

ISSUE

Current native vegetation laws create an obstacle to the production of food and fibre in NSW and have been found to have adverse impacts on environmental outcomes, as well as the social and economic wellbeing of rural communities.

NATIVE VEGETATION REGULATION REVIEW

The NSW Government announced its review of the *Native Vegetation Regulation 2005* on 13 September 2011. NSW Farmers has held strong views about native vegetation since SEPP 46 was first introduced without notice in 1995. Significant cultural change in the industry has reduced the need for heavy handed regulation, which is now having a negative impact on environmental participation by farmers.

NSW Farmers does not believe that changes to the regulations alone can create a clear break from the current regime and provide farmers with the necessary flexibility to manage their business and environmental assets.

WHAT IS REQUIRED?

- Legislation which limits broad scale land clearing in the ordinary sense of the phrase
- Regional landscape planning by landholders and CMAs to define parameters for environmental management
- Legislation which balances conservation of biodiversity against the social and economic benefits of productive land use
- A move away from PVPs and other instruments which affect the title of private land
- CMAs which can advise farmers on best practice natural resource management on a proactive and informal basis
- Strong emphasis on self assessment for development within the parameters of the landscape plan, with support from CMAs
- Penalties that are commensurate with the nature of clearing offences
- Flexibility to manage and protect grasslands subject to triple bottom line objectives
- A best practice Soil and Pasture Management Code of Practice with incentives and support for participating landholders
- Approvals must be supported by a cost effective, speedy and independent appeal process
- CMAs that actively promote remediation of invasive native scrub

WHAT CAN BE ACHIEVED THROUGH THE CURRENT REGULATION REVIEW?

The 'improve or maintain' test

The requirement that any clearing approved must either improve or maintain environmental values is stipulated in ss14 and 29 of the Act. The regulations then stipulate what proposals will be considered to 'maintain or improve environmental values'. While outside the Regulation Review NSW Farmers will be seeking to have the Act amended to reflect a triple bottom line approach, we are keen to have social and economic factors incorporated through the Regulation in the mean time.

NSW Farmers would like to see the Regulation and assessment methodology amended to take into account social and economic outcomes. This is critical to meeting the first object of the Act, being "*to provide for, encourage and promote the management of native vegetation on a regional basis in the*

social, economic and environmental interests of the State.” Assessment of these outcomes should be applied at a local plan level.

NSW Farmers also believes that the best triple bottom line outcomes cannot be achieved through a process which requires that each value within the assessment be improved or maintained. **A sensible policy outcome would be to test the net benefit across the social, economic, soil, water and biodiversity factors.**

“Broadscale” land clearing

The current definition of ‘broadscale clearing’ is misleading and impractical. A threshold must be established to distinguish broadscale development from minor development or removal of single plants. This is a fundamental flaw rooted in the Act, however as an interim solution this could be addressed through the Regulation – for example by stipulating that “developing 10% or less of the native vegetation on a contiguous land holding” is classified as a Routine Agricultural Management Activity.

Under an amended Act, NSW Farmers would expect a threshold to be set for self assessment without a formal approval process. Of course this would be at the discretion of local landscape plans.

Routine Agricultural Management Activities

NSW Farmers believes that the restrictions the Regulation places on the broad definition of Routine Agricultural Management Activities (RAMAs) contained in the Act are unnecessary and outside the intent of the Act. The restrictions placed on distances required to ensure the safety of farm infrastructure in many cases defeat their intended purpose. NSW Farmers also rejects the idea that these should vary across the state. Farmers need to have the flexibility to effectively protect farm infrastructure from native vegetation as defined by the Act and without the restriction of the Regulation.

The Environmental Outcomes Assessment Methodology

NSW Farmers is opposed to the concept of the EOAM. Farmers fundamentally reject the lack of transparency associated with the EOAM rules and the way they are applied. Properly trained staff who are capable of helping farmers manage their environmental assets exist in most CMAs. Others should be up-skilled with basic agronomy and farm finance training. We would like to see CMAs able to develop mutually agreeable solutions tailored to suit individual farms and fit regional plans.

If this is unachievable within the current review, we would like to seek clarity on the proposals put forward by the Office of Environment and Heritage. While these appear to represent a reasonable short-term compromise, they lack detail. If they continue to apply current offset ratios they will be unacceptable to NSW Farmers, as these clearly go well beyond what is required to maintain environmental outcomes. Other details required include how ‘conservation farming’ will be defined, what is meant by ‘a vegetation type under 30% cleared in a CMA’, and why clumps in cultivation has been restricted to the Central and Western CMAs.

NSW Farmers believes that such small-scale development (which wouldn’t ordinarily be defined as broadscale development) should be able to be undertaken following a self-assessment by landholders, with the option to involve CMAs if they are unsure their compliance. To do this there would need to be a common sense offset ratio determined that could be implemented by farmers.

Renaming the Soil and Land Capability Chapter to ‘Land Degradation’ indicates a presumption that development proposals will automatically lead to land degradation. NSW Farmers sought the current title over the proposed one when the EOAM was introduced on the basis that this is an assumption which is offensive to farmers and soil scientists who are taking genuine steps to improve soil capability through management of native vegetation.

Invasive Native Scrub Assessment

NSW Farmers members believe that the invasive native scrub module fails to address the urgent need to manage this issue to prevent continued environmental damage. The INS rules continue to restrict what should be an obligation on the landholder to actively control INS on their land. NSW Farmers submits that the current rules are unnecessarily complex and that as with small scale development, INS development would rarely result in environmental detriment and as such should be manageable under self assessment by landholders. CMAs should play a role in actively educating landholders on best practice INS management and attend properties where requested to provide informal advice on management and compliance.

The current requirement that land cleared under an INS approval be returned to native pastures is not based in reason. The act requires that environmental outcomes be improved or maintained. By removing INS this outcome will have been satisfied and effort should be put into ensuring the land, which is likely to continue to be at risk of encroachment, is kept free from INS. Rotational cropping and a mixture of native and introduced pastures are likely to meet this objective far more effectively than unmanaged native pastures – where the only prevention would be to increase stocking rates.

Ground cover

The current protections for native pasture prohibit management of invasive, and even noxious species. A prime example of this is the areas of the state affected by African Lovegrass. Producers wanting to control this noxious species are unable to do so until it has reached a critical mass of 51%. This is a perverse outcome for the environment and productivity. Similarly we are aware of approvals being given to clear scattered trees but removal is prohibited because it would temporarily disrupt native pastures.

NSW Farmers would like to see a common sense approach to temporary alienation of native pastures. A clause 28 policy should be established which provides for displacement of native groundcover provided reestablishment practices are adhered to. In some cases it may be preferable to establish introduced species where this will prevent the reincursion of invasive native species.

Service delivery

Many of the concerns brought to our attention by members relate to the way CMAs interpret the current regulations and respond to applications. There are reports that some CMAs have interpreted 'regrowth' as meaning 'having regrown following clearing activity'. This limits management of areas of previously open grasslands which are now under threat from native vegetation.

The most common complaint is the time taken to respond to applications for development – with numerous farmers citing waits of up to two years to have a decision made on their proposed property plans. NSW Farmers believes basic standards should be set through the regulation about maximum response times by CMAs to ensure a decent service to landholders across CMAs.

Stewardship rewards

Farmers in NSW bear a multi-million dollar opportunity cost each year in the interest of conserving environmental assets and sequestering carbon for the people of NSW. The fundamental injustice of this, in addition to uncertainty about the future direction of native vegetation laws, fosters a distrust of CMAs and the broader conservation agenda. Despite this farmers are fundamentally interested in conservation of biodiversity and willing to play an active role in managing their landscapes to promote that objective. To create a clear break from the current system which pits land managers against government, it would be a sound policy decision to facilitate payments through CMAs to farmers who bear the burden of native vegetation restrictions.

At a minimum, to support any outcome of the regulation review NSW Farmers would have to see a commitment to raise the issue of stewardship payments at a COAG level to discuss the potential for Federal Government funding.

WHAT WILL STILL NEED TO BE CHANGED?

NSW Farmers believes that although some incremental change can be achieved through the Regulation Review, there will be a remaining need to correct the 16 years of broken native vegetation policy which has left many farmers disengaged from the objective of biodiversity conservation. NSW Farmers will be seeking fundamental changes to the Act which will repeal Property Vegetation Plans as the primary approval mechanism and realign the Act with its objectives of limiting broadscale development unless it is in the social, economic and environmental interests of the local area.

Regional Landscape Planning

NSW Farmers members have firmly rejected the notion of prescriptive property-by-property plans which unnecessarily restrict their ability to farm, and attach to the title of private land in perpetuity. A strong theme that has arisen in consultation with members is that we agree broadscale development of high value habitat is a thing of the past. Members want to work with CMAs on a local basis, building on the quality environmental, social and economic work seen in the Catchment Action Plans, to develop a set of easily understood parameters within which farmers can manage vegetation. This would be underpinned by legislation which would set a broad offence for environmental harm for those found guilty of operating outside the local landscape plan.

This would need to be accompanied by a redefinition of the role of CMAs – to focus on educating and assisting landholders with improving environmental practices with an emphasis on how these can be tied in with benefits to farm productivity.

Native Vegetation Code of Practice

NSW Farmers is proud of the environmental record of the agricultural industry. As custodians of a vast majority of the NSW land mass and the industry with most to gain from environmental sustainability, stewardship will always be an important part of the farming business model. To help us improve our environmental practices and also better quantify the industry's successes, NSW Farmers is keen to progress a Native Vegetation Code of Practice, which would sit above the mandatory basic standards set by local landscape plans, as an aspirational land management target that leading producers can work to. This should be linked with funding to encourage code compliance and assist participants with management activities. Strong facilitation and extension would need to be provided through the CMA network to assist and encourage landholders to participate.