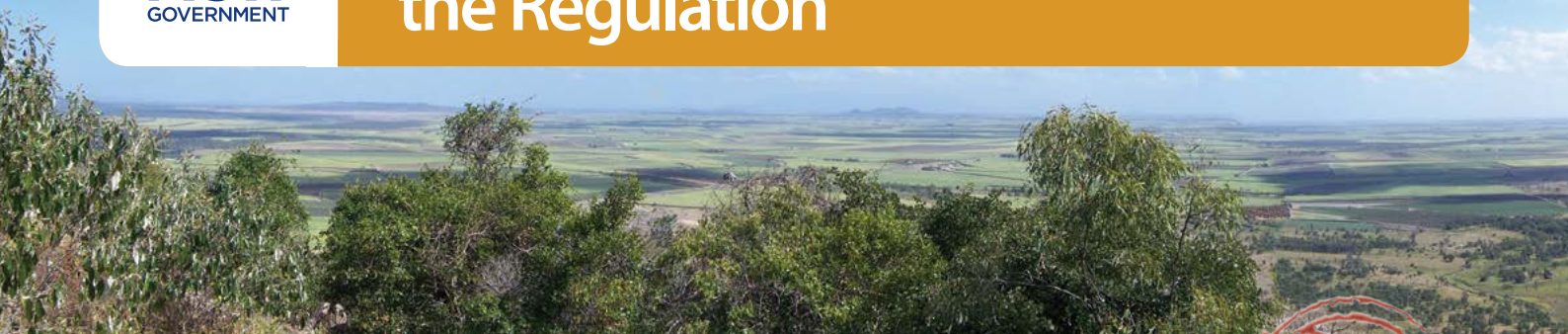


Snapshot of changes to the Regulation



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

The Regulation replaces the Native Vegetation Regulation 2005: this fact sheet gives a snapshot of the key changes.

The changes to the Regulation have come about through an extensive public consultation process and include the recommendations of the independent facilitator. The independent facilitator's final report can be downloaded from the Office of Environment and Heritage (OEH) web site at: www.environment.nsw.gov.au/vegetation/nvfacilitator.htm

feral species and various activities (including the clearing of declared invasive and feral species, paddock trees, clearing for environmental works, and thinning) as routine agricultural management activities (RAMAs).

Farmers will be able to undertake these clearing activities without the need for a property vegetation plan (PVP) provided they notify their local catchment management authority (CMA - soon to be Local Land Services) of the proposed clearing activity and comply with the conditions of the relevant orders that will be set out in the form of self-assessable codes. Farmers will still have the option of getting a PVP if they prefer.

What does the Regulation set out to do?

The changes are designed to:

- cut unnecessary red tape for farmers
- reduce dual consent
- support local councils carrying out their land management functions
- maintain environment protections.

Public consultation on Ministerial orders (also known as self-assessable codes)

The Ministerial orders for invasive species, thinning of native vegetation and paddock trees will be the first of a series of orders to be developed, and will be made available for public comment in 2014. Once made, they will take effect later in 2014.

Cutting unnecessary red tape for farmers

Through the Regulation review process, farmers identified areas of the current system that were restricting day-to-day management activities.

As a result, a number of significant changes have been made. The Regulation will:

- enable the Minister for the Environment to make orders identifying native species as invasive or

- allow a groundcover species to be declared as a feral species, building on the feral native species provision in the Native Vegetation Regulation 2005. The term 'groundcover' is defined in the *Native Vegetation Act 2003* (the Act) and means any type of herbaceous vegetation. This new provision has been designed to help farmers better manage native pastures without the need for a PVP.
- enable landholders to have the regrowth date changed to an earlier date, where they can demonstrate a history of rotational farming

practices. The previous requirements for demonstrating that history were onerous and the Regulation provides greater flexibility in changing the regrowth date, to facilitate the continuation of existing rotational farming practices. 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.
- increase maximum buffer distances for existing prescribed infrastructure and add other routinely required rural infrastructure (such as pumps, pipelines, water points, tanks and dams) as RAMAs on small holdings and land that is zoned rural-residential or large lot residential.

What is a routine agricultural management activity?

RAMAs are activities identified in the Act and the Regulation. The activities may, depending on the provision, be associated with agriculture (including private native forestry) or may be associated with other activities that take place in rural areas.

Clearing for the purpose of a RAMA does not require approval under the Act. However, clearing for a RAMA must be to the minimum extent necessary and for certain RAMAs other limits may apply. All other required statutory approvals or authorities must also be obtained before clearing.

Non-rural infrastructure and other activities

Not all residents of rural areas are involved in farming activities. New non-rural infrastructure RAMAs have been included, allowing clearing of native vegetation for construction, operation and maintenance of boundary fences, sheds, tracks and trails in certain circumstances.

Other new RAMAs include:

- clearing of native vegetation for the construction, operation or maintenance of privately owned powerlines on privately owned land
- clearing of planted native vegetation (provided that the vegetation was not originally planted with the help of funds to conserve biodiversity, improve water quality, reduce soil salinity, prevent land degradation or sequester carbon).

Dealing with adverse seasonal conditions

The NSW Government has replaced state drought declarations with a new Regional Seasonal Conditions Report. As a result, the provision in the Act that allows the uprooting of mulga for stock fodder in the Western Division in areas officially declared to be drought affected is now redundant.

To address this, the Minister for the Environment may by order declare that the uprooting of mulga in the Western Division for stock fodder is a RAMA.

Clearing for asset protection

The Regulation has been amended to note the legislative exclusion applying to bush fire hazard reduction works that already exists under the *Rural Fires Act 1997*.

Section 100C(4) of the *Rural Fires Act 1997* provides that bush fire hazard reduction work may be carried out on land despite any requirement for approval under the Act.

Rationalising dual consent

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



Photo: Mike Cufur/OEH.

dwelling, a semi-detached dwelling, or a rural workers dwelling. This clearing must be 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.

Telecommunications infrastructure

The Regulation now allows for clearing for telecommunications infrastructure on private land as well as public land.

Supporting local councils

The Crown land infrastructure RAMA has been expanded to allow councils to carry out their land management activities without the need for a PVP or development consent under the Act. Activities include building roads, tracks, viewing platforms, signs and recreational facilities (such as picnic and barbeque facilities).

In addition, the council infrastructure works RAMA has been reviewed and changes made to simplify requirements – the provision now applies only to gravel pits and cemeteries. These changes:

- maintain the area of clearing for a cemetery to no more than 2 hectares
- limit the area of clearing for gravel pits to no more than 5 hectares for land in the Western Division, and 2 hectares for other lands
- remove the requirement for managed areas to be set aside for both cemeteries and gravel pits
- now require councils to revegetate the gravel pits following clearing.

Most of the previous works identified as council infrastructure RAMAs under the Native Vegetation Regulation 2005 have been removed because they were otherwise exempted under the Act.

Protecting regrowth

The Minister now has the ability to identify native vegetation that has regrown after a PVP has ended as protected regrowth in a natural resource management plan. This means that native vegetation that has regrown following clearing under a PVP can be protected.

What is a natural resource management plan?

A natural resource management plan is a plan prepared by the Minister for the Environment which can identify protected regrowth as well as steep or highly erodible land.

What is protected regrowth?

Protected regrowth is native vegetation that cannot be cleared without a PVP unless the clearing activity is otherwise exempt. For example, if the activity is a RAMA.

Improvements to definitions

Definitions and meanings in the Regulation have been reviewed and changes made to provide clarity and where appropriate to align with similar terms used in other NSW legislation.

For example, new definitions have been introduced for the terms 'landholding', 'rural infrastructure', 'agricultural activity', 'Central Region' and 'Coastal Region'.

Landholding

Landholding has been included as a new term, and means a parcel of land, or several parcels of land held under the same title, different title or titles of different kinds which:

- are contiguous with one another or are separated from one another only by a road, river, creek or other watercourse and
- constitute or are worked as a single property.

This term aligns with the meaning of 'holding' in the *Local Land Services Act 2013*.



Photo: Kevin McGrath/OEH.

Rural infrastructure

The meaning of 'rural infrastructure' has been clarified in the context of 'rural infrastructure routine agricultural management activities' – the term has been defined by reference to agricultural or private native forestry (PNF) activities.

Agricultural activity

The meaning of 'agricultural activity' for the purpose of the 'rural infrastructure' definition has been defined to have the same meaning as 'agriculture' within the *Standard Instrument (Local Environmental Plans) Order 2006* (but, unlike the standard instrument, also captures non-commercial activities).

Central Region and Coastal Region

The terms 'Central Region' and 'Coastal Region' have been introduced to clarify where in the State specific rural infrastructure RAMAs can be undertaken and what infrastructure buffer distances apply to those RAMAs. Local government boundaries have been used rather than the CMA areas of operation.

Private Native Forestry

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 PNF.

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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