



Thank you for the opportunity to provide a submission on the Draft Native Vegetation Regulation 2012.

Firstly, we note that Port Stephens Local Government Area is not excluded from the operation of the Native Vegetation Act 2003, except for land specified in Schedule 1 of the Act (for example, land reserved under the National Parks and Wildlife Act 1974, critical habitat under the Threatened Species Conservation Act 1995 or land reserved under the Forestry Act 1916, land zoned "residential", "village", "township", "industrial" or "business" and land on which development for the purposes of seniors housing has been approved).

Secondly, we note that the Native Vegetation Act 2003 has played a critical role in regulating land clearing and by ensuring that the advice and approval from Catchment Management Authorities is obtained by landowners.

We acknowledge that the conservation of biodiversity corridors in a healthy landscape creates more productive agricultural systems. This is particularly important with the changing climate and the likelihood of an increase in extreme weather events and temperature fluctuations.

Issues of concern include the following:

**1. Code of Practice for the Management of Invasive Native Species in the Namoi CMA under the Native Vegetation Act 2003 – draft for public consultation**

*4. Species must be acting invasively*

*The species to be cleared must be:*

- 1. declared as INS for the purposes of the clearing of INS as a RAMA and*
- 2. acting invasively where it is to be cleared.*

*Acting invasively means the species is:*

- A. invading plant communities where it has not been known to occur previously or*
- B. regenerating densely following natural or artificial disturbance and the invasion and/or dense regeneration of the species is resulting in a change of structure and/or composition of a vegetation community.***

Part B above – Ecosystem processes have not been adequately considered in making this definition. Dense regeneration of species, for example after fire, **will temporarily** change the structure and composition of the vegetation community.



Successional processes need to be allowed to occur for the community to return to the equilibrium vegetation composition.

We advise that removal of species such as dodonaeas, acacias and others listed in Appendix 1 will cause degradation of the vegetation community. This is because pioneer species have a role to play in soil conditioning, microhabitat creation etc to allow other species to regenerate and ensure the vegetation community recovers from the disturbance.

Point 6. '**Paddock scale**' is too vague. Need a definition or re-write this section.

The following limitations will not likely be carried out by farmers as they are too complex and too difficult to monitor:

***Limitations on clearing of individual plants with nil to minimal disturbance to soil and native groundcover***

*If the method of clearing is by clearing of individual plants with nil to minimal disturbance to soil and native groundcover under this code:*

1. no more than 80 per cent of the area affected by the INS (as defined in section 7 of this code) may be cleared and
2. no trees greater than 20 cm diameter at breast height over bark (DBHOB) may be cleared and
3. 20 stems per hectare less than 20 cm DBHOB must be retained. The 20 stems per hectare retained must be a mixture of the tree species being cleared in approximately equal proportions and **(THIS is a good initiative in theory, but may be too complex for farmers to actually implement in many cases and impossible to enforce)**
4. clearing is not permitted within 30 metres of any waterbody (waterbody includes streams, creeks, rivers, lagoons, wetlands and estuaries – see section 13 for definition) and **(THESE types of limitations are important. Addition of a condition that clearing is not permitted within threatened ecological communities or within 30 metres of TECs).**
5. the clearing or any subsequent actions must not result in the introduction of nonnative vegetation. **(THIS is particularly difficult to enforce. Most of the INS clearing we anticipate will result in some introduction of weeds over time).**

## 2. Private Native Forestry and Koala Habitat

The Local Government and Shires Association of NSW (LGSA) submission states:

*Councils are calling for logging to be prohibited in any Core Koala Habitat areas identified under the auspices of an approved Comprehensive Koala Plan of Management prepared in accord with SEPP 44 methodology. They have also called for logging to be prohibited within areas identified as*



*supporting an important Koala population for purposes of the Australian Environmental Protection and Biodiversity Conservation Act 2003.*

*Councils have also requested that a condition be placed on all PNF licence holders to allow access to land for government staff (or their contractors) who are undertaking koala habitat monitoring for the purposes of KPOMs or recovery planning under the EPBC Act.*

*Specifically relating to the wording in the draft Native Vegetation Act Regulations 2012, it is recommended that Part 5 Clause 22 (4) should include core koala habitat and significant populations as defined by SEPP 44 and the EPBC Act in the definition of 'critical environmental area'. This would clarify many of the inconsistencies within the current framework.*

Port Stephens Council supports this requirement. However the only difference in our respect is that our Comprehensive Koala Plan of Management, which has generally excellent Koala Habitat mapping, does not use the term 'Core'. Our most important areas of koala habitat are termed '**Preferred**'. Council advise that they wish for logging to be prohibited in any **Preferred or Core** habitat as identified under approved Comprehensive Koala Plans of Management prepared in accordance with SEPP44 Methodology.

### 3. Other sections of Draft Reg

#### Clause 25

*"...clearing for routine agricultural management activities is not authorised if it exceeds the minimum extent necessary for carrying out the activity."*

This is supported.

#### Schedule 1 Land Excluded from operation of the Act

##### Clause 14 – zones.

Council supports the omission of RE1 Public Recreation from the list of zones excluded from the Act. That is to say, we think RE1 land should be subject to the requirements of the Native Vegetation Act and Regulation.

#### Burning

Allowing ecological burning to occur as a routine agricultural management activity (Clause 35) has the potential to negatively impact on our flora, fauna and endangered ecological communities as well as threaten life and property.

Similarly, allowing clearing of invasive native species using **management burns** (Codes of Practice under Clause 34 (1)(b)) will impact negatively on flora and fauna and ecological communities as well as threaten life and property.

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