

September 2022

## Terms of Reference: Part 5A of the Local Land Services Act Five-Year Statutory Review

The Minister for Agriculture and Western New South Wales requests Local Land Services to review Part 5A and Schedule 5A and Schedule 5B (native vegetation provisions) of the *Local Land Services Act 2013* with support of an independent advisory panel to determine if the policy objectives of these provisions remain valid and the provisions remain appropriate for securing those objectives.

### Background

#### Land Management and Biodiversity reforms

In 2014, the then Minister for the Environment appointed the Independent Biodiversity Legislation Review Panel to conduct a comprehensive review of the *Native Vegetation Act 2003*, *Threatened Species Conservation Act 1995*, *Nature Conservation Trust Act 2001* and parts of the *National Parks and Wildlife Act 1974* that relate to clearing of native vegetation on private land, conservation of native plants and animals and private land conservation.

The aim of the review was to provide recommendations on how to simplify legislation and make it more effective to improve biodiversity conservation, support sustainable land management and reduce compliance and administrative burdens. In the same year, the Panel released a report calling for transformational policy change to conserve biodiversity and support sustainable development. The report outlined 43 recommendations to achieve this.

The NSW Government made an election commitment to implement the Panel's recommendations and passed the *Biodiversity Conservation Act 2016* and amendments to the *Local Land Services Act 2013* in November 2016. These replaced existing legislation, including the *Native Vegetation Act 2003*. The new Biodiversity Conservation Act and amended Local Land Services Act commenced on 25 August 2017.

The reforms aimed to ensure a balanced approach to agricultural production, development and biodiversity conservation, consistent with the principles of ecologically sustainable development. Broadly, the intent of the reforms is to contribute to improved biodiversity value at the bioregional and state scales, provide greater flexibility for landholders to improve productivity on their land and give landholders more capacity and confidence to sustainably manage their land and participate in biodiversity conservation.

### Scope

The *Local Land Services Act 2013* and the *Biodiversity Conservation Act 2016* require review of certain provisions of the respective Acts.

Section 212 of the *Local Land Services Act 2013* determines review of the native vegetation provisions of the Local Land Services Act. It specifically requires:

1. the Minister is to review Part 5A and Schedules 5A and 5B to determine whether the policy objectives of those provisions remain valid and whether the terms of those provisions remain appropriate for securing those objectives
2. the review is to be undertaken in conjunction with the review of the *Biodiversity Conservation Act 2016* that is undertaken under that Act by the Minister administering that Act

3. the review is to be undertaken as soon as possible after the period of five years from the commencement of Part 5A and Schedules 5A and 5B.
4. a report on the outcome of the review is to be tabled in each House of Parliament within 12 months after the end of the period of five years.

The objects of Part 5A of the Act are *‘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’* (described in section 6(2) of the *Protection of the Environment Administration Act 1991*).

As part of the review, Local Land Services should also have regard to:

- the overarching purpose of the Land Management and Biodiversity Conservation framework
- the objectives of the Land Management and Biodiversity Conservation reforms contained within Second Reading speeches to Parliament relevant to the Local Land Services Amendment Bill 2017
- the final report of the Independent Biodiversity Legislation Review Panel
- past reviews of the Land Management Framework.

The review of Part 5A of the Local Land Services Act will run in parallel to but independent from the review of the Biodiversity Conservation Act.

The statutory review is not a review of the integrated Land Management and Biodiversity Conservation reform package as a whole, or a comprehensive review of the Land Management (Native Vegetation) Code or Local Land Services Regulation per se as this is outside the scope of section 212. Should the review of the native vegetation provisions in the Act find that changes are required to the Code or Regulation to meet the objective of the native vegetation provisions of the Act then these changes can be recommended as part of the review.

**Attachment A** provides the contents of the Local Land Services Act subject to the five-year statutory review, including Part 5A, Schedule 5A and Schedule 5B. The *Local Land Services Act 2013* can be accessed [here](#).

## **Stages of Review**

Local Land Services is to deliver the review in three stages:

1. appointment of independent expert advisory panel and development of a Discussion Paper
2. stakeholder engagement on the Discussion Paper, submissions analysis and draft review
3. finalisation of review, findings and recommendations

## **Consultation**

Local Land Services is to consult with the Environment and Heritage Group, in particular where there is connection between relevant parts of the respective Local Land Services Act and the Biodiversity Conservation Act.

Local Land Services will consult the community and relevant stakeholders on the Discussion Paper. The outcomes of the consultation process will be provided in the final review report.

## **Final review report**

Local Land Services will provide its final report to the Minister for tabling in both houses of parliament in August 2023.

The final advice must document the review's findings and recommendations. In the absence of conclusive evidence, Local Land Services may make findings and recommendations based on its judgement and knowledge of private land management.

## **Attachment A – Parts of the Local Land Services Act subject to the five-year statutory review**

### Part 5A Land Management (native vegetation):

- Division 1 Preliminary
- Division 2 Native vegetation regulatory map
- Division 3 Regulation of clearing of native vegetation in regulated rural areas
- Division 4 Allowable activities clearing of native vegetation
- Division 5 Clearing native vegetation under land management (native vegetation) code
- Division 6 Approval for clearing native vegetation not otherwise authorised
- Division 7 Miscellaneous

### Schedule 5A – Allowable activities for the clearing of native vegetation:

- Part 1 Preliminary
- Part 2 Clearing for allowable activities – general
- Part 3 Clearing for rural infrastructure
- Part 4 Special Provisions applying to category 2-vulnerable regulated land and category 2-sensitive regulated land etc

### Schedule 5B – Provisions relating to members and procedure of the Panel:

- Part 1 Preliminary
- Part 2 Provisions relating to members of Panel
- Part 3 Provision relating to procedure of Panel