Proposed changes to
the NSW Native Veg Act

By John Edwards
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The NSW Local Land Services (LLS) has been charged with implementing self assessment guidelines to allow landowners in NSW to bypass the current approval requirements under the *NSW Native Vegetation Regulation 2013* for three routine agricultural management actions, otherwise known as RAMAs.

Those RAMAs are:

- Clearing of Invasive Native Trees,
- Clearing of Paddock Trees, and
- Thinning of Native Vegetation.

Clearing of Invasive Native Trees is not an activity that is expected to be undertaken in Coastal NSW, and is likely restricted to inland NSW where some native pioneer species are problematical. Therefore it was not covered in recent field trials in our region. As a result the following assessment of the proposed changes concentrates on the clearing of paddock trees and thinning of native vegetation.

Few if any conservationists are fans of self-assessment, as we believe it does not work. However, I was persuaded to attend the field day in Grafton designed to determine if the draft guidelines, as drawn up by the Office of Environment and Heritage, were appropriate for landowners' use. The following are my observations.

Draft Landholder Guidelines for Clearing of Paddock Trees in a Cultivation Area under the NSW Native Vegetation Regulation 2013

General comment

Having attended the Local Land Services (LLS) field day on the landholder guidelines for self assessment for clearing paddock trees in cultivation areas, it was clear those draft guidelines were confusing and badly worded, even the LLS officers appeared not to fully understand them.

After an excellent summary of the benefits of retaining paddock trees, the Draft explains that: ***"The Clearing of paddock trees has been declared by the Minister for the Environment to be a routine agricultural management activity (RAMA), which means you do not need permission to clear if vegetation is cleared in accordance with the conditions set out in the Ministerial Order and explained in this guide",*** the rationale provided being that the removal of ***"relatively small numbers"*** can ***"improve production efficiencies"***.

One clear restriction is that paddock trees larger than 80cm diameter, measured at breast height, cannot be cleared. While not mentioned in the Draft, we were told that large trees can, however, be cut down if they are dangerous which, given the propensity of senescent trees to drop dead limbs, would be easy to claim.

This is where it becomes really complex. ***"Paddock trees in cultivated areas may be cleared where they are more than 50 metres away from another living native tree that is larger than 25cm diameter at breast height*** (this size only applies to coastal zones, Tablelands and Western Slopes have smaller sizes). And then: ***"A clump of two or three paddock trees in a cultivation area may be cleared if they are within 50 metres of each other and more than 50 metres away from another living native tree that is greater than the sizes listed above*** (i.e 25cm).

At this point in the field day presentation, despite being provided with tape measures, it was obvious that nobody had a clear understanding of what trees could be removed, and which could be retained. However to confuse participants even further, the Draft Guide then adds the need for the landowner to decide whether the tree that is being removed is a threatened species under the TSC Act. If it is, it must be retained.

The LLS botanist, brought in for the day to advise, was unable to identify the tree chosen as an example, beyond the fact that it was an *Angophora.* Given there are 12 *Angophora* (Apple) species growing in coastal NSW, 2 of which are listed as threatened, the inability of a botanist to correctly identify what was in fact a relatively common species, but impossible to tell with certainty without fruit being present, has alarm bells ringing. One suggested course of action to assist the landowner to identify potentially threatened trees, i.e. ***"consult LLS staff",*** is clearly not going to work.

There is a list of threatened species that are supposedly likely to occur in various divisions to assist landowners in identifying their trees. For the Clarence Valley, there are only 6 species mentioned with several notable omissions, including one of the afore-mentioned Apples. Most unsatisfactory!

Other landholder requirements before they are allowed to clear any tree, is to determine, ***"is the tree habitat for threatened fauna?"*** Again, given the instruction that ***"Paddock trees used by threatened bird and animals cannot be cleared if they provide important habitat, shelter or food"***, it could be argued that none can be removed because all provide important food for threatened Honey-eaters, Flying-foxes, and fruit eating birds, to name just a few, and how is "important" defined? Again it could be argued that as these species are facing extinction through loss of habitat, that the retention of all trees is important.

Paddock trees within 30m of the "high bank" of a creek or river do receive some protection, although farmers expressed real concerns about measuring from the "high bank" which is often a long way from the normal water line, thus adding to the area they can hack into without obtaining permission.

However we are told that: ***"If the paddock tree falls within 30 metres, landholders may still be able to clear, but may require a PVP from the LLS".*** Note the use of the weasel word "may".

We are told later in the Draft about the use of "set aside" areas, which are designed to: *"**help balance the impact of clearing paddock trees",*** **and,** ***"protect native vegetation and provide habitat for native fauna including threatened species"***. The real concern here is that riparian zones, that cannot be cleared anyway, can be used as set-aside areas which, in my assessment, does not balance the impact of clearing paddock trees.

Requirements such as the number of mature trees, and the species mix retained in these set-aside areas are all very well, but who is going to monitor compliance? My guess is that, as usual, nobody will!

When it comes to really poor drafting, consider this statement from page 5 of the Draft under the heading: ***"Are there any limits on how many paddock trees I can clear?".*** The answer is:***"You can clear up to 200 paddock trees per 1000 hectares or part thereof per notification. For example, if your property is 1500 hectares then up to 300 paddock trees may be cleared on theproperty per notification"***. The subsequent comment that ***"More information about the notification process can be found on page 9",*** provides no reassurance, with only a check list of ***"the type of information the LLS may need from you"***. That list asks how many trees the landowner plans to remove, but no need to mention of the size of the area involved.

In summary, I feel we have long since reached the point where all hollow-bearing trees should be protected by law, and with around 50% of our land based threatened fauna being tree-hollow dependent, I would go even further in saying that recruitment trees should also be identified and protected across all tenures (not that that will ever happen).

It should be remembered that this RAMA is only for cultivation areas, to improve production efficiencies, and I suggest that all prime cropping land in NSW, and there is precious little of that in coastal NSW other than sugar cane, has had its paddock trees removed long ago. Even in western areas, there would only be a need to remove trees on land that has not previously been cropped, and if it has not previously been cropped, it has to be very marginal and should not be cropped anyway.

All the farmers that attended the field day with myself, with the exception of one, were beef farmers, and all showing great interest in the process. The exception was one person representing the local sugar industry, who expressed the opinion that it didn't apply to them for the very reasons mentioned above.

Therefore there appears, to me at least, to be very little justification for this RAMA, and it should be rejected in its entirety.

Guidelines for Thinning of Native Vegetation under the NSW Native Vegetation Regulation 2013

General comment

Again, having attended the Local Land Services (LLS) field day on the landholder guidelines for self assessment for thinning of native vegetation, it was clear the guidelines were confusing to most of the attendees, and poorly drafted, with LLS officers forced to attempt to clarify point after point.

The Guidelines open by explaining that:

"Thinning is the selective removal of individual trees and woody shrubs to:

- increase native pasture and groundcover growth
- reduce competition between trees and shrubs
- improve growth and maturation of retained trees

It is pretty clear from reaction and questions on the day that the majority of farmers, the only ones really interested in "thinning" native vegetation, that the first dot point was their primary interest – to increase native pasture for livestock.

Specifically, landowners can thin native vegetation if it:

- ***includes trees or woody shrubs that are more than 1.3 metres high and have a stem up to 25 centimetres diameter at breast height over bark (DBHOB)***
- ***is part of a nominated vegetation formation, see Table 1***
- ***is on a patch of remnant vegetation more than 1 hectare in size.***

Also: ***"Patches of vegetation of any size that are within 100 metres of each other that collectively add up to more than 1 hectare can also be thinned".*** This is a concern as it allows whole clumps of trees to be removed if the remaining clump/s have the requires number of "stems".

You can't "thin" trees with a diameter greater than 25cm diameter, and ***"thinning must not result in a change of land use"***. However, there is nothing to stop landowners (that I could see) from first taking out a logging property vegetation plan (PVP), which can remove most of the larger trees, and then 'thinning' what is left.

Surprisingly, the landowner is not allowed to sell the product of thinning without a PVP, but can use the product on farm (fence posts for example).

The Guideline provides a pretty simplistic explanation that: ***"12 formations are distinguished based on vegetation structure and composition (e.g. canopy cover and growth form). Thinning can be done in the six nominated vegetation formations described in Table 1."***

The vegetation "formations" that can be thinned include:

- ***"Arid shrublands (acacia sub-formation)"*** where 100 stems (trees less than 25cm diameter) per hectare must be retained (while saplings greater than 1.3m tall have to be considered when calculating initial densities, there is no minimum size stated for those retained trees, so a 30cm high seedling can seemingly be counted in the 100 retained stems).
- ***"Dry sclerophyll forests (shrub sub-formation)",*** where 200 stems/hectare must be retained.
- ***"Forested wetlands",*** with a need to retain 150 stems per hectare.
- ***"Grassy woodlands",*** also with a need to retain 150 stems per hectare.
- ***"Semi-arid woodlands (grassy sub-formation)",*** where 100 stems/hectare must be retained, and:
- ***"Wet sclerophyll forests (grassy sub-formation)",*** with 200 stems/hectare to be retained

The concern here is that there is no mention of threatened ecological communities (TEC), much less requirements to protect them. Communities such as "forested wetlands", and even "dry sclerophyll forests", could be listed TEC's particularly if they occur on floodplain.

To add to the general confusion, the Draft Guidelines advises that: ***"If you are in a coastal area, you cannot thin native vegetation unless it is from one of the following plant genera: Acacia, Allocasuarina, Angophora, Callitris, Casuarina, Corymbia, Eucalyptus and Melaleuca".*** The farmers present had little idea what that meant but were more comfortable with the names, Wattle, Sheoaks, Apples, Pines, Gums and Tea Trees.

Again, the authors of the guidelines seem ignorant of the fact that some Pine (Calitris) and Casuarina communities are listed as endangered. Of course it didn't take one landowner long to ask, ***"isn't the Allocasuarina the tree we have to protect from logging because it is a crucial feed source for the threatened Glossy-black Cockatoo?"*** Of course he is right, but the importance of ***Allocasuarina species*** to the Cockatoos is completely overlooked.

As with the paddock tree guidelines, the wording is poorly constructed, an example being this on page 6: ***"Thinning a patch of vegetation should be as targeted as possible and result in minimal disturbance to soil, groundcover and non-target plants. You can select any method other than chaining or roping to clear (unless you are in a riparian area)"*** **-** where chaining and roping is allowed?

Of course, 'thinning' isn't always what we would expect, and it can be undertaken in various ways, including the ***"mosaic effect"*** which ***"lets you use discretion around the number of stems you keep per hectare as it involves scattering and/or clumping the remaining stems",*** in other words retain the required number of 'stems' in one corner of the hectare and bulldoze the rest.

If you're clever about it a 4 hectare area can be cleared around a single clump of trees across the adjoining corners, and you don't even need a 'set-aside' (offset) area.

There is no requirement to search for threatened flora. However, in the highly unlikely event that, ***"threatened tree species or woody shrubs are present you may need to apply to the LLS for a Property Vegetation Plan as the Order does not cover thinning of threatened species."***

My feeling is that there is no need to abuse the system, abuse is built in, and with no need to search for threatened species, or any suggestion of compliance monitoring, native vegetation and wildlife will be the losers.

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