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# Submission to Local Land Services

on the statutory review of NSW native vegetation clearing rules  
(Part 5A of the Local Land Services Act 2013).

## Introduction

The Clarence Environment Centre has maintained a presence in Grafton for over 32 years, and has a proud record of environmental advocacy, particularly relating to protection of native vegetation and biodiversity.

## Preamble

At the outset we would like to focus readers' attention on the stated objective of Part 5A and Schedule 5A and Schedule 5B in the Local Land Services Act, which is ***"to ensure the proper management of natural resources in the social, economic and environmental interests of the State, consistently with the principles of ecologically sustainable development"***. It has always been our contention that giving equal weight to the social, economic, and environmental interests is a flawed process, simply because social wellbeing and the economy are both totally reliant on a healthy environment, achieving which, therefore, should be **the** priority objective.

Likewise, the principles of ecologically sustainable development need to be closely analysed, with the **precautionary principle, intergenerational equity, and conservation of biological diversity and ecological integrity**, being the 3 main pillars.

Report after report in recent decades have reflected negatively on the state of the environment, including "Australia's Biodiversity Conservation Strategy 2010–2030". That document opens with the assertion that ***"In this year, the International Year of Biodiversity, it is worth remembering that our survival is critically dependent on looking after our natural environments and their biodiversity"***.

This warning is then followed by a startling admission that ***"Much effort has gone into arresting the loss of biodiversity and conserving what is left; nevertheless, biodiversity continues to decline. Climate change is increasing the rate at which we are losing biodiversity by amplifying existing pressures and introducing new challenges. Loss of biodiversity will diminish the quality of our lives and the long-term prosperity of this nation, including the capacity to produce food and fibre. We need to take immediate and sustained action to conserve biodiversity"***.

These simple statements of fact, from Australia's premier biodiversity management plan, is a wake-up-call, and has to be the focus of this review. It is imperative that every effort is made to halt these declines and find ways to regenerate NSW and the rest of the country.

## **Current failings of Part 5A legislation**

Land-clearing is a scourge that needs to be met head-on, and how that if achieved has to be a priority consideration by this review. Suggestions that the already reported escalation in land-clearing rates in recent years, could have been worse had all the existing approvals been carried out, is a real concern. The fact that those 'zombie' approvals are still valid and can be activated at any time, is a confirmation that there is something seriously wrong with current regulations and their implementation.

The failure to take natural resource management (NRM) seriously is widespread and begins at the very top of government, with the federal NRM Plan acknowledging that *"The National Landcare Program underpins Australia's efforts in assisting best practice natural resource management."*

The fact that the Federal Government's NRM policy is underpinned by an organisation largely dependent on part-time, albeit dedicated volunteers, is hardly encouraging, and at the end of the day, it is failing.

The following are some examples of problems that have been recorded by the Clarence Environment Centre in recent times, just in our local government area alone. All are contributing to the loss and degradation of native vegetation, which in turn contributes to the ever-worsening water quality in our rivers and streams and contributes to the biological decline that is reported on a regular basis.

### **1. Grazing**

The recently released 'Local Land Services North Coast Natural Resource Management Plan', rightly identifies that the environment is under threat from, among other things, overgrazing by sheep and cattle.

Grazing is one of the greatest, if not the greatest, contributor to erosion and poor water quality across the state; it is the greatest vector of invasive weeds; and is listed as a Key Threatening Process to hundreds of threatened species and ecological communities. Cattle trample and destroy native vegetation, compact soils, and are the main contributor to loss of topsoil from dust storms, yet the Draft Plan fails to address those impacts. **Why is that?**

We believe the issue needs to be placed front and foremost, beginning with excluding livestock from all waterways. Also, while it could be argued that this is not strictly a NRM issue, animal welfare should also be a consideration, to ensure all livestock are fed and provided shelter from the sun during periods of extreme heat.



*Trampled to death,  
the not so mighty Clarence River*



Starving animals as a result of over-grazing is simply bad management, and we strongly believe that the keeping starving animals, and holding animals in paddocks with no shade, should be made criminal offences.

## 2. Water quality

When it comes to water quality, the current situation can only be described as scandalous, with the condition of local rivers completely unacceptable. Not only are those few existing laws governing erosion control not being enforced, but the NSW Government has actually recently enacted legislation that reduces the protection of waterways from erosion (Integrated Forest Operations Approval remake 2019). Those changes reduced buffer zones along all gullies, creeks and rivers, and allowed an increase in logging intensity including clear-felling.

The on-going fall in, dare we say, 'plummeting' water quality is acknowledged in the 'Local Land Services North Coast Natural Resource Management Plan' from the outset (page 3), with an unequivocal statement

that: *“Waterway health is declining from riparian vegetation clearing, diffuse source water and sediment pollution, and invasive species; and the capacity of the land to sustain a range of productive uses and support natural ecosystems in the long term is at risk from declining soil fertility and erosion”.*

We all know what is causing the decline in water quality, as well as forestry and grazing which are mentioned above, inadequate silt trapping and erosion control standards being applied for any kind of development; a complete absence of any regulation being applied to agriculture and intensive horticulture, and uncontrolled recreational activities such as 4 wheel drive off-road adventures, wake-boat water skiing, and trail bike riding, all contribute. The use of heavy industrial machinery in an attempt to remove weeds, or 'under-scrub' native vegetation for supposedly aesthetic reasons, also disturbs soil and contributes to erosion, and high turbidity in waterways.

The above impacts have occurred under the stewardship of LLS, and its former entity, the Catchment Management Authority, along with the former Departments of Agriculture, Land and Water Conservation, Soil Conservation, and others. All of those agencies have failed, and blatant illegal activity continues unabated, Therefore, this review needs to address these failings.



*This is what the Orara River normally looks like.*

### **3. Bushfire management**

There is absolutely no greater threat to biodiversity on planet Earth than fire, greatly exacerbated by climate change and a rapidly heating world. However, while wildfire and changing fire regimes are widely acknowledged as a threat to NRM, we are horrified to find that there is still no plan to prevent catastrophic fires from occurring.

Other than a brief references to reinstating indigenous NRM activities, such as cultural burning, there appears to be nothing happening to prevent a repeat of the 2019-20 horror.

We, as a society, have been talking about the benefits of cultural burning for decades but, locally at least, the practice hasn't progressed beyond the occasional field-day demonstration. The reality is that, as a direct result of more than 200 years of damaging European presence in Australia, the forests of today bear absolutely no resemblance to those in which indigenous Australians developed their "cultural" burning. As a result of this, and the ongoing impacts of climate change, we have grave doubts about the ability to successfully undertake the practice today or reap the claimed benefits that cultural burning will deliver.

Having said that, we strongly support giving cultural burning a red-hot try over a period of several years, to see if it can deliver the promised benefits for threatened species, and the environment in general. If it does prove to be successful, that would be great, but if it doesn't, a serious bushfire management plan must be put in place as a matter of extreme urgency. In fact, that plan should have been developed and implemented long ago, given the clear warnings that the scientific community have been issuing for decades about worsening bushfire conditions. The fact that it hasn't, is a major indictment on all governments over the past four decades.

If governments are serious about long-term environmental protection, and for that matter, serious about erosion control, water quality, or sustainable agriculture, a long-term bushfire strategy is paramount. That strategy must focus on preventing catastrophic fire, not merely trying to mitigate the impacts, or dealing with the consequences.

With a heating planet, the fire threat can only worsen. To combat that we desperately need a highly mobile, professional, fully equipped fire-fighting force, with rapid response capabilities to deal with it. Surveillance is the key, so that during catastrophic fire conditions, within 30 minutes of smoke being detected, there are aircraft dropping water on it and ground crews on their way.

We cannot allow fires to rage out of control as they did in 2019 because, if we do, we stand to lose entire ecosystems and the fauna that depend on them.

### **4. Intensive horticulture**

We have briefly mentioned this industry above as an uncontrolled entity where fines are treated as a cost of doing business (2017 minutes of the Interagency Blueberry Advisory Committee). Why is it that Mr John Citizen has to present a DA when he plans to put in a swimming pool or car port, when farmers can clear forests that are

less than 30 years old, and transform that bush landscape into a sea of plastic without any regulation whatsoever?

Over the years the Clarence Environment Centre has highlighted four main issues, land clearing, water use, plastic pollution and pesticide run-off.

Right now we have a situation where nobody knows how many intensive horticulture farms there are, what they are growing, how many more are planned, how much water they are using or where that water is coming from.

At the very least a development application should be lodged for public comment, and a comprehensive water management plan presented to explain how much water is required and where it will come from. As well, there should be laws pertaining to erosion control, and compliance monitoring, and enforcement, of all aspects of their operations carried out on a regular basis.

## **5. Land clearing regulations**

In a general sense, we are cognisant of the fact that enforcement of land-clearing regulations could get compliance officers murdered, with little support or sympathy from some politicians. Nevertheless, someone has to bite the bullet, because we cannot afford to lose more of this critically important biodiversity.

While there is a strong belief among some sectors or the rural community that a landowner has the right to do whatever they want on their own land, there has to be a recognition that whatever that landowner does on his/her property, it has the potential to impact on everyone downstream, and possibly beyond. In the case of land clearing, all of humanity has a stake, and governments need to educate landowners, and the broader community; on what is or isn't acceptable.

Some specific issues include the recent allowance for 25m wide clearing of forest along property boundaries, which is something that should be reversed, and fence line clearing which should also be restricted, say to 3m either side.

The definition of 'regrowth' forest, when introduced almost 20 years ago, was anything that had grown since 1990. At that time regrowth was defined as trees under 15 years old. That 1990 base date remains unchanged today, meaning that 35-year-old forests can now be bulldozed without permission.

Taking this a step further, we have anecdotal evidence of an approved private native forestry operation, cutting out all trees older than 30 years, and then claiming the rest was regrowth which could then be cleared to grow blueberries without approval.

Similarly, we had one instance where a forest was cleared, and no action was taken because the landowner proved the land had been cleared twice, by previous owners, since 1950, thus making the current clearing a RAMA (routine agricultural management activity).

In short, the 1990 base date that defines regrowth forest, must be brought forward to at least 2010, and updated every 5 years, while land clearing under RAMAs should be reviewed to close these types of loopholes.

Thank you for the opportunity to comment.

Yours sincerely

John Edwards  
Honorary Secretary