

Remnant native vegetation – perceptions and policies

A review of legislation and incentive programs



Denys Slee and Associates for the South Australian Farmers Federation, Victorian Farmers Federation and NSW Farmers Association

Research Report 2/98

National Research and Development Program on Rehabilitation, Management and Conservation of Remnant Vegetation



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Preface

Clearing of native vegetation from much of Australia's prime agricultural land has caused the widespread fragmentation of natural ecosystems, reducing their viability and threatening maintenance of native flora and fauna and the ecological processes upon which productive rural landscapes depend. The degradation of ecosystem processes in the agricultural zone is the result of a particular suite of ecological, economic, social and institutional circumstances. These must be understood before effective policies and programs to combat degradation can be established. Recognising this, the Land and Water Resources Research and Development Corporation (LWRRDC) funded a review entitled *Remnant Vegetation in the Rural Landscape: a consultancy report* which highlighted:

- the difficulty in planning and conducting essential long-term ecological research due to the annual funding cycle of existing programs; and
- the lack of an adequate understanding of the Socio-economic factors which influence land managers' decisions regarding remnant vegetation.

In response to the findings of the review, Environment Australia and LWRRDC joined together to establish a national program of research and development on the rehabilitation, management and conservation of remnant native vegetation. The program, which commenced in 1994, aims to assist government agencies, community groups and landholders better manage and protect remnant native vegetation through application of improved knowledge and understanding gained from research. The program has a strong emphasis on practical outcomes in managing remnant native vegetation and promotes the development of effective links between vegetation managers and researchers.

The program has two main themes: ecological research and socioeconomic research. A range of projects was funded in 1994 to examine different aspects of the ecology of native vegetation, and to develop practical methods for better management by individual landholders. A number of projects, primarily based in the extensively cleared and highly degraded woodland ecosystems, identify the key processes by which different types of disturbance influence the long term maintenance and conservation of remnant native vegetation. The projects develop and demonstrate practical measures to reconstruct, rehabilitate or manage remnant vegetation in highly degraded or altered landscapes.

In addition to developing a broadly-based ecological understanding, it is also important to understand the range of Socio-economic issues which influence the protection and sustainable management of remnant native vegetation. Projects funded under this component range from identifying the market and non-market values of, and the attitudes of rural landholders to, remnant vegetation. Projects also focus on the development of improved legislation, incentives and effective mechanisms/systems that would assist landholders to retain native vegetation on private land. The range of projects significantly contribute to an understanding of the socio-economic issues influencing the protection and management of remnant native vegetation.

The research and development program, part funded by Environment Australia under Bushcare, is already providing a valuable information base on the ecological, economic and social values of remnant vegetation. It is highlighting the importance of ensuring that off-reserve nature conservation measures are supported by private landholders and that economic and ecological values are included in the decision making process. The series of papers arising from this program is aimed at ensuring widespread dissemination of the research results in the expectation that the knowledge gained from this investment will lead to improved management of native vegetation and, therefore, sustainable land

management and the conservation of biodiversity. This paper reports on the legislative framework for native vegetation management from farmers' perspectives and identifies a range of opportunities for government and communities to improve management in partnership with landholders.

For more information about the program please contact LWRRDC or Environment Australia. For information about assistance available under Bushcare for management of remnant vegetation please contact Environment Australia.

Phil Price, LWRRDC

Andrew Campbell, Environment Australia

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Denys Slee

August 1997

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Background

Three farmer organisations – the South Australian Farmers Federation, Victorian Farmers Federation and NSW Farmers Association – applied for and received funding under a joint Land and Water Resources Research and Development Corporation (LWRRDC)/Environment Australia (formerly Australian Nature Conservation Agency) project in 1996 to initiate a research project about remnant native vegetation on farms.

In the background paper the farmer organisations said: “There is an underlying recognition of both public and private sector benefits from retention of remnant native vegetation on farms. By and large the broader public benefits far exceed the private benefits to individual landholders. The challenge is how to provide for in legislation or otherwise to publicly reward private landholders for their motivation to act for the broader public interest”.

Remnant native vegetation on farms has been a matter of considerable public discussion and debate for a number of reasons, Among these are:

Past and present clearing policies in Australia. Here, matters such as the loss of native flora and fauna have been widely documented, as has the link between clearing and greenhouse gas emissions.

The conservation values of these areas of vegetation. Areas of remnant vegetation on farms are seen as very important natural resources ó they provide habitats for wildlife, assist in the natural movement of wildlife, and facilitate genetic exchange.

The association of vegetation with other natural resource issues. These include their relationship with erosion control and the rise and/or fall of water-tables.

The perceived economic value to landholders. The retention of vegetation on farms is said by some to provide economic benefits to landholders as well as adding to the general aesthetics of the rural landscape.

Farmer attitudes to clearing restrictions and to the conservation of remnant native vegetation on farms. In the past 20 years, moves to control clearance have met with widespread opposition from farmers when these controls have been introduced.

It is not the intention in this report to restate in any detail many of the above points. For example, issues such as the link between vegetation clearance and greenhouse gas emissions and between clearance and the loss of flora and fauna species are well documented.

This project is part of a national program of funded research and development on remnant native vegetation policy issues,

Following a tendering process, Denys Slee and Associates Pty Ltd was asked to carry out the work, which commenced in February 1997 with the South Australian Farmers Federation as the nominated project management agency.

Project objectives

The primary objective of the project was to develop an improved legislative framework and policies to promote management and conservation of remnant native vegetation on farms, based on a clear identification of stakeholders and their roles and the development of an appropriate policy mix.

Methodology

- 1 Reports with a bearing on the conservation of remnant native vegetation on farms were identified and studied.
- 2 Legislation dealing with the clearance and/or conservation of remnant native vegetation on farms in all States was examined.
- 3 Farmers in South Australia, Victoria and New South Wales with native vegetation on their properties were interviewed using a standard questionnaire. Other people with an interest in the issue were also interviewed.

Literature review

During the course of this consultancy, more than 30 reports and surveys were reviewed.

Some of these were of particular relevance to this consultancy and included:-

Reimbursing the Future — an evaluation of motivational price-based, property right and regulatory incentives for the conservation of biodiversity (M D Young, N Gunningham, J Elix, J Lambert, B Howard, P Grobosky and E McCrone).

This 1996 report to the Biodiversity Unit of the Department of the Environment, Sport and Territories is most comprehensive and a welcome addition to the policy formulation process. It contains many general and specific recommendations which are understood to be the subject of current discussions at government level.

From Conflict to Conservation — a report on the proceedings of a seminar held about off-park remnant native vegetation policies in Adelaide in November 1995. This seminar provided participants with a State-by-State overview of clearing and retention policies and programs.

Surveys of Heritage Agreement owners in South Australia — these were conducted in 1996-97 by regionally-based Natural Resource Management Officers of the Department of Environment and Natural Resources.

Remnant Vegetation in the Rural Landscape — this report about remnant vegetation research and development issues was prepared for LWRRDC by Ms Judy Lambert and Ms Jane Elix and contained seven recommendations, among them the need for: a greater focus on ecological research; more effective communication of research results to end users; more landholder attitudinal studies with emphasis on vegetation retention and appropriate management.

Documents relating to the pending introduction in New South Wales of the Native Vegetation Conservation Act. This legislation will repeal State Environmental Planning Policy No 46 (SEPP 46) and provisions relating to native vegetation conservation and management in various other Acts. As it is the most recent State legislation aimed at the conservation and management of remnant native vegetation on farms, it is of particular interest.

Native vegetation clearance legislation in the States

A review of this legislation was carried out in the April-May period of 1997. It should be stressed that legislation of this type takes a dynamic form, often being subject to change. Cases in point are amendments proposed to regulations under the Native Vegetation Act in South Australia and the pending introduction of the Native Vegetation Conservation Act in New South Wales.

While the farmer organisations who initiated this project principally required an examination of legislation in New South Wales, South Australia and Victoria, it was thought appropriate by the consultant to broaden this by reviewing legislation in all States. The results of this survey

are shown in detail as an attachment to this report but some summary points need to be made:-

Clearance of remnant native vegetation is controlled by legislation in Western Australia, South Australia, Victoria and New South Wales and to some degree in Queensland. The rate of clearance in Australia has fallen considerably in recent years to the extent that in most States broadacre clearance is not a feature of rural land activities. This legislation generally applies to all native canopy, shrub and understorey plants including grasslands. Exemptions for standard farm activities are relatively consistent between States.

The make-up of administering authorities varies considerably between States but there is an increasing tendency to delegate or regionalise decision making powers. For example, the New South Wales proposal is to establish a number of Regional Vegetation Committees which will draw up Regional Vegetation Management Plans identifying areas of native vegetation which should be protected and/or improved and areas that should be revegetated.

In **some States**, the legislation provides a mechanism for a landowner to appeal against a decision (Victoria and New South Wales are examples), but third party appeal rights are not common,

Only one State, South Australia, has paid farmers land-based compensation when clearance has been denied on native flora and fauna criteria. These payments were made between 1985 and 1991 and were conditional for example; a heritage agreement over the vegetation was required in return for payment. South Australia and Western Australia have assisted landholders with the cost of fencing remnant vegetation and New South Wales also plans management assistance of this type. In South Australia, limited grants have been made available to assist farmers in

other ways such as for the control of weeds and vermin in remnant native vegetation.

With the exception of South Australia, most of the remnant native vegetation subject to the legislation in the States is not covered by any form of agreement between the Crown and landowners. In South Australia, about 55,000 hectares of native vegetation on farms is secured from future clearing by approximately 1,050 heritage agreements. In Victoria, voluntary and non-legally binding agreements exist as do formal conservation covenants. While the total number of properties participating in both of these schemes is relatively high, the actual area of conservation significance covered by them is not. Western Australia is moving to a tied assistance package while in New South Wales it is proposed that if landholders wish to receive incentives from the Native Vegetation Management Fund, they will need to negotiate a property agreement with the Department of Land and Water Conservation. In New South Wales, conservation agreements under the National Parks and Wildlife Act can be taken out and, in return, landowners may receive assistance such as for fencing and weed and vermin control. The amount of remnant native vegetation covered by these agreements is not extensive.

Further detail on the legislative position in Australian States appears in the Attachments, but in summary:-

- Clearance is widely controlled in four of the six Australian States.
- Land-based compensation following a clearance refusal on biodiversity grounds has been paid in one State.
- Direct assistance to landholders to fence remnant vegetation or carry out other management procedures has been and remains very limited.

Interviews

One of the core activities during this consultancy was to interview farmers about remnant native vegetation issues. The brief was to talk to farmers in New South Wales, South Australia and Victoria who have native vegetation on their farms and who had either experience with the legislation or with native vegetation policy. In total, 42 landholders from all major primary producing districts in the three States were interviewed by phone.

Survey results are shown as Attachments but the following major points emerged:-

Most farmers thought that the legislation had been effective in stopping clearance in their States. This view was more common in South Australia than New South Wales and Victoria. Of significance was the view that legislation had increased awareness of biodiversity values in the farming community.

Most farmers did not think that the legislation was effective in protecting the long term conservation values of the vegetation. They pointed to weed and vermin infestations, fuel build-ups and vegetation senescence.

Most farmers did not think landholders with remnant native vegetation on their properties were favoured by the legislation. This was especially so for New South Wales and Victorian respondents but less marked in South Australia where comments about compensation and rate relief were made.

Generally, respondents said farmers were disadvantaged by the legislation although some replies were qualified, forecasting benefits in the long term. In Victoria, some respondents said it was unfair that people who had bought land, with the intention of clearing that land, before clearance restrictions were introduced were not paid compensation when clearance was refused.

A significant majority said the legislation had not increased the value of farms with remnant native vegetation on them. The

qualification here was vegetated farms on the urban fringe which attracted “lifestyle dollars” when offered for sale.

Most did not think that landholders had been adequately compensated for any costs arising from the clearing controls. However, South Australians were less dogmatic about this than those from Victoria or New South Wales. To rectify this, respondents said financial, physical and technical support should be made available. High on the list was for fencing to be made available along with financial assistance in vegetation management costs. The nature of the management problem varied between regions. For example, it is apparent that in South Australia Bridal Creeper is seen as a major threat to the health of remnant native vegetation, as is the build up in fuel loads. In Victoria many weeds were mentioned and this was the case in New South Wales too. The high number of native animals (along with vermin) was mentioned by many respondents.

The **question** about whether farmers had access to enough advice on how to deal with management problems attracted a mixed response. Just over 50 per cent said *iyesi*, there was plenty of information and advice but a lack of means to implement it, while others said *inoi*, information and advice was lacking. This points to regional differences.

Respondents were asked to name the initiatives they felt would do most to protect and improve the conservation value of native vegetation on farms. State-by-State priorities included:-

New South Wales – compensation for income foregone; ongoing management assistance (financial); education programs for the public and farmers.

Victoria – financial assistance; management incentives; education programs.

South Australia ó fencing assistance, pest plant and animal management assistance (financial); strategic fire management.

At the time of the survey, the New South Wales Government had foreshadowed the introduction of the Native Vegetation Conservation Act to replace SEPP 46. The opportunity was therefore taken to ask New South Wales farmers what they thought about this change. Generally they were in favour of the proposed regional planning and decision making approach, with a number believing that more clearing could be approved within regional guidelines than is now the case.

Summary

From the farmer survey in the three States, it can be concluded that:-

- Landholders believe that clearing is being controlled but they do not think that the legislation is effective in protecting or enhancing conservation values of the uncleared vegetation.
- There is a clear and unequivocal call for financial assistance for fencing and pest plant and animal control where vegetation retention is required by legislation.
- Respondents believe that management and related incentives and education programs are necessary to improve the conservation status of remnant native vegetation on farms.

Other interviews

Discussions were also held with people in New South Wales, Victoria and South Australia who are not farmers. These included people working for conservation organisations, employees of farmer organisations and senior public servants with an interest in native vegetation matters. The following collective views emerged:-

- The controls have raised awareness about conservation values.
- Legislation in the three States has controlled clearance but it is not protecting the

conservation values of the protected vegetation. There was a feeling that some people are only seeing the trees when assessing the merit of clearing restrictions, and not the removal of smaller plants.

- Financial assistance for the management of vegetation should be available to farmers and, in the case of those interviewed in New South Wales, the \$15 million to be spent over three years is not seen as sufficient. Provision of fencing was a clear priority to: (a) protect the vegetation from grazing; and (b) to help in the identification process in that by the act of the fencing, the vegetation is clearly seen to be significant.
- Ways have to be found so that landowners required to keep vegetation become proud of the fact that they have on their farms a special natural resource.

Suggestions made included:-

- Making clearance control mechanisms less adversarial, less threatening.
- Providing those refused clearance with information about their vegetation (such as species lists) and publicly acknowledging their actions in being custodians of important flora and fauna species. (These initiatives could also be extended to those who generally want more information.)
- Talking to farmers on a one-to-one basis about their vegetation and its management. The view was expressed that many farmers have an intimate knowledge of native plants and animals but not enough is being done to access this knowledge and use it.
- Involving farmers in vegetation trials and applied research in such issues as weed control, rabbit control, fox control and monitoring, and fuel reduction processes. An example of this is a Mallee Fowl recovery program undertaken by a group of farmers in the South Australian mallee where vegetation has been fenced and rabbits and foxes have

been controlled by community action aided by the provision of government resources.

Another example is the specific contact and assistance provided to landholders in Victoria, under the Land for Wildlife scheme, to protect the feeding habitat for Superb Parrots.

During the course of these interviews a few divergent views also emerged. For instance, those working for conservation organisations tend to attribute economic values to vegetation retention more so than do those working for farmers.

Current assistance programs

Those concerned with the short and long term health of remnant vegetation and the native fauna species it supports, believe that assistance has to be provided to landholders.

Key questions arise:-

i Why is assistance necessary?

- If assistance is provided, what form should it take?

Taking these points in order:-

Why is assistance necessary?

In examining the need for retention of remnant native vegetation, it is argued by some that farmers derive an economic benefit from this.

Conversely, there are other views:-

- Native vegetation which is deep rooted assists in maintaining watertable levels and prevents salinity.

Comment: This is true, but salinity is not a problem for all landholders.

- Native vegetation provides shade and shelter for stock.

Comment: It does, but if stock are allowed to shelter or graze in vegetation then the survival of this vegetation is put at risk.

- Native vegetation provides windbreaks for crops.

Comment: It does for some of the crop area. Further, on highly productive soils, clearing might provide more income than the extra income generated from windbreaks.

- Native vegetation contributes to soil erosion control.

Comment: If it reduces wind speed then it would have an effect on soil erosion but with contemporary technology and farming

practices, soil erosion is less of a problem than it used to be.

- Native vegetation provides habitat for natural predators of crops.

Comment: It probably does, but hard and widespread evidence to quantify the economic benefits is not available.

- Native vegetation maintains microclimates which assist water retention and quality.

Comment: Most farmers operate in a largely cleared landscape.

- Native vegetation provides sites for tourism and recreation.

Comment: It does, but, for the majority of farmers, these are not issues or options.

- Conserving native vegetation conserves genetic resources for future development of pharmaceutical and agricultural products.

Comment: It may do, but where is the economic benefit to the individual landholder?

- Native vegetation provides income from cut flowers, seed collection, honey production etc.

Comment: It may, but these income sources are limited and sometimes restricted by legislation.

Those supporting clearing on economic grounds also argue that it increases the area of land available for commercial crop or animal production and it reduces weed and vermin infestation problems and the potential fire hazard.

On balance, therefore, the majority of farmers will remain unconvinced that the retention of larger areas of remnant native vegetation on their farms will add to annual farm income. Support for this view was implicit in the responses to the surveys conducted as part of this consultancy. It is also reinforced by other work including surveys of Heritage Agreement owners on Eyre Peninsula in 1996. Natural resource management officer, Ms Di Green, concluded that eastern and lower Eyre Peninsula farmers “generally tend to consider vegetation and wildlife of little or no value, some indeed consider both a liability”.

If farmers are not persuaded on economic grounds to retain and manage remnant native vegetation on their properties, and if that vegetation is to survive and to contribute to biodiversity, incentives will have to be provided. In the absence of financial incentives, the majority of landholders are likely to remain disinterested in the protection and management of remnant native vegetation on their properties. For these people, such practices in today's farming climate are not a high priority.

Assistance programs

Assistance programs take a number of forms, viz:-

Direct financial assistance to individuals and community groups

The range here is extensive and includes compensation as paid in South Australia in the 1980s; assistance for fencing bush areas such as that applying in Western Australia, South Australia and New South Wales; assistance in the control of weeds and vermin (South Australia); and Commonwealth grants to community groups,

Viewed in the context of the importance of off-park conservation, the need have sustainable biodiversity outcomes and the need to stimulate conservation action by farmers, then relatively small amounts of money are being made available for allocation to individuals: - a proposed \$5 million a year in New South Wales for the next three years; about \$6 million to date for fencing in South Australia and \$85,000 for on-farm bush management; assistance for fencing in Western Australia; and even smaller amounts in Queensland, Victoria and Tasmania. (note - At the time this report was completed, specific initiatives under the Bushcare component of the National Heritage Trust were not documented and could not be included, so the situation from 1997-98 could change considerably.)

It seems that, to date at least, direct financial assistance to farmers to protect and manage

remnant native vegetation is not a priority of governments.

This attitude towards funding bush initiatives has, at least in the past, also applied elsewhere. For instance, of the \$320 million promised in 1989 for landcare and related tree planting and remnant vegetation programs over the following 10 years,

- Between 1989-1996, only \$7.8 million was allocated for the community grants component of the Save the Bush Program.
- Strategic allocations for regional or State projects under Save the Bush totalled \$5.02 million. in the same period.

In 1993 Lambert and Elix (Remnant Vegetation in the Rural Landscape) reported that "less than 6 per cent of the National Landcare Program budget is directed towards the protection and management of remnant vegetation ...".

(note - At the time this report was completed, **specific initiatives** under the Bushcare component of the National Heritage Trust were not documented and could not be included, so the situation from 1997-98 could change considerably.)

Indirect assistance

Examples here include rate relief on vegetated areas and income tax deductions. Capital expenditure incurred by a taxpayer on measures to prevent land degradation qualifies for outright deduction in the year the expenditure is incurred (Section 75D of the Income Tax Act). The expression "land degradation" includes not only soil erosion but also other effects detrimental to the land such as decline of soil fertility or structure, degradation of natural vegetation, deposits of eroded material, or salinisation.

In July this year the Primary Industries Minister, Mr Anderson, announced that taxation incentives were to be broadened by giving landholders the choice of claiming accelerated tax deductions for landcare works or a tax rebate or credit set at the rate of 34 cents in the dollar for qualifying expenditure incurred from 1 July 1997. He said

the rebates or credits were aimed at directly helping farmers with low incomes.

The use of the taxation system to encourage on-farm bush conservation received a mixed reaction from those interviewed about it in this project. Some said that even if farmers had spare money, they were generally unlikely to spend it fencing off native vegetation or on weed and vermin control in this vegetation. They would spend it on items which generated income. Others said that there was a significant amount of remnant native vegetation on farms owned by wealthy people and these people were likely to be attracted to taxation deductions for bush conservation measures.

Education programs

These include workshops, courses, field days and the production and promulgation of associated written and visual material. The view is held in some quarters that education about biodiversity issues is a key to ensuring that on-property remnant native vegetation is not cleared and is managed. Proponents say that farmers are more likely to have a positive view about their vegetation if they have a greater understanding of biodiversity.

This may be true, but it ignores some facts of contemporary farm life:-

- Many of those being asked to appreciate vegetation more were those who cleared it.
- Many farmers remain opposed to clearing controls, especially in the absence of financial assistance.
- Appreciation of vegetation for its flora and fauna values is not a high priority among many farmers especially those encountering viability problems.
- The average age of farmers is said to be in the high 50s and this is a barrier to change.
- As previously stated, there are economic disincentives for farmers with larger areas of vegetation on their properties.

Notwithstanding the above, this project has revealed an underlying feeling by some farmers of neglect by authorities responsible for the introduction of clearing controls. Attempts are being made to turn this around and the appointment of regionally based natural resource management officers in South Australia is an example of the education/extension initiatives underway. It is significant that in surveys of Eyre Peninsula farmers in two regions, 55 per cent and 63 per cent of farmers who returned the survey forms said they would appreciate a visit by the natural resource management officer. Less popular were field days and workshops on remnant vegetation issues.

Under its Land for Wildlife scheme, Victoria has an active extension program. At November 1996, for example, 15 people were listed as extension officers under this innovative scheme.

While education and extension programs about the values of remnant native vegetation on farms are very important and should be funded, it is hard to justify them having the same pecuniary priority as direct or indirect financial assistance measures for the on-farm management of remnant native vegetation. Such education programs are necessarily long term in nature and the reality is that we cannot afford to wait years while attempts are made to influence attitudes by education processes alone. To do so is to put at risk the vegetation which legislation seeks to protect.

The current situation in Victoria is a case in point. Victoria introduced clearance controls in 1989 but has relied on education and extension processes to influence landholders' attitudes to the conservation and management of remnant native vegetation on farms. From the data available, and despite the allocation of considerable education and extension resources, only a small proportion of this vegetation on farms in Victoria represents a management partnership between individuals and Government. For example, under the Land for Wildlife Program, at May 1995 there were about 3100 properties voluntarily participating in

the program with about 59,000 ha or an average of 18 ha per property regarded as wildlife habitat.

This is to be compared with the Heritage Agreement scheme in South Australia, with 550,000 ha in 1996 reserved in 1050 agreements at an average of 523 ha per Agreement. The size of the set aside vegetation is important, with Prescott A (pers. comm.) saying that retention of biodiversity is directly linked with the size of the area – a 20 ha block for instance, being inadequate for a range of species.

Extension and education programs, such as Land for Wildlife, are crucial. However, they should be seen as complementary to others.

Research

Activities here include flora and fauna audits, surveys, issues associated with ecologically sustainable development, maintenance of biodiversity and a host of other things.

It might be time, as suggested by one person interviewed in this project, to change the emphasis and to direct more resources to applied research and to involve landholders directly in this. This would serve a number of purposes:-

- Valuable knowledge would be obtained.
- Access to farmer experience and knowledge would be facilitated, as would farmer involvement in remnant native vegetation issues.
- It would demonstrate to landholders that policy makers have an interest in remnant native vegetation issues other than controlling clearance.

It would be timely to examine a compendium of Save The Bush grants which have been made since 1990 (community, regional/State, and special purpose) for their potential as information sources in the research and development information transfer process and to ensure that wheels are not being reinvented.

Other mechanisms

Legislation dealing with remnant native vegetation on farms varies between States as this study has shown. One of the major shifts has been to opt for “regionalisation” rather than “centralisation” of planning and decision making. Developments in New South Wales are a case in point, with pending legislation to provide for regional vegetation management plans to be developed by regional vegetation committees.

A White Paper produced by the New South Wales Department of Land and Water Conservation says in part: “The major focus of the model is to allow and encourage landowners and managers and regional communities, in partnership with Government, to develop regional vegetation management plans. The plans should lead to native vegetation management that is practical, appropriate to the region and supported by the community. The plans prepared using this process will have been developed with a range of views and should provide the necessary balance between production and native vegetation protection. It is expected that the plans will minimise the need for landholders to seek development consent for clearing.”

The promulgation of regional vegetation management plans is seen by some as a necessary part of remnant vegetation protection and management and New South Wales is not alone in going down this path. These plans have the potential to identify key vegetation resources and best practice management processes, and to encourage local ownership.

They also have other virtues as described by Professor Hugh Possingham (Conflict to Conservation seminar, Adelaide, November 1995) – “Because so many of our species persist in fragments, each of which is too small to ensure long-term persistence, we need to devise strategies for biodiversity conservation in these fragmented landscapes. To maintain species in fragmented habitats we cannot manage each piece of habitat in isolation Management Plans for these isolated patches of vegetation need to

be placed in a regional context ó there need to be regional biodiversity management plans.”

However, plans alone will not be the catalyst for active and persistent management of remnant native vegetation on individual farms, or in fact groups of farms, by the owners or managers of those farms.

In the context of other mechanisms, governments are providing resources for activities such as property management planning and community education and awareness programs about biodiversity. Property management planning is seen as being a valuable mechanism which has the potential to lead to greater appreciation by farmers of the need to protect and manage remnant native vegetation on farms.

The United Kingdom experience

During the course of this consultancy, the opportunity was taken to obtain a briefing on the incentives provided to landowners in the United Kingdom to protect and manage areas of environmental significance. This was done because, to a degree, the *South Australia Native Vegetation Management Act* (1985) reflected some of the legislative and financial assistance initiatives taken in the United Kingdom in the early 1980s and an update was appropriate.

Discussions with the National Farmers Union reveal that there are now many agri-environment incentives schemes in the United Kingdom. These include an Environmentally Sensitive Areas program. According to Dr Andrew Clark of the National Farmers Union, there are now 43 Environmentally Sensitive Areas with over 13,000 participants and an annual expenditure on farm agreements of £37 million. Another example is the Countrywide Stewardship Scheme which aims to make “conservation part of farming and land management practice and offers payments which improve the natural heritage of the countryside.” These payments are many and varied and range from £2 per metre per year for hedgerow restoration to £280 per ha per year to “recreate grasslands on cultivated lands”.

Recommendations

“It is difficult to exaggerate the importance of management of the areas retained. Without management, the vegetation will ultimately disappear as surely as if it had been cleared in the first place. Controlling clearance, difficult and controversial though it may be, has to be seen as only the first step in what must become an ongoing process of native vegetation management.” — Mr Colin Harris, South Australian Department of Environment and Natural Resources, at the seminar From Conflict to Conservation, Adelaide, November 1995.

Based on the research associated with this project and the views expressed by those interviewed, legislation which relates to the protection and management of native vegetation on farms should:-

- 1 **Be a vehicle by which direct and indirect financial assistance is provided to landholders which will result in the active protection and management of remnant native vegetation on their properties.**

It is clearly evident that unless financial incentives attractive to landowners are implemented, then active management of set aside vegetation will generally not occur. The nature of this assistance will vary from region to region and it is appropriate that the provision of such assistance is linked to a formal agreement between the landowner and the providing agency.

- 2 **Contain provisions so that if the economic viability of an enterprise is threatened by a clearing restriction, then financial hardship is not caused to the landowner.**

Situations have arisen, and will continue to arise, where the retention of larger areas of remnant native vegetation is warranted on

biodiversity grounds, but legislation should provide compensatory mechanisms to ensure fair and equitable treatment for individuals.

- 3 **Have a mechanism to encourage ownership of biodiversity issues under which regional vegetation biodiversity plans are developed.**

The partnership approach will foster greater appreciation of the views of various groups. It will also encourage legislation to be less adversarial. The plans themselves should, inter alia, identify remnant vegetation that should be protected or improved and circumstances under which economic development can occur.

- 4 **Have a mechanism for ongoing education and extension processes.**

These should be seen as complementary to measures such as financial assistance for management of remnant native vegetation. They should be directed at both the owners of remnant native vegetation, interest groups and the general public.

- 5 **Place emphasis on remnant vegetation research especially applied research involving landowners.**

There are many urgent remnant vegetation management problems which need research and, based on the results, action. Specific weed and vermin infestations are examples as is the build up of fuel in reserved vegetation. Such research initiatives should exploit the knowledge of natural processes which many landowners have and also encourage their participation in the projects.

Appendix 1

Legislation and policy survey — three State summary, alternative answer questions only

Question	Responses								
	Yes			No			Qualified		
	SA	VIC	NSW	SA	VIC	NSW	SA	VIC	NSW
1 Do you believe that the legislation which seeks to control clearing in your State is effective in achieving this goal?	12	8	9	0	5	5	2	1	0
2 Do you believe that this legislation is effective in protecting the conservation values of remnant native vegetation?	3	3	4	6	10	10	5	1	0
3 (Part 1) Do you believe that landholders with remnant vegetation on their farms are favoured by the legislation? If so, how?	4	0	1	10	14	13	0	0	0
4 (Part 2) Do you believe that landholders with remnant native vegetation on their farms are disadvantaged by the legislation? If so, how?	14	13	14	0	1	0	0	0	0
5 Do you believe clearing controls impose cost burdens on landholders with remnant native vegetation on their farms?	14	13	14	0	1	0	0	0	0
6 Do you believe clearing controls have increased the value of farms with remnant native vegetation on them?	3	2	1	7	12	13	4	0	0
7 Do you believe that landholders are, or have been, adequately compensated for any costs arising from the clearing controls?	5	0	0	8	14	14	1	0	0
8 If they have not been adequately compensated or assisted, what measures should be put in place?	na	na	na	na	na	na	na	na	na
9 Are there problems with the management of remnant native vegetation which are not recognised by non-landholders?	14	14	12	0	0	1	0	0	0
10 If so, what are these management problems?	na	na	na	na	na	na	na	na	na
11 Please name three things you feel would do most to protect and improve the conservation value of remnant native vegetation on farms.	na	na	na	na	na	na	na	na	na
(NSW only) Are you aware of proposed changes to clearance controls in NSW?	na	na	14	na	na	0	na	na	0

Appendix 2

Remnant native vegetation research — legislation and policies survey, South Australia

Question	Yes	No	Qualified	Comments
1 Do you believe that the legislation which seeks to control clearing in your State is effective in achieving this goal?	12	0	2	Qualified responses were <i>ësomewhãt</i> and <i>ëreasonable</i> . Other comments included: not enough flexibility in the Act • no allowance for new generation • lots of positives ó people are now thinking about the issue of clearance • needs to be proven or system will fall over • some policing problems • bit too draconian • the acceptance of the end of broadscale clearing by the farming community is its great change.
2 Do you believe that this legislation is effective in protecting the conservation values of remnant native vegetation?	3	6	5	Qualified answers included <i>ëpartially</i> , <i>ëto some extent</i> and <i>ëpartly</i> Other comments included: • doesn't encourage people to support legislation • if not managed properly (RNV) legislation will not be successful • conservation values are deteriorating because of Bridal Creeper and lack of burning • the lock up mentality without management is wrong ó senescence will be a problem • some of the vegetation reserved from clearance has little biological value and permission to clear should have been granted • only to those who understand the implications • legislation has no management aspects • some areas not fenced because too expensive ó under pressure from grazing stock • can't just shut something up and say its protected ó needs to move to management phase.
3i (Part 1) Do you believe that landholders with remnant vegetation on their farms are favoured by the legislation? If so, how?	4	10	0	• Some have been supported by compensation but no support for management • no, especially those who were conservation minded ó doesn't provide for management of RNV • yes, have vegetation which is considered valuable • yes, rate relief.
3ii (Part 2) Do you believe that landholders with remnant native vegetation on their farms are disadvantaged by the legislation? If so, how?	14	0	0	• Yes, in a variety of ways ó community has unreal expectations of landholders, especially those who have done the right thing • unable to use land which has vegetation, have to upgrade fences, control weeds, vermin and get no income from the land • they (those who have RNV) are <i>ëholding the baby</i> for those who have cleared • reduced value of properties • inherit on-going management costs • doesn't differentiate between those who retained vegetation on a voluntary basis and those who got paid to retain • approval needed for a few trees (eg restrict centre pivot) if significant habitat (well looked after) more likely to be refused permission to clear.
4 Do you believe clearing controls impose cost burdens on landholders with remnant native vegetation on their farms?	14	0	0	• Yes, for all the reasons in Question 3, Part 2 (above)
5 Do you believe that landholders are, or have been, adequately compensated for any costs arising from the clearing controls?	5	8	1	• No, done more harm than good • inadequate funds for fencing heritage agreements as a result of expenditure on compensation • no, but aware of cases where people have done well • the community will need to continue to assist landholders • compensation did not adequately compensate farmers the right to develop their land • some compensation for those refused clearance was over the top • some did well through <i>ëScrub Lotto</i> .
6 If they have not been adequately compensated or assisted, what measures should be put in place?	na	na	na	A summary of responses includes: • need to provide financial, physical, technical support with management of vermin (including some native species such as kangaroo), weeds (Bridal Creeper mentioned as a particular problem), fire, fencing, tax concessions, rate concessions • other comments related to the need for an appeal system, native vegetation management plans for farms including technical support and management support to depend on any compensation awarded.

(continued) Remnant native vegetation research — legislation and policies survey, South Australia

Question	Yes	No	Qualified	Comments
6 If they have not been adequately compensated or assisted, what measures should be put in place?	na	na	na	A summary of responses includes: • need to provide financial, physical, technical support with management of vermin (including some native species such as kangaroo), weeds (Bridal Creeper mentioned as a particular problem), fire, fencing, tax concessions, rate concessions • other comments related to the need for an appeal system, native vegetation management plans for farms including technical support and management support to depend on any compensation awarded.
7 Are there problems with the management of remnant native vegetation which are not recognised by non-landholders?	14	0	0	<ul style="list-style-type: none"> • Yes, time, workload, costs not recognised • hard to be green when in the red • effects of weeds, vermin (including native animals such as kangaroos, emus, and wallabies) not recognised • rabbits are still the greatest problem • long term production losses, capital losses, management costs • education needed • problems with fencing and crops (damaged by feral and native animals) • unless people have actually experienced problems they don't understand.
8 If so, what are these management problems?	na	na	na	A summary of responses includes problems in relation to management of the issues highlighted in question 7. The issues which received most comment are: • management of pest plants and vermin (including native animals such as kangaroos) • fire and fencing (the latter was invariably mentioned high on the list of priorities) • other issues mentioned included the need for technical support, crop losses and fencing damage due to kangaroos, restrictions on machinery movement (due to vegetation) and stock control.
9 Do you feel that landholders have access to enough advice on how to deal with any management problems which may arise in remnant native vegetation on their farms?	6	6	2	<ul style="list-style-type: none"> • No, there are no gaps in methodology as well as variations, eg shelter belts (value), corridors, impracticality of some technical/management information • high time cost for those who are interested and want to find out more • some serious discrepancies in actual information • need something more positive than a few fact sheets • farmers are not given enough credit for the knowledge they have (tend to be ignored) • yes, DENR officers have been good • no, took out heritage agreement in 1988 and apart from own initiative, no one has taken an interest in it • plenty of advice but lack of means to implement • plenty of advice but no dollars • must have more region specific advice — generally too broad brush • needs more research (eg leps and red gums).
10 Please name three things you feel would do most to protect and improve the conservation value of remnant native vegetation on farms	na	na	na	The following responses are listed in order of listing priority: • fencing (this was referred to in almost every response and is obviously considered to be a very high priority in the conservation of remnant native vegetation) • funding assistance, better education/technical support and more community support were rated about equal second in the order of priority • strategic fire management rated next followed by concerns about the imperative to control Bridal Creeper (Boxthorn was also highlighted as a major problem) • tax and council rate concessions were also given a high priority • other matters referred to included the need for a change of attitude in government departments (they were seen as inflexible and lacking a real understanding of the problems associated with the management of remnant native vegetation) • other issues mentioned included the need for incentives to exclude livestock, the extinction of rabbits (clearly rabbits are still a major problem), the need to consider further the farming of native animals and birds (would assist in the retention process).
11 (NSW only) Are you aware of proposed changes to clearance controls in NSW?	na	na	na	Many respondents expanded on responses to earlier questions related to the on-going management of RNV problems with control of vermin (included native animals), pest plants (especially Bridal Creeper which was mentioned by several respondents), fire control and fencing • their comments are probably summed up by the comment that "those who brought in the legislation are not there to manage it" • several referred to the inflexibility of the legislation, particularly in relation to the clearance of small amounts of vegetation (eg a few trees) and it was felt that the NVA needed to look at "the big picture" • several mentioned cases of vegetation retention, either as a result of landholder initiative or heritage agreements/clearance refusal because of the significance of the vegetation, where there has been no further interest in the area since • again the situation is summarised by the comment — "someone says that a piece of vegetation is very significant and then we don't see them again" • other comments related to the need for more recognition/education of the role landholders play in the retention of RNV, a more compelling reason for fencing off and management (The respondents said the costs of management were more obvious than identified benefits) and the fact that there is no right of appeal.

Appendix 3

Remnant native vegetation research—legislation and policies survey, Victoria

Question	Yes		No		Qualified	Comments
	VIC	VIC	VIC	VIC		
1 Do you believe that the legislation which seeks to control clearing in your State is effective in achieving this goal?	8	5	1	1		<ul style="list-style-type: none"> On a Statewide basis yes, on a local basis no • yes, but in some cases quite inappropriate • yes, but still could be clearing in some regions without environmental damage • overall approach inappropriate and unfair — takes no account of different regions, geography, soil types and other factors such as land slope • ill thought out • people are still clearing • people get permission to clear but local government does not follow up to see what has been cleared and how much • not in itself — poor legislation, not regional.
2 Do you believe that this legislation is effective in protecting the conservation values of remnant native vegetation?	3	10	1	1		<ul style="list-style-type: none"> Not in its current form • there is a huge area of northern Victoria that is not being managed properly • more to management of native vegetation than locking it up • vegetation can be devalued in many ways • vegetation has changed because of vermin and grazing animals • valuable timber resources subject to fire hazard • need goodwill to get results.
3i (Part 1) Do you believe that landholders with remnant vegetation on their farms are favoured by the legislation? If so, how?	0	14	0	0		Nil comments.
3ii (Part 2) Do you believe that landholders with remnant native vegetation on their farms are disadvantaged by the legislation? If so, how?	13	1	0	0		<ul style="list-style-type: none"> Has caused hardship! • landholders prevented from doing what they want and no compensation • vegetation a harbour for vermin and noxious weeds, farms which are not cleared can be severely disadvantaged • can't use land productively and cannot sell! Extra management problems/costs and yet still have to pay rates • distinctly disadvantaged — asked to maintain area of unproductive land at own expense for what is perceived to be the community good • looking after national parks on their own land with no compensation • no compensation for being unable to do what you like with your own land • people who bought scrub land before the legislation were severely penalised.
4 Do you believe clearing controls impose cost burdens on landholders with remnant native vegetation on their farms?	13	1	0	0		<ul style="list-style-type: none"> Can't realise full potential of asset • responsible for management costs including fencing (and long term maintenance) control of vermin, weeds, yet no productivity and long term productivity losses.
5 Do you believe clearing controls have increased the value of farms with remnant native vegetation on them?	2	12	0	0		<ul style="list-style-type: none"> No just the opposite (example given of neighbour who can't operate at a commercial level and can't sell property) in general terms no, but some exceptions, eg not unless close to major city.
6 Do you believe that landholders are, or have been, adequately compensated for any costs arising from the clearing controls?	0	14	0	0		<ul style="list-style-type: none"> Widespread 'no' • one example of person who lost milling business, but no compensation.

(continued) Remnant native vegetation research — legislation and policies survey, Victoria

Question	Yes	No	Qualified	Comments
	VIC	VIC	VIC	
7 If they have not been adequately compensated or assisted, what measures should be put in place?	na	na	na	Assistance with management costs and rate concessions were most often mentioned, direct compensation and buy back schemes were also proposed. General comments included: • community should pay for the good of the community • community overall should pay • should be a provision for a conservation covenant on land to become exempt from rates • if prevented from clearing land which harbours pests (both vermin and weeds), then should be compensated • should be compensation or long term assistance with management or land purchased at reasonable value • compensation should take account of land taken from development and appreciated value that would have resulted.
8 Are there problems with the management of remnant native vegetation which are not recognised by non-landholders?	14	0	0	• Hard for non-landholders to appreciate the problems • bureaucrats and conservation people have little knowledge of the practical problems such as time/cost of management/control of weed and vermin • also cost of crop damage from vermin and native animals.
9 If so, what are these management problems?	na	na	na	Management/control of pest plants, animal and fire while enduring productivity constraints summarises main comment • plant pests mentioned included Marble Daisy, Blackberries, Sweet Briar, Wild Broom, Dog Wood • animal pests include wombats, wild dogs, rabbits • fire as management tool is 'not an option'
10 Do you feel that landholders have access to enough advice on how to deal with any management problems which may arise in remnant native vegetation on their farms?	9	3	2	Yes comments included: • plenty of advice through land care protection incentive schemes • advice is not the problem, lack of manpower is. No or qualified comments included: • can't find advice, government has stripped conservation and natural resource area bare • plenty of advice but often not practical or easy to action • individual management problems are not able to be considered • advice okay on paper.
11 Please name three things you feel would do most to protect and improve the conservation value of remnant native vegetation on farms	na	na	na	(1) Financial assistance, (2) incentives for management (fencing, pest control etcetera) and (3) education programs easily topped the list of suggestions. Others (in order of priority) were: • local decision making • rate concessions • advice/assistance to develop management plans • return to public land (purchase) • compensation • more flexible controls • buffer zones • allow landholders to manage their properties as they see fit (within reason) • allow burning at appropriate time.
12 (NSW only) Are you aware of proposed changes to clearance controls in NSW?	na	na	na	General comments included: • farmers should allow native vegetation on their land to degrade so it is less likely to be recognised as valuable and therefore more likely to be cleared • appreciate need to revegetate in some areas but this region has plenty of native vegetation (restrictions on regional basis) • people resent trend towards more restrictions and will get around them • educate people that farmers overall are more conservation minded — in own interests • clearing contractor found that most farmers he cleared for were very conscious of need to retain vegetation whereas the "Collins St. Cockies" wanted everything cleared • there is still too much clearing going on • while Landcare has been good it has put more onus on landholders to do its work and many don't have the time • while the retention of vegetation does help lambing percentages by providing shelter, it does bring its own problems • must have educated people involved in decision making • concern over controls related to waterways — could effectively run people off their properties • catchment land practices boards are now developing regional guidelines, which (he hopes) will allow greater flexibility and won't penalise farmers who have a genuine need to clear • no controls on clearing will protect native vegetation • blanket restrictions quite devastating — something like 80% of land east of the Hume Highway is undeveloped land.

Appendix 4

Remnant native vegetation research — legislation and policies survey, New South Wales

Question	Yes	No	Qualified	Comments by individuals
1 Do you believe that the legislation which seeks to control clearing in your State is effective in achieving this goal?	9	5	0	<ul style="list-style-type: none"> Has partially stopped clearing (yes) • they are flying blind (no).
2 Do you believe that this legislation is effective in protecting the conservation values of remnant native vegetation?	4	10	0	<ul style="list-style-type: none"> Made more people aware of conservation values • made landowners more aware of native vegetation (yes) • regulations don't work — need local employment) • there is no distinction between what is worth preserving and what isn't (no).
3i (Part 1) Do you believe that landholders with remnant vegetation on their farms are favoured by the legislation? If so, how?	1	13	0	<ul style="list-style-type: none"> Depends where you are • those that have completed their clearing (yes) • not in the short term, maybe in the longer term (no).
3ii (Part 2) Do you believe that landholders with remnant native vegetation on their farms are disadvantaged by the legislation? If so, how?	14	0	0	<ul style="list-style-type: none"> Income foregone • some pest species in regrowth is a real problem — locking up country and losing grass and understorey species • where this happens there are no birds • it penalises those who want to clear • causes loss of equity, limits income and interferes with farm planning • no compensation for a clearance refusal • loss of development rights without which you get asset depreciation • no help or advice on how to look after native grasses.
4 Do you believe clearing controls impose cost burdens on landholders with remnant native vegetation on their farms?	14	0	0	
5 Do you believe clearing controls have increased the value of farms with remnant native vegetation on them?	1	13	0	<ul style="list-style-type: none"> It has created buyer uncertainty • values have dropped except for those near cities and/or with high biological value vegetation (no).
6 Do you believe that landholders are, or have been, adequately compensated for any costs arising from the clearing controls?	0	14	0	<ul style="list-style-type: none"> A lot of rights were removed
7 If they have not been adequately compensated or assisted, what measures should be put in place?	na	na	na	<ul style="list-style-type: none"> If vegetation is so important, farmers have to be compensated for loss of income • farmers should be paid to look after areas which can't be cleared • establish a management free structure plus provide assistance for fencing • those who have cleared should be contributing (towards management costs including fencing) • there should have been an examination of the public versus private benefits/costs • the case for compensation is now very clear • should be substantial incentives or subsidies for landholders — tax concessions and shire rebates are not adequate • tax rebates and low interest loans for those not paying tax.
8 Are their problems with the management of remnant native vegetation which are not recognised by non-landholders?	12	1	0	<ul style="list-style-type: none"> The global view counts for nothing unless landholders want to become involved in conservation • non-farmers don't realise what this country looked like 100 years ago.

(continued) Remnant native vegetation research — legislation and policies survey, New South Wales

Question	Yes	No	Qualified	Comments by individuals
9 If so, what are these management problems?	na	na	na	<ul style="list-style-type: none"> The everyday reality is the financial pressures of conservation — it costs money • vegetation can't just be left, it has to be managed • pest animals include goats, pigs, rabbits, wallabies, wombats, cats and foxes • pest plants include Lantana, Briar, Blackberries, Groundsel, Serrated Tussock, Bathurst Burr, Mimosa, African Lovegrass and Boxthorn • Cyprus Pine is massive problem. It used to be controlled by fire. Now have to use experienced brush cutters or dozers • if you lock up vegetation it won't return to its native state but you can't get this through to urban voters • if it gets locked up it gets weed infested • spraying costs are very high.
10 Do you feel that landholders have access to enough advice on how to deal with any management problems which may arise in remnant native vegetation on their farms?	7	7	0	<ul style="list-style-type: none"> We need assistance with planning and development of realistic vegetation management plans (including grasslands) • there are lots of agencies with their own data who are protecting their own patch • we are frightened to seek advice • collectively, landholders have a lot of knowledge.
11 Please name three things you feel would do most to protect and improve the conservation of remnant native vegetation on farms	na	na	na	<ul style="list-style-type: none"> A wide range of suggestions were made • compensation for income foregone, loss of assets and ongoing financial assistance to assist with management of RNV (including fencing, vermin and weed control) were most frequently mentioned followed closely by the need for education programs (for farmers and the public) as one described it — "a package of incentives, education and research". Other suggestions include: • change from a regulatory to a voluntary process • sensible clearing decisions • ability to clear regrowth • identify vegetation best practice — what it costs, what are the benefits? recognition for farmers knowledge and the wider community benefits they provide by not clearing • give vegetation a profile so that farmers are proud of it, not frightened • develop a more cooperative approach with the Department of Land and Water Conservation and the NPWS • developing a system eg leave 10% of vegetation.
12 (NSW only) Are you aware of proposed changes to clearance controls in NSW?	14	0	0	<ul style="list-style-type: none"> Positive comments included: • more regional planning • regionalisation of decision making • greater ownership of vegetation planning and decision making and confidence that regional development plans will see more clearing approved within guidelines). Less enthusiastic comments included: • responsible landholders will work with it, others won't • will depend on the make-up of the regional committees • concerns that plans will be on public display for 40 days • it will be harder to get clearance permission • more concerned with threatened species legislation • concern that farmers will be out numbered on regional committees.
13 General comments	na	na	na	<ul style="list-style-type: none"> Additional comments (to earlier) included: • we can all learn from each other (related to need for a more cooperative approach • a lot of country in the north of the State is undeveloped.

Appendix 5

*A summary of aspects of
clearance legislation in
the States*

Note: This information was compiled in
April-May 1997

New South Wales

Introduction

Before August 1995, a number of clearance controls existed in NSW — viz licences for clearing and cropping in western NSW; controls under soil conservation legislation; and some local government restrictions. In August 1995, the NSW Government introduced State Environmental Planning Policy no. 46 (SEPP 46) — protection and management of native vegetation. This was designed to prevent “inappropriate clearing and to ensure that native vegetation is managed in the environmental, social and economic interests of the State”. Under SEPP 46, broadscale clearing in specified areas requires consent through the Department of Land and Water Conservation.

On March 18, 1997, the NSW Government announced its intention to introduce the Native Vegetation Conservation (NVC) Bill, which is expected to go to Parliament in late winter-spring 1997. At the time of compiling this summary, specific provisions of the Bill were not available.

However, the Government said \$5 million a year for the next three years would be allocated as “incentive” funding for fencing or revegetation under a Native Vegetation Management Fund. To access this, a farmer will have to have a property agreement described as a partnership between the landholder and the Government. These will be voluntary and contain agreed management outcomes. The Government also says that protection of high conservation value remnants may require covenants to ensure long term conservation. Currently, voluntary conservation agreements are made under the NSW *National Parks and Wildlife Act 1974* with the consent of the landowner. They are, in effect, covenants as they run with the land title and bind subsequent owners. According to Julianne Smart of the NPWS (Grassy White Box Woodlands Update Autumn 1997), fencing, vegetation and fauna surveys, rehabilitation of remnants, aerial photos, signs, weed and feral animal control have all been funded under these agreements.

Landholders may also be eligible for rate relief and NPWS pays owners reasonable legal costs to have the VCA reviewed by their own lawyer. A wildlife refuge scheme also exists. They are voluntary but not permanent.

Specific features

The following summary is in two parts ó current (May 1997) as under SEPP 46, and as proposed in the NVC legislation ó as per background documents issued by the NSW Government.

1 Does the legislation apply to all native vegetation — canopy, shrubs, grasslands, dead trees, single trees and grazing land?

SEPP 46 — Native vegetation is defined as that indigenous to the State including trees, shrubs, understorey plants and specified native grasslands.

NVC — Definition of native vegetation not yet available.

2 Does it all apply over freehold and leasehold land?

SEPP 46 — It only applies to local government areas listed in schedule 1 of the SEPP 46 and within these there are exemptions such as land zoned “residential”, “township” or “village” as well as NPWS and State forests.

NVC — Detail not yet available.

3 What authority or level of government administers the clearance applications?

SEPP 46 — Department of Land and Water Conservation.

NVC — Regional Vegetation Management Plans will be developed by regional committees and approved by the Minister for Land and Water Conservation. They will indicate which areas can be cleared without consent, with the Department of Land and Water Conservation providing guidelines for the development of these plans. If a plan doesn’t exist and a landholder wants to clear (and is not covered

by the exemptions), he/she will need permission from the Department of Land and Water Conservation as is currently the case.

4 What is the make-up of the adjudicating body (eg organisations)?

SEPP 46 – see 3 above.

NVC – The Regional Vegetation Committees will comprise members from the Department of Land and Water Conservation, NPWS, rural and conservation interests and, where appropriate, other Government agencies, community interest groups, local government and catchment management committees.

5 If refused, can a landowner appeal and if so to whom?

SEPP 46 – Yes, to the Land and Environment court.

NVC – Merit appeals will be able to be made to the Land and Environment Court.

6 Are there third party appeal rights?

SEPP 46 – No.

NVC – A third party will be able to appeal if the Department of Land and Water Conservation does not follow the appropriate procedures in developing a Regional Vegetation Management Plan or when considering a development application.

7 What are examples of the exemptions under which permission to clear does not have to be sought?

SEPP 46 – The lopping of vegetation for fodder in a declared drought area; removal of re-growth less than 10 years old if on land previously cleared for cultivation etc; the clearing of up to 2 ha per year if contiguous and in the same ownership; around rural structures; planted native vegetation, timber production.

NVC – Detail not known

8 If permission is given can it be conditional – eg yes you can clear but you must plant X number of trees?

SEPP 46 – Yes.

NVC – Detail not known.

9 What are the penalties for illegal clearance?

SEPP 46 – A maximum of \$100,000 plus restoration provisions.

NVC – Detail not known.

10 Has financial assistance been paid or will it be paid to those refused clearance?

SEPP 46 – No.

NVC – Detail not known.

11 What is the nature of the assistance and how much has been paid to say December 1996?

SEPP 46 – N/A.

NVC – N/A.

12 Is payment conditional on the landowner entering into an agreement to protect/manage the vegetation?

SEPP 46 – N/A.

NVC – N/A.

13 What area of land has been refused clearance since the legislation was introduced?

SEPP 46 – Approximately 3,000 ha however, following pre-application interviews many applications have not been formally submitted.

14 What area of land is contained in agreements between landowners and the relevant authority?

See introduction.

15 Is land acquisition a feature of the legislation?

SEPP 46 – No.

NVC – Detail not available.

16 Is there a requirement in the legislation for management advice to be provided to the owners of reserved vegetation?

SEPP 46 – No.

NVC – The Government says the Department of Land and Water Conservation will have \$11.4 million available annually to finance education, monitoring, audits of plans, data collection and technical support for the regional vegetation committees.

17 If not, do owners of reserved vegetation have access to government provided advice on management of vegetation and what form does this advice take?

According to the paper *“Native Vegetation Protection and Management in NSW”*, a range of options including education and awareness programs and packages, extension programs and research is available through Total Catchment Management. See also 12 above.

Sources

- Richard Papis, Department of Land and Water Conservation.
- Sue Salvin, NSW Farmers Association.
- People and publications specified above and also papers in *“From Conflict to Conservation”* published by the SA Department of Environment and Natural Resources, November 1995.

South Australia

Introduction

Until 1983, legislation which restricted clearing, albeit in a minor way, was centred on soil conservation principles – viz would the clearing lead to soil erosion? In an attempt to foster interest in on-property biological conservation, the State Government in 1980 introduced voluntary heritage agreements under which landholders who set aside native vegetation on their properties could be considered for incentives such as subsidies for the cost of stock proof fencing and offsetting of local government rates. Between 1980 and 1982, incentives payments totalling \$450,000 were made for 170 agreements covering about 15,000 ha.

In 1983, the State Government introduced amendments under the Planning Act so that, clearing required approval from the SA Planning Commission and that rulings would, for the first time, consider the biological values of the vegetation as well as soil and water conservation issues. After a period of considerable disputation with the farming community, the Government in 1985 introduced the *Native Vegetation Management Act* which provided that, in return for signing a heritage agreement, a landholder, under specified conditions, could receive financial assistance because he or she had been refused clearance. These conditions were modified between 1985 and 1991 and then the *Native Vegetation Act 1991* replaced the *Native Vegetation Management Act 1985*. In effect, this change signalled the end of broadacre clearance in SA. The type of financial assistance which applied from 1985 to 1991 is not a feature of the 1991 legislation but management assistance, financial or otherwise, remains as a principle.

Specific features

- 1 Does the legislation apply to all native vegetation – canopy, shrubs, grasslands, dead trees, single trees and grazing land?

To all of these except dead trees.

- 2 Does it all apply over freehold and leasehold land?

Yes.

- 3 What authority or level of government administers the clearance applications?

The Native Vegetation Council appointed by the Minister for Environment and Natural Resources.

- 4 What is the make-up of the adjudicating body (eg organisations)?

There is one member representing Soil Conservation Boards and one each from the following – SA Farmers Federation, Environment Australia, Conservation Council, local government, one with botanical expertise and a presiding officer.

- 5 If refused can a landowner appeal and if so to whom?

No. However, there is a conciliation process whereby independent conciliators discuss the issues with the applicant and the assessment officer and then make a report to the council.

- 6 Are there third party appeal rights?

No.

- 7 What are examples of the exemptions under which permission to clear does not have to be sought?

Vegetation under power lines, near fences, on building sites, within 20 km of a dwelling etc. As well, certain exemptions apply to re-growth and to the grazing of vegetation by

domestic stock at a level which stock of the same species have grazed the vegetation over the past 10 years.

- 8 If permission is given can it be conditional – eg yes you can clear but you must plant X number of trees?

Yes, this is nearly always the case.

- 9 What are the penalties for illegal clearance?

A maximum \$40,000 fine or maximum imprisonment for 10 years, or a prescribed rate for each hectare of land over which the offence was committed, whichever is greater.

- 10 Has financial assistance been paid or will it be paid to those refused clearance?

The nature of assistance between the 1985 legislation and 1991 legislation differs.

- 11 What is the nature of the assistance and how much has been paid to say December 1996?

No financial assistance has been paid to landholders refused consent to clear under the *Native Vegetation Act 1991*. However, financial assistance was available to landholders refused consent under the *Native Vegetation Management Act 1985* and was conditional upon the landholder entering into a heritage agreement over the area. There were conditions attached to the eligibility for financial assistance – the assistance largely centred on any reduction in market value of the land resulting from a clearance decision. About \$70 million was paid to landowners between 1985 and 1991.

Since 1991 landholders have remained eligible to receive financial management assistance for heritage agreements areas such as for fencing to exclude stock. There is currently a 5 year backlog for people waiting for fencing assistance. To 1997, about \$6 million has been allocated for fencing of heritage agreements

As well, the Native Vegetation Council has, since 1995–96, invited applications from individuals for funding for vegetation management projects such as weed and vermin control. A limit of \$2,000 per application applies and funding has amounted to about \$85,000 over the two years. Applicants are required to contribute in cash or kind.

Groups of landholders can also apply for grants under the Rural Tree Planting Program (administered by Primary Industries SA) and while these are not exclusively for native vegetation projects, many are.

12 Is payment conditional on the landowner entering into an agreement to protect/manage the vegetation?

Yes, it was under the 1985 legislation and remains so.

13 What area of land has been refused clearance since the legislation was introduced?

About 650,000 ha of scrub (broadacre clearance) have been refused clearance since 1983, 27,000 ha of area proposed for woodcutting and 10,380 ha for brushcutting.

14 What area of land is contained in agreements between landowners and the relevant authority?

Some 1050 heritage agreements have been entered into covering about 550,000 ha.

15 Is land acquisition a feature of the legislation?

A small area was acquired under hardship provisions in the 1985 legislation but acquisition is not a feature of the 1991 legislation.

16 Is there a requirement in the legislation for management advice to be provided to the owners of reserved vegetation?

No. The Act says “may”.

17 If not, do owners of reserved vegetation have access to government provided advice on management of vegetation and what form does this advice take?

Four biodiversity officers have been employed by the Department of Environment and Natural Resources on short term contracts and are stationed in country areas. They work with groups of landowners and individuals particularly those associated with the Property Management Planning (PMP) Program. As well, an officer is developing information packages for workshops based on the role and contribution of perennial vegetation in farming systems.

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Tasmania

Introduction

The Tasmanian and Commonwealth Governments are currently reviewing mechanisms for achieving conservation management on private forested land as part of the Regional Forest Agreement envisaged in the National Forest Policy Statement. This overview may therefore be out of date soon. See the General Comments section at the end of the report for the recommendations from this review.

However, currently, there is no specific statewide legislation controlling the broadacre clearance of native vegetation on private agricultural land in Tasmania for farming or grazing purposes. There is related legislation regulating forestry practice on both private and Crown land.

There is the provision in the *Land Use Planning and Approvals Act 1993* for local government planning authorities to declare clearance of native vegetation as a form of development. However, unlike Victoria, there has yet been no state policy prepared which would bind all planning schemes in the State.

There is legislation relating to the control of forestry activities on private land where that forestry practice would impact on the presence of rare or endangered species. This has not been tested in court, to 1995. There is legislation to protect a defined area of the habitat of specified threatened species of flora and fauna.

Relevant legislation

No direct relevant legislation to broadacre clearance for agriculture.

Related legislation

Forest Practices Act 1985 (FPA)

Land Use Planning and Approvals Act 1993 (LUPAA)

National Parks And Wildlife Act 1970 (NPWA)

Threatened Species Protection Act 1995 (TSPA) and Threatened Species Protection Regulations 1996

See also

Tasmania Public Land Use Commission (1996) Inquiry Into Areas To Be Reserved Under The Tasmania-Commonwealth Regional Forest Agreement Background Report Part F Mechanisms For Achieving Conservation Management On Private Forested Land. A Discussion Paper. Tasmania Public Land Use Commission, Hobart, Tasmania. Tasmania Public Land Use Commission (1997) *Inquiry Into Areas To Be Reserved Under The Tasmania-Commonwealth Regional Forest Agreement Proposed Recommendations Report Part II: Mechanisms For Achieving Conservation Management On Private Forested Land Tasmania* Public Land Use Commission, Hobart, Tasmania.

1 Does the legislation apply to all native vegetation — canopy shrubs, grasslands, dead trees, single trees and grazing land?

FPA — the Forest Practices Code requires that forest practices on public and private land are undertaken in an environmentally acceptable manner, but refers mainly to off-target species such as all vegetation along banks of some rivers and streams. (However, it ceases to hold if that land is to be cleared for non-forestry purposes eg agriculture.)

The NPWA can apply to forestry operations on private land on which there are identified rare or endangered species. The NPWA provides for individual species to be declared “protected” and these cannot be harmed, taken or interfered with regardless of land tenure, but there have been no plant species declared under this Act and so no protection against vegetation clearance exists.

TSPA applies to threatened species listed under the Act and to the whole or part of a habitat where the habitat is critical to the survival of a threatened species.

2 Does it all apply over freehold and leasehold land?

FPA applies to both public and private land.

NPWA applies to both private and public land in relation to “protected species” but only to private land in relation to forestry operations.

TSPA applies to private land and Crown land not under public authority agreement.

3 What authority or level of government administers the clearance applications?

There is the provision in LUPAA for local government planning authorities to declare clearance of native vegetation as a form of development. However, unlike Victoria, there has yet been no State policy prepared which would bind all planning schemes in the State.

4 What is the make-up of the adjudicating body (eg organisations)?

N/A.

5 If refused can a landholder appeal and if so to whom?

N/A.

6 Are there third party appeal rights?

N/A.

7 What are examples of the exemptions under which permission to clear does not have to be sought?

N/A.

8 If permission is given can it be conditional – eg yes you can clear but you must plant X number of trees?

Yes, under the FPA and the NPWA, Timber Harvesting Plans can be amended to include conditions.

9 What are the penalties for illegal clearance?

N/A.

The TSPA allows for an interim protection order to be applied to an area of privately owned land for 30 days (or 65 days on public land) if an activity will threaten a declared rare and endangered species. Penalties apply for contravening an interim protection order.

10 Has financial assistance been paid or will it be paid to those refused clearance?

No cases tested under the NPWA.

TSPA: Compensation may be paid where an interim protection order is applied, and may be provided for financial loss arising from the declaration of a critical habitat and the preparation of a land management agreement for that defined area of land.

11 What is the nature of the assistance and how much has been paid to say December 1996?

NPWA: Compensation allowed for under Section 37D, but none paid to December 1996. TSPA: compensation allowed for under Section 45, includes change in land value, loss of profit, loss of increase in land value, costs of any works required, change in value of improvements as a result of restrictions, and other, but none paid to December 1996.

12 Is payment conditional on the landholder entering into an agreement to protect/manage the vegetation?

Under the NPWA, compensation would be conditional upon the affected owner entering into a conservation covenant. No cases have been tested to 1995. NPWA can also compulsorily acquire any private land, and compensation is mandatory in this case. There have been some examples of this – at Duckholes Lagoon and next to the Douglas Apsley National Park.

13 What area of land has been refused clearance since the legislation was introduced?

N/A.

13a What area of land has been cleared since the legislation was introduced?

Vegetation clearance rates averaged 15,000 ha per annum between 1972–1980, 6,000 ha between 1980–1988 and is estimated to be continuing at this rate (Kirkpatrick 1991; Wells 1995).

14 What area of land has been contained in agreements between landholders and the relevant authority?

The NPWA provides for voluntary legally binding wildlife sanctuaries, conservation covenants and agreed management plans. There are 41 wildlife sanctuaries covering 230,196 ha (although grazing and other agricultural pursuits can still occur). No conservation covenants have been processed to December 1996. The TSPA provides for voluntary protection of habitats of rare and endangered species through land management agreements. None have been formalised to December 1996.

15 Is land acquisition a feature of the legislation?

NPWA can compulsorily acquire any private land and compensation is mandatory. Since 1990, two blocks have been compulsorily acquired specifically to avoid clearance of native vegetation.

16 Is there a requirement in the legislation for management advice to be provided to the landholders of reserved vegetation?

With the consent of the landholder of a declared wildlife sanctuary under the NPWA, a statutory management plan can be prepared by the NPWS. Only two such plans exist. TSPA land management plans for the protection of rare and endangered species specifies actions to be undertaken by the NPWS Director and any other persons to achieve those objectives.

17 If not, do landholders of reserved vegetation have access to government provided advice on management of vegetation and what form does this advice take?

The National Parks and Wildlife Service is implementing a voluntary Land for Wildlife scheme along the lines of the Victorian program.

There is considerable information of vegetation management issues produced by a range of government, private organisations and tertiary institutions available to those landholders prepared to access it.

General comments

The current report on the inquiry into the mechanisms for achieving conservation management on private forested land has thirteen recommendations. These recommendations, in summary are: -

1. Provision should be made for acquisition by purchase of lands required for the CAR (comprehensive, adequate and representative) reserve system.
2. Recognition of TSPA and NPWA potential contributions to CAR reserves.
3. Expansion of TSPA to include ecological communities, and extend compensation provisions accordingly, outside boundaries of “normal duty of care”.
4. Recognition of FPA potential contributions to CAR reserves.
5. Draw the attention of Tasmanian government to conflict between exempting Private Timber Reserves under FPA from LUPAA operations, and the limitations of third party appeal under FPA.
6. Legislation to include provision of Stewardship Agreements, encompassing covenants, managements plans, stewardship payments.

7. Payments to be based on NPWA and TSPA provisions, outside boundaries of “normal duty of care”.
8. Provision be made for stewardship payments to landholders.
9. Recommendations to the Commonwealth Government to review Section 75 of the *Commonwealth Income Tax Assessment Act 1936* with respect to expenditure for the protection of areas of native vegetation.
10. Provision for an administrative body to administer negotiations for Stewardship Agreements to include community representation.
11. The Timber Harvesting Plan process under FPA continue while legislation is formulated and areas for Stewardship Agreements negotiated.
12. A review of, and identification of areas not needed as Stewardship Agreements.
13. Legislation to address provision for conflict resolution.

Sources

- Kirkpatrick, J (1991) The magnitude and significance of land clearance in Tasmania in the 1980s. *Tasforests* 3: 11-14.
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Victoria

Introduction

Controls over the clearance of native vegetation have been in force since 1989 via planning permits under the State Section of the Planning Scheme (SSPS) under the *Planning and Environment Act 1987* (PEA). The principles of the Act include both nature conservation and land management (soil, watercourses, greenhouse carbon loads, groundwater, dryland salinity control) objectives. There are exemptions for normal rural agricultural activities, as listed. Fines and rectification provisions apply for illegal clearance. There can be conditions placed on planning permits, defined in the Act. The Act specifically rules out the payment of compensation. PEA Section 173 Agreements are voluntary and legally binding and allow for compulsory conditions, mainly for management of non-target species in land uses such as forestry on private land, with no financial component. NO arrangements for the provision of advice exist in the PEA. Provisions for Conservation Agreements and for land management advice are contained in other legislation.

Relevant legislation

Planning and Environment Act 1987,
Amendment S16 to the State Section of the
Planning Scheme, 1989 (SSPS)

Planning permits are required to remove, destroy or lop native vegetation.

Related legislation

Flora and Fauna Guarantee Act 1988
Victorian Conservation Trust Act 1978
Conservation, Forests and Lands Act 1987
Wildlife Act 1975

- 1 Does the legislation apply to all native vegetation – canopy, shrubs, grasslands, dead trees, single trees and grazing land?

SSPS: Native vegetation is defined as all plants indigenous to Victoria and includes trees, shrubs, herbs and grasses. Clearance includes “remove, destroy or lop” native vegetation. It does not apply to dead vegetation. Grazing by stock must be controlled so that there is minimum destruction of native vegetation.

- 2 Does it all apply over all freehold and leasehold land?

SSPS relates to all freehold and leasehold land in Victoria including Crown land (such as roadsides but exempts Crown land for forestry and National Parks).

- 3 What authority or level of government administers the clearance applications?

Local government administers all clearance permits. If the area of land is less than 10 ha, this is the only level of administration. If the area of land for which an application is made is over 10 ha or it relates to a roadside or for timber production, the application is referred to regional offices of the Department of Natural Resources and Environment (DNRE), and the decision by DNRE is binding on the local government. The *Flora and Fauna Guarantee Act 1988* lists the taxa and communities of threatened flora and fauna and can provide a reference for decisions on clearing.

- 4 What is the make-up of the adjudicating body (eg organisations)?

There are 73 local government areas in Victoria, all of which have elected councillors, while permits are administered by council staff.

- 5 If refused, can a landholder appeal and if so to whom?

Yes, to the Administrative Appeals Tribunal (TA).

6 Are there third party appeal rights?

Yes, to the Administrative Appeals Tribunal (TA).

7 What are examples of the exemptions under which permission to clear does not have to be sought?

Areas where all contiguous land in one ownership is less than 0.4 ha are exempt. There are a range of exemptions listed in the SSPS for normal rural activities such as clearance for fence lines, dams, bores, for asset maintenance, firebreaks of up to 6 metres, weed and vermin control, facilitating stock and vehicle movement, as well as commercial activities such as timber harvesting under licence from DNRE.

8 If permission is given can it be conditional – eg yes you can clear but you must plant X number of trees?

Yes, clearance permits can have conditions applied or allow for conditional clearance. Under the SSPS, conditional clearance can include such provisions as no clearance where the ground slopes more than 20%, within 30 metres of a watercourse, on land subject to slippage or salinisation, or where the area supports rare species of fauna or flora. Under the SSPS, conditions such as areas for planting, replanting, retention of buffer strips of vegetation, and/or fencing off areas of vegetation to exclude stock can be set.

9 What are the penalties for illegal clearance?

Under the SSPS, illegal clearance is a breach of the Planning Permit and carries a fine of up to \$1000 and/or a requirement for the rectification of damage. Clearance can be temporarily halted under the *Flora and Fauna Guarantee Act 1988* Interim Conservation Orders. To November 1995 none had been issued.

10 Has financial assistance been paid or will it be paid to those refused clearance?

There is no provision for (specifically rules out the possibility of) compensation in the PEA.

11 What is the nature of the assistance and how much has been paid to, say, December 7, 1996?

Nil payment has been paid under the PEA.

12 Is payment conditional on the landholder entering into an agreement to protect/manage the vegetation?

There are two forms of agreement for land management:

PEA Section 173 Agreements are voluntary agreements but with compulsory conditions for specific actions for land management. These are mainly land management conditions for non-target species during forestry practices on private land. They have no financial payments. These are rare.

Conservation, Forests and Lands Act 1987 includes provision for Section 69 Co-operative Agreements for mutual benefit in which payments can be made for achieving specific defined land management/conservation goals. These are rare.

13 What area of land has been refused clearance since the legislation was introduced?

Native vegetation retention statistics 1989 to 1995

Applications for a total of 40,585 ha were received and 24,951 ha refused (61.4%). A total of 1,362 applications were received at DNRE, of which 1,260 applications were refused. From July 1996 to February 1997, there was an average of 13% of applications to which the DNRE objected, while the rest had a varying range of conditions placed on them.

13a What area of land has been cleared since the legislation was introduced?

Native vegetation retention statistics 1989 to 1995

A total of 15,634 ha was approved for clearance. The percentages of area approved from total applications for clearance by region ranged from 8% to 77%.

Approvals have decreased yearly from 6,157 ha in 1990, to 3,347 ha in 1991, 3,149 ha in 1992, and 2,980 ha in 1993. Figures are not available for subsequent years.

Analysis of remote sensing data from 1990–1993 demonstrated that clearance of native vegetation over 2 metres in height has been occurring at a rate of 1,500 ha per year on average. This is a reduction from 10,700 ha per year from the period 1972–1987. Analysis of tree cover change data for 1990–1996 is currently being finalised (Gilbee, in press). (These are applications for areas over 10 ha. No figures for local government level are available).

14 What area of land is contained in agreements between landholders and the relevant authority?

Voluntary legally binding covenants under the *Victorian Conservation Trust Act 1978* with Trust for Nature Victoria number 220 properties and 8,242 ha (March 1996).

Voluntary and non-legal binding agreements through the Land for Wildlife (Victoria) scheme administered by the DNRE number 3,100 registered properties (May 1995). These registered properties had a total land area of 320,633 ha. Of this, 59,044 ha was retained as wildlife habitat. This represents about 16% of the total and on average 18 ha per property. February 1997 figures are 4,032 registered properties.

The *Wildlife Act 1975* and *Conservation, Forests and Lands Act 1987* allow for voluntary binding nature conservation

agreements as wildlife management cooperative areas, but this option is not currently administered and only a “handful” of agreements (Platt 1995) or “less than 50” (Douglass, pers comm) have been established.

15 Is land acquisition a feature of the clearance legislation?

No. The *Flora and Fauna Guarantee Act 1988* Interim Conservation Orders can be used to temporarily halt clearance while land use decisions are made which might include compulsory acquisition.

Voluntary conservation covenants are available under different administration (statutory authority— Trust for Nature, Victoria) and different legislation (*Victorian Conservation Trust Act 1972*) amended 1995.

Trust for Nature, Victoria can purchase land on the open market (no compulsory acquisitions) and transfer it to the Crown. This has occurred for a total of 51 properties involving 3,113 ha to April 1997. It also manages a revolving fund to purchase land, place it under a covenant and resell it to others sympathetic with conservation objectives.

16 Is there a requirement in the legislation for management advice to be provided to the landholders of reserved vegetation?

No legal requirement in the *Planning and Environment Act 1989* except for Section 173.

Agreements.

Victorian Conservation Trust Act 1972 states that the Trust for Nature can provide management advice through the objectives of the Act which allows for conservation and preservation for scientific and educational purposes.

17 If not, do landholders of reserved vegetation have access to government provided advice on management of vegetation and what form does this advice take?

There is advice in the form of newsletters, fact sheets, field days and extension officers through both the Trust for Nature (Victoria) and Land for Wildlife (Victoria) scheme administered by DNRE.

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Western Australia

Introduction

Statewide legislation for the control of the rate and extent of broadacre clearing in Western Australia has been in place since 1985 for soil and/or water degradation control under the *Soil and Land Conservation Act (SALCA)* through Notice of Intent to Clear (NOIC) applications. Changes in 1995 reduced the expectation of the right to clear, on farms and in shires with less than 20% remnancy and the landholder had the onus to demonstrate that land degradation would not occur. Since 1995, control for nature conservation under the *Environmental Protection Act (EPA)* and *Conservation and Land Management Act (CALM)* have been in place and all significant application areas have been referred to the EPA. From April 10 1997, changes to regulations and policies have increased the level of scrutiny of all NOIC, with Standing Objections to NOIC in most wheatbelt shires and all NOIC come to the attention of a working party that recommends referral or not to the EPA. The onus is on the landholder to provide a detailed case outlining the conditions which demonstrate that the clearing will not cause land degradation or threaten nature conservation values. A Nature Resource Adjustment Scheme has been established with a Limited Adjustment Package (\$1 million) where landholders who apply to clear native vegetation may seek financial assistance options if the application is rejected by the government. This program is voluntary. A payment may be made if there is a legally binding Conservation Covenant memorial registered on the title to ensure that the remnant vegetation is retained for conservation purposes.

Related legislation, the *County Areas Water Supply Act, Part IIA, 1976 (CAWSA)* has controlled clearance in six specified south western catchments where quality of water supply can be affected by salinity (about 5% of rural parts of the State) since 1978. Payments can be made under this Act. Grazing of land to be left uncleared was not controlled. Provisions for legally binding Soil

Conservation Notice, Agreement to Reserve, and Conservation Covenants exist in SALCA. There is provision under CALMA to establish a Covenanted Trust a bit similar to the Victorian Trust for Nature Scheme but it has never been activated and the relevant regulations do not exist.

Relevant legislation

Soil and Land Conservation Act (SALCA) Notice of Intent to Clear

Related legislation

Country Areas Water Supply Act, Part IIA 1976 (CAWSA)

Wildlife Conservation Act (WCA)

Environmental Protection Act (EPA)

Conservation and Land Management Act (CALMA)

1 Does the legislation apply to all native vegetation – canopy, shrubs, grasslands, dead trees, single trees and grazing land?

SALCA: Applies to all “intact” native vegetation communities, where “intact” is defined in guidelines, where the area is over one ha, and where the clearance would lead to a change in land use. Grazing of remnant vegetation is considered a change in land use. Clearance requires a Soil Conservation Notice.

CAWSA: Covers all native vegetation down to and including individual trees. Clearance requires a license.

CALMA: Provides for the Minister of Environment to prohibit clearing of land with Gazetted rare and endangered flora.

2 Does it all apply over freehold and leasehold land?

SALCA applies to all land, freehold, leasehold and Crown land. There are defined shires where the Commissioner has a “standing objection” to NOIC applications. These include most wheatbelt shires.

CAWSA applies over all freehold, leasehold and Crown land.

3 What authority or level of government administers the clearance applications?

The Commissioner of Soil and Land Conservation in the Department of Agriculture decides on every Notice of Intent to Clear (NOIC) native vegetation for a change in land use. There are four levels of administration dependent on the area, location and possible soil and/or water degradation or nature conservation values.

- a) District Land Conservation Officers of the Department of Agriculture determine whether the proposed clearing is notifiable (intact native vegetation rather than isolated paddock trees or less than one ha).
- b) The Commissioner of Soil and Land Conservation can object on land and/or water degradation grounds.
- c) All NOIC where clearance is likely to occur come to the attention of a working group for broader environmental issues such as nature conservation.
- d) On advice from the working group, the EPA can require the proponent to prepare an environmental impact assessment.

Clearing applications under CAWSA are administered by the Water and Rivers Commission (WARC)

4 What is the make-up of the adjudicating body (eg organisations)?

SALCA: The working group has one expert representative from each of the Departments of Agriculture, EPA, CALM, and WARC.

5 If refused can a landholder appeal and if so to whom?

SALCA: Landholder can appeal to the Minister of Primary Industry after the Commissioner has formalised an objection through a Soil

Conservation Notice. CAWSA: Landholders can appeal to the Minister of Water Resources after the Commission has formalised a refusal through a Letter of Refusal for a License to Clear.

6 Are there third party appeal rights?

Third parties cannot formally object to SALCA decisions but can appeal those NOIC that reach the EPA process. The landholder is required to publish a NOIC in the public notices column of the main local newspaper which includes an invitation to members of the public to register their views and/or provide relevant information on the proposal to the Deputy Commissioner for Soil and Land Conservation, Department of Agriculture.

7 What are examples of the exemptions under which permission to clear does not have to be sought?

SALCA: NOICs are activated only where the clearance will result in a change of land use, from, for example, ungrazed or grazed “intact” native vegetation to improved pasture or cropping land. It does not apply for forestry operations where regrowth of the forest is intended. Clearance controls exist for areas over one ha in the SALCA, and policy allows for variations such as for urban land. Interpretation of the Act and policy allows for informal management operations, such as fence lines, dams, fire control breaks and isolated paddock trees, to be exempt.

CAWSA: The catchments are zoned and small areas of clearance (0, 10-20, 25-50 ha) are allowed in three zones depending on the level of threat of salinity while the fourth low-threat zone, which can conflict with SALCA 20% retention, is deferred to SALCA regulations.

8 If permission is given can it be conditional – eg yes you can clear but you must plant X number of trees?

SALCA: Soil Conservation Notices often have conditional components. These include

voluntary legally binding Agreement to Reserve conditions where specified areas are required to be protected from grazing by stock. Replanting conditions are possible but not often used.

9 What are the penalties for illegal clearance?

SALCA: Clearance without notice carries a fine of up to \$2,000 and/or a requirement for the rectification of damage (replant or regrow) where that clearance would lead to land and/or water degradation.

10 Has financial assistance been paid or will it be paid to those refused clearance?

SALCA: Up to April 10 1997, there have been no provisions for payments of any kind. There is a Remnant Vegetation Protection Scheme with funding for fencing but this is not linked to refusals for clearance. The RVPS program provided \$2,218,973 for 2,275 km of fencing to protect 38,129 ha between 1989 and 1995.

From April 10 1997, a Nature Resource Adjustment Scheme has been established with a Limited Adjustment Package where landholders who apply to clear native vegetation may seek financial assistance options if the application is rejected by the government. This program is voluntary.

The government, through the Rural Adjustment and Finance Corporation of WA, may:

- a) make a payment if there is a legally binding conservation covenant memorial (Agreement to Reserve or ATR) registered on the title to ensure that the remnant vegetation is retained for conservation purposes;
- b) assist in the negotiation of the sale of the affected land to a third party; or
- c) purchase the land for resale to a third party.

CAWSA: Payments can be made under the *Country Areas Water Supply Act, Part IIA, 1978* (CAWSA) for a refusal to clear in six South West catchments proclaimed under the Act.

CALMA: Where landholders have been prevented from clearing because of rare and endangered flora gazetted under the CALMA, fencing materials may be provided, but this depends on funds and priorities.

11 What is the nature of the assistance and how much has been paid to, say, December 1996?

SALCA: No payments as of April 18, 1997 under the Limited Adjustment Package of SALCA.

There has been a Remnant Vegetation Protection Scheme since 1989 with provision for funding for fencing but this is not linked to refusals for clearance. The RVPS program provided \$2,218,973 for 2,275 km of fencing to protect 38,129 ha between 1989 and 1995. From 1997, the RVPS funding has been increased to \$900,000 per year for protection of remnants of high conservation value, good quality, under-represented and greater than 100 ha in Shires with less than 20% remnancy and for riverine vegetation. Targets for fencing have been set at 50,000 ha over five years.

CAWSA: Payments made under this Act for a refusal to clear is not to be paid for a legislated first 10% of a holding and thereafter is payable on native vegetation above 10% area of a holding, generally based on the uncleared value of the land or on the cleared value of the land minus the development costs. Payments total \$33 million over 370 applications.

12 Is payment conditional on the landholder entering into an agreement to protect/manage the vegetation?

SALCA: Yes, under the Limited Adjustment Package (not yet active, April 1997). Landholders volunteer to establish a legally binding conservation covenant memorial

(Agreement to Reserve or ATR) registered on the title to ensure that the remnant vegetation is retained for conservation purposes.

CAWSA: Under this Act, fencing has not been required to protect vegetation and the Act allows limited grazing which does not damage the native vegetation. In fact, grazing is considered to have damaged the vegetation and a remnant vegetation fencing program has been implemented as part of a Salinity Action Plan launched November 1996. It is proposed that this funding be tied to the SALCA Agreement to Reserve.

13 What area of land has been refused clearance since the legislation was introduced?

SALCA: Beeston's 1995 Table 3: Summary Of Cases Dealt With Under Notice Of Intent To Clear Regulations from 1986 to 1994 lists 963 NOIC, 271,748 ha notified, for an area retained of 64,558 ha. Percentages retained have increased through time from 12% in 1986, 18% in 1987, 21% in 1988, 18% in 1989, 37% in 1990, 42% in 1991, 34% in 1992, and 54% in 1993/94.

13a What area of land has been cleared since the legislation was introduced?

SALCA: Of the 271,748 ha notified between 1986 and 1994 the area without objection (and potentially cleared) was 211,836 ha. This is an increase of about 1.3% on the agricultural land trace in WA.

14 What area of land is contained in agreements between landholders and the relevant authority?

SALCA: All land (64,558 ha) with a refusal to clear under SALCA is retained and fenced from stock under a Soil Conservation Notice, an Agreement to Reserve, or a Conservation Covenant. No compensation under the Act occurred up to April 1997. An Agreement to Reserve may be amended by mutual agreement of both parties. A Conservation Covenant is difficult to alter in any way.

CAWSA payments were not conditional on fencing or agreement on reserved land from grazing.

There is provision under the CALMA to establish a Covenanted Trust a bit similar to the Victorian Trust for Nature Scheme, but it has never been activated and the relevant regulations do not exist.

Under the newly established (1996) Land for Wildlife (WA) scheme, voluntary and non-legal binding agreements administered by CALM have elicited 50 registrations of interest of land ranging from two ha to 4000 ha.

15 Is land acquisition a feature of the legislation?

SALCA: Not under SALCA.

CALMA: Land on which there is rare and endangered flora proclaimed can be acquired.

16 Is there a requirement in the legislation for management advice to be provided to the landholders of reserved vegetation?

SALCA: Not specifically. The SALCA legislation charges the Commissioner with the duty of assistance, education, and direction for land management but native vegetation is not addressed specifically.

17 If not, do landholders of reserved vegetation have access to government provided advice on management of vegetation and what form does this advice take?

There is advice in the form of newsletters, fact sheets, field days and extension officers through the Land for Wildlife (WA) scheme administered by CALM, launched 1997. There are revegetation officers administered through CALM and the Department of Agriculture.

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Queensland

Introduction

Provisions of the *Land Act 1994* control tree clearing on leasehold and other State lands in Queensland, which cover some 78% of the State. The Broadscale Tree Clearing Policy and Local Tree Clearing Guidelines contained within that legislation apply to leasehold grazing lands, which cover some 73% of the State. Local guidelines were expected to be presented for Ministerial approval in mid 1997. The major controls over tree clearing on freehold land are administered by local governments.

In addition, although tree clearing permits have been in place since 1962, the *Land Act 1994* provision for local Tree Clearing Guidelines and a Broadscale Tree Clearing Policy is currently used for tree clearing permits. Local guidelines are expected to be presented for Ministerial approval in 1997.

Clearance of native vegetation on leasehold land and other State land is managed under the *Lands Act 1962*, which will remain the legislative basis for tree clearing controls until Part 6 (Tree Management) of the *Land Act 1994* is proclaimed. A Preliminary Tree Clearing Policy was developed in 1995 by government, the pastoral industry and conservation interests, as a reference document until the relevant section of the 1994 Act is proclaimed. In the absence of over-arching legislation, property rights influence the manner in which the legislative controls on clearing work in Queensland. There are 35,936 leases covering 134,725,525 ha (78% of the State). Clearance on leasehold land is prohibited without a tree clearing permit. However, permits are not required for freeholding leases (9% of the State) as the lessee becomes the owner of timber during the freeholding process. In effect, this means that some 64% of the State's leasehold grazing lands is subject to the tree clearing permit requirement.

Powers to control tree clearing on freehold land are contained within the *Local Government Act* (LGA) and the *Planning and Environment Act*

(LGPEA). In addition, the *Nature Conservation Act 1992* protects habitats of rare and endangered species and the taking of protected plants, while the *Water Resources Act 1989* controls tree clearing within riverine environments, river banks and watercourses. The *Environment Protection Act 1994* requires that all reasonable and practical steps are taken to minimise damage to the environment, and local government tree protection local laws or other kinds of vegetation protection schemes apply, where these exist.

The primary act relating to nature conservation in Queensland is the *Nature Conservation Act 1992* managed by the Queensland Department of Environment (QDoE). The object of the Act is the conservation of nature through community education, voluntary conservation agreements and formal protected areas ("national parks").

This overview is likely to date quickly, as there is currently a moratorium on issuing permits for broadacre tree clearance on State land until the legal implications of the Wik decision on land development and tenure issues are clarified. Routine management operations such as pulling mulga for drought fodder, clearing for firebreaks and fire management are currently permitted where necessary.

Relevant legislation

Land Act 1962 and Land Act 1994 (LA)

Local Government (Planning and Environment) Act (LGPEA)

Local Government Act (LGA)

Related legislation

Nature Conservation Act 1992 (NCA)

Forestry Act 1959 (FA)

Water Resources Act 1989

1 Does the legislation apply to all native vegetation—canopy, shrubs, grasslands, dead trees, single trees and grazing land?

The relevant section of the *Land Act* (LA) is titled “Tree Management”. “Trees” are defined in the Land Act as having the same meaning as in the Forestry Act viz itrees includes not only timber trees, but all other trees, and shrubs, bushes, seedlings, saplings, and reshoots of every description and any parts thereof. It does not refer specifically to native grasses.

LA: Preliminary Tree Clearing policy developed in 1995 recognises three categories for consideration in developing local tree clearing guidelines: “endangered” – <10% pre-European vegetation remaining and further clearing is prohibited; “of concern” – 10–30% of pre-European vegetation remains and clearing may be up to 50% of the original extent; “of no concern” – >30% of pre-European vegetation remains and clearing may be up to 80% of the original extent. Further, no community may be cleared if such clearing would them move that community into another conservation category. In addition, consideration must be given to a broad range of issues including the protection of restricted vegetation types and areas of high nature conservation value, particularly riparian lands and areas of heritage values; the protection of lands vulnerable to degradation and the protection of water catchments.

NCA: A plant means any member of the plant or fungus kingdom (whether alive or dead and standing or fallen) and also includes the whole or any part of the flowers, seeds or genetic or reproductive material of the plant Local government vegetation protection local laws may apply either to trees (even a single tree) or to other vegetation.

LGPEA: Development approvals under this Act may contain provisions relating to the retention of trees or vegetation. Zoning provisions under local government planning

schemes, for example, may restrict the clearing of vegetation in habitat/scenic protection zones and water catchment areas. Such schemes may limit clearing to a “building envelope”, typically of 2000 m².

WRA: Permits are required to clear within watercourses, under the *Water Resources Act 1989*.

2 Does it all apply over freehold and leasehold land?

LA: The *Land Act 1994* applies only to leasehold and other State lands, covering about 77% of Queensland.

NCA: Applies to the whole of Queensland, however certain provisions relate to only specified land. For example, all protected wildlife is the property of the State unless ownership has passed to a person under section 83 or 85. All protected plants, other than protected plants on private land, are the property of the State.

The Nature Conservation Regulation 1994 makes provision for the granting of a clearing permit for the taking of rare or vulnerable plants

LGPEA and LGA: The major controls over tree clearing or clearance of native vegetation on freehold land is administered by local government through the *Local Government (Planning and Environment) Act* (LGPEA) and *Local Government Act* (LGA). Of the 130 local governments, 30 have adopted controls – 14 over rural areas and 16 over urban or fringe development land.

The *Soil Conservation Act 1986* introduces the concept of approved plans for soil conservation objectives. The owner of land can seek approval of a property plan which describes measures to be adopted to promote soil conservation objectives. Project area plans specify the measures to be undertaken in specific districts. These plans could incorporate vegetation retention measures.

3 What authority or level of government administers the clearance applications?

LA: Applications to clear trees under provisions of the Land Act are considered by the Chief Executive, Department of Lands or delegated officer under the Act. Permits that fall outside the guidelines are referred to Departments of Environment and Primary Industries for formal comment under a Memorandum of Understanding although the Chief Executive, Department of Lands retains the responsibility for issuing any permit.

NCA: Applications to clear under the Nature Conservation Regulation 1994 are determined by the Chief Executive of the Department of Environment or delegated officer.

LGPEA and LGA: Approvals under local government local laws to damage vegetation will usually be given under delegation by Council officers. Development approvals under the *Local Government (Planning and Environment) Act* are made by the elected Council. Local governments may adopt local laws on any matter which the State would also be able to legislate. However, if a State law and a local law are inconsistent, the State law prevails to the extent of the inconsistency.

4 What is the make-up of the adjudicating body (eg organisations)?

LA: See answers to previous question.

NCA: See answers to previous question.

5 If refused, can a landholder appeal and if so to whom?

LA: No right to appeal. However, Department policy allows for internal review of the process to refuse a permit. Judicial Review also allows for a review of the decision-making process.

NCA: Where legislation does not provide for appeal rights an application can be made to the Supreme Court under the *Judicial Review*

Act for a review of the decision making process.

LGPEA and LGA: Appeals against decisions, including deemed refusals, of a local government under the *Local Government (Planning and Environment) Act* are heard by the Planning and Environment Court.

6 Are there third party appeal rights?

LA: No third party rights exist under this Act.

NCA: No third party rights exist under this Act.

UGPIBA and LGA: Third party appeal rights exist under the *Local Government (Planning and Environment) Act 1990*, though appeals can not be lodged against all matters dealt with by the legislation

7 What are examples of the exemptions under which permission to clear does not have to be sought?

LA: A tree clearing permit is not required by a Trustee of an existing deed of grant, in trust for Aboriginal or Islander inhabitants, to clear trees on the deed of grant in trust or a trustee prescribed under the regulations or a person clearing trees for routine management purposes prescribed under the regulation; or a person permitted by another Act to clear trees; or a person clearing noxious plants or plants prescribed under the regulation as plants for which a tree clearing permit is not needed, unless the clearing is by mechanical means in a critical area. (This section of the 1994 Act is awaiting proclamation).

NCA: Where a landholder intends to clear a common protected plant on freehold land, there is no need for a clearing permit. A clearing permit is not needed if the taking happens in the course of an activity authorised by an instrument under another Act by the Governor in Council or an authority issued by someone else under an Act and the chief executive of the Department of Environment agrees to the taking in the

course of the activity. Clearing may also be authorised under a Conservation Plan, though it would usually be for limited routine management purposes.

LGPEA and LGA: The widest exemption is provided when the taking occurs under an approval given by a local government under the *Local Government (Planning and Environment) Act 1990* (eg approval for subdivision of land).

8 If permission is given can it be conditional – eg yes you can clear but you must plant X number of trees?

LA: Yes, under S265 of the *1994 Land Act*. It is unlikely that replanting would be included as a condition of the permit.

NCA: In theory, clearing authorised under a Conservation Plan could be conditional in the manner suggested.

LGPEA and LGA: Development approvals by local governments may require the establishment of landscaping or the reinstatement of vegetation. Developers may be required to make a contribution of land for parkland/conservation area. Such areas will then be managed by the local government. Very occasionally land may be zoned as (private) open space and will generally be designated as “restricted open space” in the planning scheme.

9 What are the penalties for illegal clearance?

LA: Provides for a maximum penalty of 400 penalty units for an individual and 800 penalty units for a corporation (currently \$75/unit).

NCA: Provides that a person who takes a rare or threatened plant in the wild without some form of approval under the Act may face a maximum penalty of 3,000 penalty units (currently \$75/unit) or 2 years imprisonment.

10 Has financial assistance been paid or will it be paid to those refused clearance?

LA: No payments. S263 (5) states “To remove any doubt, it is declared that no compensation is payable if a tree clearing, permit is refused.”

NCA: No payments are made under any legislation, however compensation may arise in relation to a restriction imposed by an interim conservation order, a conservation plan, or the compulsory declaration of a nature refuge. One matter involving a claim for compensation because of restrictions imposed by an interim conservation order is outstanding. It is likely to be resolved by the Land Court.

11 What is the nature of the assistance and how much has been paid to say 1 December 1996?

LA: Not applicable.

NCA: Not applicable.

12 Is payment conditional on the landholder entering into an agreement to protect/manage the vegetation?

LA: Not applicable.

NCA: Not applicable.

13 What area of land has been refused clearance since the legislation was introduced?

LA: Not known. Would require a search of all files. A moratorium currently exists on all clearance applications.

13a What area of land has been cleared since the legislation was introduced?

LA: Satellite analysis indicates about 30,000 ha cleared annually over 1991–1995. This equates to 0.17% of the total area or 4% of existing woodlands of Queensland per annum.

Trends in Tree Clearing 1994–96 (Leasehold Land Only) Permits are issues for clearing virgin timber: regrowth, and fodder and constructional purposes. Not all permits result in clearance but figures for % area actually cleared were not available.

Period	Number permits issued	Total area (ha)	Area regrowth (ha)	Area regrowth % of total
1994	768	1,079,800	391,800	36%
1995	652	551,700	395,200	72%
1996	465	496,999	306,927	62%

14 What area of land is contained in agreements between landholders and the relevant authority?

LA: Not applicable.

NCA: The *Nature Conservation Act* (NCA) provides a legislative basis for the protection of habitat so that nature conservation values are maintained or enhanced outside national parks and similar reserves. A Conservation Agreement is a contract between the Minister for Environment and Heritage on behalf of the State and the landholder which outlines those activities that are permitted or prohibited and any financial arrangements that may be involved.

Agreements can vary depending on the management needs of the particular area, for example, they may be comprehensive or simply be directed at protecting a particular species of wildlife. A Conservation Agreement can be of fixed duration or can be permanent and registered on the land title.

Under the Act, a Nature Refuge may be declared over land subject to a Conservation Agreement. There are no automatic financial benefits associated with a Nature Refuge. The *Local Government Act* 1993 enables local governments to provide rate relief to landholders at their discretion. With a Conservation Agreement, there is no automatic requirement on the State to provide financial or technical assistance. The State will usually agree to provide technical and managerial assistance to the landholder.

To date, 10 Nature Refuges and one Coordinated Conservation Area have been declared since 1993. These protected areas have a total area of 3,498 ha.

15 Is land acquisition a feature of the legislation?

LA: The resumption of a lease is possible under Part 3 of the Act subject to section (5)3 of the *Acquisition of Lands Act* 1967. Part 4 of the ALA allows for the forfeiture of a lease on default of payment or breach of conditions. Land acquisition is undertaken under the *Acquisition of Lands Act* 1967.

NCA: Provides for conservation plans for protected plants and animals. A conservation plan can identify land as either a ‘critical habitat’ or an ‘area of major interest’. In such areas particular controls on the destruction or alteration of habitat would operate. A landholder may be entitled to compensation because of the restrictions contained in a conservation plan. The Minister may also, for example, issue an interim conservation order to protect a rare or threatened species while longer term solutions are developed. Where the Department acquires land such action is undertaken by the Department of Natural Resources (incorporating the former Department of Lands) under the *Acquisition of Lands Act*.

16 Is there a requirement in the legislation for management advice to be provided to the landholders of reserved vegetation?

LA: Not specifically.

NCA: The term reserved vegetation is not used in Queensland as a general term because its meaning would be uncertain. The State owns the trees on leasehold land. Where a person enters into an agreement under the *Nature Conservation Act*, in no sense whatsoever is the land or its resources reserved. The agreement is an “overlay” to the tenure, not a change in the tenure (see NCA s.69 Preservation of land-holder’s interests, in particular). Likewise, local government regulatory controls do not transfer ownership of vegetation to the local government.

17 If not, do landholders of reserved vegetation have access to government provided advice on management of vegetation and what form does this advice take?

LA: Not specifically.

NCA: See above (Q16).

General comments

See the comments from G Wells (attached) re the situation at the local government level for vegetation protection.

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Additional Information Re Local Government

Assistance from Local Government for vegetation protection

Incentives for nature conservation activities on rateable land are available under the *Local Government Act 1993*. All land in Queensland is rateable other than a range of Crown lands:

Under this provision a regulation could, for example, exempt land in Nature Refuges from rates by providing a differential rate or allowing remission of rates.

Several local governments have adopted incentive schemes:

Johnstone Shire Council

The Council has adopted a policy which would provide for incentives for habitat protection. However due to budgetary constraints the implementation of the policy has been delayed.

The policy applies only to land included within the Conservation and Rural Conservation zones and within the Rural Residential and Residential Conservation Precincts. To be eligible a landholder within one of these areas must have entered into an agreement with the Council to protect habitat values on a property.

The Council has classified habitat quality and characteristics of land within the Shire. A sliding scale of rebates on the general rate will be provided depending on the level of significance of the land. These are critical habitat (20%); important habitat (15%); mangrove (13%); potentially critical/important (10%); corridor/habitat (8%); other (5%).

A land parcel with 60% of the site in the critical habitat category and subject to a general rate of \$900.00 would attract a rebate of \$108.00. [0.2(\$900 × 0.6)=\$108].

In the event of a breach of the agreement by the landowner or successors in title, all related rebates previously provided will become a charge against the land and be refundable to the Council with interest charges at current commercial rates.

There must be considerable doubt as to the Council's ability to enforce the agreement against subsequent purchasers, since the agreement cannot be recorded against title. Logan City (see below) has overcome this obstacle by adopting an alternative approach. Under the Logan City model the conditions run with the land because they are a rezoning approval [*Local Government (Planning and Environment) Act 1990*, s.4.5(12)]. In the Johnstone Shire model, it can be expected that the Courts will continue to apply the rule that a covenant is not enforceable against a successor in title if that person had no knowledge of the covenant at the time of purchase of the land.

Brisbane City Council

Brisbane City Council's Voluntary Conservation Agreement Program provides that a person who enters into a deed of agreement with the Council is entitled to assistance for environmental management activities on their private land. Agreements can have a duration of 99 years, however Queensland property law prevents the agreement being registered against title.

Financial assistance is paid annually to the landowner, following a joint evaluation of the management goals for the preceding 12 months. Its value is calculated according to a formula in Council's VCA Policy. The formula refers to the percentage of the property subject to the VCA and the amount of general rates levied on the property. Maximum cash assistance is \$1500 per annum or 50% of the general rates whichever is the lesser amount.

There are two levels of agreement: the higher level leads to the land being rezoned to the Conservation Zone. In the latter case the Council will meet all costs associated with the rezoning.

Target Landholder Group

A landholder can participate in the scheme if:

- the property has high conservation significance;
- the land has strategic function (for example position in the landscape); and
- there is likely to be a leadership/promotional value for improved environmental management in the local community.

Most of the agreements cover land in the Council's Green Space System as identified under the Brisbane City Strategic Plan.

Some landholders were introduced to the program by community groups.

Success of program

The program commenced in June 1996 and 12 agreements covering some 59 ha have been entered into to date. As most of the owners have chosen to enter into a higher agreement, almost all this land will be rezoned to the Conservation zone.

Cost effectiveness

Financial assistance to the 12 landholders over the first two years will be \$15,000, reducing to about \$7,000 per annum thereafter. Funding is structured to provide greater amounts in the early years when rehabilitation programs are commenced.

In a local government area where land values are quite high, the program represents an efficient supplement to a system of lands in public ownership and other bushland strategies. The estimated purchase price of 57 ha of bushland is \$1.5 million

Logan City Council

Logan City Council provides a 25–50% discount on the general rate for land in its Residential Conservation Zone. The concession policy was included in the Council's Strategic Plan in December 1994. The primary intent of the zone is

to facilitate the protection and/or enhancement of the conservation value of the land while allowing for the provision of dwellings and ancillary activities in a bushland environment.

For land to be included in the zone, the property owner must apply; Council will not unilaterally initiate a rezoning. In addition, the land must be situated within areas designated under the Strategic Plan as either Conservation "A" or "B". These lands are situated within Council's Habitat Protection Area.

Standard conditions attached to rezoning may include:

- a building envelope of 2000 m²;
- the rehabilitation of cleared or degraded areas;
- a prohibition on rural and other activities that may have a detrimental impact on habitat quality;
- controls on domestic animals;
- controls on fencing types;
- provisions requiring fire safety issues to be addressed; and
- the provision of "a vegetated buffer between any development and any waterway or wetland area".

Non-compliance by a landholder with the conditions attached to the rezoning approval could lead to the removal or downgrading of any concession.

The incentives

- Where land is included in the Conservation "B" designation, a 25% concession on the general rate will apply. This concession may increase to 50% provided there is satisfactory progress in achieving the conditions attached to the rezoning approval.
- A property wholly within the Conservation "A" designation will receive a 50% rate concession.

- In addition certain landholders within the Conservation “B” designation have limited subdivision potential, above that currently available in the Rural Zone.
- There are no application fees.

Success of program

Three applications have been approved for the Residential Conservation zone totalling some 17.5 ha. Inspections have been undertaken of other properties where owners have expressed a desire to participate. Response has been slower than expected, which is attributed, in part, to the spread of misinformation about the scheme.

On 2 July 1996, the Minister for Local Government and Planning announced a grant of \$30,000 to Logan City Council to promote the conservation zone rate rebate scheme as a model for other local governments. Consultants have been engaged to prepare guidelines for lifestyle issues and development within the zone, to review Council’s strategies and the zone’s effectiveness. Funding for the grant was provided through the State Government’s Regional Open Space Scheme for south-east Queensland (ROSS).

Comment

It is too early to evaluate the various incentive schemes provided by Queensland local governments.

The Logan City Council initiative links the landholder’s agreement to the loss/gain of certain rights with a financial incentive, and further links land management outcomes with a higher level of financial incentive. This appears conceptually to be one of the best models operating in Queensland. One operational difficulty is that very few land purchasers in Queensland obtain a town planning certificate prior to purchase. The Brisbane City Scheme has an advantage in the agreement, which could be later varied if the opportunity arose to register such agreements against title and to be binding on subsequent owners.

It should be noted that incentive schemes based on local government rates may only be successful in areas where land valuations/rates are higher. In rangelands and similar areas used for broadscale farming, rates payable on areas of conservation value within the property may only represent a small proportion of outgoings for the landholder.