



*Supporting Sustainable Water Use in the Namoi Catchment*

## *Namoi Water*

The Hon Robyn Parker MP  
Native Vegetation Regulation Review  
Conservation Policy and Strategy Section  
Office of Environment and Heritage  
Level 12, PO Box A290  
Sydney South NSW 1232

23<sup>rd</sup> August 2012

Dear Robyn,

Please find attached the Namoi Water submission in regard to the review of Native Vegetation Regulation. Namoi Water represents water access licence holders in the Namoi Catchment stretching from Tamworth in the East to Walgett in the West. Many of our members business has been severely impacted by native vegetation laws as part of the introduction of SEPP 46. Namoi Water appreciates that some control of wide scale clearing is needed to avoid the mistakes of the past and the subsequent soil degradations that occurred.

A balanced system of regulation which allows landholders and farmers to use their land sustainably, both in regards economics and the wider environment needs to be developed. Many farmers work on the principle to leave the land in a 'better environmental state then they found it'.

There are a number of concerns that our members have in regard to the draft Regulations and the supporting assessment methodology and we have tabled these in our submission. Overall a new approach to native vegetation management is required, one that achieves positive environmental outcomes, rather than the existing framework that prevents development without the considerations of the complex holistic management systems of today's farming enterprise.

Our members expected that a Coalition government would bring some common sense to native vegetation management. This draft regulation has yet to deliver on that expectation, however we look forward to further work being undertaken to ensure the final policy reflects the years of experience available to you from constituents in the Namoi and other regional areas across NSW.

Regards

Jon Baker  
Executive Officer



## **Submission on the Draft native Vegetation Regulation 2012**

### ***Introduction***

Namoi Water is the peak industry group for irrigated agriculture in the Peel, Upper Namoi and Lower Namoi Valleys in the North West of NSW. We are a non-profit, non-political organisation supporting our members to achieve a sustainable irrigation industry that meets the environmental, economic and social needs of our local communities. Namoi Water makes this submission on behalf of our membership collectively, however each member reserves the right to independent view and submission on any issues they deem relevant.

Namoi Water appreciates that some control of wide scale clearing is needed to avoid the mistakes of the past and the subsequent soil degradations that occurred. A balanced system of regulation which allows landholders and farmers to use their land sustainably, both in regards economics and the wider environment needs to be developed. Many farmers work on the principle to leave the land in a 'better environmental state then they found it' and that farmers who were undertaking environmentally unsustainable practices were also unsustainable economically, thus would be no longer in the industry. There are a number of concerns that members have to the draft Regulations and the supporting assessment methodology.

The clearing of Invasive Native Vegetation is to be allowed but only to the extent of 80% of the plants may be cleared. This would allow the problem to return over time and cause ongoing expense.

The Native Vegetation Regulation 2012 allows some Routine Agricultural Management Activities (RAMA) to be undertaken without the need for approval and a Property Vegetation Plan (PVP). However this is limited in scale. Of concern to our members is the process and off set requirements to obtain PVP which is required for consent to clear native vegetation that is not regarded as a RAMA. A PVP is attached to the land title and many landholders are apprehensive to undertake this process as it is difficult to terminate or vary the PVP once approved. Only 73 PVP have been approved in the Namoi CMA.

A landholder is able to clear land without the need to acquire consent either as INS or PVP, is on land that can be proven to be regrowth as defined by the Act and Regulation. The onus of prove, that the area is regrowth rather than remnant native vegetation, is on the landholder or farmer. This may be difficult if the land has changed ownership and historical records such as photos are not readily available.

The Regulation does not encourage landholders to undertake processes that result in good environmental outcomes and practices. At the seminar Namoi Water attended an example was presented that showed good environmental outcomes of increased groundcover. However under the proposed Regulations this practice may be considered not a RAMA and may not gain approval as a PVP as native vegetation was required to be cleared to undertake the revegetation and no offset area was identified. The clearing of small clumps and single trees in cultivated land is difficult with no clear environmental objective.

Although not part of the Regulation or the Act, the ability of large scale development to proceed as State Significant Development and thus not subject to the same requirements as small scale development created distrust and resentment. All clearing of native vegetation should be assessed by the same rules and regulations.

## ***Clearing of Invasive Native Species***

Clearing of Invasive Native Species (INS) is permitted under the Code of Practice. The Code limits the area to be cleared to 80% of the area affected by the INS and the hectares permitted to be cleared in a 2 year period among other provisions. If the area to be cleared does not meet the provisions of the Code of Practice then the clearing requires a PVP. The code requires that some of the INS is retained to potentially regrow. This potentially can create an ongoing cycle of clearing.

Section 9 of the code states that:

*'Following clearing under this code, all native vegetation that is present on the site and that which regrows following the clearing (including ground cover, trees and shrubs) is protected regrowth under clause 53(1)(b) of the Native Vegetation Regulation.*

*Protected regrowth can be cleared using this (clearing of INS) RAMA or any other RAMA; however, it can not be cleared as regrowth under section 19 of the Native Vegetation Act 2003.'*

The landholder is required to keep records for 7 years however if the property is sold the confusion could result with this clause. It also highlights the concern with how a landholder is required to prove that the vegetation to be cleared is regrowth and able to be cleared as a RAMA.

## ***Property Vegetation Plan***

If the proposed clearing is not able to comply with the either the codes of Practice or considered to be a RAMA then a Property Vegetation Plan (PVP) is required. The approval a PVP will require assessment under the Environmental Outcomes Assessment Methodology (EOAM). The PVP is a legally binding commitment. Landholders feel that this also creates private reserves for public benefit with no compensation paid to the affect landholder and in some cases reduces the economic sustainability of the property. The report on the Regulatory Impact Statement states that "A reduction in PVPs which have a strong environmental intent will reduce the potential for environmental improvement. These include private conservation areas in perpetuity and PVP offsets." Although some landholders may wish to have private conservation areas the wider public will also benefit.

To undertake clearing a separate area of land is required to be identified as an offset. The ratio of the area to be cleared and the size of the offset are set by formulas in the EOAM. Anecdotal evidence of past ratios set for proposed PVP had ratios as high as 20:1. Landholders may not be able to meet this requirement as they didn't have the land area available to be set aside in this manner or have a property management plan that involves the land to be used in a different manner. If the offset is to be of equal or higher value then the proposed area to be cleared then the offset should not need to be greater than the area proposed to be cleared and should take into account the present condition of the proposed offset habitat.

The management conditions of the offset appear to encourage the progression of the landscape to an ecological climax state. The outcome of this process can be to produce a reduced biodiversity as the area protected from adverse natural conditions such as fire that keep the system in a state of flux.

Land management should be able to adjust to the natural variations that occur. Although PVP can be terminated by the Minister if certain provisions are met, under section 11 in the regulations there are no clear guidelines to variation a PVP. This process does not encourage the landholder to respond in a timely manner to changes in the environment that may have detrimental outcomes for the environmental integrity of the subject land and to maintain a dynamic ecosystem. There is no alternative to the process if the landholder's property management plan does include clearing and the landholder does not wish to restrict future management plans.

## ***Management of Native Grasslands***

The management of grasslands is part of the wider challenge to maintain a diverse ecological landscape. The Regulations aims to protect the existing native grasslands by limiting clearing of them. However when other clearing is undertaken either as INS or part of a PVP the concern appears to be more about the number and size of trees and shrubs then to rehabilitate landscapes as with native grasslands. Offset areas should be able to be developed as managed grasslands, these would allow for grazing of these areas as part of the management plan.

## ***Encouraging Good Environmental Outcomes***

The regulations should support the aims and objectives of the Act. The objects of the Native Vegetation Act are:

- a) to provide for, encourage and promote the management of native vegetation on a regional basis in the social, economic and environmental interests of the State, and
- b) to prevent broad-scale clearing unless it improves or maintains environmental outcomes, and
- c) to protect native vegetation of high conservation value having regard to its contribution to such matters as water quality, biodiversity, or the prevention of salinity or land degradation, and
- d) to improve the condition of existing native vegetation, particularly where it has high conservation value, and
- e) to encourage the revegetation of land, and the rehabilitation of land, with appropriate native vegetation,

in accordance with the principles of ecologically sustainable development.

The Regulations endeavour to set principles by which the Act will be administered. The Regulations appear to have a bias towards the process by which ecosystems can mature to their ecological climax state dominated by timber which may not reflect the biodiversity of the local area. The regulations should encourage landholders to create a mosaic of landscapes and sustainable ecosystems.

The ability of landholders to undertake clearing to create a mosaic of landscapes as RAMA or as INS is limited. The need to show that the vegetation is regrowth can also be difficult. Land holders are also reluctant to undertake PVP as these are then attached to the land title and difficult to vary or terminate. There is no encouragement for landholders to undertake innovative management practices that require clearing of land to improve the groundcover and increase the biodiversity as many of these are not included in either RAMA or INS codes of practice. At the seminar attended by Namoi Water, a landholder and the CMA told of examples of good environmental practices that under the Regulations would not be allowed. The example told was of an area of native vegetation that had become dominated by scrub and had poor groundcover. The landholder cleared the scrub and rehabilitated the area with grasses. The result was a better return to the landholder in productivity and improved groundcover. However because the landholder was clearing native vegetation that may not have been regrowth or INS and the area was not covered by a RAMA then potentially this could have been considered to be illegal clearing. If the landholder had undertaken the rehabilitation work then the landscape would potentially continue to deteriorate with soil erosion and reduce biodiversity.

The process of approval of PVP is concerned with the area of the application and may not take into account other environmental work that is planned or has been undertaken by the landholder. An overall management plan for the property may allow a better environmental outcome for the area then a piece meal process.

The plan would be a voluntary undertaking by the landholder, but would allow the landholder to undertake clearing in the context of other management plan. This would allow flexibility on the environmental management of the property as a whole.

The clearing of single and small clumps of trees in cultivation may allow for more efficient farming practices. These isolated trees may not be too isolated to create connectivity to other tree communities. Although assessment does reflect the ecological value of the clump, very small clumps located in areas of large cultivation have the potential to be of poor ecological value. Clearing of such clumps should be included as RAMA rather than needing a PVP especially if it can be demonstrated that the clearing has minimal environmental impact.

### ***Conclusion and Recommendations***

Namoi Water supports a system that promotes good environmental outcomes and not a return to wide spread clearing of land that has lead to soil degradation. Many landholders now embrace good environmental principles and sustainable agriculture practices.

The regulation that determines how the Native Vegetation Act is implemented should reflect the aims and objectives of the Act. In particular the regulations should *'encourage and promote the management of native vegetation on a regional basis in the social, economic and environmental interests of the State, and encourage the revegetation of land, and the rehabilitation of land, with appropriate native vegetation'*. The proposed regulations have a bias towards the rehabilitation and preservation of trees rather than biodiversity. This process will promote the development of climax vegetation communities rather than a mosaic of ecosystems. These systems do not allow a diversity of plants and animals and are often display by poor understory development. The regulations should allow grasslands to be viable alternative to trees density as an environmental outcome of clearing.

The Codes of Practice for should allow for landholders to undertake clearing that will encourage biodiversity on the property. The codes should be used to control a wide range of management practices without the need to engage in restrictions being place on the title of the property. Land holder should be encouraged to develop whole of farm management plans with integration of the principles of the various codes of practice. The process could be set up as a voluntary agreement but not attached to the land title.