Clause 28 Policy under the *Native Vegetation Regulation 2005*

Policy for native revegetation involving minor clearing of native vegetation in the Central West, Hawkesbury-Nepean, Hunter-Central Rivers, Lachlan, Lower Murray Darling, Murray, Murrumbidgee, Namoi, Northern Rivers and Southern Rivers Catchment Management Authorities.

Introduction

Since European settlement large areas of NSW have been cleared of the original native vegetation. This has had serious consequences for ecological functionality and biodiversity. It has contributed significantly to species loss and decline, soil erosion, salinity, tree dieback and the spread of weeds and feral animals.

In recent decades land managers have utilised native revegetation to restore native plants, vegetation condition, ecological function and habitat for native flora and fauna, including threatened species. A range of techniques has been used including plantings, direct seeding and sowing.

Minor clearing of some existing native vegetation within the meaning of the *Native Vegetation Act 2003* is sometimes necessary to undertake the revegetation. In these circumstances clearing of native vegetation requires a Property Vegetation Plan (PVP). Clause 28 of the *Native Vegetation Regulation 2005* provides for the Minister to adopt a policy (Clause 28 Policy) for minor clearing for long term environmental benefits, such as occurs with revegetation using locally native species.

This Policy is authorised under Clause 28 of the *Native Vegetation Regulation 2005*. It sets out the circumstances under which the clearing may be assessed in accordance with this Policy rather than according to the *Environmental Outcomes Assessment Methodology* (EOAM). The Policy applies to the Central West, Hawkesbury-Nepean, Hunter-Central Rivers, Lachlan, Lower Murray Darling, Murray, Murrumbidgee, Namoi, Northern Rivers and Southern Rivers Catchment Management Authority areas.

Revegetation in this Policy refers to revegetation with native vegetation, as defined under Section 6 of the *Native Vegetation Act 2003*, that is locally native to the area that is being revegetated.

The Policy describes:

1. when clearing for revegetation is assessed as minor clearing; and,

2. the circumstances in which minor clearing for revegetation is likely to improve the condition of native vegetation on the land or prevent the long term degradation of native vegetation on the land; and,

3. the long term environmental benefits resulting from revegetation as a result of this Policy.
Any clearing for revegetation to which this Policy applies may be assessed in accordance with this Policy rather than using the EOAM.

Part 1 Objective
To allow minor clearing of native vegetation to establish native revegetation, under the requirements of this Clause 28 Policy.

Part 2 Application of the Policy

2.1 Policy
This is a Policy under Clause 28 of the Native Vegetation Regulation 2005.

2.2 Application

2.2.1 The Policy applies within the following geographical areas:
The Areas of Operation of the following Catchment Management Authorities (CMAs), as defined in Schedule 2 of the Catchment Management Authorities Act 2003:

- Central West CMA;
- Hawkesbury-Nepean CMA;
- Hunter-Central Rivers CMA;
- Lachlan CMA;
- Lower Murray Darling CMA;
- Namoi CMA;
- Northern Rivers CMA;
- Murray CMA;
- Murrumbidgee CMA and
- Southern Rivers CMA

2.2.2 Native Vegetation to which this Policy applies
This Policy applies to clearing native vegetation (as defined under Section 6 of the Native Vegetation Act 2003) for revegetation, except for in the circumstances to which the Policy does not apply as described under Section 2.2.3 of this Policy.

2.2.3 The Policy does not apply in the following circumstances:
1. Where revegetation:
   a. is not native vegetation; or
   b. is native vegetation that did not naturally occur in the IBRA Region (is not locally native to the IBRA Region); or
Clause 28 Revegetation Policy

c. involves clearing any over-storey or mid-storey native vegetation, except where the over-storey or mid-storey species is not locally native on the land, or

2. Where the revegetation that is established under this policy is not identified as protected regrowth within the meaning of the Native Vegetation Act 2003, or

3. Where the revegetation clears native vegetation on land with a slope greater than 18 degrees, or

4. Where the revegetation involves clearing native vegetation that is the Grassland Formation described by Keith (2004).

2.3 Exempt from requirement of assessment

This Policy does not remove the requirement for a Property Vegetation Plan (PVP) or Development Consent (DA) in accordance with the Native Vegetation Act 2003. Rather an application for a PVP or DA to which this Policy applies may be assessed in accordance with this Policy under Clause 28 of the Native Vegetation Regulation 2005 rather than in accordance with the Environmental Outcomes Assessment Methodology.

2.4 Obligations under other relevant legislation

Clearing in accordance with the Policy does not remove obligations under other relevant legislation. Other legislation that may be relevant includes, but is not limited to:

- Environmental Planning and Assessment Act 1979 (including Council LEP requirements);
- Environment Protection and Biodiversity Conservation Act 1999 (Commonwealth legislation);
- Heritage Act 1977;
- National Parks and Wildlife Act 1974 (particularly in respect to Aboriginal Heritage);
- Soil Conservation Act 1938;
- Threatened Species Conservation Act 1995*;
- Water Management Act 2000;
- Western Lands Act 1901;

*Note: The Native Vegetation Act 2003 and the Native Vegetation Regulation 2005 are certified under the Threatened Species Conservation Act 1995 (see Division 4 of the Threatened Species Conservation Act 1995).

Where relevant, advice in relation to the above legislation should be obtained from the local Council, Catchment Management Authority (CMA), Department of Environment, Climate Change and Water, Department of Industry and Investment, the Land and Property Management Authority, the Commonwealth Department of Environment, Water, Heritage and the Arts or independent legal advisors.
2.5 Definitions and references

Terms used in this document, unless otherwise defined, have the same meaning as in the *Native Vegetation Act 2003*, the *Native Vegetation Regulation 2005* and the *Environmental Outcomes Assessment Methodology*. The terms below have the following meanings:

- **IBRA** (Interim Biogeographic Regionalisation for Australia) – means a region defined in Environment Australia (2000).
- **Grassland Formation** - means vegetation that is part of the Grassland Vegetation Formation as described by Keith (2004).
- **Locally native vegetation or locally native revegetation or locally native plant species** – means plant species that naturally occur or occurred at or in the site, land, region or area.
- **Revegetation** - means direct seeding or sowing or planting of native species whether by mechanical or hand methods, including site preparation prior to revegetation, and management actions after revegetation, for establishment and survival of the revegetation.
- **Ripping** – means a tined implement pulled at depth to break and shatter hard or compacted soils in preparation for planting tubestock or other revegetation.
- **Scalping** – means the removal of groundcover and a small amount of top soil. It is used to reduce competition from groundcover prior to sowing native plant species.
- **Site** – means the land where the revegetation will occur.
- **Viable** – means the ability of revegetation to persist for many generations and/or long time periods.
- **Weed** – means exotic plants that reduce or hinder the establishment, growth or survival of the revegetation.

Over-storey and mid-storey are as defined in the BioMetric Operational Manual (Gibbons et al. 2005).

2.6 References

<table>
<thead>
<tr>
<th>Reference</th>
<th>Details</th>
</tr>
</thead>
<tbody>
<tr>
<td>Environment Australia (2000).</td>
<td>Revision of the Interim Biogeographic Regionalisation for Australia (IBRA) - Version 5.1. Environment Australia, Canberra, ACT.</td>
</tr>
</tbody>
</table>
Part 3 Minor Clearing
Clearing that meets the criteria of this Policy, including the criteria a. and b. in Part 3, is minor clearing and is permitted under this Policy:

a. The clearing is to the minimum extent necessary to undertake the revegetation; and,
b. The clearing has minimal impact on existing native vegetation (unless the clearing is of native vegetation that is not locally native on the land).

Part 4 Native Vegetation Outcomes
The improved environmental benefits for native vegetation from this Policy are:

- Restoration of the native over-storey and/or mid-storey and/or groundcover plant species and structure(s) of vegetation types that are locally native on the land (or in the IBRA region where specific information for the land is not available) where these have been previously cleared; and,
- Restoration of ecosystem function, improved long-term ecosystem resilience, improved connectivity and improved habitat for threatened species and other flora and fauna by re-establishing over-storey, mid-storey and groundcover that was previously cleared.

The revegetation is to improve the composition, condition, structure and function of native vegetation on the land (by restoring species and structure) and to prevent the long term degradation of native vegetation on the site (which will occur in the absence of revegetation). The long term environmental benefits of improving the composition, condition, structure and function of the vegetation on the land and preventing long term degradation substantially outweigh the short term environmental impacts of the minor clearing required to undertake the revegetation.

Part 5 Other Long-term Environmental Benefits
The long term environmental benefits from applying this Policy include:

a. stabilising soils and improve water quality by minimising soil loss and erosion; and,
b. reducing wind erosion by improving perennial vegetation cover; and,
c. reducing the impacts of salinity by expanding the cover of perennial native vegetation; and,
d. improving aquatic habitats by restoring ecosystem function in riparian areas.

Part 6 Management Prescription
6.1 Outcomes from management actions
PVPs approved under this Policy must include management actions to achieve the following outcomes:
a. Revegetation that is established under this policy and all regrowth on the land to which the Policy applies is protected regrowth within the meaning of the Native Vegetation Act (see Section 10 of the Native Vegetation Act 2003).

b. densities and species of plantings or seedings that are likely to result in natural or near natural structure and floristic composition of the vegetation at the site over time.

c. nil to minimal disturbance to soil and to native vegetation on the site.

d. nil to minimal erosion on the site.

e. native revegetation on the site that is viable.

6.2 Methods for clearing

The methods for clearing are ripping and/or mounding soil, slashing, scalping, auguring, hand held implements such as mattocks, shovels and tree planting implements and herbicide* spraying of native vegetation, to the minimum extent necessary for the revegetation to establish and survive.

The management actions in the PVP are to ensure the outcomes in Part 6.1 are achieved. Management actions may include one or more of the following as relevant for the site:

a. rip-lines for establishing revegetation are spaced not less than 3 metres apart; and,

b. rip-lines for establishing revegetation are no more than 30 centimetres maximum width; and,

c. the area covered by herbicide spraying is no wider than 50 cm along either side of the rip-line; and,

d. in preparation for the direct seeding of native vegetation, herbicide spray lines should be spaced not less than 3 metres apart and should not be more than 1 metre in width. Scalping of the soil within the sprayed area is permitted prior to sowing the seed; and,

e. the area covered by spot herbicide application and/or clearing using hand held implements to establish individual plants is no larger than 1 square metre in area per plant; and,

f. slashing along rip-lines or other areas to establish revegetation is to the minimum extent necessary to reduce plant competition; and,

g. on undulating or hilly land, rip-lines and/or mounding should be along the contour to minimise soil erosion; and,

h. herbicide spraying, chipping and/or slashing of weeds may be undertaken in revegetation areas only to the extent necessary to assist revegetating plants to establish and survive; and,

i. the revegetation must be with locally native plant species that occurred on the land prior to European settlement or plant species that are likely to have occurred on the land prior to European settlement or with species that occurred or occur in the IBRA region as approved by the CMA where this is required to ensure genetic variability, adaptation to climate change or to prevent long term degradation of native vegetation on the land.

* Note: Only non residual herbicides are to be used under this Policy.
6.3 Restoration requirements
The purpose of revegetation allowed by this Policy is restoration and maintenance of native vegetation.

Part 7 Exhibition and Approval

The Policy was publicly exhibited from 26th August 2010 to 23rd September 2010.
The Policy was approved in accordance with Clause 28(2) of the Native Vegetation Regulation 2005 by the Minister for Climate Change and the Environment on 1st March 2011.