

REPORT UNDER THE NATIVE VEGETATION ACT 2003 IN RELATION TO:

**ACCREDITED EXPERT'S ASSESSMENT IN ACCORDANCE WITH CLAUSE 19
OF THE NATIVE VEGETATION REGULATION 2013 FOR PVP REFERENCE
NUMBER PVP00243**

Report prepared by: Accredited Expert 30609

PVP reference number: PVP00243

1. EXECUTIVE SUMMARY

This Accredited Expert report relates to the assessment of the clearing proposed by Property Vegetation Plan (PVP) number PVP00243.

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 18 of the *Native Vegetation Regulation 2013* 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 account for specific or unique circumstances which have been encountered during the assessment of a clearing proposal. In these circumstances the assessment may use Special Provisions for Minor Variation (Clause 19 of the *Native Vegetation Regulations 2013*).

In this instance the Special Provisions for Minor Variation have been used to modify table 7.1 (Invasive Native Scrub Species Database) of the EOAM to include *Eucalyptus intertexta* (Red Box) as an Invasive Native Species (INS). The inclusion of this species as a minor variation and subsequent treatment as Invasive Native Scrub (INS) 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 PVP00243.

	Invasive Native Species Tool
Assessment using EAOM	FAIL
Assessment using Minor Variation to the Chapter 7 of the EOAM	PASS

This report details the accredited expert's opinions formed in relation to the inclusion of *Eucalyptus intertexta* (Red Box) into table 7.1 of the EOAM and cl. 19 of the *Native Vegetation Regulation 2013* when assessing PVP reference number PVP00243.

The minor variation is the inclusion of *Eucalyptus intertexta* (Red Box) into table 7.1 of the Assessment Methodology EOAM for use in the Central West CMA - IBRA Region

The accredited expert is of the opinion that a minor variation to the EOAM 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 because:

1. The *Eucalyptus intertexta* (Red Box) found on this property has;
 - (a) Regenerated densely following natural or artificial disturbance, and
 - (b) The dense regeneration of the species has resulted in change of structure and/ or composition of a vegetation community, and
 - (c) The species is within its natural geographic range.
2. The current EOAM omits several species of INS which are otherwise listed as INS in the Ministerial Order for the Clearing of Invasive native Species; and

3. The current EOAM includes *Eucalyptus intertexta* (Red Box) in the Cobar Penneplain IBRA region for the Western Catchment Management Area which is located less than 5km to the West of this PVPs location.
4. Clearing of this INS will create a mosaic landscape, and allow the groundcover to improve, reducing the potential for soil erosion. Accordingly the biodiversity and environmental gains from this proposal will outweigh the losses and as a result the clearing will improve environmental outcomes.

2. Background

Legislative background

Property vegetation plan (PVP), reference number PVP00243 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 18 of the *Native Vegetation Regulation 2013* 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 Assessment Methodology 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 19 of the *Native Vegetation Regulation 2013* that the accredited expert is of the opinion that the proposed clearing will improve or maintain environmental outcomes.

This report details the accredited expert's opinions formed in relation to Table 7.1 of the Assessment Methodology and cl. 19 of the Native Vegetation Regulation 2013 when assessing PVP reference number PVP00243.

Initial assessment of broadscale clearing proposed by PVP00243

When the broadscale clearing proposed by this PVP was initially assessed in accordance with the EOAM using the criteria defined by Chapter 7, it resulted in a determination that the proposed clearing did not improve or maintain environmental outcomes. This was because *Eucalyptus intertexta* (Red Box) is not listed as an INS species in table 7.1 of the EAOM for use in the Central West Catchment Management Area.

Final assessment of broadscale clearing proposed by PVP00243 by an accredited expert

The broadscale clearing proposed by PVP00243 was then assessed and certified by an accredited expert in accordance with clause 19 of the *Native Vegetation Regulation 2013*. In the accredited expert's opinion, the proposed clearing will improve or maintain environmental outcomes.

Sections 3 and 4 of this document provides detail of the accredited expert's assessment and certification in accordance with clause 19 of the *Native Vegetation Regulation 2013*.

3. MINOR VARIATION:

3.1 Legal provision for minor variation

The legal provision for this minor variation is in Clause 19 'Special provisions for minor variation' of the *Native Vegetation Regulation 2013* which states:

- (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 the particular case unreasonable and unnecessary.

3.2 How the Assessment Methodology was varied

The EAOM was varied by adding *Eucalyptus intertexta* (Red Box) as an INS species for the Cobar Penneplain IBRA region (Central West CMA area) to table 7.1 of the EAOM as per Table 1 below.

Table1: INS Species and conditions for variation of Table 7.1 of EOAM

Catchment Management Authority – IBRA region	Invasive Native Species	Number of plants per hectare to be retained	Retention required by criterion 18A (clearing types d-f only)	Maximum DBH allowed to be cleared	INS type of clearing permitted
Cobar Penneplain	<i>Eucalyptus intertexta</i> (Red Box)	20 (Total under 20cm DBH)	Yes	20cm	All

3.3 Description of the proposed clearing

This variation relates to the proposed clearing of *Eucalyptus intertexta* (Red Box) as an Invasive Native Species which is located in the Cobar Penneplain IBRA region of the Central West CMA catchment (now covered by the Central West Local Land Services).

3.4 Reasons for recommending the proposed minor variation

Prior to this minor variation the determination was that the proposed clearing did not improve or maintain environmental outcomes because *Eucalyptus intertexta* (Red Box) is not listed as an INS species in table 7.1 of the EAOM for the Cobar Penneplains IBRA region within the Central West Catchment Management Area.

i) Consideration of Species listing in Table 7 of the EAOM

In considering the species listing for variation to Table 7.1 of the EAOM the following criteria were assessed;

- (a) the species invades plant communities where it has not been known to occur previously, or the species regenerates densely following natural or artificial disturbance, and
- (b) the invasion and/ or dense regeneration of the species results in change of structure and/ or composition of a vegetation community, and
- (c) the species is within its natural geographic range.

Site inspection completed on the 15/12/2016 confirmed that the species is behaving invasively in this location following past disturbance. Data derived from Bionet (NSW OEH) demonstrates that this species is within its natural range whilst a comparison with Benchmark Data shows that this species has changed the structure of the vegetation community on this site. Accordingly, the reasons for listing *Eucalyptus intertexta* (Red Box), is as follows;

- (a) The species has regenerated densely following natural or artificial disturbance.
- (b) The dense regeneration of the species has resulted in change of structure and composition of a vegetation community, and
- (c) The species is within its natural geographic range.

In addition the current EOAM includes *Eucalyptus intertexta* (Red Box) in the Cobar Peneplain IBRA region for the Western Catchment Management Area which is located less than 5km to the West of this PVPs location. As the Western and Central West Catchment boundaries represent an administrative boundary only (not reflective of the biological attributes of the region/area) the inclusion of *Eucalyptus intertexta* into the Central West Catchment Management Area is considered reasonable as this property is very close to the Catchment management area boundary and is located within the Cobar Peneplain area.

ii) Consideration of the Ministerial Order for clearing of Invasive Native Scrub

1. For listing in Table 7.1 of the EOAM a species must meet the following criteria:
 - a) the species invades plant communities where it has not been known to occur previously, or the species regenerates densely following natural or artificial disturbance; and
 - b) the invasion and/ or dense regeneration of the species results in change of structure and/ or composition of a vegetation community; and
 - c) the species is within its natural geographic range.
2. For listing in Appendix 1 of the Ministerial Order for the Clearing of Invasive Native Species the species must be:
 - a) within its natural range in the area specified; and
 - b) densely regenerating or is invading plant communities in which the species does not generally occur, which is causing decline in the structure or composition of the vegetation community.

In each instance the listing of species and DBHOB limits have been set by a team of experts, and whilst the species list and DBHOB does differ it would be considered reasonable, given the listing criteria is so similar, to use the list provided by the Ministerial Order as this list was compiled and approved in 2014 whilst the EOAM was last amended in 2011. Furthermore the listing used by the ministerial order is currently available for use by landholders as a permitted activity (RAMA).

ii) Further considerations

In addition, an open woodland vegetation structure with considerably enhanced groundcover, will be created by applying this minor variation and allowing the treatment of the area using the INS conditions of the EAOM. The clearing will also create a mosaic of vegetation structures through the retention of dense areas of INS amongst open woodland, which will improve the composition of vegetation on site and reduce the potential for soil erosion.

Thus the biodiversity and other environmental gains from the proposal outweigh the loss and as a result the clearing will improve or maintain environmental outcomes.

4. Certification by the accredited expert

As an accredited expert I am of the opinion that minor variation to the 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 case unreasonable and unnecessary because:

1. The Species fits the criteria for listing as an INS Species as follows;
 - (a) The species has regenerated densely following natural or artificial disturbance and,
 - (b) The dense regeneration of the species has resulted in change of structure and composition of a vegetation community, and
 - (c) The species is within its natural geographic range
2. The current EOAM omits several species of INS which are otherwise listed as INS in the Ministerial Order for the Clearing of Invasive native Species. by including Red Box the clearing proposed under this PVP will align with the clearing outcomes which can currently occur without consent due to the Ministerial Codes being considered as permitted clearing (RAMAs) under the *Native Vegetation Act 2003*. ; and
3. The current EOAM includes *Eucalyptus intertexta* (Red Box) in the Cobar Penneplain IBRA region for the Western Catchment Management Area which is located less than 5km to the West of this PVPs location.
4. The clearing will create an open woodland vegetation structure with considerably enhanced groundcover will be created which will improve the composition of species found on this site.
5. The clearing will enhance groundcover which will reduce the risk of soil erosion occurring
6. Dense areas/patches of INS will be retained over a minimum of 20% of the INS extent (as per the EAOM, ensuring that a range of vegetation structure are present on this site.