To , Senate Finance and Public Administration Committee
P.O. Box 6100
Parliament House
Canbera , ACT 2600

Dear Sir /Madam ,

My concerns of the Native Vegetation Act (NVA) with its long term implications comes from my background of 28 years of continuous service as a councillor of the Narrabri Shire Council ,including three years as Mayor.

My concern is aimed at what impact the Catchment Managements Authority (CMA) will have on Council`s Local Environmental Plans (LEP) after they discover the CMA is not a legal planning instrument and the NVA is constitutionally flawed. The CMA have stated in print they intend to use the NVA to impliment Catchment Action Plans (CAP).

In my opening paragraph I have made two points ;

1.The CMA is not a planning instrument which obviously negates any planning authority , and
2. The Native Vegetation Act is constitutionally flawed .

I will not comment further on item (1) as it is self explanatory.

Item (2) however, the NVA is an Act of Parliament . It is in fact a ``regulation``. When pitted against the Environmental Planning & Assessment Act (EP&AA) ,the NVA is constitutionally flawed ,which is of coarse the subject of this enquiry to this Senate Committee.

To give the NVA its correct title , it is a`` post operative regulation.`` The NVA (1997) was developed 18 years after the dedication of the EP&AA (an Act which guarantees common law .) The EP&AA has never been revoked by revocation or modification. The EP&AA is a true example of common law .This leaves the NVA , as a regulation and , without any constitutional force.

Being post operative means the NVA has no force coming after the the establishmemnt of the EP&AAct . The 1987 Interpretations Act further supports these claims where it says , ``amendments or repeal of Acts does not revive anything in force or existing at the time of the amendments or repeal takes effect``.

Local Government (LG) has since 1842 at its conception been the sole authority of LAND and the EP&AA is the ``Bible`` we now use to deliver common law within the boundaries of the EP&AA. .

Sections 106 to 109 in the EP&AA guarantees continuing ``use`` of property and is a perfect example of common law. The NVA is a regulation only and should be treated as such. .

To cross reference further support to elevate the EP&AA , Section 52 of the LG Act further says ,``refer to Section 28 of the EP&AA ``to evaluate its powers .

The NVA is simply not needed and not wanted.

It does not have to be replaced by any legislation.

The legislation to`` protect`` property ownership and property ``use`` is already in place in the EP&AA.

Common Law as stated in the EP&AA requires all property owners to respect their neighbour , because common law continually applies

Freehold land is primary land.

The EP&AA recognises primary use on freehold land. .

The introduction of a NVA is fracturing the constitution by demanding the demise of continuing`` use ``of vegetation when the EP&AA has already promised those rights to the owners of primary or freehold land . The documented proof is given to the land owners in the form of a statuatory statement at the request of the landowners legal solicitor. This statement also from the EP&AA called a 149 Certificate again supports existing and continuing`` USE `` for a prospective purchaser of property . Council supplies this consent agreement of ``use`` for about $40.

The NVA has neither the ability to demand consent nor have the ability to overide the EP&AA.

The NVA does not need replacing , it needs deleting.

Regards, Cr. Bevan O`Regan