

REPORT UNDER THE NATIVE VEGETATION ACT 2003 IN RELATION TO ACCREDITED EXPERT’S ASSESSMENT IN ACCORDANCE WITH CLAUSE 27 OF THE NATIVE VEGETATION REGULATION 2005 FOR PVP REQUEST NUMBER 15,875

Report prepared by Accredited Expert: 30637
PVP Request Number: 15,875

SUMMARY

This Accredited Expert report relates to the assessment of the clearing proposed by PVP Request number 15,875.

Under s. 29(2) of the *Native Vegetation Act 2003* a PVP cannot be approved unless the clearing concerned will improve or maintain environmental outcomes.

Clause 26 of the *Native Vegetation Regulation 2005* prescribes the circumstances in which approval of a PVP that proposes broadscale clearing can be granted. In most cases an assessment and determination of whether the clearing will improve or maintain environmental outcomes is conducted in accordance with the Environmental Outcomes Assessment Methodology (EOAM).

In some circumstances the EOAM does not adequately allow for the specific and unique circumstances associated with the proposal. In these circumstances the assessment can use Special Provisions for Minor Variation (Clause 27 of *Native Vegetation Regulation 2005*).

In this assessment Special Provisions for Minor Variation have been used to allow for the EOAM to be varied such that the impact on salinity caused by clearing for a subsurface wetland is addressed by engineering solutions so that the proposed clearing with the minor variation will improve or maintain environmental outcomes and strict adherence to the Assessment Methodology is unreasonable and unnecessary.

Figure 1: A conceptual outline of the assessment process for PVP 15,875

	Land Capability	Salinity	Water Quality	Threatened Species (TS)	BioMetric
Assessment using EOAM and default data	PASS	FAIL	PASS	PASS	PASS
Assessment using Minor Variation to Chapter 5 of the EOAM		↓ PASS			

This reports details the accredited expert’s opinions formed in relation to cl. 27 of the *Native Vegetation Regulation 2005* when assessing the PVP.

The minor variation is a variation to Section 4.5 Using the Salt Mobilisation Tool (SMT).

The accredited expert is of the opinion that a minor variation to the EOAM (Assessment Methodology) will result in a determination that the proposed clearing will improve or maintain environmental outcomes and strict adherence to the Assessment Methodology is in this particular case is unreasonable and unnecessary.

SECTION 1: INTRODUCTION

Legislative background

The Property Vegetation Plan (PVP) Request No 15875 proposes broadscale clearing within the definition of the *Native Vegetation Act 2003*.

Under s. 29(2) of the *Native Vegetation Act 2003*, the Minister is not to approve a PVP that proposes broadscale clearing unless the clearing concerned will improve or maintain environmental outcomes.

Clause 26 of the *Native Vegetation Regulation 2005* prescribes the circumstances in which approval of a PVP that proposes broadscale clearing can be granted. Normally such a PVP can only be granted where there has been an assessment and determination in accordance with the Environmental Outcomes Assessment Methodology (EOAM) that the proposed clearing will improve or maintain environmental outcomes. However, a PVP can also be granted where an accredited expert has assessed and certified in accordance with clause 27 of the *Native Vegetation Regulation 2005* that the accredited expert is of the opinion that the proposed clearing will improve or maintain environmental outcomes.

This reports details the accredited expert's opinions formed in relation to cl. 27 of the *Native Vegetation Regulation 2005* when assessing the PVP Request No 15875.

Initial assessment of broadscale clearing proposed by the PVP

When the broadscale clearing proposed by this PVP was initially assessed in accordance with the EOAM it did not result in a determination that clearing improved or maintained environmental outcomes due to the result obtained from the Salinity Mobilisation Tool.

The following section of this document provides detail of the accredited expert's assessment and certification in accordance with clause 27 of the *Native Vegetation Regulation 2005* and contains the information required in order to comply with clause 29 of the *Native Vegetation Regulation 2005*.

Final assessment of broadscale clearing proposed by the PVP with a minor variation

The broadscale clearing proposed by this PVP was re-assessed and certified by an accredited expert that, in the accredited expert's opinion, the proposed clearing will improve or maintain environmental outcomes. PVPs that are approved on the basis that an accredited expert has, in accordance with clause 27 of the *Native Vegetation Regulation 2005*, assessed and certified that in the accredited expert's opinion the proposed clearing will improve or maintain environmental outcomes must comply with clause 29 of the *Native Vegetation Regulation 2005*.

Section 2 of this document provides detail of the accredited expert's assessment and certification in accordance with clause 27 of the *Native Vegetation Regulation 2005* and contains the information required in order to comply with clause 29 of the *Native Vegetation Regulation 2005*.

SECTION 2: MINOR VARIATION

Legal provision for minor variation

The legal provision for this minor variation is in Clause 27(1) 'Special provisions for minor variation' of the *Native Vegetation Regulation 2005* which states:

27 Special provisions for minor variation

(1) An accredited expert may make an assessment that proposed clearing will improve or maintain environmental outcomes only if there has been an assessment in accordance with the Assessment Methodology of whether the proposed clearing will improve or maintain environmental outcomes (not resulting in a determination that the proposed clearing will improve or maintain environmental outcomes) and the accredited expert is of the opinion that:

(a) a minor variation to the Assessment Methodology would result in a determination that the proposed clearing will improve or maintain environmental outcomes (other than a variation that is not allowable under this clause), and

(b) strict adherence to the Assessment Methodology is in this particular case unreasonable and unnecessary.

(2) A variation to the Assessment Methodology is not allowable under this clause if it is a variation of any of the following aspects of the Assessment Methodology:

(a) riparian buffer distances or associated offset requirements,

(b) classification of vegetation as likely habitat for threatened species,

(c) classification of a plant species as a threatened species or a component of an endangered ecological community,

(d) classification of the condition of vegetation,

(e) classification of the vegetation type or landscape type as overcleared,

(f) the assessment of the regional value of vegetation.

How the EOAM was varied

Section **4.5 Using the Salt Mobilisation Tool** describes the process for assessing salinity impact in the western parts of NSW.

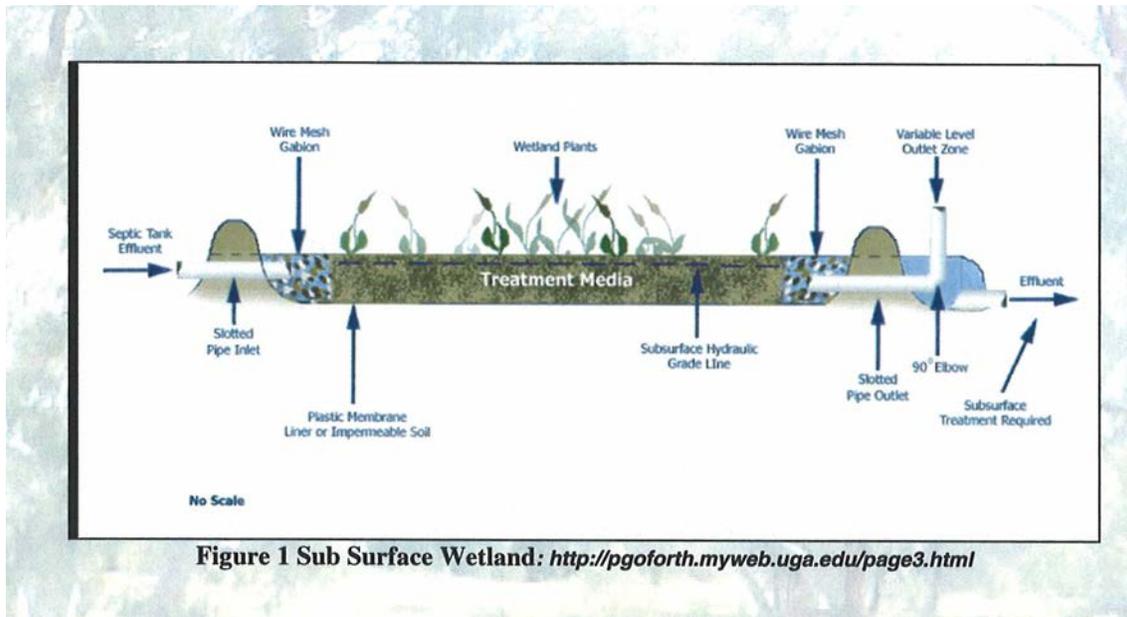
The Salt Mobilisation Tool is used to calculate a Salt Mobilisation Index (SMI) for each site where clearing or offsets is proposed. The Salt Mobilisation Index is a measure of potential salt mobilisation as a function of recharge and salt store. The Salt Mobilisation Index is used to determine whether the improve or maintain condition for a proposal to clear native vegetation is met and, if not met, the minimum level of offset required to meet the improve or maintain test.

In section 4.5.4 *Calculating the Salt Mobilisation Offset* requirement, water use efficiency (WUE) classes are listed for a range of land uses but do not include WUE classes for infrastructure works or the impact of engineering solutions.

In order to meet the Improve or Maintain (IoM) Test for Salinity, any negative score derived using the SMI for the clearing site, must be counterbalanced by a commensurate increase in SMI score on the offset site.

In this instance strict adherence to the Assessment Methodology is considered unreasonable and unnecessary as;

- the Salt Mobilisation tool does not allow for, or currently have a category available for clearing for the purpose of constructing an artificial Wetland, and in particular a subsurface wetland, and
- the design of the subsurface wetland incorporates a Plastic Membrane Liner or Impermeable Soil base to prevent avoid recharge (Figure 1). This will result in the Salt Mobility Index (SMI) score for the clearing area being zero.



As management actions are not generated by the Salt Mobilisation Tool a management action has been included requiring the design of the subsurface wetland to prevent recharge.

Description of the proposed clearing

The proposed clearing for which this variation applies consists of 2.45 hectares of Mulga – Dead Finish on Stony hills mainly of the Channel Country and Broken Hill complex bioregion, to allow construction of an artificial subsurface wetland to filter nutrients and sediments from storm water Broken Hill.

Description of the required management actions

The following management actions have been incorporated into the PVP.

The landholder is to ensure that an impermeable layer is constructed or installed on the floor of the artificial subsurface wetland to prevent groundwater infiltration and salinity risk. The liner may be of either compacted clay or a synthetic membrane.

Engineering specifications must align to the *Thorndale White Leeds Wetland Operation and Maintenance Plan* and *Water Management Systems – Thorndale White Leeds Broken Hill – Final report 2008*.

Reasons for recommending the proposed minor variation

This assessment has been carried out using the EOAM methodology and resulted in a green light for the Biometric tool with the use of offsets for all categories except salinity.

The reasons for the opinion of the Accredited Expert in respect of the Minor Variation follow.

- The 23.16 hectare offset of Mulga – Dead Finish on Stony hills mainly of the Channel Country and Broken Hill complex bioregion has given a green light for Biodiversity and Threatened Species.
- The capturing and treatment of stormwater from Broken Hill in an artificial wetland will remove excessive nutrients from the storm water and prevent them degrading natural waterways, and
- The free water surface wetland will provide habitat and support ecosystem services.

Certification by the accredited expert

As an accredited expert I am of the opinion that the minor variation to the EOAM (Assessment Methodology) will result in a determination that the proposed clearing will improve or maintain environmental outcomes and strict adherence to the Assessment Methodology is in this particular case unreasonable and unnecessary.

References

Boyden & Partners (2008). *Thorndale/White Leeds Wetland Operation and Maintenance Plan*.

Boyden & Partners (2008). *Water Management Systems Thorndale/White Leeds Broken Hill NSW*