

Introduction

Almost continuously since 1995, NSW has been engaged in the expensive and divisive process of developing, consulting about and prosecuting native vegetation controls on private land.

Various restructured environmental and natural resource agencies have taken different approaches, sometimes 'flip flopping' on an annual basis. Simultaneously, the Department of Planning, and Shires and Councils have been developing and applying supervening clearing controls (e.g. wildlife corridor zones - ordinances that override Native Vegetation Act exemptions). In short, there has been no agreement within the bureaucracy about how to implement fundamental aspects of biodiversity policy on farm land.

Why protect native vegetation?

In the 1990s, environmental groups, farmers and the broader community began raising concerns about the impacts of broad scale land clearing. . In the 50 years to 1995, the area of land cleared was equal to all the clearing in the first 150 years of European settlement. Scientists began to point to indiscriminant clearing of native vegetation as a cause of soil erosion, dryland salinity, and reduced biodiversity. .

Farmers recognise the productive benefits of well managed native vegetation which is important to provide shade and shelter and maintain soil structure in sensitive areas.

The history of regulation

Pre-1995

Before 1995 there were a number of regulatory instruments which affected land clearing in NSW. These included licences for clearing and cropping in western NSW, soil conservation legislation and local government restrictions. Some of these continue to operate today in addition to the *Native Vegetation Act 2003*.

SEPP 46

State Environmental Planning Policy No. 46 (SEPP 46) was introduced on 10 August 1995. SEPP 46 was intended to prevent "inappropriate clearing and to ensure that native

vegetation is managed in the environmental, social and economic interests of the state". Broad scale clearing within certain areas required the consent from the Dept. of Land and Water Conservation with the concurrence of the National Parks and Wildlife Service. SEPP 46 was intended only as an interim measure to protect land not covered by the western lands and soil conservation laws already in place, pending freestanding legislation.

The Native Vegetation Conservation Act

The *Native Vegetation Conservation Act 1997* (the 1997 Act) brought the clearing of native vegetation in NSW under one regime by repealing clearing provisions in the *Soil Conservation Act 1938*; *Western Lands Act 1901*; *Crown Lands (Continued Tenures) Act 1989*; and the *Forestry Act 1916*. SEPP 46 was also repealed concurrently.

The 1997 Act prohibited clearing unless it was allowed under a regional vegetation management plan, or consent had been obtained under Part 4 of the *Environmental Planning and Assessment Act 1979*.

The Act required balanced consideration of social, economic and environmental outcomes.

Farmers put considerable effort into the development of draft Regional Vegetation Plans (via representation on Regional Vegetation Committees) none of which were approved

The Native Vegetation Act 2003

Largely in response to a report by the Wentworth Group of Concerned Scientists, the Carr Government took a native vegetation reform package to the 2003 election.

The key changes in the 2003 Act from the 1997 Act were the introduction of property vegetation plans and the oversight of Catchment Management Authorities. The 2003 Act is discussed in more detail in the NSW Farmers briefing note, *Current Framework for Native Vegetation*.

For further information please contact NSW Farmers on 1300 794 000 or visit www.nswfarmers.org.au.