is about compromise but there was too much of that to facilitate native vegetation clearing in the LLS Act in 2017. Now it is time to restore over-cleared landscapes and cease broadscale clearing of native vegetation. The first step is improving regulation and compliance.

In 1998, detailed vegetation mapping of the Moree Plains Shire revealed just 28% of native vegetation remained. At that time this was a shock to then to members of the then regional vegetation advisory committee – but now that figure has reduced to less than 10% due to the paucity of protections over the last decade: some ecosystems on the north-west plains have effectively collapsed with the Koala close to regionally extinct.

The trade-off of allowing regulation weakening of NSW land clearing controls via the LLS Act 2017 with the $300 million Biodiversity Conservation Trust (BCT) fund for land caveats under the NSW Biodiversity Act, has not worked in areas subjective to intensive agriculture. Overall net loss in native vegetation and when examining particular PCTs some severely depleted, e.g. northern Poplar Box, Coolabah or Black Box woodlands or native grasslands throughout. The majority of BCT caveats cover landscapes and vegetation types that were unlikely to be subject to clearing and, hence, the main benefit of the expenditure of large BCT public funds may be improved vegetation condition. Worthy in itself but not the biggest challenge!

I dealt with NSW land clearing issues from the 1980 NSW Tree Plan onwards. Encouragingly after 1980, some local councils brought in Tree Preservation Orders but it took 15 years until August 1995 for a NSW clearing regulation to address the entire State (urban zones excluded).

By the early 1990s land clearing in NSW was out of control due to rapid expansion of cropping and intensive grazing. A new Government in 1995 promised to do something about it initially using an overnight imposed state planning instrument SEPP46 as an interim measure. This regulation evolved into the 1998 Native Vegetation Conservation Act, then

amended to the Native Vegetation Act in 2003. Property vegetation plans were a prerequisite for clearing permits and CMAs produced regional plans. These instruments worked reasonably as they significantly slowed land clearing from between 50000 and 100000 hectares per year in the 1980s and early 1990s (including native grasslands) to less than 10000 ha p.a by the year 2000, even up to 2011. That year the NSW Government flipped and a reaction took hold. I am unconvinced that most farmers want no controls on land clearing. That is based on discussions with them while conducting vegetation surveys and during committee meetings. They do want clarity and fairness. Post 2011, lobbying from influential big agriculture led to a loosening of the laws, resulting, in 2017, to a capitulation via a set of Farm Codes inscribed in the LLS Act that allows virtual carte blanche to land clearing, with limited compliance or checks of illegal clearing. This stick part of regulation was gone and the BCT carrot pqrt was inadequate. The balance between production and conservation dissolved. It is wise to acknowledge that the loss of natural ecosystems in agricultural landscapes results in long-term economic loss to agriculture as nature provides pollinators, shelter, soil stability, water table control and many other features. The arguments for retaining native vegetation are outlined in the six Background Papers published by the former NSW Native Vegetation Advisory Council more than twenty years ago. One of these papers summarises economic benefits based on CSIRO and other research. These six papers are worth a re-read for people now working in this field. I wrote the first paper that summarises the types of and threats to NSW vegetation.

Today there are further considerations beyond wildlife versus short-term agricultural profit. Climate change has accelerated worldwide and there are Australian State and Federal carbon emission reduction targets – and promises on biodiversity protection. Yet the LLS Act as written is so poorly constructed that nothing in it will address these considerations. It needs to be rewritten removing the farm codes entirely with new rules that can be enforced - complemented by continuation of a BCT-like incentive scheme. Some principles for inclusion are listed below.

Principles for inclusion in revised LLS Act

No Net Loss of native vegetation types become an objective of a revised LLS Act.

Federally and NSW-listed critically endangered and endangered species and ecological communities should be prohibited from clearing.

Plant community types and/or native vegetation in described Mitchell landscapes or other landscape classifications with less than 30% remaining should be prohibited from clearing.

Sensitive lands such as the arid zone, the semi-arid zone, steep slopes >18 degrees, areas with rising soil salinity, acid-sulphate soil should be prohibited from clearing.

Given the Koala crisis, key Koala population hubs and movement corridors should be prohibited from clearing.

Exemptions such as clearing around structures should be not accumulate to a point where most remaining vegetation can be legally cleared - irrespective of the points above.

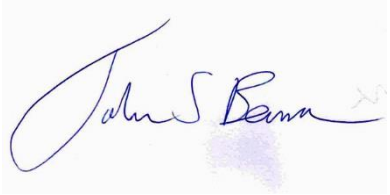
Issues about baseline data

Much of the administration of the land clearing regulations depends on habitat classification, description and mapping, and species distribution data. Species distribution models can help define outer limits but the more recorded ground data the better to define key sites.

From 2000 to 2012, I established a comprehensive NSW vegetation type and conservation/threat assessment information database system for the NSW Government published via a series of journal articles and DVDs – subsequently transferred into a SQL server online as a government system. This research project classified and assessed the threat and protected area status of 600 plant community types occurring west of the Great Dividing Range. Other researchers have more recently numerically classified plant community types in eastern NSW but with less information on threat and protected area status.

Concerning vegetation mapping, even after tens of millions have been spent over 20 years, it remains less than convincing and poorly focussed on legislative requirements. The relationship between a series NSW plant community type (PCTs) maps and the yet to be released draft "regulation map" that depicts native vegetation from cleared land, is ambiguous. The PCTs potentially could underpin local to regional scale planning and site decisions, including for wildlife such as the Koala, but only if the maps are reliable to say >80% correct to the correct plant community at the site – thus meeting international standards for site assessment. While there are individual accurate maps of PCTs in NSW, the NSW State-wide PCT Mapping project produced, through experimental pattern recognition technology and modelling using limited ground data, probability maps - that when field-checked, are perhaps less than 30% accurate at the property scale. Some experts have long-argued that given limited ground data to underpin models reliable PCT mapping would best be delivered through professional 3-D aerial photographic interpretation using the excellent NSW-held ADS-80 airborne imagery – linework digitised straight into GIS. All possible. Why was this was not done across the State could form a basis for a history book on public lost opportunity. Possibly it was perceived that using digital API was to be too slow or too subjective but that is largely nonsense. Disturbingly, what took hold was an academic-driven method focused on "defensible" and "repeatability" – ignoring problems about reliability and needs of users of such products! Academics can be persuasive when seeking grants or control of method … and senior bureaucrats often lack the expertise to judge their science: hence the need for alternative advice to senior management about baseline vegetation data.

Kind regards,



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