

# NATIVE VEGETATION REFORMS IN NSW

Australian Centre for Environmental Law

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Over the past 12 months the NSW Government has driven the radical reform of land and water management across the State.

It was the Wentworth Group that said in their report to Premier Carr in February last year that "there are moments in history when the opportunity presents itself for a fundamental overhaul of existing institutions to unleash a new paradigm" and that "such a moment exists today in the management of Australia's natural environment".

I believe this is the case, and that such an opportunity will not present itself again.

So what are we doing to seize this opportunity?

Well, today I will focus on the reforms to native vegetation management, and the implementation of the new Native Vegetation Act 2003.

In particular, I will illustrate how these reforms seize the opportunity by:

- building greater economic security for users of natural resources;
- establishing new institutional structures that work directly with individual farmers and irrigators to build landscape conservation into their daily business decisions; and by
- bringing in the best available science to the table . . . .

in order to achieve our objective of creating healthy and productive landscapes that will last for centuries.

These reforms have the support of farmers and environmentalists because it is a pro growth, pro conservation agenda.

It cuts red tape, it focuses on outcomes, it rewards innovation, it provides resource security for business, and it is built on the best scientific advice.

The dispute over native vegetation management has plagued NSW for over a decade. Things began to change in December 2002, when the Premier met with members of the Wentworth Group of Concerned Scientists and asked if we would consult with farmers and environmental groups to see if we could find a solution to this long standing problem.

These three groups- scientists, farmers and environmental interests- met over the next two months. The Wentworth Group subsequently presented the Premier with their report called "A New Model for Landscape Conservation in NSW". Premier Carr publicly released the Wentworth Group report in February 2003.

In March 2003, with support from all sides, the Government adopted the Wentworth Group model as the basis for its new native vegetation policy.

After accepting the Wentworth Group report, the Government appointed the independent Native Vegetation Reform Implementation Group, chaired by the Hon Ian Sinclair to advise on implementation of the Wentworth recommendations - often referred to as the Sinclair Group.

On October 15, 2003 the NSW Government announced it would overhaul natural resource management institutions in NSW, following the recommendations of the Sinclair Group.

At the heart of this plan was the commitment to:

- spend less of tax payers money writing reports
- give money to help farmers report overcleared landscapes
- end broad scale land clearing; and,
- give greater certainty to farmers and industry.

Ending broad scale land clearing of remnant vegetation, and "protected regrowth" was also an election commitment of the Labor Government in 2003.

On 11 December 2003, three bills were assented to:

- the Native Vegetation Bill;
- the Natural Resources Commission Bill; and
- the Catchment Management Authorities Bill.

The Catchment Management Authorities Bill allowed for the establishment of 13 new Catchment Management Authorities to replace 72 Natural Resource Management Committees. Since then, over \$67million has been redirected to provide ongoing funding to run these Authorities. The Authorities have been developing Catchment Action Plans that will guide public investment in landscape repair.

Major reductions in the size of the public service have occurred. Over 250 staff from DIPNR and the Department of Environment and Conservation will be transferred to these new CMAs and my Department's core budget has been cut by \$75million.

This and other funds are instead being invested in a \$430 million package which is being made available to Catchment Management Authorities to assist farmers to repair the landscape. A minimum of \$120 million over the next 4 years of this money is earmarked to assist farmers to maintain or improve native vegetation for biodiversity, water quality, soil and salinity outcomes.

On 21 September, the Minister for Infrastructure, Planning and Natural Resources, Craig Knowles, said that the Government's promise to reduce bureaucracy and deliver more money to farmers and local communities was well on track.

Mr Knowles said that the Department of Infrastructure, Planning and Natural Resources was now directing about half of its budget to programs, works and grants rather than being tied up in bureaucracy and red tape.

He said, "In fact, money for farmers and on-ground works has catapulted from \$18 million in 2002/03 to \$118 million this financial year.

"This is a remarkable achievement. In the 16 months since the Department was established we have completely changed the way natural resources are managed in NSW.

"The whole idea was to ensure that funding would be directed to, and controlled by, local communities instead of being lost in bureaucracy. This is exactly what has happened."

The Natural Resources Commission Bill allowed for the establishment of the Natural Resources Commission, which will help government set standards and targets for natural resource management based on the best available scientific, economic and social information.

The *Native Vegetation Act 2003* provides the legislative basis for ending broadscale clearing and repairing over-cleared landscapes. Since this bill was assented to in Parliament, DIPNR has been preparing drafting instructions for the Regulations that will operate in conjunction with the Native Vegetation Act 2003.

### **Regulations**

These drafting instructions have been prepared in close consultation with stakeholders, including weekly meetings with representatives from the NSW Farmers Association and environmental interest groups.

Once drafted, the Regulations will be placed on public exhibition for a period of three weeks, during which time they will be extensively publicised, and then finalised in light of comments received.

The Regulations will deliver the Sinclair Report's recommendations by providing the practicality and flexibility for continuing routine agricultural management activities as well as establishing new consent processes for native vegetation management based on property vegetation plans.

### **Property Vegetation Plans**

Both a cornerstone of the NSW native vegetation management reforms and a key recommendation of the Wentworth Group- property plans provide investment security, management flexibility and financial support for farmers. Under the new system, Property Vegetation Plans will provide an equitable and transparent way to end broadscale clearing unless it improves or maintains environmental outcomes- a core objective of the new Native Vegetation Act.

Property Vegetation Plans are the interface between the landholder and the legislation. They create a simple and fair way to provide incentives to help farmers restore over-cleared landscapes and conserve native vegetation. Property Vegetation Plans are voluntary, but binding agreements, negotiated and developed on site between the landholder and the local Catchment Management Authorities - not unlike Development Consents.

Property Vegetation Plans are the vehicle by which farmers will:

- access funding to manage native vegetation;
- secure existing rotational farming practices;
- obtain assessment and approval of proposals for broadscale clearing that improve or maintain environmental outcomes, including with the use of offsets;
- meet the requirements of the threatened species legislation; and
- gain long term security for their farming activities, including up to 15 years for clearing approvals.

A Property Vegetation Plan can provide resource security for farmers by identifying regrowth, including for existing uses. There are three types or components of Property Vegetation Plans:

- continuing use
- incentives
- existing use

A practical and objective assessment process for Property Vegetation Property - the 'PVP Developer' - has been developed by a world class team of DIPNR and DEC scientists in close consultation with key stakeholder representatives and Catchment Management Authorities Chairs.

A key component of the 'PVP Developer' is the biodiversity assessment tool, prepared by scientists from the Department of Environment and Conservation, which can account for requirements under the *Threatened Species Conservation Act 1995* as well as the *Native Vegetation Act 2003*. Government is currently proposing to amend the Threatened Species Act in order to link the PVP exemptions to that Act.

This amendment bill, prepared by the Minister for the Environment, will establish a new system for threatened species management. It mirrors the philosophy of the other reforms by:

- shifting the focus away from a species by species, site by site approach;
- protecting high priority habitat by 'switching off' the Threatened Species Conservation Act where CMA regions or Local Environmental Plans, are 'certified' by the Minister for the Environment; and
- using incentives to conserve important habitat, and allow both Catchment Action Plans and Local Environment Plans to direct high impact development toward lower value habitat.

Assessment tools to predict the outcomes for salinity, soils and water quality have been developed by the Department of Infrastructure, Planning and Natural Resources.

This is world class science, using world class technology to deliver a practical and transparent way of assessing native vegetation on any property in NSW, and allocating resources in a way which will maximise conservation outcomes.

### **New satellite imagery**

To underpin the Property Vegetation Plans and the Catchment Action Plans, the Government is investing over \$5 million in the new generation high resolution satellite imagery for the entire state. Over the next six to nine months, we will have a photographic record of every tree in NSW, and this information is able to be downloaded onto a laptop.

At a property level, this high-resolution information will mean that CMAs will be able to help each farmer to prepare Property Vegetation Plans, based on good quality photo-maps of the property. These will be developed free of charge.

At a regional level, high resolution satellite imagery will assist CMAs to develop comprehensive catchment action plans that target those areas that can make the most difference in repairing rural landscapes.

It will also allow CMAs, and the Natural Resources Commission to audit progress towards achieving the statewide standards and targets.

For you lawyers out there, it will also allow realistic assessment and reporting of clearing statistics to the NSW community.

### **Traffic Light Approach**

The Property Vegetation Plan assessment process is the cornerstone of the new native vegetation reforms. Assessment of clearing applications is based on a 'traffic light' approach with three categories:

- "Green Light" = Clearing activities that of *themselves* would improve or maintain environmental outcomes would be rapidly assessed for approval. An example would be thinning of cypress pine. Other clearing activities undertaken within prescribed protocols (which may or may not include offsets) would be 'deemed' to improve or maintain environmental outcomes and so would also be rapidly assessed for approval. An example would be clearing of invasive scrub undertaken under a set protocol.
- "Red Light" = Proposed clearing activities that would never be likely to improve or maintain environmental outcomes. An example would be clearing of intact bushland listed as a threatened ecological community.
- "Amber Light" = Clearing that does not fall into the previous two categories and requires more detailed assessment. Consideration would be given to offsets, in order to decide whether the proposal as *a whole* could improve or maintain environmental outcomes. An example would be scattered paddock trees.

## **Offsets**

An important aspect of the new system is the ability of PVPs to allow landholders to secure offsets, which can be assessed together with their clearing proposals in order to pass the “improve or maintain environmental outcomes test” which underpins the legislation.

Offsets are actions that result in positive environmental outcomes, which may offset any negative impacts of clearing. Offsets must:

- occur within the same area as the impacts of the proposed clearing;
- persist for at minimum the duration of the negative impact of the proposed clearing (which could be in perpetuity); and,
- are assessed using the same methodologies used to assess the impacts of the proposed broadscale clearing.

For the first time, with the introduction of offsets, there will be a system which gives value to remnant vegetation and regrowth and allows private trading in offsets, leading to improved environmental outcomes at reduced public cost.

Our goal is to make native vegetation an asset for farmers and to reward them for managing this resource on behalf of the rest of the community.

## **Field Trials**

The design of the Property Vegetation Plan framework is critically important for informing the development of the Regulations and processes to provide incentive funding.

In developing the Property Vegetation Plan framework, various factors were taken into account, including the need to:

- base practical assessment processes on world class science
- focus on protecting landscapes, rather than individual plants and animals.
- underpin the process with the Government policy to end broadscale clearing
- allow for monitoring what is happening to the landscape.

To ensure that the proposed PVP framework is fully operational by the commencement of the Regulations, PVP field trials are being conducted on up to 100 properties across NSW. These trials form part of an intensive training program for CMA Officers and began in the Central West CMA in early September.

## **Landholder Focus**

Underpinning the reforms is a profound philosophical shift. No law ever passed in NSW will restore our degraded landscapes. And no bureaucrat’s report will do it either. The only way Australia will repair its damaged landscapes is through the goodwill of landholders across our continent and by providing financial assistance to them to look after the environment for us.

Both farmers and environmental groups have welcomed the new initiatives.

Mal Peters, President NSW Farmers said that the “PVP trials demonstrated a clear, measurable, scientific approach to what has been a thorn in the side of farmers for the last 10 years”.

“The PVP tool allows farmers to see in practical terms the impact their management will have on the natural landscape and is a move away from the subjective approaches of the past,” he said.

Jeff Angel, Director of the Total Environment Centre said, “The prospects are encouraging. The new tools immediately engage the landowner in planning a proposed clearing activity to maintain or improve environmental outcomes and where clearing is not possible, in a discussion about incentives to improve native vegetation protection.

“There are benefits of applying a planning tool, rather than the current impersonal, bureaucratic and subjective system. It leads to results on the ground,” he said.

An officer from the local Catchment Management Authority together with the landholder will create each Property Vegetation Plan on site. Farmers would not have to worry about filling in application forms or paying application fees. The CMA officer will provide all relevant natural resources information, as well as photo-maps of the property. Landholders will need to provide property details and be available for the on-site development of the Property Vegetation Plan. A decision will not need to occur immediately. The farmer will be able to consider his options. Approval of the PVP will be determined by the CMA.

### **Science and Information Board**

Another important initiative was announced in Parliament in March this year by Minister Knowles. This was the establishment of an independent Science and Information Board to guide DIPNR in delivering the world class knowledge required to implement the Government's land, land use and water management reforms.

The first challenge for the Board is to build a Knowledge Strategy for DIPNR. The Board will not only look at information and knowledge, but also governance. This Strategy will enable consistency in knowledge needs across the Department, ensuring that a focus on achieving big picture, landscape scale outcomes and delivering this knowledge to Catchment Management Authorities and landholders so they can make better decisions. Outcomes will drive the scientific research.

Dr John Williams (former Head of CSIRO) is Chair of the Board and Professor Peter Cullen is Deputy Chair. The membership of the Board brings a wide range of scientific, economic and social science skills in natural resources, urban and infrastructure planning. It includes leading experts in the fields of information technology, planning, social, economic and environmental sciences.

### **Conclusion**

The natural resource management reforms that the NSW Government has embarked on are radical.

These reforms recognise that the challenge for environmental sustainability is to set signals that both encourage growth at the same time as drawing market decisions towards better environmental outcomes.

They have the support of farmers and environmentalists because it is a pro growth, pro conservation agenda.

After decades of procrastination, sustainability has become more than just a green agenda - it has gone mainstream, with a triple bottom line approach, encouraging innovation, forward planning and real change.

Finally, our production systems are being tailored to the natural cycles of Australia's droughts, floods and fire.