



## Tenterfield District Land Clearing

We were engaged to prepare evidence regarding a remedial direction issued to our client under Section 38 of the *Native Vegetation Act 2003* (Land and Environment Court Appeal No. 11095 of 2012). The remedial direction followed an investigation by Office and Environment and Heritage (OEH) into clearing of native vegetation at the site.

### **Statutory Context**

OEH alleged that the clearing had not been undertaken in accordance with a current Property Vegetation Plan, or clearing consent, and did not comply with the Act's applicable exemptions. It was therefore in breach of the Act. It was alleged that the clearing had caused significant adverse environmental effects.

The landowner contended that there were exemptions in place for the clearing, and that OEH had overstated the effect of the clearing.

### **Challenges and Solutions**

Our investigations initially focussed on whether the clearing had been lawful. We found that a significant component of the clearing area was comprised of post-1990 regrowth that could be lawfully cleared. We found that additional clearing had been undertaken in accordance with Routine Agricultural Management Activity (RAMA) exemptions, and that further clearing had been undertaken by third parties to establish communication infrastructure, or to manage wildfire. Our analysis more accurately defined focal areas for the clearing investigation.

Next, we turned to the issue of significant adverse environmental effects. OEH had identified 10 significant adverse effects arising from the clearing. Our investigation found that 84% of the re-defined clearing area was comprised of regrowth vegetation old enough to be protected by the Act, but of insufficient age to provide significant habitat for many of the threatened species known from the locality. Based on our evidence, OEH accepted that only a very small component of the overall illegal clearing area supported mature vegetation providing good quality habitat. We presented our evidence to the Land and Environment Court hearing, in which an agreement was reached on remediation. We prepared a remediation plan, which was approved by OEH.

### **Outcome**

The remediation plan was implemented, and the matter settled.

### **CLIENT**

HANNIGANS SOLICITORS

### **LOCATION**

TENTERFIELD DISTRICT,  
NEW SOUTH WALES

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