

STATEMENT TO MEMBERS REGARDING THE NATIVE VEGETATION REFORMS

CURRENT SITUATION

The past 12 months have seen the commencement of the *Native Vegetation Act 2003* and the first practical implementation of the new system as proposed by the Sinclair group.

NSW Farmers' Association acknowledges the efforts made during 2006 by the Natural Resources Commission, the members of the Ministerial Review Committee, Minister Macdonald and Minister Debus to make ongoing improvements to the system and welcomes their commitment to continue this process in 2007.

The system is working for some farmers, with a number of applications approved. To date the great majority of clearing approved (by area) has been for invasive native species (INS) management. The statistics are 118,867.4 ha of INS (20 approvals), 231.1ha of clearing (42 approvals), 194 ha of thinning and the removal of 2,971 paddock trees (predominantly to enable installation of centre pivot irrigation systems and squaring up of fields for controlled traffic technology). The 42 clearing approvals have been for relatively small areas and include applications for projects such as clearing vegetation for the installation of electricity supply.

Other farmers, however, have had their applications refused due to threatened species requirements, the scarcity of the vegetation type or intact vegetation in the region, or have withdrawn their application because they were unable to agree on a practical property vegetation plan.

In some situations, the high offset ratios required by the system make it impossible for farmers to find sufficient areas of appropriate native vegetation on their land to make up required offsets. Similarly some local government authorities have also found that they cannot find sufficient native vegetation within their council area to offset clearing for urban or industrial development. The Biodiversity Banking Act 2006, passed in the last session of Parliament, is intended to overcome this problem for property developers in urban zonings but this solution is not available to rural landholders.

A related issue is a lack of flexibility in the offset options available. For example, we have argued that farmers should be able to make up offsets via a mix of new plantings, retention of high value areas and measures such as provision of nesting boxes. The current rules undervalue new plantings and exclude nesting boxes even though such measures are used by government authorities such as the National Parks and Wildlife Service and the RTA. We are also calling for an upgrade of the science and data behind the listing of species and native vegetation benchmarks and greater transparency of these.

The Catchment Management Authorities, the Natural Resource Commission and the Ministerial Review Committee appointed by the Minister to review the system have acknowledged problems with the assessment system and to their credit have delivered a number of improvements over the past 12 months. These changes are undeniably a step in the right direction and an

indication that the processes for continual improvement of the system are working. For some areas, these changes provide a solution that will make the PVP system workable. However some major problems with the system continue to exist and many of the issues we have raised in our representations to government have not yet been addressed.

Balancing production and environmental outcomes

The Sinclair Group intended to deliver a practical system that balances productive and environmental outcomes in rural landscapes. The current system, however, does not allow farmers sufficient flexibility in land management to develop new enterprises, adapt to external market conditions, new technologies and climatic factors, while at the same time protecting the environmental system.

The Sinclair reforms were based on the concepts proposed in the Wentworth Report, a basic premise of which was that farmers should receive financial assistance where the provision of environmental benefits beyond their normal duty interfered with their ability to maintain a viable agricultural enterprise. Farmers who have lost productive capacity as a result of the legislation continue to be denied adequate financial assistance.

Compensation

A more scientifically precise approach to biodiversity conservation, focussing on specific areas of need would significantly reduce the compensation required. As it stands, the \$36 million structural adjustment package announced by the government 12 months ago is grossly inadequate to address the major financial losses resulting from the laws since their first imposition in 1996. The 2006 ABARE report on the impacts of native vegetation legislation estimated the opportunity costs for farmers in central NSW at \$1.1 billion.

Carbon credits and Greenhouse targets

A major driver for the NSW government's tough policy on native vegetation is Australia's policy to meet Greenhouse gas emissions targets via reductions in land clearing.

The Association supports farming practices that increase carbon storage and reduce Greenhouse emissions, including soil, livestock and vegetation management practices.

To date, however, farmers have paid the full cost of meeting Australia's emission targets while the main greenhouse gas polluters, the energy and mining sectors, have paid nothing.

The value of the contribution so far made by farmers through native vegetation conservation has been estimated by the Climate Institute at \$2 Billion.

The Association will continue to work with the State and Federal governments to ensure that farmers are more fairly treated under climate change policy. In this regard:

- The value of the carbon savings due to native vegetation legislation must be returned to farmers who have been prevented from developing or managing land by the legislation; and
- A carbon trading system must be implemented that allows farmers to derive income from future increases in the net carbon storage on farm land.

Third party accreditation

- PVPs are legally binding documents and farmers may, therefore, wish to seek advice from independent consultants prior to entering arrangements. In this regard, the Association supports farmers having access to independent 3rd party accredited agents in PVP preparation. Provision for such accreditation was part of the native vegetation package but the actual accreditation process has not yet been provided. There are many professionals working in regional areas who are keen to gain accreditation and the Association will continue to press the Government to bring forward implementation of the process.

THE WAY FORWARD

Environmental outcomes on rural land

- The Association remains committed to ensuring effective environmental management of rural land. We will advocate cost effective methods that are the basic principle for ecological sustainable development.
- We will continue to advocate improvements to government policy and assist the urban media to explore the rural environmental issues in more depth.
- Sustainable management of agricultural land requires constant adaptation to specific local conditions. The rigidity of the present system works against farmers achieving the full range of environmental benefits available within productive rural landscapes.
- The Association will work to ensure urban voters better understand practical rural land management and biodiversity issues. The environmental groups have targeted trees in their media campaigns because trees are an icon that city voters can relate to. We will strive to help the wider community to better understand the nature and function of vegetation and vegetation management in rural landscapes.
- We need a system that balances productive and environmental outcomes in a diversity of rural landscapes to ensure that biodiversity is enhanced and social and economic needs of the community are being met while allowing farmers the flexibility to adapt to changing economic, market, technological and climatic factors affecting their operations.

Working with Government to improve the system

- The Association acknowledges the efforts made during 2006 by the government to improve the system.

- The Association is committed to working with the government, its agencies and Catchment Management Authorities to continue the development and improvement of the native vegetation management system in New South Wales.
- The Association supports the concept of maintaining or improving environmental outcomes, however we are also committed to ensuring the concepts are applied in a practical, equitable and effective manner that is also balanced with socioeconomic considerations.
- The Association is committed to the development of a natural resource management system in New South Wales that recognises the positive contribution farmers make to sustainable environmental management and the public benefits they provide. The Association will continue to work towards an effective and economically viable system that underpins the positive environmental services that farmers provide for the wider community.
- The Association is committed to working with Government to develop policy setting that deliver long term net environmental benefits balancing biodiversity, water quality, soil and salinity outcomes for the benefit of the whole community within the context of productive farming systems.
- The Association is committed to addressing the inequitable burden governments have imposed on agriculture to meet greenhouse gas emission targets via reductions in land clearing to the benefit of the industries which create the majority of the greenhouse gasses. The Association will strive to ensure that the benefits agriculture can provide in the reduction of atmospheric carbon are fully recognised and that farmers are able to derive an income from the net carbon storage facilities they can provide.

Catchment Management Authorities

- Catchment Management Authorities will play an increasingly important role in improving the system.
- The Association supports the concept of Catchment Management Authorities and the regional planning approach for natural resource management that CMAs are charged with implementing through their Catchment Action Plans and Investment Strategies.
- The Association supports the Catchment Management Authorities' role as consent authority for Property Vegetation Plans and recognises the statutory role CMAs are charged with to implement government policy to maintain environmental outcomes within their catchments
- The Association supports policy that enables Catchment Management Authorities to act as local decision makers and will continue to work with government and CMAs to improve local decision making processes. The Association encourages CMAs to develop regional policies under clause 28 of the Native Vegetation Regulation 2005.
- The Association is committed to working with Catchment Management Authorities to:

- Continue to develop and improve the system for native vegetation management to ensure the adoption of sound management principles in the best interests of their catchments, its people and its economy.
- Identify issues with the Native Vegetation Act, Native Vegetation Regulation, Assessment Methodology and PVP Developer to ensure the continued improvement of the native vegetation management system.
- Develop the information necessary to enable adoption of local variations to ensure that the system functions effectively at the local level.
- Develop processes and information systems to assist farmers within each catchment to:
 - fully utilise the investment opportunities in natural resource management available through CMAs;
 - understand the regulatory requirements imposed by the new native vegetation management system; and
 - Assist CMAs in identifying local datasets that are more appropriate for use within the Assessment Methodology.

IMPROVEMENTS WITHIN THE NEW NATIVE VEGETATION SYSTEM

The system provides:

- Local authorities (CMAs) to administer the system and strike a balance between local decisions and an objective, consistent approach.
- The Natural Resources Commission to overview the operation of the system and progressively make improvements.
- The capacity to develop some land using offsets.
- The capacity to clear certain regrowth without restriction or within a given timeframe.
- Under this system it is possible to clear isolated paddock trees (in exchange for offsets), to thin areas of dense timber growth and to manage invasive native vegetation areas (this is limited where cultivation is the principle control method).
- The possibility to change the regrowth date where longer rotations have been used.
- Clearing approvals are for 15 years, not 2-5 years under a Development Consent.
- Feral native species and derived vegetation communities have been defined with clear processes for managing these areas.
- Capacity to make ongoing improvements as new information becomes available.
- The capacity under the Act to negotiate Property Vegetation Plans that suit individual circumstances (this has been severely limited by the current terms of the regulation and the Environmental Outcomes Assessment Methodology).

PROBLEMS WITH THE LEGISLATION AND ASSESSMENT SYSTEM

General problems

- The ability to develop unique solutions for each landholder via Property Vegetation Plans has been compromised by the inflexibility of the assessment system/PVP Developer.
- The assessment process and approval conditions continue to be too rigid, with farmers in some cases being prevented from taking the most economically efficient approach to achieving the desired environmental outcome and many withdrawing from the process entirely as a result of impractical impositions.
- Impacts assessment should be on a net environmental outcome basis. Currently water, soil, salinity and biodiversity impacts are assessed independently. The assessment system should balance the total impacts,

both positive and negative, of the proposal to achieve a net environmental outcome.

- The socioeconomic impacts of the Act continue to be a key issue for the Association. The structural adjustment package offered by the government will help only a few farmers and does not begin to address the scale of the impacts on farmers and rural communities. The government must urgently address this issue and provide the financial solution they promised to the farmers impacted by legislation. Farmers must have the ability to finance the environmental benefits the Government and the urban community expect them to provide. The provision of environmental benefits at the scale expected by the community will not be achieved unless farmers have sufficient flexibility to implement productive farming systems and finance the environmental benefits out of their own resources.
- The definition of regrowth must be clarified to ensure that farmers and agency staff understand farmers' rights to clear post 1990/83 native vegetation.
- While the Act allows farmers to apply for earlier regrowth dates to reflect prior land use and rotation practices - ie pre 1990/83 - applications to do this are not proceeding.
- The offsets required by the PVP Developer continue to be excessive. In this regard the offset requirements for all listed threatened species must be reviewed. The details of the 14 threatened species and the other data that was reviewed in this current process made public and implemented immediately.
- The Government has recently passed the *Biodiversity Banking Act 2006* which enables property developers to clear land in exchange for biodiversity offset credits. Farmers should have access to the same opportunities to purchase offsets as do property developers.
- A landscape scale planning methodology has not yet been delivered.
- Coastal farmers continue to be disadvantaged relative to other stakeholders as they:
 - Don't have access to basic utilities (eg power) without offsets;
 - Don't have access to many routine agricultural management activities;
 - Have tighter infrastructure buffers to work within;
 - Don't yet have access to the thinning tool; and
- Routine Agricultural Management Activities and other exemptions available under the Act are being taken away by local government planning controls (in some Shires only) and by caveats imposed by the Department of Lands as a condition of leasehold conversion to freehold. This results in red tape, delays and frustration for farmers. The exemptions within the *Native Vegetation Act 2003* should have precedence over other jurisdictions.

- Some CMAs now estimate a PVP to take ten months. This is due to delays in the assessment process due to complex in-field assessments, difficult to use software systems, poor knowledge and skills of CMA officers and ambiguously termed draft agreements. Some of these aspects are currently being addressed, however, many CMA decisions are routinely being referred back to agency advisors and legal departments. Further work needs to be done to increase the capability of CMAs to exercise their autonomy.
- The wording of PVP agreements is often ambiguous and is causing significant delays as farmers seek to understand the intent and consequences of the contract. More work needs to be done to ensure that agreements are expressed in plain English that is easily understood by any stakeholder.
- A significant part of Biometric is based on a database interpretation of the Mitchell Landscapes. The methodology used to develop this database have not been published or peer reviewed even though this is one of the most important elements in determining the outcomes of the assessment process.
- Exotic species should be able to be introduced where native species cannot out-compete environmental weeds. This should not be considered as a clearing activity but as land rehabilitation. A policy under clause 28 of the regulation should be developed by the CMAs to encourage this.
- Red light reports – ie when clearing applications are rejected - are still not being provided to farmers. These are essential to help farmers understand the system and their future options.
- Management actions constraining the future use of cleared land are being prescribed as PVP conditions. Such requirements go beyond the scope of the legislation and farmers should not be put in the situation where the only way they can gain approval is to agree to unrealistic constraints on their farming techniques and ability to adapt to improving technologies.

Private native forestry

Private native forestry is currently an exempt activity under the *Native Vegetation Act 2003*. In July the government circulated a draft Code of Practice that treated PNF as broad scale clearing and required a PVP. The restrictions and prescriptions in this model were estimated to sterilize up to 60% of the private timber resource. Significant pressure from the Association and forest industry bodies led to the Minister withdrawing this draft Code and handing the issue to a sub-committee of the Natural Resource Advisory Committee (NRAC). This subcommittee has recommended that separate legislation be developed for PNF.

Invasive Native Species (INS)

Some farmers (20) have gained INS approvals and are willing to work with the system. Changes to the INS module of the assessment methodology were gazetted on Friday 24 November. The system will still, however, present difficulties in landscapes where cropping is the best INS management solution, and in parts of the state where key INS species have not yet been included in the database.

Key changes gazetted on 24 November include:

- Removal of the need for an accredited expert to identify invasive situations, which should make applications proceed faster
- The 50% and 75% rules for moving on to new treatment areas are now set as minimums, which CMAs may increase. This must also be read in conjunction with the new definitions - that is you can only move onto the next 20% of INS when there is more than 50% groundcover (this may include leaf litter and exotics) but at least 75% of this 50% MUST BE live native vegetation - previously there just had to be 50% groundcover of which 75% had to be native (whether alive or dead).
- There is a new clause detailing the use of multiple techniques whereby chaining, blade ploughing and/or cropping may be done on up to 60% of the INS subject to the individual treatment restrictions.
- A condition requiring "native groundcover" to be retained in perpetuity, now reads "groundcover" so that includes exotics and dead material as well.
- The ability to apply for additional/supplementary PVPs has been clarified - that is if you need another cropping phase you can apply for a new INS PVP, or you could possibly apply to remove some isolated trees with an offset as a second PVP
- The restrictions of managing INS within endangered ecological communities has been broadened to all threatened ecological communities, however paddock scale treatment (chaining/slashing/roping) may now be used on the understorey or groundcover in these communities.
- Burning is allowed to be used on slopes more than 18 degrees.
- CMAs may vary by +/- 5 cm the maximum diameter at breast height (dbh) to be retained.
- A 1% allowance for accidental clearing of non-INS and large stem INS
- Burning and individual plant removal within riparian areas has been approved
- Lucerne may now be introduced after blade-ploughing and cropping where native grasses are now expected to re-establish quickly.
- Where poisoning/ringbarking/grubbing are used 20 stems must be retained per hectare and the small stems to large stems must be on a 1:1 basis, except if it is a derived veg community

- Where paddock treatments are used small stems may be retained in clumps on each 100ha.
- Cropping allowances have been changed to 3 in 15 years. Previously 2 in 10
- Additional INS species have been added to the database, although where stem sizes have been specified, they remain at 20cm dbh.
- Where burning, spot treatment, ringbarking and/or grubbing is used there is no maximum dbh's to be retained, but small and large stems must be retained on a 1:1 basis, so these methods may allow the clearing of larger stems, but on a per hectare basis (ie mosaic treatment is not allowed with these methods).

INS issues still outstanding, include:

- The INS Database needs full population of INS species and appropriate stem diameters;
- Large stems over 20 cm must be retained where they stand, which can restrict the ability to rehabilitate an area;
- The 50/75 rule must be flexible to accommodate for local conditions;
- The use of any semi-perennial groundcover should be able to be used where soil degradation is severe;
- A minimum threshold for INS management must be established where if you have 500ha INS or less, 100% of this area may be able to be managed at one time
- Longer term disturbance in the cropping options limits treatment areas to 20%. On site assessment must occur (50% cover 75% native species present) prior to treatment occurring on the next 20%. This may prevent cultivation-based management of remaining untreated areas where growth over the unmanaged period may result in diameter thresholds being exceeded, removing the right to treat over 20cm dbh vegetation.
- Appropriate treatment methods in riparian areas and in threatened vegetation communities should be determined whilst assessing the site.
- The problem of threatened ecological communities that are also INS must be addressed.