

8 Community Consultation on Draft Report

8.1 Community Consultation Methodology

When the Draft Report was complete, it was emailed to a number of experts, individuals and organisations who had not participated in the Roundtable on 6 July 2009, or in the preliminary scoping and research stage of the project. Comments were then received by email or through electronic tracked comments on the Draft Report. Andrew Campbell, Consultant, Triple Helix Consulting and John Briggs, Threatened Species Coordinator - Native Vegetation Program, Biodiversity Conservation Section, NSW Department of Environment & Climate Change, provided particularly extensive responses.

8.2 Summary of Responses

General comments in relation to the implementation of a native vegetation conservation mechanism in the ACT included :

- Successful management of native vegetation will “require that the wider community, and land managers in particular, have the requisite commitment, knowledge and capacity to achieve the desired outcomes.”
- Care and close attention should be paid to “the changing external context and the potential to achieve conservation outcomes alongside other potential changes in land use” (the example given was use of currently overgrazed farmland to generate net export of renewable energy through second-generation biofuels, which would only require “a marginal increase in costs to incorporate requirements for environmental revegetation as a component of any new bioenergy plantings, and to identify prospective zones & corridors”.
- There should be significant emphasis on effective and workable planning, zoning, rating and development approval processes.
- How the offsetting mechanism will work is an important issue to be resolved. In particular, the following questions should be considered:
 - Will it be the developer's responsibility to find the offset?
 - Will the developer pay into a fund similar to the NSW Bio-banking Scheme which would then purchase the offset in an appropriate vegetation type and location?
 - Is a separate incentives or stewardship payment scheme for better landholders to manage for conservation rural lands in the ACT also to be implemented?
 - Could offsets occur in appropriate sites in NSW?
 - Will offsetting requirements also apply to ACT government activities such as road construction and upgrade? If so, these costs should be factored into land sale servicing costs.
- It was suggested that Recommendation 11, in relation to strategic planning and a native vegetation overlay is “a very important step, which will give certainty to developers as to no go areas and likely environmental costs of developing certain areas”. However, in relation to its implementation the point was made that “if this work can not be done prior to the legislation being enacted, then an interim assessment process will need to be available - ideally both processes would use similar criteria in determining what are no go areas” and what vegetation can form a permissible offset.

- Provision for voluntary conservation action and incentives (Recommendation 16) “could include the ability of landholders to offer parts of their properties as offset sites and receive payment from the developers, either directly or via an offsets trust fund/scheme.”
- In relation to implementation of Recommendation 17 through the drafting of definitions, particular care should be had to the definition of “regrowth” in consideration of the threat to grassy woodland communities.
- The target of avoiding clearing occurring (Recommendation 24) “should primarily be done at the broader [strategic] biodiversity planning stage... Most “no clear” areas should ideally be identified at that stage. Given the small size of the developable area left in the ACT, such planning should be achievable within a reasonably short time frame, providing the criteria for high conservation value vegetation can be agreed upon - this may be a major point of contention, given the limited area of potential residential land remaining in the ACT.”

General suggestions for improving the Recommendations contained in the Draft Report included the following:

- there needs to be more attention to community engagement and education and positive incentives for conservation within any conservation mechanism; and
- greater detail of the “knowledge base issues” is required, “in particular, it should be possible to detail precisely what mapping should occur, and the vegetation classification, assessment and monitoring regime to back that up”.
- A further recommendation that “offset areas should be secured in perpetuity” was suggested.

Specific comments on Recommendations contained in the Draft Report included the following:

- In relation to Recommendation 4, the “maintain and improve” objective should be an alternative ‘or’ because “given the cost to developers, most offsets will be minimised to simply meet the maintain native vegetation bar and rarely will an ‘improve’ outcome be achieved simply as a result of clearing for development.”
- The Principle of “‘No net loss’ and ‘Net gain’” (Recommendation 8), should be ‘no net loss’ only as that is the essential principle, whereas ‘net gain’ is an implementation option.
- In relation to Recommendation 19, it was noted that it may not be practical to define “ecological processes”
- In relation to (Recommendation 24), the offsetting provisions should aim to achieve ‘no net loss’ not ‘net gain’ because the cost implications of a “net gain” objective render this aim politically unattractive.
- Recommendations 38, relating to the sequence of enforcement action, and 43, relating to civil enforcement through ‘make good’ provisions should incorporate an “option to have a third party undertake remediation works and charge costs to the offender.”

9 Appendices

9.1 Email requesting participation and recommendations for participants

Dear xxx,

I am writing to ask for your kind assistance in a Conservation Council, ACT Region, Project: Native Vegetation Mechanisms for the ACT. A central part of the project is convening a one-day roundtable of native vegetation management experts. We

would be very grateful if you have any suggestions. We are looking for experts with an intimate knowledge of legislative and regulatory mechanisms used to manage native vegetation, especially on non-public lands.

The purpose of the roundtable is to investigate the policy options and likely regulatory impact of changes to native vegetation regulation in the ACT; including gaining from the experiences of other states. The Nature Conservation Act 1980 (ACT) is presently under review. The over-arching objective of this project is to investigate the regulatory options for ensuring long-term protection and enhancement of the area and quality of native vegetation in the ACT. The aim is to develop a set of proposals for achieving this goal.

The roundtable will convene during one day, at the Conservation Council, ACT Region Boardroom in Canberra. It is hoped that the Roundtable will convene on 12 June, or one day during the week of 15 June - 19 June - depending on the availability of attendees. Interstate travel will be organised by the Conservation Council, ACT Region.

The Conservation Council, ACT Region would be very grateful for any assistance you are able to offer by way of suggestions of native vegetation management experts, including yourself and any colleagues in your organisation, who would be able and willing to contribute to the roundtable. Please do not hesitate to contact me at this email address.

Penny Grist
Project Officer
Native Vegetation Mechanisms for the ACT
Conservation Council, ACT Region

9.2 Agenda for Roundtable

Native Vegetation Conservation Mechanisms for the ACT Project Roundtable

Chair: David Shorthouse

- 9:30 - 9:40 Introduction and clarification of objectives and program
- 9:40 - 10:40 Review of Native Vegetation Legislation - 10 minutes for each state review
- South Australia
 - New South Wales
 - Queensland
 - Victoria
 - ACT
- 10:40 - 11:00 Morning Tea
- 11:00 - 11:30 Working group (1) on **Principles and Objectives** underlying the legislation. Working groups will have a mix of interstate and ACT participants. Each group will formulate a recommendation of appropriate principles and objectives for Native Vegetation Conservation.
- 11:30 - 12:00 Plenary session where each working group will present recommendations for discussion of principles and objectives
- 12:00 - 12:30 Working group (2) on **Administrative Process**, including the legislative scheme and the decision-making responsibilities. Working groups will

have a mix of interstate and ACT participants. Each group will formulate a recommendation of appropriate process frameworks for Native Vegetation Conservation.

12:30 - 1:30 Lunch

1:30 - 2:00 Plenary session where each working group will present recommendations for discussion of process

2:00 - 2:30 Working group (3) s on **Monitoring, Compliance, and Enforcement**. Working groups will have a mix of interstate and ACT participants. Each group will formulate a recommendation of appropriate monitoring, compliance, and enforcement regimes for Native Vegetation Conservation.

2:30 - 3:00 Plenary session where each working group will present recommendations for discussion of monitoring, compliance, and enforcement

3:00 - 3:15 Afternoon tea

3:15 - 4:00 Round-up and Depart

9.3 Table of relevant legislation and legislative instruments

9.3.1 South Australia

Native Vegetation Act 1991 (SA)

Native Vegetation Regulations 2003 (SA)

9.3.2 Queensland

Integrated Planning Act 1997 (QLD)

Integrated Planning Regulation 1998 (QLD)

Vegetation Management Act 1999 (QLD)

Vegetation Management (Regrowth Clearing Moratorium) Act 2009 (QLD)

Vegetation Management Regulation 2000 (QLD)

9.3.3 Northern Territory

Planning Act 1993 (NT)

Pastoral Land Act 1991 (NT)

9.3.4 Australian Capital Territory

Nature Conservation Act 1980 (ACT)

Tree Protection Act 2005 (ACT)

Planning and Development Act 2007 (ACT)

9.3.5 Western Australia

Environmental Protection Act 1986 (WA)

Soil and Land Conservation Act 1945 (WA)

Conservation and Land Management Act 1984 (WA).

9.3.6 Tasmania

Threatened Species Protection Act 1995 (TAS)

9.3.7 New South Wales

Native Vegetation Act 2003 (NSW)

Native Vegetation Regulation 2005 (NSW)

9.3.8 Victoria

Planning and Environment Act 1987 (VIC)

Flora and Fauna Guarantee Act 1988 (VIC)

9.3.9 Commonwealth

Environment Protection and Biodiversity Conservation Act 1999 (Cth)

9.4 References

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Productivity Commission, *Impacts of Native Vegetation and Biodiversity Regulations*, Report no. 29, Melbourne: Australian Government, 2004

Dr Chris McGrath, 'End of Broadscale Clearing in Queensland', *Environmental Law and Planning Journal* 24 (2007) 5 - 13.

Catherine Potter, 'Native vegetation conservation in the Australian Capital Territory: death by a thousand cuts' 17(2) *Australian Plant Conservation* (2008) 33-35.

Department of Conservation and Land Management,
<http://www.dec.wa.gov.au/management-and-protection/native-vegetation/index.html> (accessed 18.07.09)

Department of Conservation and Land Management , Brochure - Applying for Clearing Permits, 8 July 2004, (accessed 18.07.09)

Government of Tasmania, Department of Primary Industries, Parks, Water and Environment, <http://www.dpipwe.tas.gov.au/inter.nsf/ThemeNodes/LBUN-56U26G?open> (accessed 18.07.09)

Northern Territory Government, Department of Natural Resources, the Environment, the Arts and Sport,
<http://www.nt.gov.au/nreta/natres/natveg/index.html> (accessed 18.07.09) and
<http://www.nt.gov.au/nreta/natres/natveg/brochures/index.html> (accessed 18.07.09)

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Commonwealth of Australia, *Australian Natural Resources Atlas*,
<http://www.anra.gov.au/topics/vegetation/management/index.html#references> (accessed 18.07.09)

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Natural Resources and Water Department, State of Queensland, *Regional Vegetation Management Code for Southeast Queensland Bioregion*, 20 November 2006, pages 3 and 18.

Department of Sustainability and Environment (2007) *Native Vegetation Guide for assessment of referred planning permit applications*. Victorian Government, Department of Sustainability and Environment, East Melbourne

9.5 Acknowledgements

Cover photograph: Timothy Palmer, The Old Coach Road, Mulligans Flat, Gungahlin, ACT, 2008

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Project Research Officer: Penelope Grist

The Conservation Council would like to extend a special thanks to Dr David Shorthouse for chairing the Roundtable, and to the following people for their generous participation: Jenny Bounds, Sarah Sharp, Dr Michael Mulvaney, Helen McKeon, John Hibberd, Russell Costello, Ali Ben Kahn, Brendan Sydes, Mary-Jane Weld, Dimitri Young and Jeff Smith.