

Property Vegetation Plans in New South Wales, Australia

Summary

- In 2003, the New South Wales (NSW) Government introduced a structural and legislative reform package as a response to land clearing practices. The package was cost-neutral and based on the recommendations of the Wentworth Group of Concerned Scientists¹.
- One of the main objectives of the new Native Vegetation Act 2003 (NVA) was to prevent broadscale clearing of remnant native vegetation or protected regrowth. The NVA made it an offence to clear native vegetation in NSW unless the clearing was exempt, permitted through consent, or offset by conservation actions elsewhere on the property.
- Catchment Management Authorities (CMAs) were established as regional government bodies to provide extension services and funding to landholders to achieve objectives outlined in a Catchment Action Plan.
- Property Vegetation Plans (PVPs) were introduced as the primary mechanism for landholders to take advantage of financial incentives offered by CMAs for conservation on private land.
- PVPs were free of cost to the landholder, and voluntary to enter into, but legally binding for the term of the agreement. The majority of plans were made for up to 15 years. Offsets or covenants contained within plans were binding in perpetuity².
- A farm-based decision-support tool was designed to assess biodiversity and to ensure that farm plans were in line with biodiversity conservation legislation. Other assessment tools (for soils, water quality and salinity) were used as inputs into the plans.
- PVPs were developed between landholders and CMAs (later Local Land Services) extension officers to:
 - obtain clearing approval (including thinning of certain native vegetation), and to secure any offsets associated with that clearing;
 - confirm that native vegetation on a property was regrowth (providing a landholder with assurance that they will not need future clearing approval);
 - change the regrowth date of native vegetation to an earlier date (provided that landholders could demonstrate a history of rotational farming practices on the land);
 - confirm whether existing rotational farming, grazing or cultivation practices meet the definitions of these in the NVA so that clearing approval would not be required; and/or
 - apply for incentive funding (to clear invasive native plant species, exotic weeds, revegetate or assist with erosion control works, for example).
- Plans were only approved if the activities proposed would maintain or improve environmental outcomes. This was determined using the Environmental Outcomes Assessment Methodology.
- Consent was not required for: clearing land excluded from the NVA, continuing existing farming practices, removing non-protected regrowth, removing certain groundcover, sustainable grazing, and routine agricultural management activities.
- A PVP needed approval by the Minister, and was assessed on its ability to maintain or improve environmental outcomes and its alignment with the local Catchment Action Plan.
- The PVP programme and reforms were linked with NSW's offset and biobanking scheme.

¹ Wentworth Group of Concerned Scientists, 2003. 'A new model for landscape conservation in NSW':

<http://wentworthgroup.org/2003/02/a-new-model-for-landscape-conservation-in-nsw/2003/>

² PVPs were one of several options available to NSW landholders to establish a conservation covenant on private land.

- Private Native Forestry PVPs were included in the scheme from 2007.
- The number and type of PVPs varied spatially.
- The PVP model had a varied reception. Generally speaking, some landholders and industry groups thought the plans were overly administrative and restrictive, while environmental advocacy groups sought to extend the assessment criteria to development more broadly.
- State of the Environment Reporting indicated that rates of clearing had stabilised between 2005 and 2010, however, it is unclear if this trend is attributable to the introduction of PVPs as part of the 2003 native vegetation reform package.
- In 2013, controversial self-assessable codes for clearance were introduced, reducing the need for PVPs to remove invasive native species and paddock trees and to undertake thinning of native vegetation. Landholders were still required to notify the Local Land Services prior to clearing.
- A change in government in 2011 signalled a review of the state's biodiversity legislation.
- A key finding of the independent review was that "the scientific and technical nature of the Environmental Outcomes Assessment Methodology that underpins the assessment process for Property Vegetation Plans is difficult for many members of the community to comprehend³."
- In a 2014 legislative review, the NSW Environmental Defenders Office suggested that "implementation issues rather than the tool itself" contributed to community concerns that the process was overly complicated and time consuming⁴.
- In late 2016, the legislation underpinning PVPs was repealed. Existing PVPs will remain for the duration of the agreement unless a variation is approved.

Suggested reading (in chronological order)

1. NSW Department of Infrastructure Planning and Natural Resources, 2003. 'Native Vegetation Reform Implementation Group Final Report':
<http://www.environment.nsw.gov.au/resources/vegetation/NatVegReformImpGroupSinclairReportOct03.pdf>

Key points:

- The 2003 reform package was broader than vegetation management on private land, PVPs were just one aspect
- Although the regulatory context differs in NSW, the 2003 reforms were prompted by similar issues to those we experience in NZ. For this reason, Group members may be interested in the report as a whole.
- The proposed reform package was developed by the Wentworth Group of Concerned scientists and supported by agriculture industry bodies and environmental advocates.
- It was proposed that the reforms (including PVPs) were supported by structural changes to the biodiversity management system, an investment in satellite data and provision and training of extension officers to deliver the changes. These were proposed to be delivered within the existing budget.

Sections to read:

- Definitions, Incentives and Property Vegetation Planning (Page 11-18)

³ Independent Biodiversity Legislation Review Panel, 2014

⁴ Environmental Defenders Officer, 2014. 'A legal assessment of NSW biodiversity legislation'.

2. Environmental Defenders Office, 2009. 'Review of the Native Vegetation Act 2003':

http://www.edonsw.org.au/review_of_the_native_vegetation_act_2003

Key points:

- The EDO suggests that the list of activities classified as 'routine' (and therefore exempt from approval) is too broad
- The report recommends that incentive PVPs are expanded to include those that would be obtained solely for conservation
- The EDO recommends reducing the duration of the consent for clearing from 15 years to 10 years in line with a review required under the NVA.

Sections to read:

- Part 7: Property Vegetation Plans (PVPs) page 15-16.

3. Wentworth Group of Concerned Scientists, 2014. 'Submission to Biodiversity Legislation Review Panel':

<http://wentworthgroup.org/2014/09/submission-to-nsw-biodiversity-legislation-review/2014/>

Key points:

- Support the review of the programme as a way to modernise it if needed.
- Data suggests that clearance of native vegetation has reduced.
- It is tricky to determine if the offsets required as part of PVPs are being delivered in full and therefore meeting the objectives of the policy.
- The Group recommend that all vegetation clearance for development and on private land follow the same approval processes.
- There is poor alignment with the treatment of invasive native scrub under the Carbon Farming Initiative and PVPs
- Public funding for conservation on private land was scaled down after the initial launch of the PVP programme
- Data is needed to support claims that PVPs are an economic burden on landholders and are time consuming to develop.

Sections to read:

- 'Property Vegetation Plans' (Page 3-4)
- 'Issues for Native Vegetation Management' (Page 6-7)

4. Independent Biodiversity Legislation Review Panel, 2014. 'A review of biodiversity legislation in NSW Final Report':

<http://www.environment.nsw.gov.au/resources/biodiversity/BiodivLawReview.pdf>

Key points:

- The Liberal Party NSW initiated a review of biodiversity legislation introduced by previous Labor Government. This was not limited to PVPs.
- Landholders with PVPs were either satisfied or neutral on the process, while those without PVPs expressed concern that the process was overly complicated and time consuming.
- There were tensions around the private cost vs. public benefit of conserving biodiversity.
- The new approach to conservation incentives proposed by the authors employs some of the features of PVPs, including offsetting, covenanting and temporary conservation agreements, but recommends an alternative mode of delivery and security.

Sections to read:

- Foreword
- '5.1 Focusing the private land conservation effort' (Page 48-50).

5. Environmental Defenders Office, 2015. 'A guide to private land conservation in NSW':

https://d3n8a8pro7vhmx.cloudfront.net/edonsw/pages/113/attachments/original/1420601095/150107_Guide_to_Private_Conservation.pdf?1420601095

Key points:

- The document is aimed at landholders and provides a plain-English summary of the process involved in obtaining a PVP in 2015 and the benefits of doing so.

Sections to read:

- Chapter 4 Property Vegetation Plans (Page 30-36)

Questions for the BCG to consider

- Would a similar system work in NZ?
- What would need to happen for a similar system to be implemented here?
- What is the scope for co-benefits in this system?
- What would need to change for co-benefits to be realised?
- How would this align with industry supported farm plans?
- What, if any would be the relationship between farm plans and offsetting?
- What can we learn about the policy process from the recent repeal and refresh of biodiversity policy in NSW?