

CLAUSE 28 POLICY under the *Native Vegetation Regulation 2005*

POLICY FOR MINOR CLEARING TO REHABILITATE NATIVE GROUNDCOVER IN THE WESTERN CATCHMENT MANAGEMENT AUTHORITY AREA

Introduction

Some areas of native groundcover in the Western Catchment have degraded since European settlement, resulting in perennial groundcover species being replaced by annual grasses and other short lived herbaceous vegetation. The decline in vegetation condition and change in vegetation type has caused these areas to become susceptible to erosion through a reduction in native vegetation cover.

An effective rehabilitation program includes revegetation, appropriate grazing management, monitoring and adaptive management. Often where erosion has occurred, the soil surface has scalded and formed a layer impermeable to water.. Where severe alteration in vegetation cover occurs, together with accelerated erosion, revegetation is unlikely to succeed without modification of the exposed subsoil or interruption of surface water flow. Without active management to rehabilitate these areas the soil and vegetation condition is likely to degrade further. Therefore, the first step of rehabilitation requires intervention.

Rehabilitation techniques that have been commonly applied in Western New South Wales in the past have included techniques such as contour furrowing, water ponding, ripping and crocodiling. Such techniques sometimes require minor clearing of native vegetation as a result of the soil disturbance that breaks the soil surface sealing and allows native vegetation reseeding or natural re-establishment. Minor clearing for soil surface disturbance such as narrow water pond banks, shallow rip lines and contour furrows is required with minimal impacts over relatively small areas. The small amount of clearing allows for a large improvement in native groundcover over a large area of the Western Catchment.

The outcome of an effective rehabilitation program, including appropriate grazing management is a dramatic increase in groundcover, native species diversity, improved native vegetation condition and stabilisation of the soil surface. The success of this type of rehabilitation has been demonstrated repeatedly in Western New South Wales. The total area of rehabilitation is limited due to the patchiness of degraded areas and the ongoing management required. The percentage of the area cleared is low due to the nature of the techniques. For example a rehabilitation project with a total area of 200 hectares may have a total clearing area of 20 hectares.

Without this policy the minor clearing associated with the rehabilitation of degraded lands described above would require extensive assessment under the Environmental Outcomes Assessment Methodology. The obvious benefits of such rehabilitation far outweigh the minimal short term impacts on native vegetation. It is unreasonable to apply the full assessment and potentially inappropriate offsets for rehabilitation activities.

This Policy sets out the circumstances in which, the short term impact of the minor clearing of native groundcover on land within the Western Catchment Management Authority area is regarded as likely to improve the condition of native vegetation on the land or prevent the long term degradation of native vegetation on the land under the *Native Vegetation Act 2003* (Clause 28 of the *Native Vegetation Regulation 2005*).

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Where a PVP or consent proposal only involves clearing consistent with this Policy assessment in accordance with the Environmental Outcomes Assessment Methodology is not required.

Part 1 Objective

To allow the Western Catchment Management Authority to exempt from the requirement of assessment in accordance with the Environmental Outcomes Assessment Methodology minor clearing for the purpose of the rehabilitation of native groundcover with techniques (such as contour furrowing and water ponding) that have a minimal short-term impact.

Part 2 Application of this policy

2.1 Policy

This is a Policy under Clause 28 of the Native Vegetation Regulation 2005.

2.2 Application

- a) The Policy applies within the geographical area of the Western Catchment; and
- b) The Policy applies to the following vegetation:
 - I. native vegetation that comprises only groundcover; and
 - II. native vegetation that is not within 20 metres of a stream or wetland; and
 - III. native vegetation that is not mid storey or over storey vegetation; and
 - IV. native vegetation where in the judgement of the CMA officer there is insufficient groundcover to prevent soil erosion.

Note: Approval under the *Native Vegetation Act 2003* is not required to clear native vegetation that is only groundcover if it comprises less than 50% of indigenous species of vegetation and there is at least 10% total vegetation cover whether dead or alive.

2.3. Exempt from requirement of assessment

The Catchment Management Authority, in accordance with clause 28(1), may exempt clearing in accordance with this policy from the requirement for assessment in accordance with the Environmental Outcomes Assessment Methodology.

This policy does not remove the requirement for a Property Vegetation Plan or development consent in accordance with the *Native Vegetation Act 2003*.

2.4. Obligations under other relevant legislation

Clearing in accordance with this Policy does not remove obligations under other relevant legislation. Other legislation that can be relevant includes, but is not limited to:

- *Environmental Planning and Assessment Act 1979* (includes Council LEP requirements);
- *Western Lands Act 1901*;
- *Water Management Act 2000*;
- *Rivers and Foreshores Improvement Act 1948*;
- *National Parks and Wildlife Act 1974* (eg in respect of threatened species and Aboriginal heritage);
- *Heritage Act 1977*;
- *Commonwealth Environmental Protection and Biodiversity Conservation Act 1999*.
- *Soil Conservation Act 1938*

Advice on these matters should be sought (where relevant) from the local Council, Catchment Management Authority (CMA), Department of Environment and Climate Change, Department of Water and Energy, Department of Lands and independent legal advisors.

2.5. Definitions

Words and expressions used in this Policy have the same meaning as in the *Native Vegetation Act 2003* and as set out below:

* *Groundcover* means any type of herbaceous vegetation.

Mid storey or over storey vegetation means any native vegetation over 1 metre in height.

* *Native vegetation* means any of the following types of indigenous vegetation: trees, understorey plants, groundcover and plants occurring in a wetland.

Soil erosion here means the unnaturally accelerated loss of soil from the land surface.

Stream means any river, creek, or natural watercourse, whether artificially improved or not, in which water usually flows, either continuously or intermittently, in a defined bed or channel.

Western Catchment means the area of operations of the Western Catchment Management Authority as defined by Schedule 2 of the *Catchment Management Authorities Act 2003*.

* *Wetland* includes any shallow body of water (such as a marsh, billabong, swamp or sedgeland) that is:

- (a) inundated cyclically, intermittently or permanently with water, and
- (b) vegetated with wetland plant communities.

Note: Expressions marked with an asterisk above are those having the same meaning as in the *Native Vegetation Act 2003*.

Part 3 Minor clearing

The following clearing may be considered to be 'minor clearing' for the purpose of the Policy under clause 28(1) of the *Native Vegetation Regulation 2005*:

- Clearing of vegetation 1m or under in height where there is insufficient groundcover to prevent soil erosion; and
- Clearing that is limited to the minimum extent necessary for the rehabilitation of native vegetation.

Note: Groundcover rehabilitation techniques sometimes require minor clearing of native vegetation as a result of the soil disturbance that breaks the soil surface sealing and allows native vegetation reseeding or natural re-establishment. Minor clearing is required with minimal impacts over relatively small areas. The small amount of clearing allows for a large improvement in native groundcover over a large area of the Western Catchment.

Part 4 Circumstances in which minor clearing is likely to improve condition or prevent degradation of native vegetation

The circumstances in which minor clearing of vegetation is likely to improve the conditions or prevent the long term degradation of native vegetation are as follows:

- a) clearing is to the minimum extent necessary for the purpose of rehabilitating native vegetation and preventing soil erosion, where;
 - i. appropriate actions are taken to prevent any foreseeable negative impacts on soil erosion levels; and
 - ii. the land on which the clearing is proposed has a slope less than 3 percent; and
 - iii. the clearing is carried out in accordance with Part 6 of this policy; and
 - iv. the management actions and other requirements set out in Part 6 are carried out.

Clearing carried out under these circumstances is intended to improve outcomes for native vegetation because it:

- allows for the improvement of native vegetation by increasing native vegetation cover on land where the native vegetation cover has been degraded. Although short term impact on native vegetation is likely, clearing under this policy will improve the condition of native vegetation over the long term;
- allows infiltration of water beyond the soil surface that results in an increase of native vegetation that can be sustained in the long-term;
- allows rehabilitation by either re-seeding native vegetation or improving soil conditions for native vegetation to re-establish naturally; and
- ensures native vegetation will be restored and maintained in the future.

These measures are likely to improve the condition of native vegetation on the land or prevent the long term degradation of native vegetation on the land.

Part 5 Other long-term environmental benefits

Resulting from the improved outcomes for native vegetation, the clearing carried out under the circumstances described in Part 4 of this Policy are intended to improve outcomes for other environmental values because it allows for:

- the improvement other environmental values by preventing soil erosion through the maintenance and improvement of groundcover; and
- the protection of water quality through better vegetation cover of catchments; and
- the soil surface to be stabilised, protecting the soils and perennial vegetation.

The result is improved soil condition, vegetation condition, biodiversity and water quality.

Part 6 Management prescription

The following management actions are prescribed in the use of this policy:

6.1 Methods for clearing

- a) Clearing techniques must be used that are designed to prevent soil erosion and rehabilitate native vegetation. These techniques include but are not limited to: contour furrowing, native vegetation reseedling, water ponding, use of the crocodile machine, disc pitting, tyne pitting, checkerboard furrowing and the construction of diversion banks and waterway systems subject to the limitations of 6.2 and 6.3.

6.2 Restoration requirements

- a) Native vegetation must be restored and maintained on land to which this policy applies; and
- b) The area cleared must be managed so as to have native groundcover sufficient to prevent soil erosion (generally greater than 40%) within 2 years of clearing or as seasonal conditions allow; and
- c) All rehabilitation techniques are to follow the contour of the land; and
- d) Appropriate grazing management to achieve 6.2 (b) is applied on land to which this policy applies.

Note: These restoration requirements must be included in any PVP made under this Policy.

6.3 Any other requirements or restrictions

- a) The introduction of non-native perennial vegetation and non-native persistent annual vegetation is not permitted; and
- b) The introduction of non-native, non-persistent annual vegetation is limited to the clearing activity and cannot be harvested; and
- c) The introduction of non-native, non-persistent annual vegetation is for the purpose of assisting native vegetation re-establishment; and
- d) The re-established native vegetation is considered to be protected regrowth for the purposes of the *Native Vegetation Act 2003* and will be identified as such in any PVP made under this policy; and
- e) A staged process for application of this policy on a property may be applied if in the judgement of the CMA officer it is required.

Part 8 Exhibition and Approval

This policy was publicly exhibited from 29/10/07 to 30/11/07.

This policy was approved in accordance with clause 28(2) of the Regulation under the *Native Vegetation Act 2003* by the Minister for Climate Change and the Environment on 29/03/08.