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Coordinator Governance and Policy
Native Vegetation Branch
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Monday 17 December 2018

Re: Interim Guidelines for the Management of Roadside Native Vegetation

Dear Coordinator,

The Nature Conservation Society of South Australia (NCSSA) appreciates the opportunity to comment on the interim guidelines for the management of roadside native vegetation (hereafter 'guidelines' or 'interim guidelines') established under *Native Vegetation Regulation 11(23)*. Since 1962, the NCSSA has been a strong advocate for the protection of native vegetation and biodiversity in South Australia with particular attention being paid to nationally and state listed threatened plants, animals and ecological communities and management of protected areas.

NCSSA is deeply concerned that these guidelines do not provide adequate protection for remnant native vegetation along roadsides. We do not believe a case has been made for "guidelines [that] will provide local councils and DPTI with ***greater capacity to undertake clearance of roadside vegetation***", as stated in the Introduction on page 4. NCSSA understands that some clearance of native vegetation, both vegetation that pre-dates a road being created as well as vegetation that regrows following initial clearance, is necessary at times for road safety and/or to maintain adequate access. However, the biodiversity value of remnant and regrowth vegetation should remain central in all decision-making about clearance. As they are currently worded, we are concerned these guidelines will result in the perverse outcome of actually ***encouraging*** clearance, as it may be understood by DPTI or local councils to be 'required', which will place important remnant native vegetation, including significant and regulated trees, at unnecessary risk.

In our view, these guidelines are inconsistent with the statutory intent of the *Native Vegetation Act 1991*. The key object of the *Native Vegetation Act 1991* is 'the conservation, protection and enhancement of the native vegetation of the State and, in particular, ***remnant native vegetation***' (emphasis added, since most roadside vegetation is remnant). We understand that these guidelines are established under the *Native Vegetation Regulations 2017*, which 'seek to balance the requirements of South Australians to clear for everyday activities with the need to protect and restore the remaining native vegetation in South Australia'¹, but in this case we do not believe the right balance has been struck. Rather, the work schedules and budget constraints of local councils, DPTI and DEW seem to have been the key drivers of the changes between the previous guidelines and these interim guidelines, with little consideration given to the likely negative impact of increased clearance.

¹ From the 'Guide to the Native Vegetation Regulations 2017', endorsed by the Native Vegetation Council on 11 April 2017

Roadside vegetation can be of very high biodiversity value and in some parts of the state it represents the last vestiges of vegetation communities that were historically much more widespread. NCSA is aware of a number of occasions where populations of species of high conservation concern, such as Spalding Blown Grass which is listed at both the state and national levels as endangered and the Pale Flax-lily which listed as is rare in South Australia, have been destroyed as a result of roadside vegetation removal or 'improvements' such as road shoulder sealing. It is therefore **essential** that people with expertise in the biodiversity value of remnant roadside vegetation are adequately involved in any decision-making processes regarding proposals for clearance.

We are aware these guidelines are already in force, and are extremely disappointed that comment has been sought **after** their operation commenced. Due to our concerns, we cannot support these guidelines in their current form. We call for their revocation and replacement with guidelines that outline the **nature conservation outcomes** that councils and DPTI must achieve in relation to their management of remnant native vegetation on roadsides. Consistent with the intent of the *Native Vegetation Act 1991*, these outcomes should firstly be the **retention** of native vegetation wherever possible, including large trees and understorey and areas that provide habitat for rare or threatened species or ecological communities, to protect the biodiversity that our community values, with all other options enacted to achieve desired the safety and access outcomes before clearance is considered. The guidelines should establish appropriate, robust mechanisms for decision-making that include biodiversity considerations, and they should be underpinned by an adequately resourced compliance regime to ensure they are adhered to.

Please refer to the following pages for further comments and recommended changes to these guidelines as they currently stand. If you would like to clarify or discuss any of the points raised please contact me on (08) 7127 4633 or via email at julia.peacock@ncssa.asn.au.

Yours sincerely,

A handwritten signature in blue ink that reads "Julia Peacock". The signature is written in a cursive style and is placed on a light yellow rectangular background.

Julia Peacock
Nature Advocate

NCSSA comments on the Interim Guidelines for the Management of Roadside Native Vegetation

Overarching message about vegetation clearance

The guidelines should be clear that removing native vegetation is a ***last resort option***, consistent with the mitigation hierarchy in the *Native Vegetation Act 1991*. Whilst we acknowledge that the hierarchy appears on page 9 of the guidelines, we believe this message should be conveyed more clearly by:

- removing the term 'required' from the diagram on page 10 to make it absolutely clear that vegetation clearance is ***not required*** by these guidelines, but is rather permitted by them, in order to minimise the risk of misinterpretation,
- the previous guidelines contained the following sentence in the Introduction that should be reiterated in this version: "Removal of native vegetation should be the exception rather than the rule. It is anticipated that road management authorities will approach the issue with that in mind giving serious consideration to all other options first", and
- the guidelines should clearly outline the ***other options*** that should be investigated, such as installing safety guards and/or lowering speed limits near biodiversity assets, like large trees, in order to achieve desired safety outcomes, prior to clearance being pursued.

Page 4: Introduction

We recommend the first paragraph in this section acknowledge that, in addition to wildlife habitat, roadside vegetation provides connectivity between different habitats, a source of seed and plant material and retains important genetic variability for a variety of species.

Quick Reference Guide to Legal Requirements

Page 7: Table 1

Roadside vegetation maintenance - Verge clearance of re-growth

We do not support the proposal for clearance of regrowth vegetation less than 20 years old to be undertaken without requiring NVC approval as there is here is no underlying ecological and/or scientific justification for it. This timeframe is based on operational logistics of roadside maintenance by councils and does not reflect the significant natural values of roadside vegetation, particularly in agricultural areas where broadscale clearance of native vegetation has been severe. It is also inconsistent with requirements for managing native vegetation by other sectors, for example regrowth management for agriculture, and is therefore out-of-step with community expectations.

Regrowth native vegetation can be of high biodiversity value and this needs to be adequately acknowledged in decision-making regarding proposals for clearance. A cursory examination of the scientific literature suggests that restoration and self-reinforcing ecological processes (e.g. soil microbial communities, soil seed banks, faunal communities) re-establish 8-10 years post-clearance (Dr Martin Breed pers. comm; references supplied on request).

We understand that an issue for local councils and DPTI with the previous requirement to seek approval for clearance of regrowth 5 years or older was the length of time it took for applications to be processed. Rather than change the requirement for approval, which will effectively exclude those external to the council or DPTI and with biodiversity expertise from reviewing proposals to clear, the Native Vegetation Branch of DEW should be adequately resourced to process applications so that decisions can be made in a more timely manner.

A minor editorial correction is required to the sentence in this section of the table where approval is required needs amendment i.e. vegetation that can be cleared is ***dependent*** on the Category of road and the biodiversity significance of the vegetation.

Removal of Plant Material

It would be useful to have an example of the type of dead plants declared by Regulation where approval is required.

The Footnote below the Table is a key point that should be made up front so that the reader is made immediately aware of these facts. It should also acknowledge that species of state conservation significance are covered by the *National Parks and Wildlife Act 1972*, which prescribes penalties for unauthorised removal for 'Rare', 'Vulnerable' and 'Endangered' species independently of the Native Vegetation Act.

Page 8: Figure 2. Flow chart of roadside management activities contained within these guidelines

We strongly recommend that verge clearance of both Vegetation Types B and C is restricted to < 2m width from shoulder. In many areas Type C roadside vegetation may represent the last remaining remnants of particular vegetation communities that are therefore of conservation significance despite presence of introduced plant species. We also strongly recommend that any clearance should need to be adequately justified in Step 3 of this process, since we do not support additional clearance simply because vegetation is deemed to be of 'lower significance'.

PART 1: MANAGEMENT OF ROADSIDE VEGETATION

Pages 9-10: Operating Principles

Dot Point 2: We recommend additional text stating that herbicides should only be used when weather conditions minimise the likelihood of spray drift to adjacent native vegetation.

Dot Point 4: We recommend additional text stating that where possible, drains should not be constructed across the full width of the roadside vegetation so that habitat connectivity is preserved.

Dot Point 5: The last point relating to mapping of threatened species needs rewording. It should acknowledge existing mapping/data and require council staff to access this information as part of annual works planning. Also, best practice training for staff and contractors should be mandatory, not just recommended.

Dot Point 6: The difficulty in distinguishing native grasses from exotic ones highlights the problem of council staff and contractors undertaking works when they lack relevant plant identification skills and knowledge. We recommend further training be required or the assessment of areas where works to only be undertaken by a suitably competent, experienced or qualified persons.

Page 12: Section 3. Verge Clearance

The first two sentences in this section are of serious concern as they effectively allow Councils to undertake additional clearance within the verge beyond what is permitted in the Primary and Secondary envelopes. The wording needs revision to specify that there are only certain circumstances where such clearance may occur rather than basing it solely on the operational logistics of roadside maintenance works by councils. We strongly recommend that further clarification is required regarding the term 'verge', as the precise location of the 'verge' could be highly variable and therefore inconsistently applied without any formal requirement for NVC oversight. This will be particularly true where the width of the carriageway is variable (as is frequently the case on rural unsealed roads), which could lead to progressive widening of the entire length of road.

As stated earlier, we strongly oppose Criteria 1 that allows for clearance of regrowth vegetation less than 20 years old without approval being required and recommend that the guidelines only allow for clearance of regrowth that has occurred in the past 5 years, after which an application to the NVC for approval should be required, in recognition of the biodiversity value of regrowth vegetation and to be consistent with the clearance of regrowth on agricultural land.

We recommend that the conditions listed under Criteria 3 are amended as follows to provide consistent terminology with that used in Table 3, i.e. Type A (vegetation in **Excellent** condition with high conservation significance) roadside vegetation; and Type B (vegetation in **Good** condition with moderate conservation significance) roadside vegetation.

We also recommend these conditions are referred to in the Verge column of Table 2 and include that verge clearance is confined to a maximum width of 1 metre in Type A and <2 metres in Type B roadside vegetation.

We strongly support restriction on clearance of vegetation of conservation significance, including where threatened species and ecological communities have been identified, as outlined in Table 3. As stated earlier, we strongly recommend that verge clearance of both Vegetation Types B and C is restricted to < 2m width from shoulder.

Page 12-13: Process of clearance assessment and approval

2. Regrowth

As stated earlier, we oppose the proposal for regrowth vegetation more than 5 years of age to be cleared without approval by the NVC.

4. Native Vegetation Council approval

We acknowledge the reference to the roadside marker scheme, however, we strongly recommend the guidelines provide further details about the existing Roadside Significant Sites (RSS) that occur across the State and refer to the *Rail and Roadside Significant Sites Environmental Instruction 21.5*² in particular Sections 5. Protection of Rail and Roadside Significant Sites, 5.1 General Guidelines and APPENDIX A: Guidelines for protection of Rail and Roadside Significant Sites for specific activities. Although DPTI staff may be aware of these guidelines, many council staff and contractors undertaking roadside vegetation management works may not be, which could result in damage to significant roadside vegetation or cultural sites.

We strongly recommend that the guidelines acknowledge that the RSS are identified by a roadside marker system that is intended to be a visible and distinct form of signage to assist rail and road authorities, utilities, council staff and contractors in the recognition of significant sites that are particularly vulnerable to disturbance or damage. We also feel there needs to be much greater legal protection for Roadside Significant Sites and that penalties should be greater for unauthorised damage to these sites.

We also recommend that the guidelines include that the Rail and Roadside Significant Sites Databases (RSSD) provides detailed information on the RSS including the location, species of conservation significance and management to avoid degradation of the site and adjacent areas. We recommend that the guidelines note that, in addition to NatureMaps, the RSS and RSSD data are publicly accessible on the following websites:

- (a) Data.SA: Data can be viewed spatially and downloaded as a dataset in different formats (i.e. shp, kml, geojson).

<https://data.sa.gov.au/data/dataset/roadside-significant-sites>

<https://data.sa.gov.au/data/dataset/railside-significant-sites>

- (b) Location SA Map Viewer: Data can be viewed spatially, with links to the downloadable datasets on Data.SA. Find the Railside Significant Sites and Roadside Significant Sites datasets under 'Environment & Climate / Environment'.

<http://location.sa.gov.au/viewer/>

- (c) DPTI RSSD Webpage: RSSD reports can be generated by Road Name, and RSSD site reports and photos can be accessed through a search form. Data is not available to be viewed spatially on this webpage.

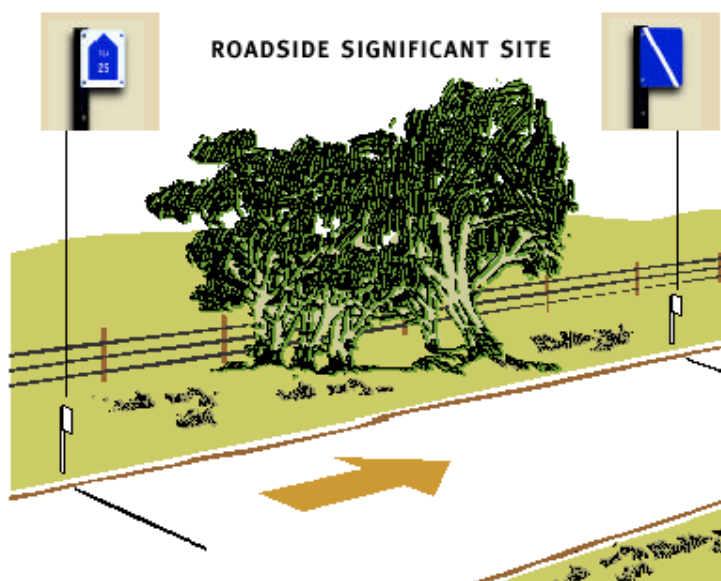
² Available from <https://www.dpti.sa.gov.au/standards/environment>

Note that due to confidentiality requirements, selected data such as that relating to Aboriginal heritage sites is not available publicly and can only be accessed internally by DPTI staff via this webpage when using the DPTI computer network.

<http://www.dpti.sa.gov.au/standards/rssd>

We also recommend that the guidelines provide a description of the roadside markers as outlined below and a diagram showing their placement in relation to the RSS:

Site markers consist of a small plate mounted on a steel dropper post. The front of each marker plate displays a blue pointer with a number identifying the Rail or Roadside Significant Site (i.e. the record number for the site in the database) and the agency code (i.e. DPTI or DTEI or TSA). This is seen when approaching the site. The reverse side of each marker plate is a diagonal white bar against a blue background. This is seen when leaving the site.



Roadside Marker System showing location of markers in relation

We also recommend that the guidelines incorporate the following General Guidelines from Section 5.1 of the DPTI Instructions in relation to RSS:

- Council staff must be aware of the location of any significant sites and the requirements for their protection. This information must be included or referenced in the Annual Work Plan, contract documentation, Contractor's Environmental Management Plan and/or work instructions. Awareness of significant sites, their location and management requirements must be included in the induction of all field staff.
- If a marker is encountered in the field without prior knowledge of its location and requirements for protection, work must not proceed at this location until the information relating to this site has been obtained from the database and reviewed.
- Existing activities (e.g. stockpiling) at significant sites may continue if confined to the area already disturbed. Any activity must not intrude into the site feature unless specific approval is obtained.
- Any proposed change to the existing use of a significant site which may adversely affect the site feature requires the approval of the Senior Environmental Management Officer or its equivalent within the Council area where the site is located.
- The DPTI Senior Environmental Management Officer must be notified of any unauthorised disturbance to a significant site.

We also believe there should be a program of routine inspection of RSS to record their condition and detect potential management breaches.

Page 13: The text above Figure 6 should be amended to Figure 6 displays an example of the location of significant native vegetation on roadsides.

PART 2: FRAMEWORK FOR PUBLIC SAFETY

Page 15: We recommend that the second paragraph acknowledge that a Significant Environmental Benefit (SEB) offset is required for any clearance associated with new works or upgrades of infrastructure.

We recommend the wording from Page 9 of the previous Interim Framework for Public Safety is incorporated in the 3rd paragraph i.e. No Significant Environmental Benefit (SEB) offset is required where clearance is consistent with *Austrroads Guide* (AS 1742) for safe sight lines and sight triangles at road intersections and rail crossings or if clearance is required for the realignment of existing intersections to address the issue of public safety.

We also recommend that the last sentence in the 3rd paragraph acknowledge that a SEB is required where clearance exceeds the criteria outlined in the current Guidelines and if clearance is approved, a SEB offset will be calculated using the existing NVC methodology.

Section 4: Public Safety Categories

The Guidelines should acknowledge the use of guard railing as an important option for achieving safety objectives whilst protecting roadside vegetation. There are many examples across the state where guard railing has been used to reduce unnecessary clearance of large and significant trees.

PART 3: OTHER ACTIVITIES RELATING TO ROADSIDE VEGETATION

Page 18: Section 5. Clearance for Access to Adjoining Land

We strongly support the statement that “If rare or threatened plant species are present, reasonable care should be taken to protect them” however recommend that ecological communities listed under the *Environment Protection and Biodiversity Conservation Act 1999* and state and/or regionally threatened ecosystems are also acknowledged and reasonable care is taken to protect them. We strongly recommend that the text in the following sentence is amended to require the Native Vegetation Branch be contacted for advice where threatened species or ecological communities are either known or likely to occur. The language as currently stated is, in our view, far too lenient - leaving it up to individuals (who are probably uninformed or unable to identify significant species or ecosystems) to decide if they need to consult about their actions concerning threatened plant species or ecological communities rather than making this a necessary requirement.

Page 19: Section 6. Clearance for Fencelines

As per our comments on the previous Section, we recommend the text is amended to require the Native Vegetation Branch be contacted for advice where threatened species or ecological communities are either known or likely to occur.

Page 21: Section 8. Removal of Plant Material

Collection of Dead Timber

We support the statement that if dead timber collection is permitted, care should be taken to prevent damaging surrounding native vegetation in the process of removal. We strongly recommend that the collection of dead timber is not permitted in areas of vegetation of high conservation significance (Type A) including areas where rare or threatened plant species are known to occur under any circumstances rather than where possible as

currently stated. Removal of dead trees containing hollows needs to be prohibited due to their importance for fauna habitat.

Page 27: Figure 9. Demonstrates the annual works native vegetation management program approach.

The text in the box at the bottom right of this flowchart appears to be missing the word “not”.

PART 4: DEVELOPING A ROADSIDE VEGETATION MANAGEMENT PLAN

Page 24-27: Although, in principle, we support the proposal for the development of a roadside vegetation management plan (RVMP) by local councils that requires NVC approval if they find it necessary to operate outside of the parameters set out in these guidelines, we strongly recommend that the guidelines provide further specific details about the information required in such plans rather than just a Recommended Approach. The example provided is useful in terms of making councils aware of how they might go about developing a RVMP but should also acknowledge the extensive roadside vegetation mapping that has been conducted across the state (see Attachment A) and require a commitment from councils to allocate resources to address existing gaps in this mapping.

These efforts should be supported by the NVC, since a function of the NVC is ‘to keep the condition of the native vegetation of the State under review’. We therefore believe that the program of survey work assessing the conservation value of roadside vegetation, which was previously undertaken through the NVC but has ceased since the funding for it has been redirected to Treasury, should be re-established, together with a renewed commitment from councils to allocate resources to address existing gaps in current mapping, so that we can better understand and protect this important community asset.