

CMA Regional Workshop – Native Vegetation Regulation Review - Notes Template

CMA: Hunter-Central Rivers

Meeting location: Maitland

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Note taker details (to be used if clarification required)

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Name and Location (OPTIONAL)	Comment/ Experience/ Feedback/ Suggestions	Category
Steve Collet, Gloucester	<p>The Private Native Forestry Code of Practice (PNF CoP) is generally working ok, moving in right direction. Office of Environment and Heritage (OEH) approval system is ok, but the other approvals required are a problem. Local government is all over the place. Some local government authorities don't want to get involved; others want to get over-involved and don't have the expertise. Local government should not get involved once a State authority has provided its approval.</p> <p>Once the Native Vegetation Act (NVA) commenced, access to timber resource was removed from many vegetation types and landholders lost access to income and were not compensated. Needs to be access, perhaps approvals, for those who want to harvest in rainforest (e.g. red cedar).</p> <p>Old Growth is a vexed issue. What is mapped as old growth is often not. It requires proper remapping. When old growth is remapped it has been much different to original. Endangered Ecological Communities (EECs) should be available for harvesting. The old growth data is incorrect and up to 80% incorrect.</p> <p>Practicing good forest practice is hamstrung with the CoP, due to retention of habitats and recruitment habitats, reducing production by 20%. Minimum basal area retention are generally too high, leading to keeping too many trees that have no potential for timber growth, and damage to trees retained due to machinery movements.</p>	PNF
Russ Ainley, Forest Products	<p>The practice of PNF is quite contrary to broadscale clearing in the NVA. Want to take private forestry out of the NVA to stand in its own right. Current situation creates conflict for landholders. PNF exists as separate PVPs that don't go through CMAs, but do go through dual consents, for which there is no expertise and no criteria for decisions to be made. Private forests are a very important resource and is hamstrung in some local government areas. PNF PVPs go through OEH because forestry expertise is not in CMAs.</p> <p>PNF should have its own separate legislation. CMAs don't have capacity currently to deal with forest science. Issue of scale and RAMAs don't cover the situation, especially for private forestry. There is no scale consideration, regardless of the scale of operation; you still have to go through same process. No ability to do minor operations. Requires exemptions for small scale activities, defined by 100ha, patches up to 10ha, and 500m³ p.a. This would give landholder flexibility.</p> <p>Issue of regrowth in the NVA. Problem is because much of the regrowth grows within mature stands. Regrowth definition is therefore unclear as to what is really regrowth. Some of this now requires thinning but no ability to do that. In some areas regrowth is very thick and this is available for clearing, but not forestry. Opportunity should be there for thinning of regrowth for landholders who want to do this for commercial purpose. It is breeding feral animals and creating fire hazard. Endorse the old growth comments made by Steve Collet. The job hasn't been done right and incorrect data exists. Only people who jump up and down to get the data fixed if they have a reason, see it corrected. The only reason to fix it is if</p>	PNF NV Act NV Reg

	<p>they want to conduct a forestry operation and then you get forest expertise come out. What is the relevance of “candidate old growth” as this doesn’t satisfy the criteria? Private land is therefore being set up for public conservation. Nobody knows what the government endorsed data will be used for. Why is it there?</p> <p>EECs issue comes back to commitment by Ministers Koperburg, Knowles and MacDonald, who committed that the maximum impact on a given property would be 10%, but this has never been achieved or the situation reviewed. EECs are just added. Nothing that sustainable forestry does removes these from consideration. EECs are taken out of the biodiversity certification for PNF code. There is no way out of EECs. Have on record a farmer who purchased a dairy farm and grew a forest from natural regeneration. This legislation came in, called it an EEC and now he can’t touch it.</p> <p>One stop shop means we go to somebody and have one approval and it’s all done. A lot of silviculture operates at a site level and we need access to expertise so operations can proceed with an orderly manner.</p> <p>Bell miner dieback is a significant issue on the coast, as is myrtle rust, and thrip outbreaks also regularly occur. Not much that can be done about these until the trees are dead. Would like to see provisions in the Act and Regulation that allow these issues to be dealt with early in the piece. Need to be able to identify the threatened trees before they are dead, to put in place a specific treatment to treat the problem.</p>	
Dianne Godwin, Port Stephens Council area private landholder	<p>Availability of information is good and working; using the internet.</p> <p>Dual consent is not working and if it were removed, my issues would be resolved. Don’t believe that a lower level of government should have equal sitting with State legislation. Therefore Council should be out of it. Council staff are not educated enough as they don’t understand native vegetation regulation.</p> <p>On fire management, if you have issues it is a worry, Under fire management I can’t make the decision and have to go to somebody else. I have heavy lantana infestation and I can’t remove it because a machine will cause too much damage to the trees around it. I need to be able to clear the thicket near my neighbour.</p> <p>If I want to remove native vegetation, the cleared vegetation must remain on the property. I have 25ac, bought with a view to run cattle but can’t at present. I would have too many trees on my property to do anything with them, so I should be able to do something with the trees e.g. to sell it, rather than just leaving it.</p> <p>An exemption on a small scale would be supported. Need to have different rules for smaller properties, so scale should be considered, rather than one size fits all.</p>	NV Act NV Reg RAMA
Tony Hegarty, Cassilis	<p>Pasture cropping has been a developing farming practice and is not covered and is technically in breach of the Act, but its needs to be addressed and included. Pasture cropping aims to enhance native pasture.</p> <p>(Glenn Lyons commented that the CMA has discussed pasture cropping and its interaction with the NVA with some Upper Hunter landholders, which included the need to identify the specific circumstances where pasture cropping is proposed and how this would fit with a potential Clause 28 policy under the Native Vegetation Regulation (NVR) for this region.)</p> <p>In the Upper Hunter, pasture cropping is probably happening on old farming country. CMA is probably not being called in because people are flying under the radar.</p> <p>Threat of coal seam gas (CSG) on the area. Urban sprawl and mining is already impacting and CSG is about to. It needs to be considered as the cumulative impact is greater than urban sprawl.</p>	NV Reg EOAM NV Act
Matt Bell, Great Lakes Council	<p>Great Lakes Council (GLC) recognise sustainable forestry underpins the economy along with other land uses. GLC doesn’t throw its hat into the ring for dual consent; we note when a PNF PVP is approved. The issue is more complex from a legislative viewpoint. Our advice is that the NVA doesn’t over-ride our legislation. Legally complex issue. We have had a PNF PVP approved in an area having a Tree Preservation Order (TPO) over it. Can’t commence logging until all approvals obtained. Moving forward, a working group of OEH and CMA should sit down with relevant councils and work through issues like this. Even is a council doesn’t want to participate in PNF they need to and needs to be talked through. On issues with the NVR, the whole dual consent issue is complex and needs local government involvement. The ability to</p>	PNF NV Act NV Reg RAMA

	<p>clear for approved environmental restoration projects is topical. GLC has been involved in an acid sulfate soil drain remediation project, where spoil from drains is placed on Casuarina glauca vegetation. Need to infill the drain to remediate the acid sulfate soil issue. Problems with gaining consent for clearing swamp oak, which has colonised this area. Would welcome a RAMA to allow these sorts of works.</p> <p>The Local Government RAMA was not really an exemption or RAMA, but more assessed along the lines of an approval. Issue to be talked through. Looking for more flexibility perhaps if important public infrastructure. Should be on the agenda for a local government working group.</p> <p>Issue expressed by ratepayers is when exemptions or permitted activities are used in a pre-emptive manner to avoid requirements of a future consent. The former 2ha exemption was exploited. Frustrating that exemptions and permitted clearing are not being used for bona fide situation.</p>	
Phil Conacher, Environmental Consultant, Central Coast	<p>In advising clients and working with government, three main issues are:</p> <ul style="list-style-type: none"> - One methodology of assessment and approval processes. - Use of "RAMA" is totally inappropriate for the situations dealt with e.g. gravel quarries. Suggest remove the word "agricultural" from the terminology and perhaps use just "routine land management activities". If you changed the terminology then you could apply to get other routine activities listed. Example could be doing a stormwater outlet through a riparian area. Should not have to try to fudge that something is "agricultural". RAMA was not available in one case through discussion with Council, but has been applied to a retirement village case. - Calculation of offsets is very different between EOAM and biobanking and there needs to be ratification of these. Offset credits are different between the two processes. You can end up with three different offset proposals. - Application of the NVA to different parts of the EPA Act e.g. rezonings, Part 4. Something there needs to be ratified. My view is if the EPA Act applies, it should prevail. Only one of them should apply. Different CMAs handle these issues differently. Clients want consistency and timeliness and there is different timing between CMAs. 	EOAM RAMA NV Act Service/info
Bob Kerrigan, Lochinvar	<p>Blackberry and lantana are noxious weeds. What is the relationship between noxious weeds and this legislation? (David Russell advised noxious weeds have a RAMA, but the RAMA requires that it should be to the minimum extent necessary.)</p> <p>Cereal crops into native pasture does happen in this area. Improved pasture into native pasture has happened here for many years. Now a very common practice in the lower hunter and has extended further north. The technique is strongly dependent on weather.</p>	RAMA
Ted Laurie, Gloucester	<p>Most farmers have a problem with the Act, because it's such an over-riding Act that tries to fit an outcome that makes it hard for farmers to make it fit. I feel for CMA staff that have to help people make it fit. Farmers with infringement feel they have to prove themselves innocent, rather than guilty until proven otherwise.</p> <p>Definition of clearing is a problem. It's such a broad thing that you could be pulled up if someone wanted to pull you up.</p> <p>Definition of native vegetation is a problem, as is what is native pasture versus naturalised.</p> <p>NVA has been a cot case since brought in to appease a whole group of people. It hasn't achieved what was intended and needs to be rewritten. How do you write an Act that provides certainty in the one Act, covering situations from the far west to the east coast? Regional vegetation plans were going down the right path.</p>	NV Act
Ian McKenzie, Gloucester	<p>More work needed on invasive native species. What is one and what can you do with them without needing a PVP? Lignavider (wattle) would be one and blady grass perhaps another. If a species is deemed to be invasive you should be able to do it under a RAMA.</p>	NV Reg RAMA
Selby Green, Millers Forest	<p>I was here a few years ago and many of the issues today were the same issues then. There was a review a few years ago. Generally turns into a talkfest and nothing happens as a result.</p> <p>Irrespective of what people think, trees will go. Native pastures are adaptable to situations. We go with improved pastures due to higher productivity. Farmers generally get pushed to the background. Discrepancy between who is allowed to do</p>	General

	what. Where do the offsets go; do they go further out? When offsets are required for development, they are able to get it.	
James Laurie, Gloucester	Different rules apply to farming activities compared to mining activities. If you are guilty until proven innocent, you are not sure of what the fine is going to be. It's unclear. I know people who have been fined and it doesn't appear to relate to anything. They go the easier option of paying the fine rather than going to court. (Leah Kelly noted that the NVR has a page of fines, but there are no set amounts for prosecutions)	NV Act
Gary Pearson, Singleton Council	Deal with the Act from Development Application (DA) and rezoning side. For DA side, would be better if the NVA was included in integrated development, so that everything was looked at the same time. Regarding rezoning, Department of Planning detail that council needs to deal with OEH and the CMA. Both OEH and CMA try to apply Improve or Maintain at this stage, but you don't know the impacts at this stage. Would be improved if a more basic assessment to the NVA EOAM could be applied to rezoning. This could be done via a different methodology under the Regulation. Would be better if only went through one authority.	NV Act NV Reg EOAM
Martin Faulding, Lake Macquarie City Council	Fundamental problem with the Regulation is it's trying to create generic rules that can be applied at the specific site. Solution is to allow site specific plans as one legally recognised plan that a landholder can put up have it approved, and then they know what they are doing. Steve Collet commented that the Integrated Property Management Pilot (IPMP) process could be a model for a solution.	NV Reg
Sarah Roberts, Singleton Council	Issue is that developers use RAMAs to clear and then lodge a DA. The 1990 rule is an issue for Council. People say that it is regrowth and they are just clearing it, and yet it may not be. What can be considered as small scale clearing is often significant for Council. From a compliance point of view, when clearing is reported by Council, often get asked whether Council can go out and take a photo and send it in.	RAMA NV Act Service/info
Leah Kelly, OEH	Commented that a landholder said he could only get a 15 year PVP, and he was looking for a longer term commitment.	NV Act
Steve Collet	When a property with a PNF PVP gets sold, the activities have to conclude. While it can be put on title, that is not always the case. The PVP process has moved the industry forward and weeded some people out. Question: Do we know where the 1990 regrowth date is going to go in the future? I hear all sorts of views on what it should be.	PVP NV Act
Steve Meadows, Wollombi	I live in area with a lot of illegal clearing. People just do what they want. The area has high level of absentee landholders, and is dominated by small landholdings. I have done things I have been told not to. Coming back to my local community, I am on Council's environment committee and they are talking up a study of the floodplain around the Cessnock area. So how do we get away from looking at individual properties but the broader landscape? If we can make a chain of properties into a broader landscape approach, everyone will win. In my area, all discussions are ignoring the scale issue. Need to plant a vision in peoples minds and the use that as a basis for progressing. Difference between landholder and whole of NSW perspective, but for me it comes back to local area.	NV Act
John Higgins, Gloucester	Question: In the John Seidel presentation, you made reference to provisions being road tested. What are these and how will issues being raised here be considered? (John Seidel advised that we are looking at and testing changes that would simplify the assessment process in some cases e.g. for paddock trees. It's about introducing more flexibility in the assessment process.)	EOAM
Bruce Chisholm, Gloucester	Question regarding the 1990 issue. I had some clearing done before, maybe 75% of the area and had lignotubers come back. These trees have come back and now unless I can prove that they have come back since 1990 I can't clear it. I would like this situation to be fixed. What is the date of the photos that is referred to? We don't get at present what the date is. In the determination of the	NV Act NV Reg General

	<p>actual 1990 date, what is the photo that is used? (John Seidel commented that the it's not the photo date, but the 1990 date that matters.) (David Russell advised that regrowth clearing is covered under permitted clearing provisions and the CMA can provide advice. We use available evidence. We don't just use one photo but we used to a series of air photos, to help pin down a clearing event between those photos.) (Leah Kelly advised that compliance uses what photos are available.) With farm forestry, they refer to shelterbelts. Currently in putting in shelterbelts, you have to speak to the plantations side of the department to take these trees out. It is complicated and not clear what is relevant to this situation. Would only be looking at a small area, such as 5 ha. Want to be able to establish the trees but also harvest them down the track. (John Seidel commented that the PRA Act is separate legislation that would also need to be considered.) Have rainforest on my property and wonder about whether a percentage of the property size excluding rainforest areas, could be used as an approach for exemptions, above which you would go to the CMA. Inland areas have a funding program, but this is different in our areas. Insufficient money, you have to bid for it and what come out of it is hardly enough to cover the fence. (Tim Ferraro commented that inland areas had a stewardship funding program funded by the Australian Government, but landholders still have to bid.) Support the other comments that councils should be right out of clearing and forestry.</p>	
Steve Collet	Suggested that 1990 air photos should be made available on the website.	Service/info
Marius Heymann, Forest Products	Clarified you don't have to get approval for plantations unless above 30ha.	General
Jon Novoselac	Question: what are the main issues that have come up at other sessions and how does this compare to here today? (Tim Ferraro advised some themes are people are looking for flexibility, inconsistency has been raised in a broad sense, with high profile local issues raised e.g. dual consents here)	General
Newman Patmore, Gloucester	Different situation on the coast here versus inland. Weeds come up and we have to deal with it. We need to be able to get on with the job.	General
Sarah Warner, Lake Macquarie City Council	Generally has been working fairly well in our local government area. Agree with the idea of integrated development for our area. Can RAMAs be tied more to the land use zones e.g. a set of RAMAs for rural zones and another set for other zones and situations.	NV Act NV Reg RAMA
Colin Fitzsimons, Mt Vincent	Agree with PNF comments. Council only required a rough idea and gave agreement in principle. With our Voluntary Conservation Area (VCA) lands have had excellent advice and assistance from the CMA and we are under a PVP which gives us financial assistance. We had lantana up to 5-6 years ago; the technique we used was splatter gun, with 10% roundup put out in a stream. Lots of clearing going on and people just go ahead and don't apply. More communications between CMA, Council and State authorities needed and perhaps one authority. This also applies perhaps to forestry. Outcome varies from excellent to terrible e.g. an example was like putting in a lantana plantation. For forestry, work goes into the plan for forestry, but in some case the aftermath is not what was planned.	PNF Service/info NV Act PNF
Selby Green	Regarding discussion on 1990, we need to have a clear decision. Go back to 1985 if you need to.	NV Act
Sylvia Graham	I get demoralised that Council doesn't clear weeds from the side of the road adjoining our property. Council have said they don't have the funds to control Paterson's Curse.	General
Sandra Sippe	Don't put on people that unless your planting is registered, you can't harvest it. Need to have certainty.	General