

# 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 12837

Report prepared by: Accredited Expert 30617

PVP reference number: 12837

## SUMMARY

This Accredited Expert report relates to the assessment of the clearing proposed by PVP request number 12837.

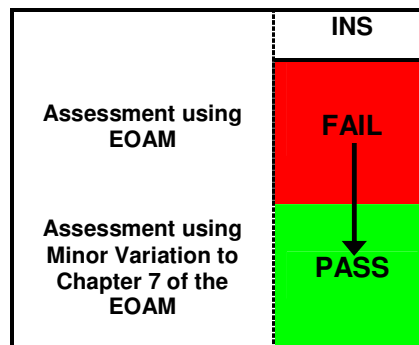
Under s. 29(2) of the *Native Vegetation Act 2003* a PVP cannot be approved unless the clearing concerned will improve or maintain environmental outcomes.

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 is used to allow the variation of the maximum allowable dbh to be cleared for Red Box (*Eucalyptus intertexta*) to 35cm in Table 7.1 in the EOAM, where 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 the PVP**



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 the Table 7.1 of the EOAM.

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:

(i) All Red Box trees above 35 cm dbh (the hollow-bearing trees) in the managed area will be retained. All other hollow bearing trees will be retained. There are approximately 20 trees per hectare on average above 35 cm dbh of Red Box. The result will be an open woodland with over 20 trees per hectare above 25 cm dbh.

(ii) there is a relative high densities of Red Box trees between 25 cm dbh and 35 cm dbh (55 trees per ha) in the area.

The following retentions will create a mosaic of vegetation states with open woodland and areas of dense vegetation in the retained areas: (i) the retention of Red Box above 35cm dbh; (ii) retention of all other INS trees above 25 cm dbh; (iii) retention of patches of 10 ha per 100 ha of native vegetation (10% retention); (iv) and the landscape retention requirements for the clearing type (which are additional to the 10 ha per 100 ha); (v) all hollow bearing trees, regardless of dbh, will be retained.

Thus the biodiversity and other environmental gains from the proposal far outweigh the losses and as a result the clearing improves or maintains environmental outcomes.

## **1. 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*.

## **Subsequent (change subsequent to "Final") assessment of broadscale clearing proposed by the PVP with a minor variation**

The broadscale clearing proposed by this PVP was then 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.

## **2. MINOR VARIATION.**

The Environmental Outcomes Assessment Methodology (EAOM) requires:

*13) For methods other than burning, any invasive native species that has a stem or trunk with a diameter at breast height ("dbh") greater than the dbh specified in the column headed "Maximum dbh allowed to be cleared" in Table 7.1 is not cleared except as set out in 13A and 13C.*

*13A) The relevant Catchment Management Authority may vary the measurement in the column "Maximum dbh allowed to be cleared" in Table 7.1 by up to 5 centimetres if, in the judgement of the Catchment Management Authority, the variation is appropriate for the land to be cleared.*

Table 7.1 in the EOAM currently has the maximum dbh to be cleared for Red Box as 20 cm dbh which can be increased to 25cm dbh with CMA judgement. The minor variation is to change the maximum allowable dbh to be cleared for Red Box to 35cm.

### **3.1 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.

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

The EOAM was varied to change the maximum allowable dbh to be cleared for Red Box to 35cm. Table 7.1 was varied as set out in the table below.

Catchment Management Authority  IBRA region	Invasive Native Species	Retention requirements			INS type of clearing permitted
		Number of plants per hectare to be retained	Retention required by criterion 18A (clearing types only)	Maximum dbh allowed to be cleared	
Western--CPP	<i>Eucalyptus intertexta</i> (Red Box)	20 (Total under 20cm dbh)	No	35cm	All

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

The proposed clearing involves the management of Invasive Native Scrub Species on a property in The Cobar Penneplain. Red Box is acting invasively and has high density of trees between 20cm and 35cm dbh without hollows.

The proposed clearing involves management of INS using the following clearing types available under the Environmental Outcomes Assessment Methodology

- a) burning;
- b) clearing of individual plants with no disturbance to groundcover;
- c) clearing of individual plants with minimal disturbance to groundcover;
- d) clearing of plants at paddock scale with nil to minimal disturbance to soil and groundcover;
- e) clearing of plants at paddock scale with temporary disturbance to soil and groundcover;

All Red Box plants over 35cm dbh will be retained.

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

Prior to this minor variation the determination was that the proposed clearing did not improve or maintain environmental outcomes because the maximum allowable dbh that could be cleared was 20cm dbh in Table 7.1 of the EOAM. .

The INS Research Program being undertaken in central-west and western NSW has included vegetation sampling for stem densities and hollows by dbh class of INS species on the Cobar Peneplain of the Western Catchment. The results show that hollows occur in Red Box trees at approximately 40 cm dbh and larger. No hollows were recorded in Red Box below approximately 40 cm dbh. The information also shows there are size classes of Red Box from particular recruitment events, with very large numbers of Red Box trees between 30 cm dbh and 35 cm dbh. Also there are relatively large numbers of trees over 35 cm dbh per hectare for Red Box.

In order to achieve the intent of the EAOM, to maintain or create a mosaic of vegetation states across the landscape to improve or maintain environmental outcomes, the maximum allowable dbh to be cleared needs to be appropriate to the density and size classes of the invasive native species.

Therefore:

The proposed minor variation improves or maintains environmental outcomes because the species that are subject to the minor variation (Red Box) are dense in the dbh class above 25 cm dbh in the area to be managed, and all hollow bearing trees and all trees above 35 cm dbh in the area will be retained to produce an open woodland with over 20 trees per hectare above 25 cm dbh. Together with retention of other species will create a mosaic of vegetation states (the goal of the INS assessment process) with open woodland and retained areas of dense vegetation (in the retention areas).

With consideration of the intent of Chapter 7 of the EAOM, the data collected from vegetation sampling as part of the INS Research Program and my expert assessment of the area proposed to be cleared it is my recommendation that the maximum allowable dbh to be cleared for Red Box to be varied to 35 cm for PVP Reference no. 12837 to be advised.

## **5. Certification by the accredited expert**

As 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:

(i) All Red Box trees above 35 cm dbh (the hollow-bearing trees) in the managed area will be retained. All other hollow bearing trees will be retained. There are approximately 20 trees per hectare on average above 35 cm dbh of Red Box. The result will be an open woodland with over 20 trees per hectare above 25 cm dbh.

(ii) there is a relative high densities of Red Box trees between 25 cm dbh and 35 cm dbh in the area.

The following retentions will create a mosaic of vegetation states with open woodland and areas of dense vegetation in the retained areas: (i) the retention of Red Box above 35cm dbh; (ii) retention of all other INS trees above 25 cm dbh; (iii) retention of patches of 10 ha per 100 ha of native vegetation (10% retention); (iv) and the landscape retention requirements for the clearing type (which are additional to the 10 ha per 100 ha); (v) all hollow bearing trees, regardless of dbh, will be retained.

Thus the biodiversity and other environmental gains from the proposal far outweigh the losses and as a result the clearing improves or maintains environmental outcomes.