

What's new for landholders?



The Native Vegetation Regulation 2013 (the Regulation) commenced on 23 September 2013.

The Regulation provides the operational details that support the implementation of the *Native Vegetation Act 2003* (the Act).

This fact sheet looks at the most important changes for landholders, including changes to routine agricultural management activities (RAMAs), the assessment of clearing activities requiring a property vegetation plan (PVP), and private native forestry (PNF).

Changes to routine agricultural management activities

The Act has always permitted types of clearing that can be undertaken without approval, including clearing for RAMAs.



Photo: Barry Collier.

The changes in the Regulation have:

- provided a definition for rural infrastructure for the purposes of the rural infrastructure RAMA
- added new RAMAs (e.g. new non-rural infrastructure RAMAs) and the power to make orders declaring certain activities (like thinning or clearing a paddock tree) to be a RAMA
- redefined or changed requirements relating to activities covered under existing RAMAs (e.g. obtaining construction timber and dwellings RAMAs).

Limits on clearing allowed for RAMAs

All clearing for RAMAs must only be undertaken to the minimum extent necessary. This means that all practical steps must be made to limit the extent of clearing undertaken in carrying out the RAMA. For certain RAMAs other limits may apply.

You cannot clear for RAMAs in order to progressively clear land for a purpose outside the scope of the RAMA.

All other required statutory approvals or authorities must also be obtained before clearing.

What RAMA changes start on 23 September 2013?

Rural infrastructure RAMA

Rural infrastructure has now been defined in the Regulation to mean a building, structure or work which is used for the purposes of or in connection with an agricultural activity or private native forestry that is being carried out on the land.

The Regulation continues to allow you to clear without approval for the construction, operation and maintenance of rural infrastructure, such as farm fences, dams, windmills, bores, stockyards and farm roads.

There have been some changes to the maximum infrastructure buffer distances and the types of clearing activities permitted as rural infrastructure. On small holdings and land zoned rural-residential or large lot residential, clearing within prescribed distances is now permitted for pipelines, dams, pumps, water points and tanks, and the buffer distances for the remaining permitted infrastructure has been increased to make them consistent with the Coastal Region. The distance for clearing a temporary fence in the Coastal Region and on small holdings and land zoned rural-residential or large lot residential has been increased to 3 metres.

Rural Infrastructure RAMA and the PNF code

Landholders with a PNF PVP are now required to implement minimum tree retention rates, set out in the PNF Code of Practice, when clearing under the rural infrastructure RAMA in non-critical environmental areas. The change does not apply in critical environmental areas (riparian exclusion zones, old growth forest, rainforest, or on steep land) because these areas are already protected from logging under the PNF Code.

Non-rural infrastructure

Not all residents in rural areas are involved in agricultural activities. The new non-rural infrastructure RAMAs solve the inequity of requiring rural landholders not engaged in agriculture to obtain approval under the Act for the construction, operation and maintenance of:

- permanent boundary fences (only if the clearing is carried out within 6 metres on either side of the fence)
- one shed no bigger than 100 square metres
- access trails and tracks (only if the total width of clearing is not more than 6 metres).

This RAMA does not apply on land subject to a PNF PVP.

Dwellings

In order to reduce dual consents, the single dwelling RAMA has now been expanded to allow clearing for the purposes of constructing a dual occupancy, a dwelling house, a secondary dwelling, a semi-

detached dwelling, or a rural worker's dwelling, as long as that clearing is done in accordance with development consent under the *Environmental Planning and Assessment Act 1979*.

Changes have also been made to clarify that clearing for development ancillary to these types of residential accommodations (such as building a swimming pool) is included in the RAMA.

Obtaining construction timber

Native vegetation can continue to be cleared for timber if it is cleared for the purpose of, and used in, the construction or maintenance of rural infrastructure on the same land. Previous restrictions on when this RAMA could be used and the requirement for a restoration program following clearing have been removed.

Important environmental controls do remain, including the requirements that the native vegetation to be cleared must not be a threatened species, a component of a threatened population or threatened ecological community, or habitat for threatened species, and the clearing must not cause land degradation such as soil erosion or salinity.

This RAMA does not apply on land subject to a PNF PVP.

Conservation purposes

Those landholders who have entered into the following agreements will no longer need a PVP to clear native vegetation under and in accordance with those agreements:



Photo: Amanda Lavender/OEH

- a conservation agreement under the *National Parks and Wildlife Act 1974*
- a biobanking or biodiversity certification agreement under the *Threatened Species Conservation Act 1995*
- a conservation agreement under the *Commonwealth Environment Protection and Biodiversity Conservation Act 1999*
- a Trust agreement under the *Nature Conservation Trust Act 2001*
- a property agreement under the *Native Vegetation Conservation Act 1997*.

Planted native vegetation

Native vegetation is often planted by landholders to provide shelter, protect soil and improve water quality. A PVP was generally required if landholders wanted to clear planted native vegetation.

This new RAMA now gives landholders the flexibility to clear planted native vegetation as needed to best manage their property. This RAMA does not apply to native vegetation planted with the help of funding granted to conserve biodiversity, improve water quality, reduce soil salinity, prevent land degradation or sequester carbon.

What RAMA changes will happen later?

Clearing in accordance with self-assessable codes

The Regulation contains a new group of RAMAs for clearing that can be undertaken without a PVP so long as a self-assessable code is in place and complied with. This has been done to reduce red tape, encourage good vegetation management practices, and reduce impediments to adopting more efficient agricultural systems.

These self-assessable codes will help maintain environmental standards and will take the legal form of a 'Ministerial order' declared under the Regulation.

Local catchment management authorities (CMAs – soon to be Local Land Services) will also be available to help you learn about and apply the self-assessable codes. However, should you wish

to have the CMA do the assessment for you, you can still obtain a PVP for management practices covered by a self-assessable code.

Self-assessable codes may be made declaring the following activities to be RAMAs:

- clearing of paddock trees
- thinning of native vegetation
- undertaking environmental works.

The self-assessable codes relating to the clearing of paddock trees and thinning of native vegetation will not apply on land subject to a PNF PVP.

In addition, self-assessable codes may be made which identify:

- invasive native species
- feral native species.

These species can be cleared without a PVP as long as the self-assessable codes are complied with. It is now also possible to declare a wider range of groundcover species as feral native species.

Clearing in accordance with an invasive native species self-assessment code will not apply on land subject to a PNF PVP.

Self-assessable codes to start from 2014

The self-assessable codes for invasive native species, thinning of native vegetation and paddock trees will be developed first. Draft versions of the self-assessable codes will be released for public comment in 2014.

These self-assessable codes are expected to start in 2014. The remaining self-assessable codes will be prepared and exhibited later in 2014.

New notification requirements

The Regulation requires that landholders give the Minister for the Environment notice of intention to clear in accordance with a self-assessable code 14 days before that clearing is carried out. This can be done by notifying the local CMA. You do not need to wait for response from the CMA before clearing. The CMA may then pass on that information to the Office of Environment and Heritage or the Environment Protection Authority.

Failure to provide notification may attract a fine.

Changes to PVPs

Changes have been made to improve the operation of the property vegetation planning process in relation to regrowth.

PVPs that change regrowth date

Regrowth is native vegetation that has regrown after 1 January 1990 (or 1 January 1983 in the case of the Western division of NSW). Landholders can clear native vegetation that has regrown after these dates without a PVP unless it is identified as protected regrowth.

Landholders can seek, via a PVP, to have the regrowth date changed to an earlier date where they can demonstrate a history of rotational farming practices. The new Regulation will simplify this process and provide greater discretion to Catchment Management Authorities in changing the regrowth date specified in the Act to an earlier date.

The regrowth date can be changed to a date as early as:

- 1 January 1943, in the case of land in the Western Division
- 1 January 1950, in the case of other land.

Future changes to the Environmental Outcomes Assessment Methodology

The process for assessing PVPs has not changed.

The existing Environmental Outcomes Assessment Methodology (EOAM) will continue under the Regulation. The EOAM is being revised and is expected to be exhibited in the first half of 2014 and ready for use later in 2014.

Changes to private native forestry

There are a number of minor changes that have been made to the PNF component of the Regulation.

The definition of PNF has been expanded to include Crown Land that is not Crown timber land. This will allow Crown lease landholders to apply for a PNF PVP rather than a clearing PVP when undertaking private native forestry.

The Regulation will allow the Minister for the Environment to make a natural resource management plan identifying native vegetation that has regrown following the expiry of a PVP as 'protected regrowth'. This includes PNF PVPs.

More information

For more information, visit the Office of Environment and Heritage (OEH) website at:
www.environment.nsw.gov.au/vegetation/

On this website, you can download the Regulation and further information that explain the changes to the Regulation.

To contact your local CMA go to www.cma.nsw.gov.au

To find out more about the new Local Land Services go to www.dpi.nsw.gov.au/locallandservices

For more information on the Private Native Forestry code please contact the EPA on 131 555 or visit the EPA's web site at www.epa.nsw.gov.au/pnf/index.htm

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