

Dr John Williams  
Commissioner  
NSW Natural Resources Commission  
GPO Box 4206  
Sydney NSW 2001

Attn: Avtar Singh

Monday 25<sup>th</sup> May 2009

**Re: Proposed Amendments to the Environmental Outcomes  
Assessment Methodology under the Native Vegetation Regulation, 2005**

Dear John,

Please find below BR-G CMA's submission on the proposed amendments to the EAOM under the native vegetation regulation, 2005. With regard to the proposed changes, the BR-G CMA agrees with the intended intent of the amendments, however we have some concerns regarding specific changes.

We note that the NRC will be formulating its advice to the Minister on the proposed amendments around 4 key areas – 1) whether the proposed changes are based on the best available science; 2) whether changes will bring about the intended biodiversity outcomes and improve operational and functional aspects of the assessment tools; 3) whether changes consider vegetation in a landscape context; and 4) whether changes promote convergence between like-NRM decisions made under the *Native Vegetation Act* and the *Environmental Planning and Assessment Act*.

***1) Whether the proposed changes are based on the best available science.***

With regard to the first area of advice, we believe that majority of the changes proposed are based on sound science. However, some of the proposed changes (as discussed below) are far too generic for the potential consequence of their impact on native biodiversity. As such local science and experience is critical in determining the appropriate response. Provision needs to be made within the Methodology for the better application of sound scientific decisions at a local level.

For example, With the proposed amendment on Page 43 Before "*retention of all dead timber*" add "*provision of artificial hollows, exclusion of fertilizers*". there is considerable scientific evidence to demonstrate that the judicious use of fertilizers can considerably improve native biodiversity, particularly in those areas where soils have been degraded and nutrients lost.

Such evidence includes the studies conducted on the northern slopes and tablelands by the NSW Department of Primary Industries and the former

Department of Natural Resources and studies undertaken within the MLA Sustainable Grazing Systems Program. These, combined with local practice clearly demonstrate that in degraded country limited fertilizer use has a significant positive impact on native biodiversity (increasing ground cover) without increasing the proportion of exotic species. For example degraded native pastures dominated by *Aristida sp.* will usually benefit biodiversity by fertilizer application. Where native pastures are being invaded by Darby's oats, Coolatai grass or lovegrass, limited fertilizer use can stimulate local natives and make the invaders more palatable enabling the natives to out-compete the invaders. Thereby improving biodiversity.

Nutrient levels that favour native species are well established and given the level of rigour of the remainder of the assessment process the BRG CMA believe it would be appropriate for a similar rigour to be adopted in terms of fertilizer use. Where fertilizer use is considered appropriate soil tests should be undertaken and appropriate actions implemented.

The BR-G CMA believes that the "exclusion of fertilisers" is not always beneficial for native biodiversity. Science exists to demonstrate this and this science should be incorporated into the methodology to reflect benefits of judicious fertiliser use on native biodiversity.

**2) *Whether changes will bring about the intended biodiversity outcomes and improve operational and functional aspects of the assessment tools.***

In considering the second area; whether the changes will bring about the intended biodiversity outcomes and improve the operational and functionality of the assessment tools, the BR-G CMA is concerned that some of the proposed changes will not deliver the best outcomes for biodiversity.

For example the methodology appears to always favour progression to the climax vegetation at each site. The BRG Board believes the application of the current tools encourages the formation of closed canopy vegetation (forests) at the expense of open woodlands. As a result open woodland and woodland with grass understorey are not maintained in the landscape. Therefore the ability of the methodology to support the maintenance (or improvement) of habitats for species that rely on open spaces on the margins of forested areas, such as the brown tree creeper, the diamond fire tail and the black striped wallaby is significantly reduced. To maintain biodiversity there is need to maintain a diversity of ecosystems within landscapes.

The introduction of additional criteria to the "improve or maintain" test for the assessment of thinning (section 5.4.1) will result in increased restrictions for clearing. The BR-G CMA is concerned that this will further encourage vegetation to progress from "open" to "closed" vegetation formations.

The amendments to section 5.6 (identification of threatened species) and specifically the addition of point f) expand the definition to include both threatened flora and fauna that is “predicted as likely to occur”. This will result in a considerable increase in applications being “red-lighted”. Also of concern is that there is no provision in the current EOAM (or proposed amendments) to control invasive species and restore native pastures while they are still viable native pastures. An example of this is the invasion of Coolatai grass and lovegrass on the northern tablelands and lippia in the Gwydir Wetlands. Under current rules no significant practical action can be taken to address this invasion until over 50% of the pastures have been lost.

The BR-G CMA believes that the methodology needs to be amended to encourage a diversity of habitat across landscapes particularly when specific threatened species are involved. Landscapes must be planned to reflect the diverse ecosystem needs of all species to improve or maintain biodiversity and landholders must be able to take preventative and/or remedial action to maintain native pastures.

With regard to the improved functionality and operation of the EOAM, the second area of review focus 2, it appears that the majority of proposed amendments provide increased clarity of definitions and removes ambiguity. It should therefore make the EOAM easier to understand and use.

### *3) Whether changes consider vegetation in a landscape context.*

In assessing whether the proposed changes will improve the ability to adopt a landscape approach to native vegetation management, the BR-G CMA believes the proposed removal of the 10ha circle will assist this aim. In addition the modifications to the definitions section (from landscape to landscape value) also indicate a move towards the adoption of a landscape approach to native vegetation. Changes to “paddock tree” clearing may also facilitate this objective.

### *4) whether changes promote convergence between like-NRM decisions made under the Native Vegetation Act and the Environmental Planning and Assessment Act.*

With regard to the final area of the NRC’s assessment of the proposed amendments the BR-G CMA does not consider that the amendments will promote a convergence. The BR-G CMA believes that considerable work still needs to occur to ensure consistency between Biobanking provisions and the Native Vegetation Act. Issues still exist around the applicability of the NVA in rural areas (particularly with regard to rural sub-division proposals). The work being undertaken by the NSW Local Government and Shires Association in partnership with Sydney-Metropolitan CMA may contribute to achieving a greater convergence in the future (Integrating NRM into Council Land-Use Planning).

The following table identifies the specific items that the BR-G CMA has concerns with along with the changes the BR-G CMA strongly endorses.

Regards,

Dr Bob Crouch.  
Chair

Item No.	Reference No.	Comment
1	2.1	OK
2	2.4.1	OK
3, 4	2.4.3	OK
5, 6, 7	5.1	OK- the BR-G CMA endorses these amendments, in particular item 6
8	5.2.1	Leave first line alone
9	5.2.1	OK
10	5.2.1	OK
11, 12	5.2.2	OK
13, 14	5.2.2	OK
15	5.2.3	OK
16	5.2.4	OK
17	5.2.5	OK
18, 19	5.3	OK – the BR-G CMA endorses these amendments, in particular item 18
20	5.3.1	OK – the BR-G CMA endorses these amendments
21 – 26	5.3.3	OK – BR-G CMA endorses these amendments, in particular item 22
27	5.3.3	OK
28	5.3.3	OK
29	Table 5.1	OK
30	Table 5.2	OK
31 – 35	5.3.3	OK – the BR-G CMA endorses these amendments in particular item 32
36	Table 5.4	OK
37 – 41	5.3.4	OK
42, 43	5.3.4	OK
44, 45	Change in site value with offset	OK – the BR-G CMA endorses these amendments, in particular item 44
46	Change in Site value with offset	OK – BR-G CMA does not support the inclusion of “exclusion of fertilisers” as a new management action as it is not based on sound science.
47 – 50	Change in Site value	OK

	with offset	
51 – 56	5.4	OK
57 – 62	5.4.1	OK – BR-G CMA does not support this amendment as it may decrease the ability of a landholder to thin. It adds significantly more criteria to allow thinning to occur that may not facilitate the desired outcomes.
63 – 72	5.4.2	OK
73	5.5 (definitions)	OK
74, 75	5.6 (new 5.5)	OK
76 – 79	5.7 (new 5.6)	OK
80, 81	5.7 (new 5.6)	OK
82 - 83	5.7 (new 5.6)	OK – BR-G CMA does not support this amendment. Inclusions of threatened species (flora) that are “predicted to occur” will significantly increase the complexity of the assessment and may prevent the desired outcomes being achieved.
84 – 87	5.7 (new 5.6)	OK
88 – 93	5.7 (new 5.6)	OK
94 – 98	5.8 (new 5.7)	OK
99 – 101	5.9 (new 5.8)	OK
102	5.9 (new 5.8) e	<p>OK – BR-G CMA does not support this amendment. If the intention of the amendment is to retain remnant and regrowth vegetation required for threatened species (as justified in the basis for change) this reference should be included in the suggested change.</p> <p>e) retain all native vegetation, remnant native vegetation and regrowth required for threatened species (as defined in the NSW native vegetation act, 2003) unless otherwise specified within the property vegetation plan;</p> <p>The BR-G CMA believes that this amendment has the potential to facilitate the change of vegetation formations from “open” to “forest” which is detrimental to native species and does not support the concept of managing vegetation within a landscape framework.</p>

103 106	- 5.9 (new 5.8)	OK
107	notes	OK
108	Definitions	OK
109	Notes	OK