

20 January 2022

Local Land Services

By email to policy@lls.nsw.gov.au

Dear Local Land Services and the minister responsible for this portfolio,

I welcome the opportunity for public comment on the statutory review of NSW native vegetation clearing rules (Part 5A of the Local Land Services Act 2013). However, I am deeply concerned this is not a comprehensive review of the codes. Notably, biodiversity issues are absent in the public discussion paper and there is only one question about environmental risk.

Being a rural landowner in the Coffs Harbour area, a region that is becoming more and more under the pressure of the blueberry farming industry and associated pollution, I would like to provide my perspective on a few points, as listed below. I have used a berry farm located in Bucca NSW as a case study to respond to these questions, which from my understanding is classified as category 1/exempt/unregulated land.

Question 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?

For exempt land (category 1) it states that you can remove native vegetation so long as you do not knowingly harm an animal or damage the habitat of an animal that is a threatened species or part of threatened ecological community.

This does not provide adequate protection to potential threatened species living on the land. Without a full ecological report, habitat for threatened species could be easily missed. It should not be left in the hand of landowners to decide.

Question 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 not user-friendly and it is difficult to conclude the category of the land especially for category 1 as there is no associated colour with it.

An annual letter to remind landowners of the classification of their land and potential sanction for illegal clearing, for example when the local land services rates are being sent would be extremely helpful. However, this would only work if the regulations were tightened to don't encourage further clearing, given the number of properties inappropriately classified as unregulated and given the ridiculously small sanctions.

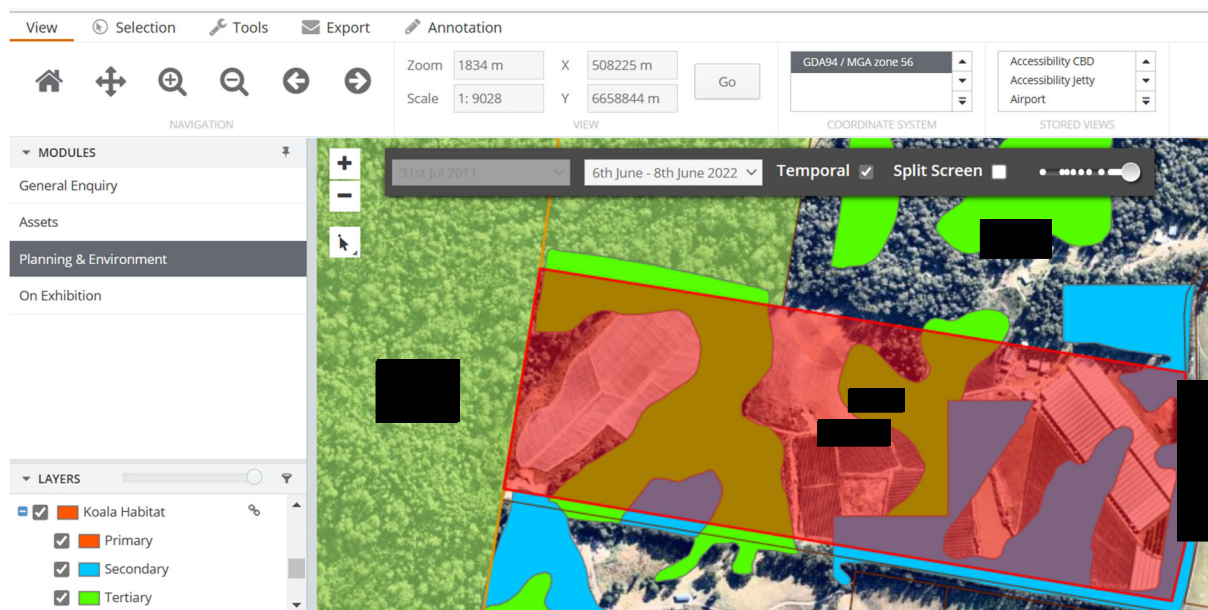
Question 4 - How comfortable and capable are landholders in self-assessing their land according to the land categories? What, if any, improvements to the Transitional Arrangements should be made? Please give reasons for your answer.

Please refer to above responses to questions 2 and 3.

- **Question 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.**

I do not believe that the current pathway provides adequate protection to the environment. The berry farm in Bucca falls to my understanding under category 1/exempt land. Meanwhile more than half of the 47 ha of land is classified as secondary and tertiary koala habitat on the Coffs Harbour Council Mapping system (IntraMaps, see Figure 1). How can we explain this disparity for such a threatened and iconic specie as koalas?

Figure 1: Koala habitat on the land in question



The adjacent crown corridor on the Southern side of the property also appears to fall under the category 1/exempt land, which is an interesting view given it was acknowledged by the Department of Lands in August 2005 that the vegetation within the land has been found significant as a vegetated corridor and/or habitat for threatened species and no clearing is permitted without consent from the Minister.

- **Question 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.**

I was not aware that a public register was available. This may need to be further publicised to landowners.

- **Question 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.**

For my case study, the land is unregulated, resulting in clearing of 95% of the land between 2011 and 2022 (see Figure 2 and 3 below).

The secondary and tertiary koala habitats identified by Coffs Harbour Council mapping system are now long gone. More than 23 hectares of koala habitat wiped out and most likely including critical habitat for other threatened species, given the adjacent boundary with the crown land which was confirmed to contain habitat for threatened species. This is clear evidence that the current regulations are not working.

Figure 2: Satellite picture as of July 2011

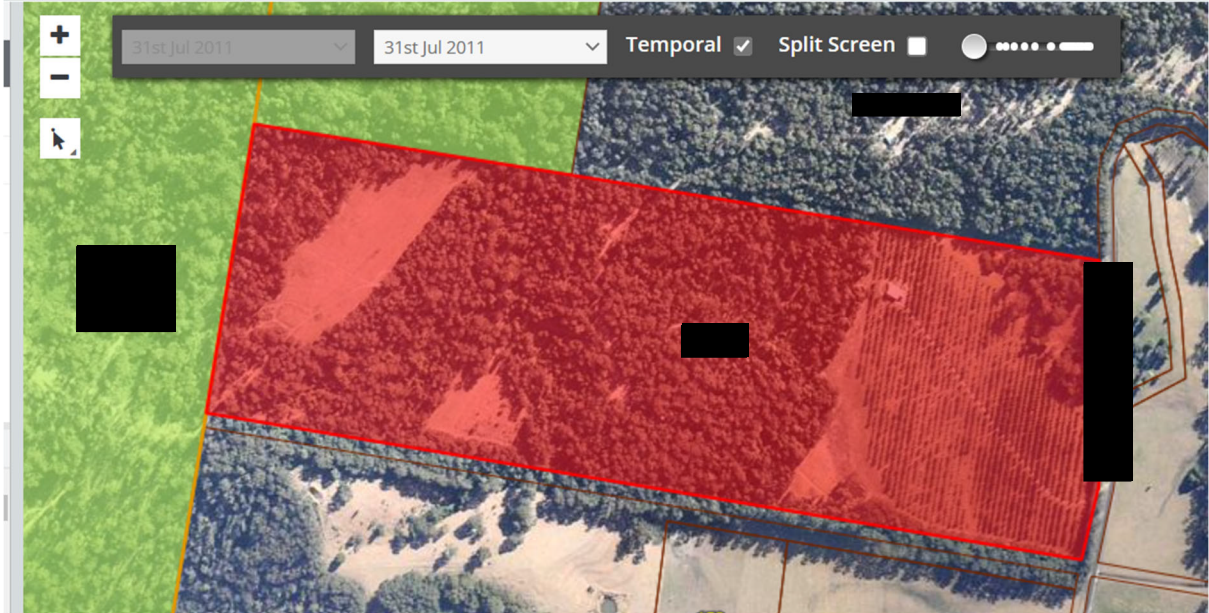
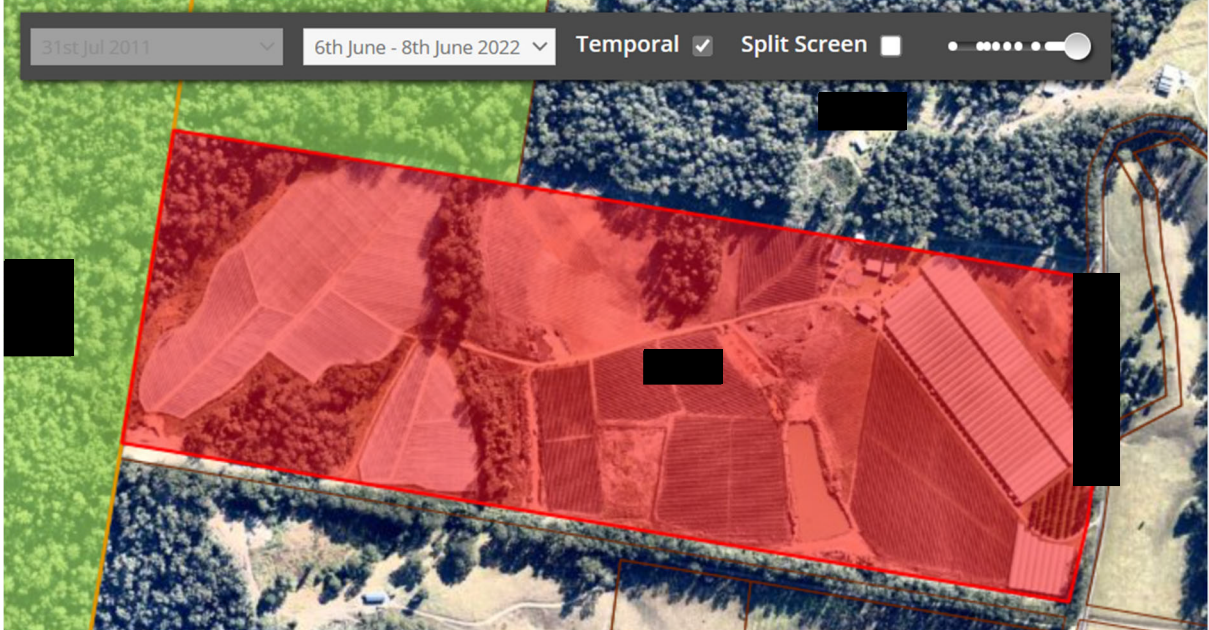


Figure 3: Satellite picture as of June 2022



The farmer also took the liberty to illegally clear the adjacent Crown land on the Southern boundary, which was classified as critical habitat for threatened species by the Department of Lands and for which clearing is not permitted without the consent from the Minister. The width of the vegetation was around 34m in 2017 (see Figure 4) and is now reduced to one line of gumtree without any understorey vegetation (see Figure 5, dated Dec 2022).

Figure 4: Width of the Crown land classified as containing critical habitat for threatened species as of 2017



Figure 5: Picture of a section of the area shown in Figure 3, as of December 2022, with only one line of gumtree left of the 34m wide vegetation classified as critical habitat by the Department of land.



Question 12 - To what extent does the public have confidence in compliance and enforcement of native vegetation regulation? How could public confidence be improved?

I have no confidence at all. In my example, this same berry farmer decided to start clearing the adjacent crown land on the Southern side of his property in December 2022, which was not even his land and has been found significant as a vegetated corridor and/or habitat for threatened species by the actual owner of the land, Crown land and for which clearing is not permitted without consent from the Minister. We have contacted Coffs Harbour Council, EPA, Crown land, local MP and the police to have this illegal clearing stopped immediately. No immediate action was taken despite our complaint being acknowledged as legitimate and further investigations would take place. Meanwhile the trees and vegetation went down and the vegetation is gone forever. I feel very saddened for all the birds and other creatures that have lost their home and this in the middle of the breeding season.

Which is even more disheartening is that it was acknowledged by these various bodies that the nature of the fine would be most likely insignificant and they were concerned this will not stop him to do this again as this is not his first time. Conclusion is that landowners can and will continue to clear as much land as they want with minimum consequences, if any. This type of offence from blueberry farmers is common knowledge and nothing is done about it.¹

Unless close monitoring, prison sanction, farming activity suspension and requirement to replant lost vegetation are put in place, things won't change.

¹ See <https://cec.org.au/intensive-horticulture/>, <https://cec.org.au/wp-content/uploads/2022/03/BLUEBERRY-IAWG-minutes-Feb-2017-Final-ammend.pdf>, <https://www.smh.com.au/environment/sustainability/rampant-expansion-of-blueberry-farms-trigger-compliance-crackdown-20200919-p55x7q.html>

There is a need for immediate action when a complaint is being placed before all the trees are down.

Departments for managing this kind of complaint also need to be better resourced as I understand at the moment this is not the case (according to EPA and Crown land).

Question 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?

It serves very well the economic interests, in my case study, the blueberry farmers, allowing unregulated clearing on huge area that contains threatened species.

It is not serving the environment, destroying entire critical habitat as demonstrated by above case study and converting them to massive scale berry farm which erode the landscape, destroy the soil, contaminate the soil with kms of plastic and contaminate all the creeks with chemical run off, where platypus are no longer to be seen.

Surely if we had the right laws in place, farming and land conservation activities could co-exist, rather than leaving it in the hands of people who only care about profitability. This is quite disheartening and revolting to watch broad scale deforestation and apparently nothing can be done to stop them despite the problem being widely known and acknowledged for years.

Question 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

I am calling for greater transparency over land clearing data; cessation of category 1/unregulated lands; clear limits on clearing; mandatory assessments for clearing proposals; adequate mapping; monitoring of impacts on salinity, soil and water; and tougher penalties for compliance including prison sanction or suspension of farming activities; and funding for adequate enforcement.

I urge the government to implement these changes as a matter of urgency. We must protect our native vegetation which underpins the survival of our native fauna, flora, and ecosystems. Native vegetation further provides essential ecosystem services, including water security, healthy soil, and improving landscapes for human health and wellbeing.

Everyday counts as every day more land is being cleared, which is being witnessed daily in the Coffs Harbour region, where koalas, birdlife and all sort of wildlife is thriving. They need their home to remain safe.

Yours sincerely,

Habitant of Coffs Harbour region, NSW