

# REPORT UNDER THE NATIVE VEGETATION ACT 2003 IN RELATION TO ACCREDITED EXPERT'S ASSESSMENT IN ACCORDANCE WITH CLAUSE 27 OF THE NATIVE VEGETATION REGULATION 2005 FOR PVP REFERENCE NUMBER 12,376

Report prepared by Accredited Expert: 30637

PVP reference number: 12,376

## SUMMARY

This Accredited Expert report relates to the assessment of the clearing proposed by PVP Request number 12,376.

Under s. 29(2) of the *Native Vegetation Act 2003* a PVP cannot be approved unless the clearing concerned will improve or maintain environmental outcomes.

Clause 26 of the *Native Vegetation Regulation 2005* prescribes the circumstances in which approval of a PVP that proposes broadscale clearing can be granted. In most cases an assessment and determination of whether the clearing will improve or maintain environmental outcomes is conducted in accordance with the environmental outcomes assessment methodology (EOAM).

In some circumstances the EOAM does not adequately allow for the specific and unique circumstances associated with the proposal. In these circumstances the assessment can use Special Provisions for Minor Variation (Clause 27 of *Native Vegetation Regulation 2005*).

In this assessment Special Provisions for Minor Variation have been used to allow for the EOAM to be varied such that the loss in the 10 and 100ha circles do not have to be offset as the proposed clearing with the minor variation will improve or maintain environmental outcomes and strict adherence to the Assessment Methodology is unreasonable and unnecessary.

**Figure 1: A conceptual outline of the assessment process for PVP 12,376**

	Land Capability	Salinity	Water Quality	Threatened Species (TS)	BioMetric
Assessment using EOAM and default data	PASS	PASS	PASS	PASS	FAIL
Assessment using Minor Variation to Chapter 5 of the EOAM					PASS ↓

This reports details the accredited expert's opinions formed in relation to cl. 27 of the *Native Vegetation Regulation 2005* when assessing the PVP.

The minor variation is a variation to section 5.3.3, Assessing change in landscape value.

The accredited expert is of the opinion that minor variation to the EOAM (Assessment Methodology) will result in a determination that the proposed clearing will improve or maintain environmental outcomes and strict adherence to the Assessment Methodology is in this particular case unreasonable and unnecessary because the biodiversity and other environmental gains from the proposal far outweigh the losses and as a result the clearing improves or maintains environmental outcomes.

## ***INTRODUCTION***

### **Legislative background**

The property vegetation plan (PVP), proposes broadscale clearing within the definition of the *Native Vegetation Act 2003*.

Under s. 29(2) of the *Native Vegetation Act 2003*, the Minister is not to approve a PVP that proposes broadscale clearing unless the clearing concerned will improve or maintain environmental outcomes.

Clause 26 of the *Native Vegetation Regulation 2005* prescribes the circumstances in which approval of a PVP that proposes broadscale clearing can be granted. Normally such a PVP can only be granted where there has been an assessment and determination in accordance with the environmental outcomes assessment methodology (EOAM) that the proposed clearing will improve or maintain environmental outcomes. However, a PVP can also be granted where an accredited expert has assessed and certified in accordance with clause 27 of the *Native Vegetation Regulation 2005* that the accredited expert is of the opinion that the proposed clearing will improve or maintain environmental outcomes.

This reports details the accredited expert's opinions formed in relation to cl. 27 of the *Native Vegetation Regulation 2005* when assessing the PVP reference number.

### **Initial assessment of broadscale clearing proposed by the PVP**

When the broadscale clearing proposed by this PVP was initially assessed in accordance with the EOAM it did not result in a determination that clearing improved or maintained environmental outcomes.

The following section of this document provides detail of the accredited expert's assessment and certification in accordance with clause 27 of the *Native Vegetation Regulation 2005* and contains the information required in order to comply with clause 29 of the *Native Vegetation Regulation 2005*.

### **Final assessment of broadscale clearing proposed by the PVP with a minor variation**

The broadscale clearing proposed by this PVP was then re-assessed and certified by an accredited expert that, in the accredited expert's opinion, the proposed clearing will improve or maintain environmental outcomes. PVPs that are approved on the basis that an accredited expert has, in accordance with clause 27 of the *Native Vegetation Regulation 2005* assessed and certified that in the accredited expert's opinion the proposed clearing will improve or maintain environmental outcomes must comply with clause 29 of the *Native Vegetation Regulation 2005*.

Section 2 of this document provides detail of the accredited expert's assessment and certification in accordance with clause 27 of the *Native Vegetation Regulation 2005* and contains the information required in order to comply with clause 29 of the *Native Vegetation Regulation 2005*.

## **MINOR VARIATION**

### **Legal provision for minor variation**

The legal provision for this minor variation is in Clause 27(1) 'Special provisions for minor variation' of the Native Vegetation Regulation 2005m which states:

#### *27 Special provisions for minor variation*

*(1) An accredited expert may make an assessment that proposed clearing will improve or maintain environmental outcomes only if there has been an assessment in accordance with the Assessment Methodology of whether the proposed clearing will improve or maintain environmental outcomes (not resulting in a determination that the proposed clearing will improve or maintain environmental outcomes) and the accredited expert is of the opinion that:*

*(a) a minor variation to the Assessment Methodology would result in a determination that the proposed clearing will improve or maintain environmental outcomes (other than a variation that is not allowable under this clause), and*

*(b) strict adherence to the Assessment Methodology is in the particular case unreasonable and unnecessary.*

*(2) A variation to the Assessment Methodology is not allowable under this clause if it is a variation of any of the following aspects of the Assessment Methodology:*

*(a) riparian buffer distances or associated offset requirements,*

*(b) classification of vegetation as likely habitat for threatened species,*

*(c) classification of a plant species as a threatened species or a component of an endangered ecological community,*

*(d) classification of the condition of vegetation,*

*(e) classification of the vegetation type or landscape type as overcleared,*

*(f) the assessment of the regional value of vegetation.*

### **How the EOAM was varied**

Section 5.3.3 **Assessing change in landscape value** of the EOAM states that:

Change in landscape value with clearing is calculated as the difference between current landscape value and landscape value with clearing using the equations below.

*Landscape value encompasses fragmentation, connectivity and adjacency of native vegetation up to 1000 ha around the clearing proposal. The assessor determines change in landscape value from clearing using the following measures:*

- *percent native vegetation cover in the landscape. This is current vegetation cover and future vegetation cover (with proposed clearing) within radii of 1.75 km (1000 ha), 0.55 km (100 ha) and 0.2 km (10 ha) with the centre of the radii placed to cover the maximum loss of vegetation from clearing, estimated in categories of 0-10%, 11-30%, 31- 70%, or >70% cover;*

For this PVP, Reference Number 12,376, this has been varied as follows;

- *percent native vegetation cover in the landscape. This is current vegetation cover and future vegetation cover (with proposed clearing) within a radius of 1.75 km (1000 ha) with the centre of the radii placed to cover the maximum loss of vegetation from clearing, estimated in categories of 0-10%, 11-30%, 31- 70%, or >70% cover;*

### **Description of the proposed clearing**

The proposed clearing is of 393 hectares of remnant native vegetation made up of 191 hectares of Linear Dune Mallee, 37 hectares of Sandplain Chenopod Mallee and 165 hectares of Black Oak - Western Rosewood for dryland cropping.

The proposed offset site contains of 3,251 hectares of native vegetation made up of 1,992 hectares of Linear Dune Mallee, 503 hectares of Sandplain Chenopod Mallee and 756 hectares of Black Oak - Western Rosewood.

### **Reasons for recommending the proposed minor variation**

This assessment has been carried out using the EOAM methodology and resulted in a green light for the Biometric tool with the use of offsets for all categories except Landscape Value.

The reasons for the opinion of the Accredited Expert in respect of the Minor Variation follow.

### **Environmental Basis for the Minor Variation**

In the *BioMetric* tool, 'Landscape Value' is an assessment of the spatial configuration of native vegetation up to 1000ha around the proposed development and offset sites. It includes an assessment of percentage cover within three concentric circles with radii of 1.75km (1000ha), 0.55km (100ha) and 0.2km (10ha).

Tools in the *Native Vegetation Assessment Tools (NVAT)* allow concentric circles with these three radii to be overlaid on an image of the property (one group is centered on the proposed development site and another on the offset site). Cover is estimated in categories of 0–10%, 11–30%, 31–70%, or >70% within each of these circles.

In order to meet the Improve or Maintain (IoM) Test for Landscape Value, any reduction in native vegetation cover in circles centered on the development site must be counterbalanced by a commensurate increase within circles centered on the offset site.

In this case the red light resulted as a consequence of the concentric circles of the NVAT showing a 50% loss of vegetation cover in the 10 hectare ring and 35% in the 100 hectare ring which cannot be offset, leading to a red light for Landscape value and thus the biometric tool.

The loss in the 1000 hectare ring is only 15%.

It is considered that the "improve or maintain" test will be met for Landscape value and that it is unreasonable and unnecessary to offset the loss in vegetation cover from clearing in the 10 ha and 100 ha circles, and a minor variation applied to approve the PVP on the grounds that "*strict adherence to the assessment Methodology is in the particular case unreasonable and unnecessary*" for the following reasons:

1. The proposed development is in a predominantly intact landscape with the proposal area (development and offset) retaining greater than 70% native vegetation cover,
2. The relevant (Mitchell Landscapes, Mallee Cliffs Linear Dunes and Mallee Cliffs Sandplains) in which the proposal is located are not overcleared,
3. The vegetation communities (Black Oak – Western Rosewood open woodland, Linear Dune Mallee and Chenopod Sand Plain Mallee woodland) are not overcleared being only 20%, 5% and 30% cleared respectively,
4. The clearing has no impact on connectivity value which remains high, and does not have any impact on the important corridors between the riverine area and the rangeland communities,

5. The offset will complete a corridor between Mallee Cliffs National Park and three significant conservation reserves established as part of the Southern Mallee Regional Plan as well as improving connectivity between Mallee Cliffs National Park and the Murray River, and
6. The loss of cover inside the 10ha and 100ha circles in *BioMetric* is very small compared with overall native vegetation cover, and loss of connectivity is insignificant.

**Certification by the accredited expert**

As an accredited expert I am of the opinion that minor variation to the EOAM (Assessment Methodology) will result in a determination that the proposed clearing will improve or maintain environmental outcomes and strict adherence to the Assessment Methodology is in this particular case unreasonable and unnecessary because the biodiversity and other environmental gains from the proposal far outweigh the losses and as a result the clearing improves or maintains environmental outcomes.

