



An authorised Ambassador of the Treaty Council Worldwide & the Sacred Sites Preservation Project
Community | Volunteering | Response |
Environment | Conservation | Sustainability
ACN 662 157 011 | ABN 21 662 157 011

Thursday, 28 September 2023

The Hon. Penny Sharpe MLC
Minister for Environment and Heritage
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RE: Reforming NPWS Regulations 2019 Division 3 13(1)(j)

We have seen widespread biosphere destruction across NSW NPWS estates due to poorly regulated fire regimes and inadequate or unsuitable ecological management.

Dear Minister,

On behalf of traditional owners, responsible bush users and visitors to NSW NPWS estates, our organisation would like to highlight an aspect of the NSW NPWS Regulations 2019 that deeply concern the community and a proposed solution for the government to consider.

We refer to Division 3 13(1)(j):

*"Carry, possess or use any spray cans of paint, or any boltcutters, oxy-acetylene equipment, angle grinder or **other cutting equipment** in a park..."*

The Regulation referring to "cutting equipment" is a 'blanket' or 'grey' provision.

We have received confirmation from the NSW NPWS that the reference to "cutting equipment" includes a chainsaw, axe, and handsaw, meaning if a person is carrying any such item within an NSW NPWS-administered estate, they are committing an offence under the regulation. The only exception to this provision is when the person traverses the estate and does not intend to stop or recreate within the estate or if the road (tracks, trails, fire trials) follows an easement through the estate.

As such, this regulation persecutes a traditional owners' right to safely access their land, impedes on the safety and wellbeing of citizens and emergency services for the responsible and reasonable necessity to carry or use the "equipment" in a prudent and lawful manner i.e., providing a public service while safely visiting and traversing roads within an estate.

This letter refers *only* to situations where trees or other vegetation have naturally fallen over and obstructed roads or thoroughfares within NSW NPWS estates. We do not condone the use of the "equipment" for any other purpose but to prudently clear vegetation off a road to restore safe and unimpeded access for all visitors, bush users and emergency services visiting or traversing an estate. We also note that NSW State Forests, road easements, crown land and other classes of public land do not have an equivalent restriction about the carry and use of "cutting equipment"; as such, the NSW



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Treaty Council acknowledges the traditional custodians and pay our respects to the Elders past, present, and future, for they hold the memories, the traditions, the culture and hopes of the Indigenous on the continent of Australia. We must always remember that under the concrete and asphalt, the land, sea, and waterways were, and always will be, traditional Indigenous land.



NPWS bureaucracy cannot use the 'liability' argument when referring to NPWS estates if all other classifications of public land have inconsistent regulations. We have a viable recommendation about the issue of liability when operating "cutting equipment" to clear vegetation across a road on page 3.

People are already carrying and operating the "cutting equipment" referred to in the regulation because this regulation is not communicated to or understood by the community.

We are highlighting this to demonstrate that most people are doing the right thing. Those collecting firewood for personal and commercial consumption or cutting down live trees **know they are breaking the law**. The law must not persecute traditional owners or responsible bush users with blanket laws without exceptions to the legislation.

On a separate matter, the restriction and use of firewood comes to mind for cooking and recreational fires within estates amid a time when fuel loads are at historical levels within biospheres and little is being done to mitigate destructive fire regimes from decimating the land, including the soil microbiology.

The implications of traditional owners and bush users complying with this law are both directly and indirectly life-threatening toward individuals and the community. The legislation is restrictive and 'grey', it must be reformed. This is one of many laws that have not helped to 'preserve and protect' a sacred country and have impeded on the rights of traditional owners for active management and care of country.

We have provided a summary of *some* of the issues pertaining to the restrictive nature of this regulation and how it correlates to public rights, safety and welfare:

- Impeding on the rights, freedom and safety of traditional owners from accessing their land and utilising reasonable means to ensure safe and unimpeded access.
- Delays emergency services responding to urgent non-fire related emergencies within the estates or traversing the estate as the most direct route.
- Firefighters attending fire emergencies or escaping from fire – we have received communications from dozens of volunteer firefighters that vegetation obstruction is a key issue they face within estates. There are serious life-threatening implications with being delayed and having to stop to clear the trail.
- Visitors and bush users experiencing a life-threatening situation cannot leave or are delayed due to the obstruction. These situations are exacerbated when there is no communication with emergency services and when emergency services are delayed because of that obstruction.
- Visitors to the estate are left on the wrong side of an obstruction. This is particularly dangerous in remote areas with limited communication ability.
- Bushfire mitigation and management. Note: NSW RFS members cannot operate a chainsaw without having been qualified under the RFS training scheme.
- Obstructions can delay critical services from attending to other non-emergency situations.
- Damage to the environment when users are forced to drive around the obstruction.
- Further damage to track infrastructure and erosion when trees are forcefully dragged or pulled by other means and rigging equipment.
- Inconvenience to all visitors and bush users travelling within or traversing an estate.
- Persecutes bush users from conducting a public service for other bush users, actively assisting emergency services, including removing obstructions that would otherwise require government resources, costs and other burdens.



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Visitors, bush users and emergency services cannot rely on NPWS field officers, rangers and other authorities with the task of removing obstructions over roads. Notifying the responsible actors is not a practical solution, not only due to communication issues in remote areas. Additionally, these services do not operate 24/7, there are also limited contact options for urgent requests, the travel times and limited ability of service staff to attend to these matters and several other issues.

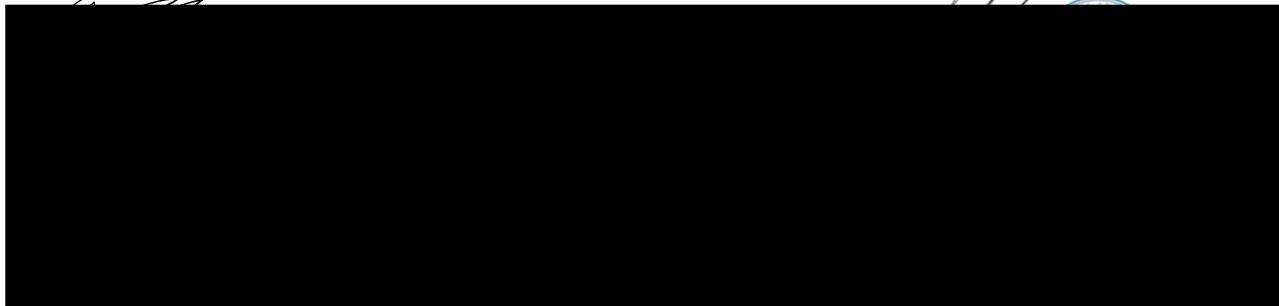
We propose a common sense exception to the regulation to allow for the responsible carry and use of "cutting equipment" within an estate:

*Allow citizens of NSW with chainsaw qualifications or tickets to carry and use the "cutting equipment" to clear vegetation obstructing roads within the NSW NPWS estates. Qualified chainsaw operators will register their intention to participate under the National Parks Pass and are authorised to always carry and operate the "equipment" but to be used only for certain situations. The bureaucracy can accommodate a liability waiver if this is an area of concern, which doesn't seem to be the case on other public land.
This is a scheme currently practised in Victoria.*

What if a visitor faces an emergency in a remote area, doesn't have a saw on hand, and finds themselves blocked by a tree that another responsible bush user could have cleared, but they didn't due to the law? **Minister, what if that visitor was you?**

We do not require a scripted response from the bureaucracy as to why the highlighted provision is in place, as stated earlier, most bush users carry the "equipment" already. The provision needs an exception. We hope that you will reform the regulation to not impede on the rights of traditional owners and accommodate those doing the right thing and providing a public service to the community.

Yours sincerely,



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About Back to the Bush

Back to the Bush is an indigenous-led and registered social and environmental charity that actively focuses on Australia's diverse environments, including advancing conservation, heritage and bush culture across all land and community frameworks.

Established in 2010, Back to the Bush's community philanthropy extends to a wide-ranging social enterprise strategy. That includes volunteering time and deploying physical resources in imperilled communities and environments.

Additionally, the charity engages in grassroots community initiatives and First Nations interests in partnership with the indigenous Treaty Council Worldwide and the Sacred Sites Preservation Project, as well as myriad land management practices and frontline responses to natural disaster arrangements.

About Treaty Council Worldwide

All Indigenous people have the human right to prosper & grow their land & seas.

The Treaty Council has formed with the aim of financially empowering and establishing pathways to economic independence for the Indigenous nations it represents with a focus on facilitating economic treaties between Indigenous groups and business interests. The council is comprised of several First Nations business and media consultants, along with international corporate investors and constitutional legal experts.

The Treaty Council assists with exercising sovereignty, access and economic support to develop, protect & sustain their lands & seas which in turn will lead to a more autonomous and independent life for future generations without the involvement of government.

About Sacred Sites Preservation Project

The Sacred Sites Preservation Project mission is to preserve and protect sacred sites and protect the rights of allodial owners. The organisation's sacred sites registry is the only collective registry of its kind in Australia, owned by Aboriginal and Torres Strait Islander nations and clans. With a comprehensive team of volunteers, the project acts with urgency by independently surveying, recording, rehabilitating, and lobbying to protect and preserve sacred sites.

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