CLARENCE ENVIRONMENT CENTRE
29-31 Skinner Street
South Grafton 2460
Phone/ Fax: 02 6643 1863
Web site: www.cec.org.au
E-mail: admin@cec.org.au

SUBMISSION

To

Office of Environment and Heritage

native.vegetation@environment.nsw.gov.au

on

The Review of the Native Vegetation Act Regulations and Private Native Forestry Code of Practice.

Compiled by John Edwards for
The Clarence Environment Centre
31 Skinner Street
South Grafton
20th August 2012

Submission to the Review of the Native Vegetation Act Regulations and Private Native Forestry Code of Practice.

Introduction

The Clarence Environment Centre has maintained a shop-front in Grafton for over 22 years, and has a proud record of environmental advocacy. At least three of our members were on the regional veg committee during the development stage of the Native Vegetation Act more than a decade and a half ago, which is the reason why we are concerned that what little protection it provides native vegetation is not diminished.

Background

With the release of various discussion papers for the Native Vegetation and Private Native Forestry (PNF) reviews, we learn that the aim is to reduce red tape; streamline service delivery for landholders, give greater flexibility and more practical rules, while reducing compliance enforcement by "supporting voluntary compliance". Cutting 'red tape' includes removing some duplication, such as no longer having to apply to different agencies, or even two levels of government which, in many cases, previously provided crucial checks and balances.

We have the means to measure trends in the health of our natural environment. We have regular "State of the Environment Reports" which continually paint a gloomy picture of steady decline. The State and Federal Biodiversity Plans of Management, that were reviewed last year, all identified the fact that threatened species numbers are still in decline, and the numbers of plants and animals being added to the threatened species list continues to grow.

Earlier this year, we understand that the Grafton based PNF Unit, the Northern Rivers Catchment Management Authority (CMA), and the Clarence Valley Council attended a high level inter-agency inquiry into why the Clarence Valley has, for the second consecutive year, been identified as the region with the greatest loss of native vegetation. We are also informed that forestry was identified as the main contributor.

There have been ongoing reports that bushland birds are in serious decline, Bell Miner Associated Dieback (BMAD) is spreading like a cancer across the landscape, placing huge tracts of forests at risk, and now a television documentary has blown the whistle on the plight of our iconic koalas, identifying the fact that loss of habitat has driven those animals to the brink of extinction, a situation which many fear cannot be reversed.

Ecologically sustainable development (ESD).

ESD is usually defined as: *"Development that meets the needs of present generations while not compromising the needs of future generations to meet their needs"*.

ESD should be achieved through the implementation of the following principles and programs:

- **The Precautionary Principle –** namely, that if there are threats of serious environmental damage, lack of full scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation.
- **Inter-generational equity: -** namely that the present generation should ensure that the health, diversity and productivity of the environment is maintained or enhanced for the benefit of future generations.
- Conservation of biological diversity and ecological integrity, and
- Improved valuation and pricing of environmental resources.

Assessment of the proposed regulations

Australia has lost 90% of its pre-European vegetation, and it must be recognised that most of the remaining forested land is only marginally suitable for agriculture, which is why it was not cleared a century ago. As such, there seems to be little justification for clearing it now.

It is critically important to value that remaining vegetation for what it provides, not only the immediate economic benefits that can be derived through logging, tourism, and peripheral industries such as honey production, but also for the eco-services they provide absolutely free, such as the clean air and water without which we humans would cease to exist, and habitat for wildlife.

To provide those eco-services, forests need healthy biodiversity, the interaction of those millions of interdependent lifeforms that combine to form a healthy ecosystem. Achieving those healthy ecosystems must be the focus of the Native Vegetation Act.

Forests also store carbon, a vital tool in the fight to reduce greenhouse gas emissions. Land clearing, that invariably involves the burning of that vegetation, is a direct contributor to climate change. As well, the need for migration corridors has been identified as crucial in adapting to inevitable climate change; just another reason to reverse the trend of vegetation loss.

The Act applies only to native vegetation management on private land. All land lies within a river catchment, meaning that any activity a landowner undertakes on that land, has the potential to affect everyone downstream. While many landowners are responsible, many others are not, so those activities have to be regulated, in the same way that people in suburban residential areas cannot burn rubbish in their back yards or keep poultry in high density living areas, because of the impacts they have on neighbours.

All environmental indicators show that biodiversity is declining, and that decline must be a concern for everyone, and as a result of the high levels of vegetation loss that continues to be identified across the state, there needs to be a greater focus on compliance enforcement,sending a clear message that, if anything, the Native Vegetation Regulations must be strengthened

The current proposals for red tape cutting, accelerated assessment, and reliance on voluntary compliance, will clearly reduce protection for native vegetation, and will achieve the exact opposite. They include:

- Increased allowances for clearing under routine agricultural management activities (RAMA).
    - Allowing clearing for ‘conservation’, where logging and clearing can be undertaken under the guise of thinning or other so-called conservation measures.
    - A new RAMA that allows planted native vegetation to be bulldozed. This could include wind breaks that were planted over a hundred years ago and now the only remaining vegetation across the landscape, which provide important habitat and movement corridors for wildlife migration.
    - Loosening of environmental controls for the use of native vegetation for construction timber for rural infrastructure, with no protection in place to protect threatened tree species, such as the Square-fruited Ironbark, from being cut down for fence posts.
    - Allowing the clearing of “feral native plant species” for environmental works, without approval, if the clearing is done in accordance with a code of practice.
      This is an extension of the “woody weeds” category which has seen the problem addressed by non-selective bulldozing of all vegetation. Again this will be left to unmonitored “voluntary compliance”.

- New exemptions are planned for broadscale clearing for conservation purposes, which are exempt from the requirement for assessment in accordance with the assessment methodology, if the Minister is satisfied that the clearing is minor, and the clearing comprises management action or works for conservation purposes.
- The introduction of "increased flexibility and responsibility for landholders to manage native vegetation", and support for "voluntary compliance" with predetermined codes of practice, with little or no compliance monitoring.
- Under the regulations, vulnerable riparian land can be decimated through exemptions such as for "the removal or reduction of an imminent risk of serious personal injury or damage to property". This allows any tree with a dead limb to be cut down for safety reasons, or any tree that looks as if it might fall on a fence (these could be 30m away). Few riparian areas are free of noxious weeds, so further native vegetation can be removed, without needing approval, during the process of getting rid of those weeds. Three more metres of native vegetation can be removed, without approval, along any fences.
- When the Native Vegetation Act was first legislated, regrowth was defined as vegetation that had grown since 1990 – i.e. 15 year old vegetation. With successive reviews failing to change the 1990 base date, we now have trees as old as 25 years being cleared without approval.
- There is provision for lesser regulation over what is termed "low condition" vegetation. Many of our threatened species, including koalas, utilise this so-called low condition vegetation, which also frequently fails to measure up to the SEPP 44 definition of their "core habitat". What the provision for low condition vegetation does do, is encourage landowners who wish to clear or log that land to degrade it prior to applying for a PVP. This can be done quite legally under the Act by introducing large numbers of goats. There are even some rural entrepreneurs capturing feral goats for this very purpose.
- There is already an excessive allowance for clearing along fence lines (6m either side of a boundary fence), and farm sheds (for construction and fire protection), but absolutely no restriction on the number of fence lines or farm sheds that can be built (both constructed legally using native timbers).
- Allows a "simplified fast-track assessment" methodology to be used to approve clearing of what are termed "very small" areas of native vegetation (up to 10 ha in some regions); the clearing of scattered paddock trees and small clumps of native vegetation (less than 2ha) in paddocks used for cultivation. Paddock trees and remnant vegetation provide crucial 'island hopping' opportunities for wildlife trying to move between larger areas of habitat.
- Increased allowances for logging on steep land, and in Endangered Ecological Communities (EEC) under an approved ecological harvesting plan, while also allowing logging to be undertaken for other 'environmental reasons'.
- The reviewed Code allows landholders who have Crown leases over land that is not Crown-timber lands to obtain a PNF PVP, rather than a normal clearing PVP.
- There is a concern that logging may be allowed in wet weather at the discretion of the landowner. Given the potential for erosion, and downstream consequences through siltation and diminished water quality, we believe logging should not occur in wet conditions.

Koala protection

It is pleasing to note that the Government is seeking feedback on identification and protection of important koala habitat, by the release of the specific Discussion Paper on koalas and PNF.

The Clarence Environment Centre has given this issue considerable thought, and has taken on board issues raised by the wildlife care organisation WIRES in this respect.

The discussion paper makes the point that: *"The Recovery plan for the koala (NSW DECC 2008) identifies a range of current threats to koalas. The most critical of these are habitat loss, fragmentation and degradation. Other threats are dog attack, fire, logging, disease and being struck by cars."*

The Reality is, that by placing logging among "other threats", the impression is conveyed that logging is only a peripheral problem. Therefore we believe the passage should be rewritten to read:

Note: that all the threats identified above flow directly from logging operations.

"Logging is a primary threat to koalas. It destroys, fragments and degrades koala habitat, it removes canopy connection forcing the animals to the ground in order to move from tree to tree, making them vulnerable to dog attack, attacks by domestic cattle, and vehicle strike. Logging debris increases fuel loads that contribute to dangerous fires, another major threat to koalas, and it is well established that physical disturbance and habitat loss through logging, causes stress that leads to deadly diseases such as chlamydia".

Because of the drastically changed circumstances of koalas since the State Environmental Planning Policy (SEPP) 44 was introduced, existing definitions of core, primary, secondary, or potential habitat all need to be reviewed. The SEPP 44 definition is overly simplistic, fails to identify a range of crucial feed species, and is open to manipulation and interpretation. The list of primary and secondary feed tree species is woefully incomplete, and the 15% requirement of those feed species across the landscape which needs to be present before habitat is deemed to be "core", can be easily manipulated.

Likewise, because koala numbers have dropped dramatically in recent times, the presence of a viable breeding population, another indication of core koala habitat under SEPP44, is equally difficult to establish, and we find developers claiming, despite scats or even a koala being sighted, that there is no need to consider impacts to the species because there is no evidence of a viable population.

It has to be recognised that koala habitat does not need to have high conservation value in terms of old-growth or hollow-bearing trees, or even high levels of biodiversity. In fact much of the remaining koala habitat is highly degraded and modified. It also has to be recognised that many koala feed trees, Tallowwood, Red Gums, Swamp Mahogany, New England Blackbutt and others are targeted timber species.

We firmly believe that all koala habitat should be protected, and because their numbers are so depressed, the mere existence of koalas, or a record of a koala within a certain distance and defined time period, means it is koala habitat.

In state forests we are currently seeing entire areas of core habitat being virtually clear-felled because the pre-logging surveys are failing to find koalas, and when they do find them, a mere 20 metre buffer around the tree where the sighting is made, is frequently all that is protected.

Therefore logging within that habitat must be restricted to maintain canopy connectivity, and the retention of a high percentage of feed tree species.

Regrowth

It is pleasing to see additional protection for trees that have regrown after a PNF PVP has ended. Currently, once a PNF PVP ends, trees that have regrown after harvesting may be considered regrowth and cleared without approval. These will in future be classified as 'protected regrowth'

Mining.

When it comes to the destruction and degradation of native vegetation and biodiversity, mining activity is by far the worst, yet there is no consideration of this fact under the Native Vegetation Act. All the mining companies have to do is place other, already existing, areas of native vegetation under a conservation covenant to enable widespread destruction of vegetation across their mine sites. Ultimately those sites are frequently abandoned in a highly polluted state and incapable of any meaningful rehabilitation.

In the case of exploration licences, mining companies are not even required to identify the environmental impacts of the ultimate mining operation. In the case of coal seam gas, and other unconventional gas mining, this has allowed miners to advertise the fact that the impact of their test drill site will only affect an area the size of a tennis court, with no significant impact on the environment. They can completely ignore the obvious impacts that will follow the discovery of a viable resource, which is a gas field covering many square kilometres, where the impacts are huge.

Having been granted a licence to explore for those resources, and spending millions of dollars in the process, there is an expectation that they will be allowed to progress to the production phase. And that is what happens, regardless of the potential impacts, and it is all justified by providing some offset areas of vegetation for conservation.

The joke is that those conservation covenants provide no protection against destruction for a state significant project, as determined by the Planning Minister, such as a motorway development, or even against another mining operation in the future.

These anomalies must be addressed. Land that is set aside for conservation as an offset, such as a Biobank site must be truly protected "in perpetuity".

In conclusion

We have clear evidence that biodiversity and vegetation resilience at a landscape level across the state is still in decline. It is also clear, as detailed in the dot points above, that the proposed changes to the Native Vegetation Regulations will have a significant detrimental impact on biodiversity conservation, and the ecosystem resilience.

Governments, landowners, and the general populace, have a combined responsibility to adhere strictly to the principles of ecologically sustainable development, to ensure that our actions today will not degrade our environment for future generations. Therefore, the supposed "maintain or improve" provisions that are used to justify many of the proposed changes to the Regulations, must be taken seriously.

Aligning the Regulations with others such as BoiBanking confirms that the we will see a net loss of native vegetation across the landscape. That fact was identified by the then Department of Environment and Climate Change in its May 2008 Issues Paper, (DECC 2008/245) which acknowledged that the: *"Weakness is that BioBanking does allow a short-term to medium-term loss of biodiversity to enable an overall stabilisation or gain in the long term".* With PVPs lasting only a few short years, the Native Vegetation Regulations definitely fall in that "short term" category.

Destroying native vegetation, using an unmonitored promise to protect existing vegetation elsewhere as an offset, can only result in a net loss of biodiversity, is neither maintaining or improving ecological values. And how can the "maintain or improve" standard be measured if no base-line ecological survey of flora and fauna is undertaken?

The refusal by the administrators to require pre-logging or clearing ecological surveys for threatened flora and fauna is a major concern. There must be a solid mechanism in place and baseline data available, against which performance can be measured. However, no baseline data, other than a single limited habitat assessment and a review of Wildlife Atlas records, are gathered, and no follow-up assessment is undertaken of the ecological values on these properties after the clearing has occurred. As a result, there has never been any true evaluation of the success or otherwise of the entire PVP scheme.

The declared aim to speed up assessment times simply exacerbates these failings, and flies in the face of the Precautionary Principle. We should never compromise scientific rigour for the sake of expedience.

We strongly believe these obvious shortcomings must be corrected, we con no longer afford to see native vegetation being depleted year after year the way that it currently is.

We thank the Minister for this opportunity to comment

Yours sincerely
John Edwards
Honorary Secretary.