

Comments on Review of Native Vegetation Regulations by Phil Spark Farmer and Grazier from [REDACTED], Tamworth 2340

I attended the forum in Tamworth to hear about the proposed changes to the Native Vegetation Regulations. The farmers had negative attitudes towards any legislation and a motion was put forward to repeal the Act. The audience was not representative of all the views of farmers, those that didn't have a problem probably didn't bother to turn up.

The farmers present were very sensitive to any regulation that controls the management of their land. They do not see themselves as environmental vandals and claim that they have the best intentions to improve the land and its conservation value.

In review of their comments it is obvious that there is a need for improved promotion and communication of vegetation planning and the Act's intentions to conserve biodiversity, maximise carbon sequestration, provide ecosystem services, and provide a healthy environment. Having said that, there will always be a minority of people that still will not understand, or don't care for the natural environment.

There were complaints from farmers that have not been supported by the CMA. It appears they do have legitimate concerns about the extension services that the CMA provides, many quoting long delays and lack of response to their requests for information and assistance. If that is the case extra staff should be put on, or accredited consultants contracted to speed up the delivery of services.

Few of the farmers seem to understand the principles of landscape conservation or have an understanding of why the Native Vegetation Act was created in the first place. Many feel that they are carrying the country's commitment to carbon sequestration and biodiversity conservation, for which they are not being compensated by the broader community.

I observed that it is very difficult for CMA staff to communicate with people who don't comprehend what it is all about, and the hype and emotion becomes an impenetrable barrier to communication. I believe, that if the need for landscape planning and good vegetation management could be better explained to them a lot of the opposition would be defused. Although as said before, there will always be a percentage that do not value the benefits of flora and fauna conservation or native vegetation.

To improve that understanding I propose that there be numerous small regional workshops conducted in the field to explain how the Act works to improve conservation outcomes. Getting people to come along could be a problem, therefore it would need to be marketed the right way.

The farmers do not see themselves as being part of a much bigger conservation network, not to mention how that network contributes to regional and national biodiversity targets. They don't seem to realise the need for government departments to keep records of changes to vegetation to satisfy state and national audits. They also don't seem to value getting advice on how best to develop a landscape plan for their property that will identify the communities,

and prioritise areas of native vegetation for conservation where it provides threatened species habitat and corridor function.

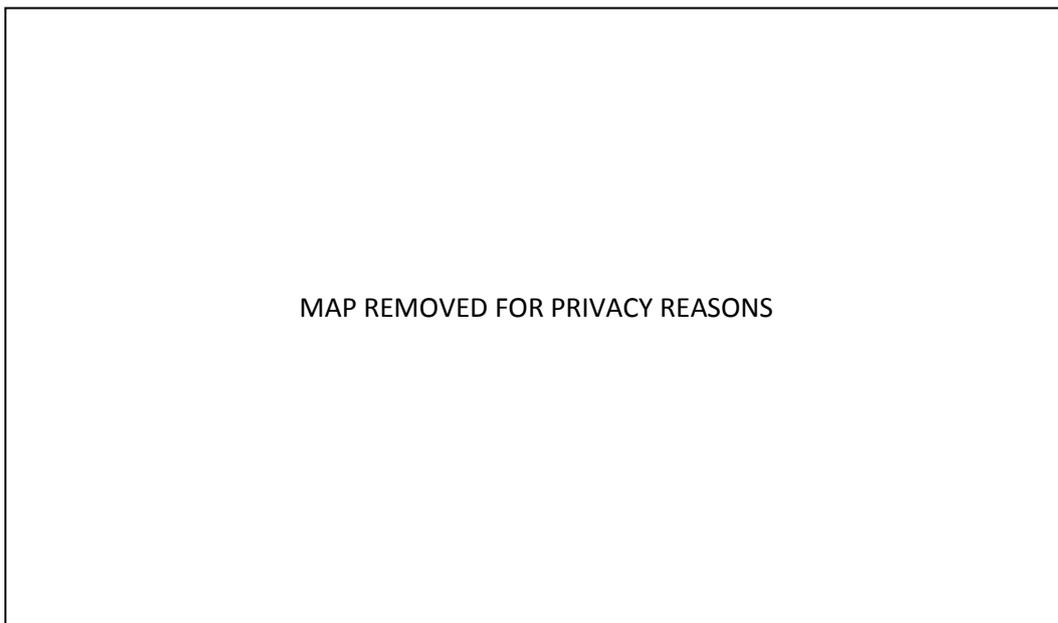
I am not fully aware of the codes of practice or exemptions provided with the RAMA's, but I would like to suggest that the rules not be relaxed to allow farmers to do more without approval. As I see the need to seek advice and assistance from CMA staff, as a vital interaction to help farmers better understand what the Act is about, and how to better manage their vegetation. It is through the CMA staff and their recommendations for best practice planning that the various environmental protection Acts get implemented.

I would also like to point out that throughout the North West Region there are greater threats to conservation than clearing. I refer to areas where serious environmental weeds are destroying thousands of hectares of native ground cover, much of which are listed as endangered ecological communities. That loss of native vegetation is greater than the current clearing rate, and no one is doing anything about it.

Summary

We do need the Native Vegetation Act; vast areas of the wheat belt and floodplain are grossly over cleared which has resulted in many local extinctions of plants and animals, collapsed ecosystems, salinity, and a significant loss of ecosystem services.

Clearing is still happening, I am personally aware of 6,000 acres in the last couple of weeks at [REDACTED], where the farmer defied a stop work order to keep clearing in a highly fragmented landscape that has very little native vegetation (I have included an aerial photo of the area).



There are still too many loopholes in the regulation that can be exploited in over cleared landscapes, leaving vulnerable what little vegetation is left.

Very few landholders could determine if the vegetation community in the area they proposed to clear or thin fits the description of any of the endangered ecological communities listed in the *Fisheries Management Act 1994*, *Threatened Species Conservation Act 1995*, or *Environment Protection and Biodiversity Conservation Act 1999*. And very few landholders could identify the threatened flora and fauna of the region.

For those reasons we can't allow more exemptions, and we have to be able to keep account of vegetation cover for the catchment targets and commonwealth carbon sequestration targets. In addition, landholders need the benefit from input and expertise provided by vegetation officers.

The involvement of CMA staff provides surety to the public that the environment is being managed correctly.

Within our region there are four main goals for native vegetation regulation to achieve;

1. Increase vegetation extent in over cleared landscapes – most of the productive soil types, tableland plateaus, lower slopes, and floodplains are over cleared,
2. Increase vegetation extent of endangered ecological communities and improve their condition,
3. Maintain or improve native vegetation extent in the grazing land on the slopes of the ridges and ranges, and
4. Improve landscape linkages between remnants and bioregions from low elevations to high elevations.

Regional differences

The native vegetation regulations should be different for the over cleared lower slopes and plains landscapes as compared to steeper slopes and grazing landscapes. There should be no further clearing allowed in the over cleared landscapes, other than selective thinning of juvenile regrowth for grazing, where vegetation extent is maintained. There should be no more clearing for cultivation anywhere.

Thinning

Thinning for grazing and biodiversity benefit is legitimate, thinning for cultivation is not. Thinning for grazing and biodiversity benefit should be allowed where immature native vegetation regrowth is preventing regeneration of native grass and herb ground cover.

The slopes region has considerably greater tree and shrub cover than the plains and lower slopes however, the majority of it is immature. Some clearing and thinning of areas previously cleared which are now immature vegetation should be allowed, providing it is conducted strategically, fitting a landscape conservation plan which considers threatened species requirements, and minimises key threatening processes.

Thinning is to be done by a selective means that retains debris habitat, and retains trees at a spacing fitting for the age class of the trees thinned. Meaning that regrowth is not to be thinned to mature woodland or forest spacings. To achieve a mature woodland or open forest spacing would require two or more thinnings over time using a staged approach. There is a real cost benefit efficiency in not clearing to much at any one time, as it only promotes more regeneration of trees that require removal.

Single trees

The clearing of single trees in fragmented landscapes should not be allowed, as their removal greatly increases the fragmentation of the landscape, and reduces potential habitat and territory sizes. Single trees provide vital shelter, refuge, roosting, and nesting sites for fauna, and provide a seed source to enable natural regeneration when required.

Fauna foraging, dispersing, or migrating use single trees for resting and roosting areas. Single trees enhance the ecosystem services provided by native vertebrates and invertebrates, bringing benefit to the crops.

The movement to GPS farming can incorporate single trees, plenty of farmers who practice conservation farming already manage to do both.

Offsets

I don't believe the use of offsets such as bio banking or any other on property conservation measures should be made available in order to allow landholders in the over cleared landscapes to reduce the extent of native vegetation. With any loss of extent or structure there is a reduction of potential habitat that will ultimately lead to loss of species territories and species decline.

The removal of mature vegetation cannot be allowed anywhere regardless of compensation or offsets on offer. In the slopes region the loss of extent of immature regrowth can only be allowed where compensated by planting and/or regeneration that is established elsewhere in a strategic location.

Conclusion

A lot hangs on the effectiveness of native vegetation regulation, as it is the primary regulation for NSW to achieve biodiversity conservation, reduced salinity affected land, rehabilitate degraded land, improve ecosystem services for agriculture, maximise carbon sequestration, and improve environmental health in general.

The existing regulations are already difficult to enforce compliance. Relaxing them to give landholders more exemptions would to create more problems and make state-wide accounting of vegetation changes considerably more difficult.

The native vegetation regulation must be consistent with the aims, objectives and requirements of the *Threatened Species Conservation Act 1995*, *Environmental Planning &*

Assessment Act 1979, State Environmental Planning Policy No.44, Environment Protection and Biodiversity Conservation Act 1999 and Fisheries Management Act 1994.

Farmers don't have the skills to identify and consider all the endangered ecological communities, endangered populations, threatened species, and migratory and wetland species that may occur on their land.

The public need to have confidence in knowing that all of the environmental protection Acts are being enforced through the PVP process and implemented in as serious way that is not tokenistic and merely ticking boxes.

There are probably improvements that can be made to the regulation in the way that immature and juvenile tree and shrub regrowth is dealt with, in particular for Cypress pine and some Eucalypt species. Those improvements must not come as exemptions. Farmers need to have the benefit of the knowledge and expertise brought by having CMA staff to assist and prepare a strategic landscape plan for their properties. The public also need that surety that best practice planning is being applied.

Maintaining and increasing the extent of native trees and shrubs is crucial for over cleared landscapes as shown in the aerial photo. No justification should be allowable to reduce the extent of native vegetation in such over cleared landscapes.

Making the regulation more workable, should not come at the expense of making it less effective and more difficult to enforce.

Regards
Phil Spark

The Environmental Protection Regulations As Required For Development Environmental Impact Assessment

The native vegetation regulations need to be consistent with the requirements of the *Fisheries Management Act 1994*, *Threatened Species Conservation Act 1995*, and *Environment Protection and Biodiversity Conservation Act 1999*.

The implementation of native vegetation regulations on rural properties must also address and minimise the impact of key threatening processes listed in the above Acts.

The impact assessment rules that apply to development approvals must also apply to rural land. Proper consideration of potential impacts must be conducted for endangered ecological communities, threatened species habitat, and endangered populations on rural properties.

I am led to believe that the legislation of the three Acts is built into the PVP developer, which further reinforces the need for its implementation rather than relaxing PVP requirements.

Environmental Planning & Assessment Act 1979 Section 5A seven part test

All developments that could potentially affect plants and animals listed as vulnerable, endangered, endangered populations, and endangered ecological communities, must apply the seven part test to determine the significance of the potential impact resulting from the proposed clearing.

The lists of significant plants, animals and communities likely to occur are obtained from searches of atlas databases and review of Part 2 of Schedule 1 of the Threatened Species Conservation Act 1995, and Fisheries Management Act 1994.

Each of the following questions must be answered.

- a) **in the case of a threatened species, whether the action proposed is likely to have an adverse effect on the life cycle of the species such that a viable local population of the species is likely to be placed at risk of extinction.**
- b) **in the case of an endangered population, whether the action proposed is likely to have an adverse effect on the life cycle of the species that constitutes the endangered population such that a viable local population of the species is likely to be placed at risk of extinction.**
- c) **in the case of an endangered ecological community or critically endangered ecological community, whether the action proposed:**
 - **is likely to have an adverse effect on the extent of the ecological community such that its local occurrence is likely to be placed at risk of extinction, or**
 - **is likely to substantially and adversely modify the composition of the ecological community such that its local occurrence is likely to be placed at risk of extinction**
- d) **in relation to the habitat of a threatened species, population or ecological community**
 - **the extent to which habitat is likely to be removed or modified as a result of the action proposed, and**
 - **whether an area of habitat is likely to become fragmented or isolated from other areas**

of habitat as a result of the proposed action, and

- the importance of the habitat to be removed, modified, fragmented or isolated to the long-term survival of the species, population or ecological community in the locality

- e) whether the action proposed is likely to have an adverse effect on critical habitat (either directly or indirectly)
- f) whether the action proposed is consistent with the objectives or actions of a recovery plan or threat abatement plan
- g) whether the action proposed constitutes or is part of a key threatening process or is likely to result in the operation of, or increase the impact of, a key threatening process.

All of the Key Threatening Processes listed in Schedule 3 of the *Threatened Species Conservation Act 1995* and *Fisheries Management Act 1994* must be considered.

The above assessment must consider the potential impact of clearing on threatened species, endangered populations and endangered ecological communities listed in the TSC Act and FM Act and identify how those impacts will be minimised and ameliorated, to conclude that a Species Impact Statement is not required.

Matters of National Environmental Significance

– Significant Impact Guidelines Required For the Environment Protection and Biodiversity Conservation Act 1999

Application of the EPBC Act 1999 Administrative Guidelines to assess the significance of potential impacts to threatened species

Threatened species known or predicted to occur must have these guidelines applied to each of them to determine the significance of the potential impact, and whether or not a referral to the federal minister is required. In particular is the proposed action likely to have a significant impact on a matter of national environmental significance?

(a) Is there a real chance or possibility that the action will lead to a long-term decrease in the size of a population/ important population of a species?

(b) Is there a real chance or possibility that the action will reduce the area of occupancy of the species/important population?

(c) Is there a real chance or possibility that the action will fragment an existing population/important population into two or more populations?

(d) Is there a real chance or possibility that the action will adversely affect habitat critical to the survival of a species?

(e) Is there a real chance or possibility that the action will disrupt the breeding cycle of a population/important population?

(f) Is there a real chance or possibility that the action will modify, destroy, remove, isolate, or decrease the availability or quality of habitat to the extent that the species is likely to decline?

(g) Is there a real chance or possibility that the action will result in invasive species that are harmful to the vulnerable species becoming established in the vulnerable species' habitat?

(h) Is there a real chance or possibility that the action will interfere substantially with the recovery of the species?

The assessment must determine if there is likely to be a significant impact on a Commonwealth listed species, and if the proposal would require referral to the Federal Environment Minister.

EPBC Act 1999 Administrative Guidelines - applied to the endangered ecological communities

The administrative guidelines must be applied to determine the significance of potential impacts to endangered ecological communities. Is the proposed action likely to have a significant impact on a matter of national environmental significance?

- a) Is there a real chance or possibility that the action will reduce the extent of an ecological community?**
- b) Is there a real chance or possibility that the action will cause fragmentation of an ecological community?**
- c) Is there a real chance or possibility that the action will modify or destroy abiotic (non-living) factors (such as water, nutrients, or soil) necessary for an ecological community's survival, including reduction of groundwater levels, or substantial alteration of surface water drainage patterns?**
- d) Is there a real chance or possibility that the action will cause a substantial change in the species composition of an occurrence of an ecological community, including causing a decline or loss of functionally important species, for example through regular burning or flora or fauna harvesting?**
- e) Is there a real chance or possibility that the action will cause a substantial reduction in the quality or integrity of an occurrence of an ecological community, including, but not limited to:**
 - assisting invasive species, that are harmful to the listed ecological community, to become established; or**
 - causing regular mobilisation of fertilisers, herbicides or other chemicals or pollutants into the ecological community which kill or inhibit the growth of species in the ecological community;**
- f) Is there a real chance or possibility that the action will interfere with the recovery of an ecological community?**

Decision as to whether the proposed action needs to be referred

Migratory and Wetland species listed in Commonwealth EPBC Act

The following guidelines must be applied to migratory and wetland species listed under the EPBC Act 1999 that are known or predicted likely to occur.

- a) **Does, would, or is the activity likely to substantially modify (including by fragmenting, altering fire regimes, altering nutrient cycles or altering hydrological cycles), destroy or isolate an area of important habitat of the migratory species?**
- b) **Does, would, or is the activity likely to result in invasive species that are harmful to the migratory species becoming established in an area of important habitat of the migratory species?**
- c) **Does, would, or is the activity likely to seriously disrupt the life cycle (breeding feeding, migration or resting behaviour) of an ecologically significant proportion of the population of a migratory or wetland species?**

Wetlands listed in Commonwealth EPBC Act

An action is likely to have a significant impact on the ecological character of a declared Ramsar wetland if there is a real chance or possibility that it will result in:

- a. areas of the wetland being destroyed or substantially modified
- b. substantial and measurable change in the hydrological regime of the wetland, for example, a substantial change to the volume, timing, duration and frequency of ground and surface water flows to and within the wetland
- c. the habitat or lifecycle of native species, including invertebrate fauna and fish species, dependant upon the wetland being seriously affected
- d. a substantial and measurable change in the water quality of the wetland – for example, a substantial change in the level of salinity, pollutants, or nutrients in the wetland, or water temperature which may adversely impact on biodiversity, ecological integrity, social amenity or human health, or
- e. an invasive species that is harmful to the ecological character of the wetland being established (or an existing invasive species being spread) in the wetland.

Koala Habitat Assessment

State Environmental Planning Policy (SEPP) No. 44

The State Environmental Planning Policy 44 must also be applied to encourage the proper conservation and management of areas of natural vegetation that provides habitat for Koalas, to ensure permanent free-living populations over their present range and to reverse the current trend of population decline.