

Land Management (Native Vegetation) Code 2018

[2018-83]



New South Wales

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[2018-83]



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Land Management (Native Vegetation) Code 2018



New South Wales

Part 1 Preliminary

1 Name

This Code is the *Land Management (Native Vegetation) Code 2018*.

2 Commencement

This Code commences on 10 March 2018 or the date on which it is published on the NSW legislation website, whichever is the later.

2A Repeal of former Code

The *Land Management (Native Vegetation) Code 2017* is repealed.

3 Aims

The aims of this Code are to—

- (a) authorise clearing of native vegetation on Category 2-regulated land,
- (b) provide for establishment and management of set aside areas, and
- (c) authorise re-categorisation of land.

4 Definitions and Interpretation

- (1) Schedule 5 to this Code defines key words and phrases for the purposes of this Code.
- (2) To the extent of any inconsistency between this Part and any other Part or Division of the Code, this Part prevails.
- (3) Words and phrases that are defined in the *Local Land Services Act 2013* or in the *Local Land Services Regulation 2014* have the same meaning in this Code.

5 Structure of this Code

This Code is divided into the following Parts—

- (a) **Part 2, Invasive Native Species**—permits clearing of native vegetation that has been identified as an invasive native species, and permits certain agricultural activities in treatment areas, in certain circumstances,
- (b) **Part 3, Pasture Expansion**—permits a range of clearing of woody native vegetation, by

uniform thinning and mosaic thinning,

- (c) **Part 4, Continuing Use**—permits clearing of post-1990 regrowth in previously cleared areas; permits continuation of clearing consistent with land management activities undertaken prior to commencement of the *Local Land Services Amendment Act 2016*; permits clearing associated with a rotational land management activity and authorises re-categorisation of land in certain circumstances,
- (d) **Part 5, Equity**—permits clearing of native vegetation; provides for re-categorisation of areas cleared of native vegetation in accordance with the Part; and provides for establishment of set aside areas on Category 2-regulated land,
- (e) **Part 6, Farm Plan**—permits clearing of native vegetation on Category 2-regulated land; provides for re-categorisation of areas cleared of native vegetation in accordance with the Part; provides for establishment of set aside areas on Category 1-exempt land and Category 2-regulated land; and provides for re-categorisation of set aside areas established in accordance with the Part.

6 Land to which this Code applies

This Code applies to all land in New South Wales to which Part 5A of the *Local Land Services Act 2013* applies.

Note. This Code does not authorise clearing on all land to which Part 5A applies. This Code and the *Local Land Services Regulation 2014* specify land on which clearing is not authorised. In particular, clearing is not permitted on land designated as Category 2-sensitive regulated land.

7 Clearing of critically endangered ecological community not authorised

Clearing of native vegetation is not authorised by this Code if the native vegetation forms part of a critically endangered ecological community.

Note— Under clause 19A, vegetation is not taken to be an instance of certain critically endangered ecological communities in the circumstances specified in that clause.

8 Clearing outside treatment area

Clearing of native vegetation is not authorised by this Code if the clearing occurs outside a treatment area.

9 Clearing under authority of this Code not to harm threatened animal species

Clearing is not authorised by this Code if the person who carries out the clearing harms an animal that is a threatened species and that person knew that the clearing was likely to harm the animal.

10 Clearing for forestry purposes

This Code does not authorise clearing of native vegetation for forestry operations within the meaning of section 3 of the *Forestry Act 2012*. However, this clause does not prevent the sale of timber from native vegetation lawfully cleared in accordance with this Code.

11 Re-categorisation of land

- (1) Re-categorisation of land in accordance with section 60K (3) (e) of the *Local Land Services Act 2013* is authorised by this Code where re-categorisation is expressly provided for under a Part of

the Code.

- (2) The following Parts of this Code provide for re-categorisation of land—
 - (a) Part 4, Continuing Use,
 - (b) Part 5, Equity,
 - (c) Part 6, Farm Plan.
- (3) Land is authorised to be re-categorised to the Category to which the land was categorised prior to the issue of a voluntary or mandatory code compliant certificate where the certificate authorising re-categorisation is subsequently surrendered or revoked and clearing of native vegetation set out in the relevant certificate has not been carried out.
- (4) Where a voluntary or mandatory code compliant certificate authorising re-categorisation is varied by Local Land Services, land is authorised to be re-categorised to reflect the variation of the certificate.

12 Notification of intended clearing of native vegetation

- (1) Where specified in this Code, clearing of native vegetation may only be carried out after notification of intended clearing has been provided to Local Land Services.
- (2) Notification must be made within the time, and in the form and manner, specified in Schedule 6, unless otherwise specified in this Code.
- (3) A notification made under this Code has effect for 15 years from the date on which the notification is made. If a notification is made for clearing under a Division which authorises the re-categorisation of land, and land is re-categorised as a result of that authorisation, the expiry of the notification does not affect that re-categorisation.
- (4) Unless otherwise specified in this Code, notification may not be made over land that is an existing treatment area under any Division of this Code.
- (5) A landholder who holds a voluntary code compliant certificate is exempt from the requirement to notify Local Land Services of the intended clearing of native vegetation that is specified in the certificate.
- (6) A landholder who holds a voluntary code compliant certificate must comply with the terms of that certificate.
- (7) A voluntary code compliant certificate issued under this Code has effect for 15 years from the date on which the certificate is issued. If a voluntary code compliant certificate authorises the re-categorisation of land, and land is re-categorised as a result of that authorisation, the expiry of the certificate does not affect that re-categorisation.
- (8) Unless otherwise specified in this Code, a voluntary code compliant certificate may not be issued over land that is an existing treatment area under any Division of this Code.

13 Certification of intended clearing of native vegetation

- (1) Where specified in this Code, clearing of native vegetation may only be carried out after Local

Land Services has certified in a mandatory code compliant certificate that the intended clearing complies with the terms of the relevant Part of the Code.

- (2) A landholder who holds a mandatory code compliant certificate must comply with the terms of that certificate.
- (3) Subject to subclause (4), a mandatory code compliant certificate issued under this Code has effect for 15 years from the date on which the certificate is issued.
- (4) A mandatory code compliant certificate which establishes a set aside area has effect in perpetuity.
- (5) If a mandatory code compliant certificate authorises the re-categorisation of land, and land is re-categorised as a result of that authorisation, the expiry of the certificate does not affect that re-categorisation.
- (6) Unless otherwise specified in this Code, a mandatory code compliant certificate may not be issued over land that is an existing treatment area under any Division of this Code.

14 Special provisions relating to Division 3 of Part 3 (Mosaic thinning of woody native vegetation)

- (1) Any area cleared under Division 3 of Part 3 may not be used as a set aside area under this Code.
- (2) Subject to subclause (3), if a certificate has been issued under Division 3 of Part 3 in respect of land, a notification or certificate under any other Division of this Code may not be given or issued authorising clearing on that land or any part of that land.
- (3) A certificate under Division 3 or 4 of Part 5 (Equity) of this Code (an *Equity certificate*) may be issued in respect of land the subject of a certificate under Division 3 of Part 3 but only if—
 - (a) any clearing authorised by the Equity certificate is authorised only on land already cleared under Division 3 of Part 3, and
 - (b) any set aside areas required to be established by the Equity certificate are comprised only of retained areas under Division 3 of Part 3, and
 - (c) the clearing and set asides under the Equity certificate are wholly contained in a single treatment area under Division 3 of Part 3.
- (4) Subclause (3) does not permit the issue of an Equity certificate over an existing treatment area.

15 Buffer distances for water bodies

- (1) Where this Code refers to buffer distances from a water body, the distances set out in the table below apply.

Water body type	Distance within which clearing is not permitted (metres)
Unmapped and 1 st order streams	10
2 nd order stream	20

3 rd order stream	30
4 th and 5 th order stream	40
6 th order stream and above	50
Local wetland	20
Important wetland	50
Estuarine area	50

- (2) Buffer distance is to be measured—
- (a) in the case of a stream—from the top bank of the stream, or
 - (b) in the case of a wetland or estuarine area—from the edge of the wetland or estuarine area.
- (3) For the purposes of this Code, a reference to a stream is a reference to an incised watercourse that exhibits the features of a defined channel with bed and banks.

16 Power for LLS to refuse certificate

Local Land Services may refuse to issue a voluntary code compliant certificate or a mandatory code compliant certificate, or may withdraw the authority to clear by revoking a notification, if—

- (a) the area of land on which clearing of native vegetation is proposed was subject to a notification, voluntary code compliant certificate or mandatory code compliant certificate at any time in the 5 years prior to the notification or the consideration of the application for a voluntary or mandatory code compliant certificate, and
- (b) in the opinion of Local Land Services, the cumulative impact of all clearing, including the proposed clearing, is more than would be permitted under any single Part of this Code, would undermine the effectiveness of any condition of this Code or would result in excessive or broadscale clearing.

Note. The intention of this clause is to prevent “stacking”, that is, the successive application of Parts of this Code to the same parcel of land that would result in more cumulative clearing than the Code contemplates and lead to adverse impacts on biodiversity. It is not intended to restrict the legitimate application of more than one Part of this Code on a particular property.

17 Establishment of set aside areas

- (1) Where specified in this Code, a mandatory code compliant certificate must require the establishment of a set aside area.
- (2) A mandatory code compliant certificate that requires the establishment of a set aside area must identify the location of the set aside area and the management obligations (including any management actions that are prescribed or precluded) that apply in the set aside area, in addition to any management obligations that are imposed by this Code.
- (3) Clearing of native vegetation in a set aside area, including clearing for allowable activities, is not permitted unless the clearing is authorised by a mandatory code compliant certificate.

Note. Under section 60ZC (5) (b) of the *Local Land Services Act 2013*, a landholder must not clear native

vegetation on a set aside area, other than—

- (a) in the course of land management activities authorised or required by this Code or a certificate, or
- (b) for allowable activities that improve the native vegetation on the set aside area but only if such activities are authorised by this Code or a certificate.

18 Management of set aside areas

- (1) The landholder of land on which a set aside has been established must—
 - (a) make reasonable efforts to manage the set aside area in a manner expected to promote vegetation integrity in the set aside area,
 - (b) keep records of all management actions undertaken in the set aside area including the timing and location of management actions, and
 - (c) on request by Local Land Services, provide records of management actions undertaken in the set aside area.
- (2) In meeting the general management requirement under subclause (1) (a), a landholder may only undertake management actions consistent with set aside management strategies and tactics set out in Schedule 3 to this Code.
- (3) In addition to the general management requirement under subclause (1) (a), the landholder must carry out any management actions set out in the mandatory code compliant certificate, including any revegetation requirements.
- (4) If Local Land Services forms the view that a landholder has not met the general management requirement under subclause (1) (a) or any management actions set out in the mandatory code compliant certificate, Local Land Services may, after consultation with the landholder, amend the relevant mandatory code compliant certificate to prescribe or preclude specific management actions.
- (5) Management actions prescribed or precluded by Local Land Services must not require the landholder to make more than reasonable effort to manage the set aside area and must be consistent with the management strategies and tactics set out in Schedule 3 to this Code.
- (6) The consultation referred to in subclause (4) must include, as a minimum, the following steps—
 - (a) Local Land Services must provide the landholder with notice of the proposed amendments to the mandatory code compliant certificate, along with reasons for the proposed amendments,
 - (b) the landholder must be provided with a reasonable opportunity in which to make submissions on the proposed amendments,
 - (c) Local Land Services must consider any submissions made by the landholder prior to making a decision on the proposed amendments.
- (7) A certificate may only be amended under subclause (4) with the approval of an officer of Local Land Services at Team Leader level or higher.
- (8) Local Land Services may specify allowable activities that are permitted in a set aside area where

specified allowable activities are reasonably necessary to facilitate management of the set aside area and those activities would have no material impact on, or would lead to an improvement in, the biodiversity value of the set aside area.

19 Identification of vulnerable and endangered ecological communities

- (1) For the purposes of this Code, native vegetation is taken to be an instance of a vulnerable ecological community or an endangered ecological community where, in the opinion of Local Land Services, the vegetation forms a functioning ecological community that is likely to be viable over the long term.
- (2) When forming an opinion about whether vegetation forms a functioning ecological community that is likely to be viable over the long term, Local Land Services is to have regard to—
 - (a) the structure, composition and function of the vegetation including the species present and the proportion of each species in each vegetation strata, and
 - (b) the area over which the vegetation is present, including the shape of the area and the ratio of area to edge, and
 - (c) the location of the vegetation in relation to other native vegetation in the landscape, and
 - (d) impacts on the vegetation arising from activities or conditions on land immediately adjacent to the vegetation, including whether such activities or conditions are likely to have an adverse impact on the vegetation over time.
- (3) This clause does not apply to intended clearing of native vegetation that requires notification to Local Land Services unless the landholder applies to Local Land Services for a voluntary code compliant certificate.
- (4) Local Land Services may prepare guidelines to assist it in determining whether vegetation forms a functioning ecological community that is likely to be viable over the long term. If no guidelines have been made in respect of a particular ecological community, the vegetation is taken to form a functioning ecological community that is likely to be viable over the long term if, in the opinion of Local Land Services, 50% or more of the vegetation comprising the overstory, midstory or groundcover in the relevant area are species identified in the Final Determination for that community.

19A Identification of certain critically endangered ecological communities

- (1) This clause applies to the following critically endangered ecological communities—
 - (a) Monaro Tableland Cool Temperate Grassy Woodland in the South Eastern Highlands Bioregion, and
 - (b) Werriwa Tablelands Cool Temperate Grassy Woodland in the South Eastern Highlands and South East Comer Bioregions.
- (2) For the purposes of this Code, native vegetation is taken not to be an instance of a critically endangered ecological community to which this clause applies if, in the opinion of Local Land Services, the vegetation does not form a functioning ecological community that is likely to be viable in the long term.

- (3) When forming an opinion about whether vegetation does not form a functioning ecological community that is likely to be viable in the long term, Local Land Services is to have regard to—
 - (a) the structure, composition and function of the vegetation including the species present and the proportion of each species in each vegetation strata, and
 - (b) the area over which the vegetation is present, including the shape of the area and the ratio of area to edge, and
 - (c) the location of the vegetation in relation to other native vegetation in the landscape, and
 - (d) impacts on the vegetation arising from activities or conditions on land immediately adjacent to the vegetation, including whether such activities or conditions are likely to have an adverse impact on the vegetation over time.
- (4) This clause does not apply to intended clearing of native vegetation that requires notification to Local Land Services unless the landholder applies to Local Land Services for a voluntary code compliant certificate.
- (5) The Secretary of the Department of Planning, Industry and Environment may approve guidelines to assist Local Land Services in determining whether vegetation does not form a functioning ecological community that is likely to be viable in the long term.

20 Specified restrictions in this Code

Any requirements in this Code that are described as ‘Landholding restrictions’, ‘Treatment area restrictions’ and ‘Method and impact restrictions’ are in addition to any other applicable requirements in this Code, a certificate, the *Local Land Services Act 2013* and the *Local Land Services Regulation 2014*.

Part 2 Invasive Native Species

Division 1 Low impact clearing of invasive native species

21 Permitted clearing of native vegetation

- (1) This Division authorises clearing of invasive native species from a treatment area in accordance with the conditions in this Division.
- (2) Clearing of invasive native species is only permitted under this Division if, in Schedule 1 to this Code, the species is identified as an invasive native species for the region in which the clearing is proposed.
- (3) This Division also authorises the clearing of vegetation that is not an invasive native species but only in accordance with the conditions of this Division.

22 Requirements prior to undertaking permitted clearing

Clearing of native vegetation may only be carried out under this Division after notification of intended clearing has been provided to Local Land Services or Local Land Services has issued a voluntary code compliant certificate for the intended clearing.

23 Landholding restrictions

Nil.

24 Treatment area restrictions

Nil.

25 Method and impact conditions

- (1) Clearing is limited to methods that are likely to result in minimal disturbance to soil and groundcover, including but not limited to burning and clearing of individual plants.
- (2) In the case of clearing on land that is not Category 2-vulnerable regulated land, the clearing may cause no more than minimal disturbance to soil and groundcover.
- (3) In the case of clearing on land that is Category 2-vulnerable regulated land, the clearing may cause no more than nil disturbance to soil and groundcover.

Note. *Minimal disturbance to soil and groundcover* and *nil disturbance to soil and groundcover* are defined in Schedule 5.

- (4) Clearing of native vegetation comprising non-invasive native species is permitted only to the minimum extent necessary.
- (5) Trees and shrubs which are non-invasive native species must not exceed 10% of the total number of trees and shrubs cleared from the treatment area.
- (6) Notwithstanding subclause (4), where clearing is undertaken by clearing of individual plants, clearing of non-invasive native species must not exceed 2% of the total number of trees and shrubs cleared from the treatment area.
- (7) Where clearing is undertaken other than by burning—
 - (a) clearing is limited to invasive native species with a diameter at breast height over bark of 20 centimetres or less; or for the following species, 30 centimetres or less—
 - (i) *Acacia aneura* (Mulga)
 - (ii) *Acacia excelsa* (Ironwood)
 - (iii) *Callitris endlicheri* (Black Cypress Pine)
 - (iv) *Callitris glaucophylla* (White Cypress Pine)
 - (v) *Casuarina cristata* (Belah)
 - (vi) *Eucalyptus camaldulensis* (River Red Gum)
 - (vii) *Eucalyptus coolabah* (Coolibah)
 - (viii) *Eucalyptus intertexta* (Red Box)
 - (ix) *Eucalyptus largiflorens* (Black Box)

- (x) *Eucalyptus populnea* subsp. *bimbil* (Bimble Box, Poplar Box)
- (xi) *Geijera parviflora* (Wilga)
- (b) at least 20 plants comprising the invasive native species cleared from the treatment area must be retained in each hectare of the treatment area where the species listed in subclause (a) are cleared, and
- (c) retained plants referred to in subclause (b) must be at least 2 metres in height and the composition of retained plants should reflect the proportion of each invasive native species present in the treatment area prior to permitted clearing being carried out, and
- (d) clearing may be undertaken in no more than 90% of each 1000 hectares of the treatment area or part thereof.

Note. Clearing for the allowable activity of sustainable grazing is not restricted by this Code. Sustainable grazing is grazing by livestock, and the management of grasslands used for grazing, that is not likely to result in the substantial long-term decline in the structure and composition of native vegetation. Management of grasslands includes (without limitation) the over-sowing or fertilisation of grasslands.

Division 2 Moderate impact clearing of invasive native species

26 Permitted clearing of native vegetation

- (1) This Division authorises clearing of invasive native species from a treatment area in accordance with the conditions in this Division.
- (2) Clearing of invasive native species is only permitted under this Division if, in Schedule 1 to this Code, the species is identified as an invasive native species for the region in which the clearing is proposed.

27 Requirements prior to undertaking permitted clearing

Clearing of native vegetation may only be carried out under this Division after Local Land Service has issued a mandatory code compliant certificate for the intended clearing.

28 Landholding restrictions

Clearing of native vegetation is not permitted under this Division on a landholding that is a small holding.

29 Treatment area restrictions

In the opinion of Local Land Services, invasive native species must—

- (a) comprise at least 50% of the trees and shrubs in the treatment area as a proportion of the total number of trees and shrubs in the treatment area, or
- (b) be invading a plant community in the treatment area where the invasive native species is not previously known to occur.

30 Method and impact conditions

- (1) Unless otherwise specified in a mandatory code compliant certificate issued under this Division,

- clearing is not permitted—
- (a) on Category 2-vulnerable regulated land, or
 - (b) within the buffer distance from a water body set out in clause 15 of this Code, or
 - (c) on land that contains soil with a clay content of less than 5%, or
 - (d) on land that is a run-on area on which there is evidence of existing erosion.
- (2) For the purposes of subclause (1), specified conditions may only be varied in a mandatory code compliant certificate if Local Land Services is satisfied that the variation is for a legitimate purpose, is reasonable in the circumstances and would have no significant adverse environmental impacts.
- (3) Clearing of native vegetation that comprises non-invasive native species is permitted only to the minimum extent necessary.
- (4) Clearing of trees and shrubs that are not invasive native species must not exceed 20% of the total number of trees and shrubs cleared from the treatment area.
- (5) Non-invasive native species with a diameter at breast height over bark greater than 20 centimetres must be retained.
- (6) Clearing is limited to invasive native species with a diameter at breast height over bark of 20 centimetres or less, or for the following species, 30 centimetres or less—
- (i) *Acacia aneura* (Mulga)
 - (ii) *Acacia excelsa* (Ironwood)
 - (iii) *Callitris endlicheri* (Black Cypress Pine)
 - (iv) *Callitris glaucophylla* (White Cypress Pine)
 - (v) *Casuarina cristata* (Belah)
 - (vi) *Eucalyptus camaldulensis* (River Red Gum)
 - (vii) *Eucalyptus coolabah* (Coolibah)
 - (viii) *Eucalyptus intertexta* (Red Box)
 - (ix) *Eucalyptus largiflorens* (Black Box)
 - (x) *Eucalyptus populnea* subsp. *bimbil* (Bimble Box, Poplar Box)
 - (xi) *Geijera parviflora* (Wilga)
- (7) Where the species listed in subclause (6) are cleared, at least 20 plants comprising the invasive native species cleared from the treatment area must be retained in each hectare of the treatment area.
- (8) Retained plants referred to in subclause (7) must be at least 2 metres in height and the

composition of retained plants should reflect the proportion of each invasive native species present in the treatment area prior to permitted clearing being carried out.

- (9) Clearing may be undertaken in no more than 90% of each 1000 hectares of the treatment area or part thereof.
- (10) Annual or non-persistent perennial species may be introduced into the treatment area up to 5 times in a 15 year period but in no more than 3 consecutive years. The 15 year period commences on the date of issue of the mandatory code compliant certificate.

Note. Clearing for the allowable activity of sustainable grazing is not restricted by this Code. Sustainable grazing is grazing by livestock, and the management of grasslands used for grazing, that is not likely to result in the substantial long-term decline in the structure and composition of native vegetation. Management of grasslands includes (without limitation) the over-sowing or fertilisation of grasslands.

Part 3 Pasture Expansion

Division 1 Uniform thinning of woody native vegetation (notification)

31 Permitted clearing of native vegetation

This Division authorises clearing native trees and shrubs from a treatment area such that—

- (a) the density of remaining native trees and shrubs in the treatment area is at least 225 stems per hectare (being the minimum number of stems which must be retained in each hectare of the treatment area), and
- (b) retained trees and shrubs in the treatment area are, as far as reasonably possible—
 - (i) trees and shrubs that are at least 2 metres in height, and
 - (ii) evenly dispersed in the treatment area.

32 Requirements prior to undertaking permitted clearing

Clearing of native vegetation may only be carried out under this Division after notification of intended clearing has been provided to Local Land Services or Local Land Services has issued a voluntary code compliant certificate for the intended clearing.

33 Landholding restrictions

- (1) Clearing of native vegetation is not permitted under this Division on a landholding that is a small holding.
- (2) Clearing of native vegetation is not permitted under this Division on a landholding that is predominately in the Coastal Zone.

34 Treatment area restrictions

- (1) Clearing of native vegetation is only permitted under this Division if the vegetation comprises one of the following Keith vegetation formations—
 - (a) Arid Shrubland (Acacia sub-formation),
 - (b) Dry Sclerophyll Forest,

- (c) Forested Wetland,
- (d) Grassy Woodland,
- (e) Semi-arid Woodland,
- (f) Wet Sclerophyll Forest (Grassy sub-formation).
- (a)
- (b)

Note. Keith vegetation formations are described in Schedule 2 to this Code. In this subclause, a reference to a formation includes a reference to any sub-formations of that formation described in Schedule 2.

- (2) Clearing of native vegetation is not permitted under this Division in a treatment area that—
 - (a) is less than 1 hectare in size, or
 - (b) contains a vulnerable ecological community or an endangered ecological community.

35 Method and impact conditions

- (1) All native trees with a diameter at breast height over bark greater than 90 centimetres must be retained.
- (2) Clearing carried out on Category 2-vulnerable regulated land or within the buffer distance from a water body set out in clause 15 of this Code may only be carried out only by clearing individual plants with nil disturbance to soil and groundcover.

Note. Clearing for the allowable activity of sustainable grazing is not restricted by this Code. Sustainable grazing is grazing by livestock, and the management of grasslands used for grazing, that is not likely to result in the substantial long-term decline in the structure and composition of native vegetation. Management of grasslands includes (without limitation) the over-sowing or fertilisation of grasslands.

Division 2 Uniform thinning of woody native vegetation (certification)

36 Permitted clearing of native vegetation

- (1) This Division authorises clearing native trees and shrubs from a treatment area such that—
 - (a) the density of remaining native trees and shrubs in the treatment area is at least the minimum stem density for the Keith vegetation formation set out in the relevant table below (being the minimum number of stems which must be retained in each hectare of the treatment area), and
 - (b) retained trees and shrubs in the treatment area are, as far as reasonably possible, evenly dispersed.
 - (c)

Table 1

For vegetation that is not part of an endangered ecological community

Keith vegetation formation

Minimum stem density

Arid Shrubland (Acacia sub-formation)	75 stems per hectare
Dry Sclerophyll Forest	150 stems per hectare
Forested Wetland	115 stems per hectare
Grassy Woodland	115 stems per hectare
Semi-arid Woodland	75 stems per hectare
Wet Sclerophyll Forest (Grassy sub-formation)	150 stems per hectare

Table 2
For vegetation that is part of a vulnerable ecological community or an endangered ecological community

Keith vegetation formation	Minimum stem density
Arid Shrubland (Acacia sub-formation)	115 stems per hectare
Dry Sclerophyll Forest	225 stems per hectare
Forested Wetland	170 stems per hectare
Grassy Woodland	170 stems per hectare
Semi-arid Woodland	115 stems per hectare
Wet Sclerophyll Forest (Grassy sub-formation)	225 stems per hectare

- (d) In this subclause, a reference to a formation includes a reference to any sub-formations of that formation described in Schedule 2.
- (2) The mandatory code compliant certificate issued by Local Land Services may specify an alternative minimum stem density where Local Land Services is satisfied that—
- the benchmark density of the plant community type in which the clearing is proposed varies significantly from the average benchmark density for the formation to which the plant community type belongs and a higher stem density is required to avoid significant adverse environmental impacts at a local or regional scale, or
 - a lower stem density is for a legitimate purpose, is reasonable in the circumstances and would have no significant adverse environmental impacts.

37 Requirements prior to undertaking permitted clearing

Clearing of native vegetation may only be carried out under this Division after Local Land Service has issued a mandatory code compliant certificate for the intended clearing.

38 Landholding restrictions

Clearing of native vegetation is not permitted under this Division on a landholding that is predominately in the Coastal Zone unless Local Land Services is satisfied the primary use of the land

is agricultural activities.

39 Treatment area restrictions

- (1) Other than in the Coastal Zone, clearing of native vegetation is only permitted under this Division if the vegetation in the treatment area comprises one of the following Keith vegetation formations—
 - (a) Arid Shrubland (Acacia sub-formation),
 - (b) Dry Sclerophyll Forest,
 - (c) Forested Wetland,
 - (d) Grassy Woodland,
 - (e) Semi-arid Woodland,
 - (f) Wet Sclerophyll Forest (Grassy sub-formation).
- (2) In the Coastal Zone, clearing of native vegetation is only permitted under this Division if the vegetation in the treatment area comprises one of the following Keith vegetation formations—
 - (a) Arid Shrubland (Acacia sub-formation),
 - (b) Dry Sclerophyll Forest,
 - (c) Grassy Woodland,
 - (d) Semi-arid Woodland,
 - (e) Wet Sclerophyll Forest (Grassy sub-formation).
- (3) Clearing of native vegetation is not permitted under this Division in a treatment area that is less than 1 hectare in size.
- (4) In this clause, a reference to a formation includes a reference to any sub-formations of that formation described in Schedule 2.

40 Method and impact conditions

- (1) All native trees with a diameter at breast height over bark greater than 90 centimetres must be retained.
- (2) Unless otherwise specified in a mandatory code compliant certificate issued under this Division, in the Coastal Zone clearing is limited to the following genera: *Acacia*, *Allocasuarina*, *Angophora*, *Callitris*, *Casuarina*, *Corymbia*, *Eucalyptus*, *Leptospermum*, *Melaleuca* and *Syncarpia*.
- (3) Unless otherwise specified in a mandatory code compliant certificate issued under this Division, clearing carried out on Category 2-vulnerable regulated land or within the buffer distance from a water body set out in clause 15 of this Code may only be carried out only by clearing individual plants with nil disturbance to soil and groundcover.

- (4) For the purposes of subclauses (2) and (3), specified conditions may only be varied in a mandatory code compliant certificate if Local Land Services is satisfied that the variation is for a legitimate purpose, is reasonable in the circumstances and would have no significant adverse environmental impacts.

Note. Clearing for the allowable activity of sustainable grazing is not restricted by this Code. Sustainable grazing is grazing by livestock, and the management of grasslands used for grazing, that is not likely to result in the substantial long-term decline in the structure and composition of native vegetation. Management of grasslands includes (without limitation) the over-sowing or fertilisation of grasslands.

Division 3 Mosaic thinning of woody native vegetation

41 Permitted clearing of native vegetation

- (1) This Division authorises clearing native trees and shrubs from a treatment area such that—
- (a) the canopy cover of remaining native trees in the treatment area comprises at least 30% of the total treatment area, and
 - (b) retained native trees in the treatment area are, as far as reasonably possible, in patches of at least 5 hectares, which are evenly distributed throughout the treatment area, and
 - (c) at least one patch of at least 5 hectares is retained in each 50 hectare portion of the treatment area.
- (2) In subclause (1) (a), a reference to ‘canopy cover’ is a reference to the area covered by any part of the canopy of a tree, including any gaps in that canopy.
- (3) The mandatory code compliant certificate issued by Local Land Services may specify where retained patches of trees and shrubs may be cleared to the benchmark stem density for the relevant Keith vegetation formation or sub-formation.

42 Requirements prior to undertaking permitted clearing

Clearing of native vegetation may only be carried out under this Division after Local Land Services has issued a mandatory code compliant certificate for the intended clearing.

43 Landholding restrictions

- (1) Clearing of native vegetation is not permitted under this Division on a landholding on which, in the opinion of Local Land Services, Category 2-regulated land comprises less than 30% of the total area of the landholding to which Part 5A of the *Local Land Services Act 2013* applies.
- (2) Clearing of native vegetation is not permitted under this Division on a landholding that is a small holding.
- (3) Clearing of native vegetation is not permitted under this Division on a landholding that is predominately in the Coastal Zone unless Local Land Services is satisfied the primary use of the land is agricultural activities.

44 Treatment area restrictions

On a single landholding, the total cumulative treatment areas under this Division must not exceed 30% of the total area of the landholding to which Part 5A of the *Local Land Services Act 2013*

applies.

45 Method and impact conditions

- (1) In the case of clearing on land that is not Category 2-vulnerable regulated land, the clearing may cause no more than minimal disturbance to soil and groundcover.
- (2) Unless otherwise specified in a mandatory code compliant certificate issued under this Division, clearing of native vegetation is not permitted if the vegetation is on Category 2-vulnerable regulated land or within the buffer distance from a water body set out in clause 15 of this Code.
- (3) For the purposes of subclause (1), specified conditions may only be varied in a mandatory code compliant certificate if Local Land Services is satisfied that the variation is for a legitimate purpose, is reasonable in the circumstances and would have no significant adverse environmental impacts.
- (4) If a mandatory code compliant certificate is issued authorising clearing on Category 2-vulnerable regulated land, that certificate must contain a condition restricting such clearing to clearing with nil disturbance to soil and groundcover.
- (5) Clearing of native vegetation is not permitted if the vegetation forms part of a vulnerable ecological community or an endangered ecological community.
- (6) All native trees with a diameter at breast height over bark greater than 90 centimetres must be retained.
- (7) If satisfied that it is reasonably necessary under the circumstances, Local Land Services may, in the mandatory code compliant certificate, restrict clearing of native vegetation under this Division to vegetation comprising one of the following Keith vegetation formations—
 - (a) Arid Shrubland (Acacia sub-formation),
 - (b) Dry Sclerophyll Forest,
 - (c) Forested Wetland,
 - (d) Grassy Woodland,
 - (e) Semi-arid Woodland,
 - (f) Wet Sclerophyll Forest (Grassy sub-formation).

In this subclause, a reference to a formation includes a reference to any sub-formations of that formation described in Schedule 2.

- (8) The mandatory code compliant certificate issued by Local Land Services under this Division may specify species of native vegetation that may not be cleared in the treatment area.

Note. Clearing for the allowable activity of sustainable grazing is not restricted by this Code. Sustainable grazing is grazing by livestock, and the management of grasslands used for grazing, that is not likely to result in the substantial long-term decline in the structure and composition of native vegetation. Management of grasslands includes (without limitation) the over-sowing or fertilisation of grasslands.

46 Other conditions

This Division does not authorise a change in land use, for example, from grazing to cropping. Accordingly, any area cleared under this Division may not be used for cropping.

Part 4 Continuing Use

Division 1 Managing woody native regrowth in managed native pastures

47 Authorised clearing of native vegetation

This Division authorises clearing of native trees and shrubs that have regrown since 1 January 1990, other than trees and shrubs that—

- (a) have regrown following unlawful clearing, or
- (b) have regrown following clearing caused by bushfire, flood, drought or other natural cause, or
- (c) have regrown after clearing under Part 2 or Part 3 of this Code.
- (e)

48 Requirements prior to undertaking authorised clearing

Nil.

49 Landholding restrictions

Nil.

50 Treatment area restrictions

Clearing of native vegetation under this Division is not authorised on land that is a treatment area under Part 3 (Pasture Expansion) of this Code.

51 Method and impact conditions

Clearing carried out on Category 2-vulnerable regulated land or within the buffer distance from a water body set out in clause 15 of this Code may only be carried out only by clearing individual plants and with nil disturbance to soil and groundcover.

Note. Clearing for the allowable activity of sustainable grazing is not restricted by this Code. Sustainable grazing is grazing by livestock, and the management of grasslands used for grazing, that is not likely to result in the substantial long-term decline in the structure and composition of native vegetation. Management of grasslands includes (without limitation) the over-sowing or fertilisation of grasslands.

Division 2 Continuation of land management activities undertaken after 1990

52 Permitted clearing of native vegetation

This Division authorises clearing of native vegetation consistent with a land management activity lawfully undertaken at any time between 1 January 1990 and commencement of the Act.

Land management activity means any management of or impacts on native vegetation, including

clearing, undertaken for an agricultural purpose.

53 Requirements prior to undertaking permitted impacts

- (1) Clearing of native vegetation may only be carried out under this Division after Local Land Services has issued a mandatory code compliant certificate for the intended clearing.
- (2) Local Land Services is not to issue a mandatory code compliant certificate for the intended clearing unless it is satisfied that the intended clearing could not be authorised under any other Division of this Code.

54 Landholding restrictions

Nil.

55 Treatment area restrictions

Nil.

56 Method and impact conditions

- (1) Clearing of native vegetation must not exceed clearing consistent with the land management activity.
- (2) Clearing may only be carried out on the area on which clearing consistent with the land management activity was carried out.
- (3) Clearing may cause no more than minimal disturbance to soil and groundcover, unless a greater level of disturbance is consistent with the land management activity.

Note. Clearing for the allowable activity of sustainable grazing is not restricted by this Code. Sustainable grazing is grazing by livestock, and the management of grasslands used for grazing, that is not likely to result in the substantial long-term decline in the structure and composition of native vegetation. Management of grasslands includes (without limitation) the over-sowing or fertilisation of grasslands.

Division 3 Continuation of rotational activity undertaken prior to 1990

57 Authorised clearing of native vegetation

This Division authorises the clearing of native vegetation—

- (a) that is associated with a rotational land management activity that—
 - (f)
 - (i) was lawfully undertaken in a treatment area after 1 January 1943 in the case of a landholding that is predominately in the Western Zone or after 1 January 1950 in any other case, and
 - (ii) remained in place at 1 January 1990, and
 - (iii) is reasonable and in accordance with accepted farming practice, and
 - (g)
- (b) that has regrown as a result of that land management activity.

58 Requirements prior to undertaking clearing

- (1) Clearing of native vegetation may only be carried out under this Division after Local Land Services has issued a mandatory code compliant certificate for the intended clearing.
- (2) A mandatory code compliant certificate issued under this Division must—
 - (a) specify the rotational land management activity permitted to be undertaken in a treatment area; and
 - (b) set out the extent of clearing of native vegetation that is authorised on the basis that it is associated with the specified rotational land management activity.

59 Landholding restrictions

Nil.

60 Treatment area restrictions

Nil.

61 Method and impact conditions

Clearing of native vegetation may only be undertaken to an extent consistent with clearing associated with previous implementation of the specified rotational land management activity. However, this clause does not restrict the manner in which the clearing may be undertaken.

62 Re-categorisation of land

- (1) The mandatory code compliant certificate issued by Local Land Services under this Division may authorise the re-categorisation of the treatment area to Category 1-exempt land if the rotational land management activity involves substantial impacts on all vegetation strata present on the treatment area.
- (2) If the mandatory code compliant certificate issued by Local Land Services under this Division authorises re-categorisation of the treatment area to Category 1-exempt land, the method and impact conditions prescribed in this Division do not apply to the treatment area.

Part 5 Equity

Division 1 Removing native vegetation from paddock tree areas

63 Permitted clearing of native vegetation

- (1) This Division authorises clearing native vegetation from paddock tree areas in accordance with the conditions in this Division.

Paddock tree area means an area of Category 2-regulated land that is less than 500 square metres and is completely surrounded by Category 1-exempt land.

- (2) On any landholding, native vegetation may be cleared from paddock tree areas at a rate of one paddock tree area for each 50 hectares of landholding in any 12 month period.
- (3) For the purposes of determining the number of paddock tree areas from which native vegetation

has been cleared in any 12 month period, clearing is taken to have been carried out on the date on which notification of intended clearing is made.

64 Requirements prior to undertaking permitted clearing

Clearing of native vegetation may only be carried out under this Division after notification of intended clearing has been provided to Local Land Services or Local Land Services has issued a voluntary code compliant certificate for the intended clearing. Notification must be given for each 12 month period in which clearing is intended to be carried out.

65 Landholding restrictions

- (1) Clearing of native vegetation is not permitted under this Division on a landholding on which—
 - (a) Category 2-regulated land comprises less than 10% of the total area of the landholding to which Part 5A of the *Local Land Services Act 2013* applies, or
 - (b) permitted clearing under this Division would reduce the proportion of Category 2-regulated land to less than 10% of the total area of land of the landholding to which Part 5A of the *Local Land Services Act 2013* applies.
- (2) In determining the proportion of Category 2-regulated land for the purpose of subclause (1) (b), the following areas are to be disregarded—
 - (a) any area of Category 2-regulated land that has been authorised to be re-categorised to Category 1-exempt land,
 - (b) any area of Category 2-regulated land that has been designated as Category 2-regulated land because native vegetation was unlawfully cleared on that area or because the land was subject to a requirement to take remedial action (as specified in section 60I (2) (f) of the Act).
- (3) Clearing of native vegetation is not permitted under this Division on a landholding that is a small holding.
- (4) Clearing of native vegetation is not permitted under this Division on a landholding that is predominately in the Coastal Zone unless Local Land Services is satisfied the primary use of the land is agricultural activities.

66 Treatment area restrictions

- (1) Clearing of native vegetation is not permitted under this Division in a treatment area that is entirely or partly on Category 2-vulnerable regulated land or within the buffer distance from a water body set out in clause 15 of this Code.
- (2) Clearing of native vegetation is not permitted under this Division in a treatment area that—
 - (a) is in the Central Zone or Coastal Zone,
 - (b) contains Crown land within the meaning of the *Crown Lands Act 1989*, and
 - (c) is reserved or dedicated for the purposes of a travelling stock reserve within the meaning of *Local Land Services Act 2013*.

67 Method and impact conditions

Clearing of native vegetation is not permitted if the person undertaking the clearing knows that critically endangered species are present.

68 Re-categorisation of land

- (1) Land comprising a treatment area that was cleared in accordance with this Division is authorised to be re categorised to Category 1-exempt land. Re-categorisation is only authorised if the clearing has been carried out.
- (2) This subclause applies regardless of whether the clearing was carried out under the authority of a notification or a voluntary code compliant certificate.

Division 2 Clearing compromised native groundcover

69 Permitted clearing of native vegetation

- (1) This Division authorises clearing of native vegetation that consists only of groundcover if—
 - (a) less than 50% of the vegetation cover in the treatment area is comprised of native species of vegetation, and
 - (b) not less than 10% of the treatment area is covered with vegetation (whether dead or alive).
- (2) The treatment area may not include any area where native species comprise more than 50% of the vegetation cover.
- (3) The percentage referred to in subclause (1) must be calculated according to the following—
 - (a) the percentages are to be calculated by the landholder in a scientific and objective manner that is appropriate to the area proposed to be cleared and the species of vegetation that are present,
 - (b) the percentages must be calculated at the time of year when the proportion of the native groundcover is likely to be at its maximum,
 - (c) the percentage must not be calculated if the groundcover has been significantly disturbed in the preceding six months, for example by fire, drought or heavy grazing.
- (4) The landholder must retain for at least 5 years after the clearing of native vegetation under this Division a record of the calculation carried out for the purposes of this clause, consisting of—
 - (a) a map showing the area that was the subject of the calculation, and
 - (b) a record of the season in which the calculation was made, and
 - (c) a statement as to how the calculation was made, and
 - (d) photographs that clearly show the type of groundcover in the mapped area, taken at the time the calculation was made.

70 Requirements prior to undertaking permitted clearing

Clearing of native vegetation may only be carried out under this Division after notification of intended clearing has been provided to Local Land Services or Local Land Services has issued a voluntary code compliant certificate for the intended clearing.

71 Landholding restrictions

Nil.

72 Treatment area restrictions

- (1) Clearing of native vegetation is not permitted under this Division in a treatment area that is entirely or partly on Category 2-vulnerable regulated land or within the buffer distance from a water body set out in clause 15 of this Code.
- (2) Notwithstanding clauses 12 (4) and (8) and 13 (6) of this Code, this Division authorises clearing on land that is an existing treatment area under any Division of this Code and clearing authorised under any Division of this Code may be carried out on land that is an existing treatment area under this Division.
- (3) Clearing of native vegetation under this Division is not authorised on land that is a treatment area under Part 3 (Pasture Expansion) of this Code.

73 Method and impact conditions

Clearing of native vegetation is not permitted if the person undertaking the clearing knows that critically endangered species are present.

74 Re-categorisation of land

- (1) Land comprising a treatment area that was cleared in accordance with this Division is authorised to be re-categorised to Category 1-exempt land. Re-categorisation is only authorised if the clearing has been carried out.
- (2) This subclause applies regardless of whether the clearing was carried out under the authority of a notification or a voluntary code compliant certificate.
- (3) However, land cleared under this Division may not be re-categorised where the land is beneath the canopy or drip line of woody vegetation being woody vegetation that satisfies the criteria for categorisation as Category 2-regulated land.

Note. A landholder may be required to provide the records specified in clause 69(4) to the Environment Agency Head at the time that re-categorisation is sought.

Division 3 Removing native vegetation from small areas

75 Permitted clearing of native vegetation

- (1) This Division authorises clearing native vegetation from small areas in accordance with the conditions in this Division.
- (2) *Small area* means—

- (a) in the case of a landholding wholly or predominately in the Western Zone—an area of Category 2-regulated land not more than 4 hectares, or
 - (b) in the case of a landholding wholly or predominately in the Central Zone—an area of Category 2-regulated land not more than 3 hectares, or
 - (c) in the case of a landholding wholly or predominately in the Coastal Zone—an area of Category 2-regulated land not more than 1 hectare.
- (3) On any landholding, native vegetation may be cleared from small areas at a rate of one small area for each 250 hectares of landholding in any 12 month period.
- (4) For the purposes of determining the number of small areas from which native vegetation has been cleared in any 12 month period, clearing is taken to have been carried out on the date on which a mandatory code compliant certificate is issued.

76 Requirements prior to undertaking permitted clearing

- (1) Clearing of native vegetation may only be carried out under this Division after Local Land Services has issued a mandatory code compliant certificate for the intended clearing.
- (2) A mandatory code compliant certificate may authorise clearing over a period greater than 12 months. However, the certificate may not authorise clearing that does not comply with clause 75.

77 Landholding restrictions

- (1) Clearing of native vegetation is not permitted under this Division on a landholding on which, in the opinion of Local Land Services—
 - (a) Category 2-regulated land comprises less than 10% of the total area of the landholding to which Part 5A of the *Local Land Services Act 2013* applies, or
 - (b) permitted clearing under this Division would reduce the proportion of Category 2-regulated land to less than 10% of the total area of the landholding to which Part 5A of the *Local Land Services Act 2013* applies.
- (2) In determining the proportion of Category 2-regulated land for the purpose of subclause (1) (b), the following areas are to be disregarded—
 - (a) any area of Category 2-regulated land that has been authorised to be re-categorised to Category 1-exempt land,
 - (b) any area of Category 2-regulated land that has been designated as Category 2-regulated land because native vegetation was unlawfully cleared on that area or because the land was subject to a requirement to take remedial action (as specified in section 60I (2) (f) of the Act).
- (3) Clearing of native vegetation is not permitted under this Division on a landholding that is a small holding.
- (4) Clearing of native vegetation is not permitted under this Division on a landholding that is predominately in the Coastal Zone unless Local Land Services is satisfied the primary use of the

land is agricultural activities.

78 Treatment area restrictions

- (1) Clearing of native vegetation is not permitted under this Division in a treatment area that is entirely or partly on Category 2-vulnerable regulated land or within the buffer distance from a water body set out in clause 15 of this Code.
- (2) Unless otherwise specified in a mandatory code compliant certificate issued under this Division, clearing of native vegetation is not permitted under this Division in a treatment area that is wholly surrounded by Category 2-regulated land.
- (3) For the purposes of subclause (2), the specified condition may only be varied in a mandatory code compliant certificate if Local Land Services is satisfied that the variation is for a legitimate purpose, is reasonable in the circumstances and would have no significant adverse environmental impacts.
- (4) Clearing of native vegetation is not permitted under this Division in a treatment area that—
 - (a) is in the Central Zone or the Coastal Zone, and
 - (b) contains Crown land within the meaning of the *Crown Lands Act 1989*, and
 - (c) is reserved or dedicated for the purposes of a travelling stock reserve within the meaning of *Local Land Services Act 2013*.

79 Method and impact conditions

Nil.

80 Re-categorisation of land

Treatment areas identified in a mandatory code compliant certificate issued under this Division are authorised to be re categorised to Category 1-exempt land.

81 Set aside area requirement

- (1) For every small area identified in a mandatory code compliant certificate issued under this Division as an area from which native vegetation may be cleared, the mandatory code compliant certificate must require the establishment of a set aside area on Category 2-regulated land on the same landholding.
- (2) The area of land in a set aside area established by a mandatory code compliant certificate issued under this Division must be calculated according to the following—
 - (a) for each unit area of land in the treatment area that does not contain vegetation that forms part of a vulnerable ecological community or an endangered ecological community, one unit must be established as a set aside area (*1 unit set aside for each unit of non-TEC vegetation cleared*),
 - (b) for each unit area of land in the treatment area that contains vegetation that forms part of a vulnerable ecological community, 1.5 unit areas must be established as a set aside area (*1.5 unit set aside for each unit of VEC vegetation cleared*),

- (c) for each unit area of land in the treatment area that contains vegetation that forms part of an endangered ecological community, 2 unit areas must be established as a set aside area (*2 unit set aside for each unit of EEC vegetation cleared*).
- (3) Set aside areas established by a mandatory code compliant certificate issued under this Division in relation to clearing of native vegetation that forms part of a vulnerable ecological community must contain only vegetation that forms part of the same vulnerable ecological community.
- (4) Set aside areas established by a mandatory code compliant certificate issued under this Division in relation to clearing of native vegetation that forms part of an endangered ecological community must contain only vegetation that forms part of the same endangered ecological community.
- (5) The area of land that must be established as a set aside area may be reduced by 50% if—
 - (a) the proposed set aside area contains vegetation that forms part of an endangered ecological community or a critically endangered ecological community, or
 - (b) the proposed set aside area is, in the opinion of Local Land Services, of strategic landscape-scale biodiversity importance.
- (6) However, the area of land that must be established as a set aside area may not be reduced if—
 - (a) the land comprising the treatment areas contains vegetation that forms part of a vulnerable ecological community or an endangered ecological community, or
 - (b) the land comprising the treatment area is, in the opinion of Local Land Services, of strategic landscape-scale biodiversity importance.
- (7) When forming an opinion about the strategic landscape-scale biodiversity importance of a treatment area or a set aside area, Local Land Services is to have regard to—
 - (a) the type of vegetation in the proposed set aside area, and
 - (b) the structure, composition and function of the vegetation in the proposed set aside area including the species present and the proportion of each species in each vegetation strata, and
 - (c) the area of the proposed set aside area, including the shape of the area and the ratio of area to edge, and
 - (d) the location of the proposed set aside area in relation to other native vegetation in the landscape, and
 - (e) the likely responsiveness of the vegetation in the proposed set aside area to management, and
 - (f) impacts on the vegetation in the proposed set aside area arising from activities or conditions on land immediately adjacent to the proposed set aside area, including whether such activities or conditions are likely to have an adverse impact on the vegetation in the proposed set aside area over time.

Division 4 Removing native vegetation from regulated rural areas

82 Permitted clearing on native vegetation

- (1) This Division authorises clearing of native vegetation from Category 2-regulated land in accordance with the conditions in this Division.
- (2) In the three year period immediately following publication of this Code, the maximum area on any landholding from which native vegetation may be cleared under this Division is the area determined in accordance with Schedule 4 to this Code.
- (3) For the purposes of determining the area from which native vegetation has been cleared under this Division, native vegetation is taken to have been cleared on the date on which a mandatory code compliant certificate is issued.

83 Requirements prior to undertaking permitted clearing

- (1) Clearing of native vegetation may only be carried out under this Division after Local Land Services has issued a mandatory code compliant certificate for the intended clearing.
- (2) Where Local Land Services forms the opinion that proposed clearing may require approval under the Commonwealth *Environment Protection and Biodiversity Conservation Act 1999*, Local Land Services will only issue a mandatory code compliant certificate after Local Land Services is reasonably satisfied by the landholder that approval is unnecessary or alternatively that approval has been granted.

84 Landholding restrictions

- (1) Clearing of native vegetation is not permitted under this Division on a landholding on which, in the opinion of Local Land Services—
 - (a) Category 2-regulated land comprises less than 10% of the total area of the landholding to which Part 5A of the *Local Land Services Act 2013* applies, or
 - (b) permitted clearing under this Division would reduce the proportion of Category 2-regulated land to less than 10% of the total area of the landholding to which Part 5A of the *Local Land Services Act 2013* applies.
- (2) In determining the proportion of Category 2-regulated land for the purpose of subclause (1) (b), the following areas are to be disregarded—
 - (a) any area of Category 2-regulated land that has been authorised to be re-categorised to Category 1-exempt land,
 - (b) any area of Category 2-regulated land that has been designated as Category 2-regulated land because native vegetation was unlawfully cleared on that area or because the land was subject to a requirement to take remedial action (as specified in section 60I (2) (f) of the Act).
- (3) Clearing of native vegetation is not permitted under this Division on a landholding that is a small holding.
- (4) Clearing of native vegetation is not permitted under this Division on a landholding that is

predominately in the Coastal Zone unless Local Land Services is satisfied the primary use of the land is agricultural activities.

85 Treatment area restrictions

- (1) Clearing of native vegetation is not permitted under this Division in a treatment area that is entirely or partly on Category 2-vulnerable regulated land or within the buffer distance from a water body set out in clause 15 of this Code.
- (2) Clearing of native vegetation is not permitted under this Division in a treatment area that—
 - (a) is in the Central Zone or the Coastal Zone,
 - (b) contains Crown land within the meaning of the *Crown Lands Act 1989*, and
 - (c) is reserved or dedicated for the purposes of a travelling stock reserve.

86 Method and impact conditions

Nil.

87 Re-categorisation of land

Treatment areas identified in a mandatory code compliant certificate issued under this Division are authorised to be re categorised to Category 1-exempt land.

88 Set aside area requirement

- (1) For every area of Category 2-regulated land identified in a mandatory code compliant certificate issued under this Division as an area from which native vegetation may be cleared, the mandatory code compliant certificate must require the establishment of a set aside area on Category 2-regulated land on the same landholding.
- (2) The area of land in a set aside area established by a mandatory code compliant certificate issued under this Division must be calculated according to the following—
 - (a) on a landholding on which, in the opinion of Local Land Services, Category 2-regulated land comprises 40% or more of the total area of the landholding to which Part 5A of the *Local Land Services Act 2013* applies—
 - (i) for each unit area of land in the treatment area that does not contain vegetation that forms part of a vulnerable ecological community or an endangered ecological community, two unit areas must be established as a set aside area (*2 unit areas set aside for each unit of non-TEC vegetation cleared*), or
 - (ii) for each unit area of land in the treatment area that contains vegetation that forms part of a vulnerable ecological community, three unit areas must be established as a set aside area (*3 unit areas set aside for each unit of VEC vegetation cleared*), or
 - (iii) for each unit area of land in the treatment area that contains vegetation that forms part of an endangered ecological community, four unit areas must be established as a set aside area (*4 unit areas set aside for each unit of EEC vegetation cleared*),
 - (b) on a landholding on which, in the opinion of Local Land Services, Category 2-regulated

land comprises 20% or more but less than 40% of the total area of the landholding to which Part 5A of the *Local Land Services Act 2013* applies—

- (i) for each unit area of land in the treatment area that does not contain vegetation that forms part of a vulnerable ecological community or an endangered ecological community, three unit areas must be established as a set aside area (*3 unit areas set aside for each unit of non-TEC vegetation cleared*), or
 - (ii) for each unit area of land in the treatment area that contains vegetation that forms part of a vulnerable ecological community, four and a half unit areas must be established as a set aside area (*4.5 unit areas set aside for each unit of VEC vegetation cleared*), or
 - (iii) for each unit area of land in the treatment area that contains vegetation that forms part of an endangered ecological community, six unit areas must be established as a set aside area (*6 unit areas set aside for each unit of EEC vegetation cleared*),
- (c) on a landholding on which, in the opinion of Local Land Services, Category 2-regulated land comprises less than 20% of the total area of the landholding to which Part 5A of the *Local Land Services Act 2013* applies—
- (i) for each unit area of land in the treatment area that does not contain vegetation that forms part of a vulnerable ecological community or an endangered ecological community, four unit areas must be established as a set aside area (*4 unit areas set aside for each unit of non-TEC vegetation cleared*), or
 - (ii) for each unit area of land in the treatment area that contains vegetation that forms part of a vulnerable ecological community, six unit areas must be established as a set aside area (*6 unit areas set aside for each unit of VEC vegetation cleared*), or
 - (iii) for each unit area of land in the treatment area that contains vegetation that forms part of an endangered ecological community, eight unit areas must be established as a set aside area (*8 unit areas set aside for each unit of EEC vegetation cleared*).
- (3) If the proposed clearing will reduce the percentage of Category 2-regulated land to less than the threshold set out in subclause (2) (b) or (c), then the set aside ratios set out in those paragraphs apply to the proportion of proposed clearing below that threshold.
- (4) Set aside areas established by a mandatory code compliant certificate issued under this Division in relation to clearing of native vegetation that forms part of a vulnerable ecological community must contain only vegetation that forms part of the same vulnerable ecological community.
- (5) Set aside areas established by a mandatory code compliant certificate issued under this Division in relation to clearing of native vegetation that forms part of an endangered ecological community must contain only vegetation that forms part of the same endangered ecological community.
- (6) The area of land that must be established as a set aside area may be reduced by 50% if—
- (a) the proposed set aside area contains vegetation that forms part of an endangered ecological community or a critically endangered ecological community, or
 - (b) the proposed set aside area is, in the opinion of Local Land Services, of strategic landscape-

scale biodiversity importance.

- (7) However, the area of land that must be established as a set aside area may not be reduced if—
- (a) the land comprising the treatment areas contains vegetation that forms part of a vulnerable ecological community or an endangered ecological community, or
 - (b) the land comprising the treatment area is, in the opinion of Local Land Services, of strategic landscape-scale biodiversity importance.
- (8) When forming an opinion about the strategic landscape-scale biodiversity importance of a treatment area or a set aside area, Local Land Services is to have regard to—
- (a) the type of vegetation in the proposed set aside area, and
 - (b) the structure, composition and function of the vegetation in the proposed set aside area including the species present and the proportion of each species in each vegetation strata, and
 - (c) the area of the proposed set aside area, including the shape of the area and the ratio of area to edge, and
 - (d) the location of the proposed set aside area in relation to other native vegetation in the landscape, and
 - (e) the likely responsiveness of the vegetation in the proposed set aside area to management, and
 - (f) impacts on the vegetation in the proposed set aside area arising from activities or conditions on land immediately adjacent to the proposed set aside area, including whether such activities or conditions are likely to have an adverse impact on the vegetation in the proposed set aside area over time.

Part 6 Farm Plan

Division 1 Removing native vegetation from paddock tree areas

89 Permitted clearing of native vegetation

This Division authorises clearing of native vegetation from paddock tree areas in accordance with the conditions in this Division.

Paddock tree area means an area of Category 2-regulated land that is less than 500 square metres and is completely surrounded by Category 1-exempt land.

90 Requirements prior to undertaking permitted clearing

- (1) Clearing of native vegetation may only be carried out under this Division after Local Land Services has issued a mandatory code compliant certificate for the intended clearing.
- (2) Native vegetation may not be cleared from paddock tree areas identified in a mandatory code compliant certificate issued under this Division until Local Land Services has advised the landholder in writing that Local Land Services is satisfied that the landholder has substantially

met any set aside area revegetation requirement specified in the mandatory code compliant certificate.

91 Landholding restrictions

- (1) Clearing of native vegetation is not permitted under this Division on a landholding that is a small holding.
- (2) Clearing of native vegetation is not permitted under this Division on a landholding that is predominately in the Coastal Zone unless Local Land Services is satisfied the primary use of the land is agricultural activities.

92 Treatment area restrictions

- (1) Clearing of native vegetation is not permitted under this Division in a treatment area that is entirely or partly on Category 2-vulnerable regulated land or within the buffer distance from a water body set out in clause 15 of this Code.
- (2) Clearing of native vegetation is not permitted under this Division in a treatment area that contains native vegetation that forms part of an endangered ecological community.
- (3) Clearing of native vegetation is not permitted under this Division in a treatment area that—
 - (a) is in the Central Zone or the Coastal Zone, and
 - (b) contains Crown land within the meaning of the *Crown Lands Act 1989*, and
 - (c) is reserved or dedicated for the purposes of a travelling stock reserve within the meaning of *Local Land Services Act 2013*.

93 Method and impact conditions

Nil.

94 Re-categorisation of land

- (1) Paddock tree areas identified in a mandatory code compliant certificate issued under this Division are authorised to be re-categorised to Category 1-exempt land.
- (2) Set aside areas established by a mandatory code compliant certificate issued under this Division are authorised to be re-categorised to Category 2-regulated land.

95 Set aside area requirement

- (1) For every paddock tree area identified in a mandatory code compliant certificate issued under this Division, the mandatory code compliant certificate must require the establishment of a set aside area that is not less than 50% Category 1-exempt land and is on the same landholding.
- (2) The area of land in a set aside area established by a mandatory code compliant certificate issued under this Division must be calculated according to the following—
 - (a) for each paddock tree area that does not contain vegetation that forms part of a vulnerable ecological community—multiply the number of paddock tree areas identified in the certificate by 0.25 hectare,

- (b) for each paddock tree area that contains vegetation that forms part of a vulnerable ecological community—multiply the number of paddock tree areas identified in the certificate by 0.375 hectare.
- (3) The mandatory code compliant certificate issued under this Division must specify revegetation requirements that apply in the set aside area, including the species composition and density of required revegetation.
- (4) Revegetation requirements specified in a mandatory code compliant certificate issued under this Division must be met within 12 months after the certificate is issued.
- (5) Local Land Services may determine the land on which the set aside area will be established. In determining the land on which the set aside will be established, Local Land Services must seek to maximise environmental benefits from the set aside area.

Division 2 Removing native vegetation from regulated rural areas

96 Permitted clearing of native vegetation

- (1) This Division authorises clearing native vegetation from Category 2-regulated land in accordance with the conditions in this Division.
- (2) Under this Division, native vegetation may be cleared from a maximum of 25% of the Category 2-regulated land on a landholding.

97 Requirements prior to undertaking permitted clearing

- (1) Clearing of native vegetation may only be carried out under this Division after Local Land Services has issued a mandatory code compliant certificate for the intended clearing.
- (2) Native vegetation may not be cleared from the Category 2-regulated land identified in a mandatory code compliant certificate issued under this Division until Local Land Services has advised the landholder in writing that Local Land Services is satisfied that the landholder has substantially met any set aside area revegetation requirement specified in the mandatory code compliant certificate.

98 Landholding restrictions

- (1) Clearing of native vegetation is not permitted under this Division on a landholding on which, in the opinion of Local Land Services—
 - (a) Category 2-regulated land comprises less than 10% of the total area of the landholding to which Part 5A of the *Local Land Services Act 2013* applies, or
 - (b) permitted clearing would reduce the proportion of Category 2-regulated land to less than 10% of the total area of the landholding to which Part 5A of the *Local Land Services Act 2013* applies.
- (2) In determining the proportion of Category 2-regulated land for the purpose of subclause (1) (b), the following areas are to be disregarded—
 - (a) any area of Category 2-regulated land that has been authorised to be re-categorised to Category 1-exempt land,

- (b) any area of Category 2-regulated land that has been designated as Category 2-regulated land because native vegetation was unlawfully cleared on that area or because the land was subject to a requirement to take remedial action (as specified in section 60I (2) (f) of the Act).
- (3) Clearing of native vegetation is not permitted under this Division on a landholding that is a small holding.
- (4) Clearing of native vegetation is not permitted under this Division on a landholding that is predominately in the Coastal Zone unless Local Land Services is satisfied the primary use of the land is agricultural activities.

99 Treatment area restrictions

- (1) Clearing of native vegetation is not permitted under this Division in a treatment area that is entirely or partly on Category 2-vulnerable regulated land or within the buffer distance from a water body set out in clause 15 of this Code.
- (2) Clearing of native vegetation is not permitted under this Division in a treatment area that is a paddock tree area within the meaning of this Code.
- (3) Clearing of native vegetation is not permitted under this Division in a treatment area that contains native vegetation that forms part of an endangered ecological community.
- (4) Clearing of native vegetation is not permitted under this Division in a treatment area that—
 - (a) is in the Central Zone or Coastal Zone, and
 - (b) that contains Crown land within the meaning of the *Crown Lands Act 1989*, and
 - (c) is reserved or dedicated for the purposes of a travelling stock reserve within the meaning of *Local Land Services Act 2013*.

100 Method and impact conditions

Nil.

101 Re-categorisation of land

- (1) Treatment areas identified in a mandatory code compliant certificate issued under this Division are authorised to be re categorised to Category 1-exempt land.
- (2) Set aside areas established by a mandatory code compliant certificate issued under this Division are authorised to be re-categorised to Category 2-regulated land.

102 Set aside area requirement

- (1) For every treatment area identified in a mandatory code compliant certificate issued under this Division as an area from which native vegetation may be cleared, the mandatory code compliant certificate must require the establishment of a set aside area that is not less than 50% Category 1-exempt land and is on the same landholding.
- (2) The area of land in a set aside area established by a mandatory code compliant certificate issued under this Division must be calculated according to the following—

- (a) on a landholding on which, in the opinion of Local Land Services, Category 2-regulated land comprises 30% or more of the total area of the landholding to which Part 5A of the *Local Land Services Act 2013* applies—
 - (i) for each unit area of land in the treatment area that does not contain a vulnerable ecological community, one unit must be established as a set aside area (*1 unit set aside for each unit of non-VEC vegetation cleared*), or
 - (ii) for each unit area of land in the treatment area that contains a vulnerable ecological community, one and a half unit areas must be established as a set aside area (*1.5 unit areas set aside for each unit of VEC vegetation cleared*),
 - (b) on a landholding on which, in the opinion of Local Land Services, Category 2-regulated land comprises less than 30% of the total area of the landholding to which Part 5A of the *Local Land Services Act 2013* applies—
 - (i) for each unit area of land in the treatment area that does not contain a vulnerable ecological community, three unit areas must be established as a set aside area (*3 unit areas set aside for each unit of non-VEC vegetation cleared*), or
 - (ii) for each unit area of land in the treatment area that contains a vulnerable ecological community, four and a half unit areas must be established as a set aside area (*4.5 unit areas set aside for each unit of VEC vegetation cleared*).
- (3) If the proposed clearing will reduce the percentage of Category 2-regulated land to less than the threshold set out in subclause (2) (b), then the set aside ratios set out in that paragraph apply to the proportion of proposed clearing below that threshold.
 - (4) The mandatory code compliant certificate issued under this Division must specify revegetation requirements that apply in the set aside area, including the species composition and density of required revegetation.
 - (5) Revegetation requirements specified in a mandatory code compliant certificate issued under this Division must be met within 12 months after the certificate is issued.
 - (6) Local Land Services may determine the land on which the set aside area will be established. In determining the land on which the set aside will be established, Local Land Services must seek to maximise environmental benefits from the set aside area.

Schedule 1 Invasive native species list

Editorial note. The table and introductory text in this Schedule have been modified to facilitate website display. The original table can be viewed in the As Made version of this Code on www.legislation.nsw.gov.au.

“?” indicates that the species listed in column 1 is as an invasive native species for the Local Land Services Region in column 2.

Local Land Services Regions are as follows—

CT = Central Tablelands

CW = Central West

GS = Greater Sydney

H = Hunter

M = Murray

NC = North Coast

NW = North West

NT = Northern Tablelands

R = Riverina

SE = South East

W = Western

Column 1	Column 2											
	Invasive native species	CT	CW	GS	H	M	NC	NW	NT	R	SE	W
<i>Acacia aneura</i> (mulga)		?						?		?		?
<i>Acacia deanei</i> (Deane's wattle) ¹	?	?						?	?			
<i>Acacia excelsa</i> (ironwood)												?
<i>Acacia homalophylla</i> (yarran)	?	?						?				?
<i>Acacia mearnsii</i> (black wattle)	?	?									?	
<i>Acacia paradoxa</i> (kangaroo thorn)	?	?										
<i>Acacia salicina</i> (cooba or native willow)	?	?						?				
<i>Acacia stenophylla</i> (black wattle or river cooba)	?	?			?			?	?	?		?
<i>Bursaria spinosa</i> (blackthorn) ²		?						?				
<i>Callitris endlicheri</i> (black cypress)	?	?	?	?				?	?			?
<i>Callitris glaucophylla</i> (white cypress)	?	?			?			?	?	?		?
<i>Cassinia arcuata</i> (sifton bush)	?	?	?					?	?	?		
<i>Cassinia laevis</i> (cough bush)	?	?						?	?	?		
<i>Cassinia quinquefaria</i>	?	?						?	?			
<i>Casuarina cristata</i> (belah)		?						?				?

<i>Dodonaea viscosa</i> subsp. <i>angustissima</i> (narrow-leaf hopbush)	?	?		?	?	?	?
<i>Dodonaea viscosa</i> subsp. <i>mucronata</i>	?	?		?			
<i>Dodonaea viscosa</i> subsp. <i>spatulata</i> (broad-leaf hopbush)	?	?		?	?	?	?
<i>Eremophila bignoniiflora</i> (eurah)	?	?		?			?
<i>Eremophila bowmanii</i> subsp. <i>bowmanii</i> (silver turkey bush)	?	?					?
<i>Eremophila duttonii</i> (harlequin fuchsia bush)		?					?
<i>Eremophila gilesii</i> (green turkey-bush)							?
<i>Eremophila longifolia</i> (emu bush)	?	?		?	?	?	?
<i>Eremophila maculata</i> (spotted fuchsia)		?		?	?		
<i>Eremophila mitchellii</i> (budda, false sandalwood)	?	?		?	?	?	?
<i>Eremophila sturtii</i> (turpentine)		?		?		?	?
<i>Eucalyptus camaldulensis</i> (river red gum)	?	?	?	?		?	
<i>Eucalyptus coolabah</i> (coolibah)		?		?			?
<i>Eucalyptus intertexta</i> (red box)		?					?
<i>Eucalyptus largiflorens</i> (black box)		?	?	?			?
<i>Eucalyptus populnea</i> subsp. <i>bimbil</i> (bimble box, poplar box)		?		?			?
<i>Geijera parviflora</i> (wilga)		?		?			?
<i>Kunzea ericoides</i> (burgan)	?	?					?
<i>Kunzea parvifolia</i> (violet kunzea)	?	?					?
<i>Leptospermum brevipes</i> (grey tea-tree, tea-tree)		?		?	?		

<i>Maireana microphylla</i> (eastern cotton bush)	?	?				
<i>Duma florulenta</i> (syns.: <i>Muehlenbeckia</i> <i>cunninghamii</i> & <i>Muehlenbeckia florulenta</i> (lignum))		?		?		?
<i>Nitraria billardiarei</i> (Dillon bush)	?		?			
<i>Olearia elliptica</i> subsp. <i>elliptica</i> (sticky daisy bush, peach bush)		?		?	?	
<i>Sclerolaena birchii</i> (galvanized burr)		?	?	?	?	?
<i>Sclerolaena muricata</i> (black roly-poly) ³		?	?	?	?	?
<i>Senna artemisioides</i> subsp. <i>X artemisioides</i> (syn.: <i>Senna</i> form taxon ' <i>artemisioides</i> ' (silver cassia))	?	?		?	?	?
<i>Senna artemisioides</i> subsp. <i>filifolia</i> (syn.: <i>Senna</i> form taxon ' <i>filifolia</i> ' (punny bush))	?	?		?	?	?
<i>Senna barclayana</i> (pepper- leaf senna)						?
<i>Vachellia farnesiana</i> (mimosa)	?	?		?	?	?

Notes.

- 1 *Acacia deanei* (Deane's wattle) includes both subsp. *deanei* and *paucijuga*.
- 2 *Bursaria spinosa* (blackthorn) includes both subsp. *spinosa* and *lasiophylla*.
- 3 *Sclerolaena muricata* (black roly-poly) includes all subsp. *muricata*, *semiglabra* and *villosa*.

Schedule 2 Description of Keith vegetation formations

1 Alpine Complex

Trees are absent or present only as scattered emergent individuals. Vegetation is dominated by plants that tolerate prolonged seasonal burial in snow. The Alpine Complex vegetation formation is restricted to the alpine zone of the southern tableland, above 1600–1800 metres elevation.

2 Arid Shrublands (Acacia sub-formation)

Vegetation dominated by drought-tolerant shrubs, predominantly Acacias (ie Wattles) in this sub-formation, and other hard-leaved (sclerophyllous) shrubs up to 5 m tall. Some perennial herbs and abundant ephemeral (ie plants with a short life cycle, but with long-lived seed banks that germinate after rain, flooding or fire) grasses and herbs after rain. Widespread on various soils on the western plains where average annual rainfall is less than 500 mm. Vegetation sometimes has abundant

hummock grasses (ie commonly Spinifex grasses with dome-shaped structures and spreading leaf blades) in the groundcover.

3 Arid Shrublands (Chenopod sub-formation)

Vegetation dominated by drought-tolerant shrubs, predominantly chenopods (such as saltbushes, bluebushes, copperburrs) up to 1.5 m tall. Some perennial herbs and abundant ephemeral (ie plants with a short life cycle, but with long-lived seed banks that germinate after rain, flooding or fire) grasses and herbs after rain. Widespread on various soils on the western plains where average annual rainfall is less than 500 mm. Arid Shrublands usually have perennial tussock grasses but never hummock grasses (such as spinifex grasses with dome-shaped structures and spreading leaf blades) in the groundcover.

4 Dry Sclerophyll Forests (Shrubby sub-formation)

Vegetation dominated by trees, usually occurring as forests or rarely as woodlands (rarely > 35 m tall), with an abundance of hard-leaved (sclerophyllous) shrubs in the understorey, but lacking plants that tolerate inundation or waterlogging. Only rarely dominated by 'box' Eucalypts (bark rough and persistent on trunk and larger branches). Groundcover often sparse and typically dominated by sclerophyllous sedges, but may include reasonably continuous swards of grasses. Confined to the coast, tablelands and the western slopes, where average annual rainfall exceeds 500 mm, largely on infertile sandy or loamy soils. The shrubby sub-formation has understories dominated by hard-leaved shrubs but very sparse grass cover.

5 Dry Sclerophyll Forests (Shrub/grass sub-formation)

Vegetation dominated by trees, usually occurring as forests or rarely as woodlands (rarely > 35 m tall), with an abundance of hard-leaved (sclerophyllous) shrubs in the understorey, but lacking plants that tolerate inundation or waterlogging. Only rarely dominated by 'box' Eucalypts (bark rough and persistent on trunk and larger branches). Groundcover often sparse and typically dominated by sclerophyllous sedges, but may include reasonably continuous swards of grasses. Confined to the coast, tablelands and the western slopes, where average annual rainfall exceeds 500 mm, largely on infertile sandy or loamy soils. The shrub/grass sub-formation has understories with a more continuous cover of grasses and herbs but a variable cover of hard-leaved shrubs.

6 Forested Wetlands

Vegetation dominated by trees, usually occurring as forests or woodlands with short to moderately tall trees (rarely > 35 m tall), with an abundance of plant groups in the understorey that are able to tolerate periodic inundation or waterlogging, particularly sedges, rushes or reeds; but lacking in ferns and shrubs with broad, soft leaves. Widespread east and west of the Great Dividing Range, but confined to damp, low-lying parts of the coast, or adjacent to rivers, lakes or swamps in the inland.

7 Freshwater Wetlands

Trees are absent or present only as scattered emergent individuals. Vegetation is dominated by plants that cannot tolerate prolonged seasonal burial in snow and occur in landscapes below 1800 metres elevation. Freshwater Wetlands are dominated by plants that tolerate periodic inundation or waterlogging with fresh water. Vegetation is dominated by emergent sedges, rushes, reeds, grasses or succulent herbs, or in some cases by submerged or floating aquatic herbs. Soils are deep and often black or dark grey with partly decomposed organic matter. Freshwater Wetlands are restricted to swamps with humic or gleyed soils on the coast, tablelands, western slopes and plains.

8 Grasslands

Trees are absent or present only as scattered emergent individuals. Vegetation is dominated by plants that cannot tolerate prolonged seasonal burial in snow and occur in landscapes below 1800 metres elevation. Grasslands contain few (if any) plants that tolerate periodic inundation. Vegetation is dominated by perennial tussock grasses and herbs. Shrubs rarely present. Sometimes sedges but never submerged or floating aquatic herbs. Generally found on clay soils on flat to undulating terrain on the coast, tablelands, western slopes and plains.

9 Grassy Woodlands

Vegetation dominated by trees (typically 15–35 m tall), usually occurring as woodlands or rarely forests that lack an abundance of hard-leaved (sclerophyllous) shrubs in the understorey. ‘Box’ Eucalypts often dominant in the tree layer. Groundcover is continuous and dominated by perennial tussock grasses and interspersed perennial herbs including orchids and lilies, but few ephemeral herbs and grasses. Shrubs generally sparse and typically not including chenopods (ie saltbushes, copperburrs etc), or other drought-tolerant species. Widespread on various soils west of the Great Dividing Range, but typically on relatively fertile loams and clay loams on the coastal lowlands, the tablelands and the western slopes, where average annual rainfall exceeds 500 mm.

10 Heathlands

Trees are absent or present only as scattered emergent individuals. Vegetation is dominated by plants that cannot tolerate prolonged seasonal burial in snow and occur in landscapes below 1800 metres elevation. Heathlands contain few (if any) plants that tolerate periodic inundation. Vegetation is dominated by hard leaved but not drought tolerant shrubs, usually with perennial sedges, herbs and grasses. Perennial tussock grasses are absent or occasional but never dominant. Heathlands are generally restricted to infertile sandy or loamy soils of the coast, tablelands and western plains, where annual rainfall exceeds 800 millimetres per year.

11 Rainforest

Forests or woodlands not dominated by eucalypts, although these may be present as scattered individuals. Rainforests are dominated by trees with dense canopies touching those of adjacent trees (ie a ‘closed’ canopy), and with horizontally held leaves. Trees and shrubs typically have broad soft leaves. Rainforests primarily occur on the coastal lowlands, islands and escarpments extending to restricted locations on the north-western slopes. Rainforests occur on fertile to moderately fertile soils where average annual rainfall exceeds 1000 millimetres per year. There are limited occurrences in dry rocky gorges of the escarpment and dry hills of the north-western slopes. Rainforest trees are not tolerant to tidal inundation. The understorey is usually open to dense but never non-existent. Vines often occur in the tree canopies or understorey. Understorey typically includes ferns and herbs.

12 Saline Wetlands

Forests or woodlands not dominated by eucalypts, although these may be present as scattered individuals. Saline wetlands are dominated by trees with dense canopies touching those of adjacent trees (ie a ‘closed’ canopy), and with horizontally held leaves. Trees and shrubs typically have soft leaves. Saline wetlands primarily occur on the coast where average annual rainfall exceeds 1000 millimetres per year. Trees are tolerant of tidal inundation. The understorey is sparse to non-existent. Saline wetlands are restricted to tidal estuaries along the coast.

13 Semi-arid Woodlands (Grassy sub-formation)

Vegetation dominated by trees (typically 15–35 m tall), usually occurring as woodlands or open woodlands (ie widely-spaced tree canopies) that lack an abundance of hard-leaved (sclerophyllous) shrubs in the understorey. ‘Box’ Eucalypts often dominant in the tree layer. Groundcover is sparse to continuous, usually with an abundance of ephemeral herbs and grasses apparent after rain and a variable cover of tussock grasses. Drought-tolerant shrubs prominent in the understorey, and often including chenopods. Widespread on a variety of soils west of the Great Dividing Range, particularly the western plains where average annual rainfall does not exceed 500 mm. The grassy sub-formation is found on floodplains occasionally exposed to inundation is often dominated by eucalypts more than 15 m tall and with an understorey predominantly of grasses and/or chenopod shrubs.

14 Semi-arid Woodlands (Shrubby sub-formation)

Vegetation dominated by trees (typically 15–35 m tall), usually occurring as woodlands or open woodlands (ie widely-spaced tree canopies) that lack an abundance of hard-leaved (sclerophyllous) shrubs in the understorey. ‘Box’ Eucalypts often dominant in the tree layer. Groundcover is sparse to continuous, usually with an abundance of ephemeral herbs and grasses apparent after rain and a variable cover of tussock grasses. Drought-tolerant shrubs prominent in the understorey, and often including chenopods. Widespread on a variety of soils west of the Great Dividing Range, particularly the western plains where average annual rainfall does not exceed 500 mm. The shrubby sub-formation is found on peneplains and hills not exposed to floodwaters, is dominated by eucalypts rarely more than 15 m tall and with open understories containing a variety of drought-tolerant shrubs and a variable cover of grasses.

15 Wet Sclerophyll Forests (Grassy sub-formation)

Vegetation dominated by trees (typically >30 m tall), usually occurring as tall forests, forests or woodlands and dominated by straight-trunked Eucalypts. Understorey is dominated by a more continuous cover of grasses and herbs in this sub-formation rather than by shrubs as per the shrubby sub-formation. Largely confined to moderately fertile soils in sheltered locations on the east coast escarpment, where average annual rainfall exceeds 900 mm.

16 Wet Sclerophyll Forests (Shrubby sub-formation)

Vegetation dominated by trees (typically >30 m tall), usually occurring as tall forests, forests or woodlands and dominated by straight-trunked Eucalypts. Understorey is dominated by soft leaved shrubs but only sparse grass cover. Largely confined to moderately fertile soils in sheltered locations on the east coast escarpment, where average annual rainfall exceeds 900 mm.

Schedule 3 Set aside area management strategies and tactics

1 General principles for set aside management

- (1) Specific set aside area management activities are difficult to prescribe without advanced knowledge of the current condition of native vegetation on set aside areas, historical and current management, and use of set aside areas, and the management action capacity of the landholder. Consequently, the optimal set aside area management activities will come from locally informed choices among the strategies and tactics listed in the table in this Schedule.
- (2) Management actions on set asides are expected to promote vegetation integrity and achieve restoration but where this is not possible or where the management actions required for such an

outcome are beyond “reasonable efforts” then management actions are aligned to achieve a rehabilitation outcome.

- (3) Local Land Services will exercise judgement to match what is agreed with the landholder as “reasonable effort” to specific combinations and sequences of management actions that are most likely to deliver optimal restoration outcome(s).
- (4) Choice of management activities to be undertaken on set aside areas should be consistent with the key principles of the national standards for the practice of ecological restoration in Australia (see below).
- (5) Choice of management activities will be easier when clear targets, goals, and objectives for the set aside area are agreed. Where the set aside management target is the reference against which the management actions are directed, the goals refine the target into specific, tractable and measurable components (adaptive management tactics), and objectives are the specific management activities applied on the set aside area.

2 Key principles of the national standards for the practice of ecological restoration in Australia

The national standard for ecological restoration “provides a framework for conceptualising, defining and measuring ecological restoration, particularly at a time of rapid environmental change” through the following six principles—

- (1) Ecological restoration practice is based on an appropriate local indigenous reference ecosystem
- (2) Restoration inputs will be dictated by level of resilience and degradation
- (3) Recovery of ecosystem attributes is facilitated by identifying clear targets, goals, and objectives
- (4) Full recovery is the goal of ecological restoration even if outcomes take long time frames
- (5) Restoration science and practice are synergistic
- (6) Social aspects are critical to successful ecological restoration

All set aside management actions must be consistent with the strategies and tactics set out in the table below.

Column 1	Column 2	Column 3
Strategy	Tactic	Examples of activities
Manage disturbance	Fire management	Ecological burning appropriate to PCTs in set-aside Construction of firebreaks to manage wildfire Plant fire resistant vegetation
	Manage total grazing pressure	Change intensity, frequency and type of grazing through, for example, stock rotation Fence construction Manage/remove water sources

	Water management	Irrigation
		Install in-stream barriers and sediment traps
		Encourage natural inundation
	Reduce physical disturbance	Change land management practices in adjacent paddocks, for example, tillage management or herbicide use
		Remodel topography through soil conservation works
		Manage vehicle and people access
Mitigate external degradation drivers	Control weed impacts	Chemical spraying
		Mechanical weed removal
	Control pest impacts	Reduce numbers of feral or overabundant native herbivores
		Reduce numbers of exotic predators (wild dogs, foxes and cats)
	Nutrient control	Alter fertilizer application rates and method of delivery on and around set-aside
		Manage effluent disposal
		Manage stock access to water bodies
		Apply soil amendments for nutrient absorption and exchange
Active rehabilitation	Planting	Planting of tube stock
		Broadcast or direct drill seeding
		Enrichment planting
	Thinning	Selective removal of individual plants by mechanical or chemical application
		Removal of all plants in small patches
	Habitat enhancement	Install nest or hollow boxes
		Relocate large woody debris
		Add or encourage pollinators
	Reintroductions	Reintroduce key animal or plant species

Schedule 4 Maximum equity clearing in the first three years (Part 5, Div 4)

Editorial note. The table and introductory text in this Schedule have been modified to facilitate website display. The original table can be viewed in the As Made version of this Code on www.legislation.nsw.gov.au.

In the table—

Area means the area of landholding (hectares) to which Part 5A of the LLS Act applies (to the nearest measure provided).

Percentage means the percentage of the area of the landholding to which Part 5A of the LLS Act applies that is Category 2 land which can be cleared under Division 4 (to the nearest measure provided).

Area (ha)	11	12	13	14	15	20	25	30	35	40	45	50	55	60	65	70	75	80	85	90	95	100		
50	0.5	1.0	1.3	1.4	1.5	2.5	3.0	3.8	4.4	5	6	8	9	10	11	12	13	13	14	15	16	17		
100	1.0	2.0	2.6	2.8	3.0	5.0	6.0	7.5	8.8	10	13	15	18	20	22	23	25	27	28	30	32	33		
150	1.5	3.0	3.9	4.2	4.5	7.5	9.0	11.3	13.1	15	19	23	26	30	33	35	38	40	43	45	48	50		
200	2.0	4.0	5.2	5.6	6.0	10.0	12.0	15.0	17.5	20	25	30	35	40	43	47	50	53	57	60	63	67		
250	2.5	5.0	6.5	7.0	7.5	12.5	15.0	18.8	21.9	25	31	38	44	50	54	58	63	67	71	75	79	83		
300	3.0	6.0	7.8	8.4	9.0	15.0	18.0	22.5	26.3	30	38	45	53	60	65	70	75	80	85	90	95	100		
400	4.0	8.0	10.4	11.2	12.0	20.0	24.0	30.0	35.0	40	50	60	70	80	87	93	100	100	100	100	100	100		
500	5.0	10.0	13.0	14.0	15.0	25.0	30.0	37.5	43.8	50	63	75	88	100	100	100	100	100	100	100	100	100		
600	6.0	12.0	15.6	16.8	18.0	30.0	36.0	45.0	52.5	60	75	90	100	100	100	100	100	100	100	100	100	100		
700	7.0	14.0	18.2	19.6	21.0	35.0	42.0	52.5	61.3	70	88	100	100	100	100	100	100	100	100	100	100	100		
800	8.0	16.0	20.8	22.4	24.0	40.0	48.0	60.0	70.0	80	100	100	100	100	100	100	100	100	100	100	100	100		
900	9.0	18.0	23.4	25.2	27.0	45.0	54.0	67.5	78.8	90	100	100	100	100	100	100	100	100	100	100	100	100		
1,000	10.0	20.0	26.0	28.0	30.0	50.0	60.0	75.0	87.5	100	100	100	100	100	100	100	100	100	100	100	100	100		
1,250	12.5	25.0	32.5	35.0	37.5	62.5	75.0	93.8	100	100	100	100	100	100	100	100	100	100	100	100	100	104		
1,500	15.0	30.0	39.0	42.0	45.0	75.0	90.0	100	100	100	100	100	100	100	100	100	100	100	100	106	113	119	125	
1,750	17.5	35.0	45.5	49.0	52.5	87.5	100	100	100	100	100	100	100	100	100	100	102	109	117	124	131	139	146	
2,000	20.0	40.0	52.0	56.0	60.0	100	100	100	100	100	100	100	100	100	100	108	117	125	133	142	150	158	167	
2,250	22.5	45.0	58.5	63.0	67.5	100	100	100	100	100	100	100	100	100	100	113	122	131	141	150	159	169	178	188
2,500	25.0	50.0	65.0	70.0	75.0	100	100	100	100	100	100	100	109	125	135	146	156	167	177	188	198	208		
2,750	27.5	55.0	71.5	77.0	82.5	100	100	100	100	100	100	103	120	138	149	160	172	183	195	206	218	229		
3,000	30.0	60.0	78.0	84.0	90.0	100	100	100	100	100	100	113	131	150	163	175	188	200	213	225	238	250		
3,500	35.0	70.0	91.0	98.0	100	100	100	100	100	100	109	131	153	175	190	204	219	233	248	263	277	292		
4,000	40.0	80.0	100	100	100	100	100	100	100	100	125	150	175	200	217	233	250	267	283	300	317	333		
4,500	45.0	90.0	100	100	100	100	100	100	100	113	141	169	197	225	244	263	281	300	319	338	356	375		
5,000	50.0	100	100	100	100	100	100	100	109	125	156	188	219	250	271	292	313	333	354	375	396	417		
5,500	55.0	100	100	100	100	100	100	103	120	138	172	206	241	275	298	321	344	367	390	413	435	458		

6,000	60.0	100	100	100	100	100	100	113	131	150	188	225	263	300	325	350	375	400	425	450	475	500
6,500	65.0	100	100	100	100	100	100	122	142	163	203	244	284	325	352	379	406	433	460	488	515	542
7,000	70.0	100	100	100	100	100	105	131	153	175	219	263	306	350	379	408	438	467	496	525	554	583
7,500	75.0	100	100	100	100	100	113	141	164	188	234	281	328	375	406	438	469	500	531	563	594	625
8,000	80.0	100	100	100	100	100	120	150	175	200	250	300	350	400	433	467	500	533	567	600	625	625
8,500	85.0	100	100	100	100	106	128	159	186	213	266	319	372	425	460	496	531	567	602	625	625	625
9,000	90.0	100	100	100	100	113	135	169	197	225	281	338	394	450	488	525	563	600	625	625	625	625
9,500	95.0	100	100	100	100	119	143	178	208	238	297	356	416	475	515	554	594	625	625	625	625	625
10,000	100	100	100	100	100	125	150	188	219	250	313	375	438	500	542	583	625	625	625	625	625	625
11,000	100	100	100	100	100	138	165	206	241	275	344	413	481	550	596	625	625	625	625	625	625	625
12,000	100	100	100	100	100	150	180	225	263	300	375	450	525	600	625	625	625	625	625	625	625	625
13,000	100	100	100	100	100	163	195	244	284	325	406	488	569	625	625	625	625	625	625	625	625	625
14,000	100	100	100	100	105	175	210	263	306	350	438	525	613	625	625	625	625	625	625	625	625	625
15,000	100	100	100	105	113	188	225	281	328	375	469	563	625	625	625	625	625	625	625	625	625	625
16,000	100	100	104	112	120	200	240	300	350	400	500	600	625	625	625	625	625	625	625	625	625	625
17,000	100	102	111	119	128	213	255	319	372	425	531	625	625	625	625	625	625	625	625	625	625	625
18,000	100	108	117	126	135	225	270	338	394	450	563	625	625	625	625	625	625	625	625	625	625	625
19,000	105	114	124	133	143	238	285	356	416	475	594	625	625	625	625	625	625	625	625	625	625	625
20,000	110	120	130	140	150	250	300	375	438	500	625	625	625	625	625	625	625	625	625	625	625	625
25,000	138	150	163	175	188	313	375	469	547	625	625	625	625	625	625	625	625	625	625	625	625	625
30,000	165	180	195	210	225	375	450	563	625	625	625	625	625	625	625	625	625	625	625	625	625	625
35,000	193	210	228	245	263	438	525	625	625	625	625	625	625	625	625	625	625	625	625	625	625	625
40,000	220	240	260	280	300	500	600	625	625	625	625	625	625	625	625	625	625	625	625	625	625	625
45,000	248	270	293	315	338	563	625	625	625	625	625	625	625	625	625	625	625	625	625	625	625	625
50,000	275	300	325	350	375	625	625	625	625	625	625	625	625	625	625	625	625	625	625	625	625	625

Notes.

(1) The maximum area on any landholding from which native vegetation may be cleared under Division 4 of Part 5 in the three year period immediately following publication of this Code is the area determined in accordance with the following—

Wherever is the greater of—

- 25% of the estimated total area from which native vegetation may be cleared under Division 4 up to a cumulative maximum of 625 hectares, or
- the total area from which native vegetation may be cleared up to 100 hectares.

(2) The figures in the Table in this Schedule are indicative only and are to be used as guidance. The actual amount of land available for clearing will depend on the circumstances of each property.

Schedule 5 Interpretation of key words and phrases

Note. Unless otherwise defined in this Code, words and phrases that are defined in the *Local Land Services Act 2013* or the *Local Land Services Regulation 2014* have the same meaning in this Code.

Agricultural activity means production of crops for commercial purposes, the grazing of livestock for commercial purposes or keeping of animals for the purposes of selling them or their bodily produce.

Coastal Wetland means a wetland in the coastal wetlands and littoral rainforests area of the coastal zone referred to in the *Coastal Management Act 2016*.

Critically endangered ecological community means an ecological community identified in Part 1 of Schedule 2 to the *Biodiversity Conservation Act 2016*.

Diameter at breast height over bark means the diameter over the bark of the stem at 1.3 metres above the ground. If there are multiple stems on a tree, the diameter is measured on the largest stem.

Endangered ecological community or **EEC** means an ecological community identified in Part 2 of Schedule 2 to the *Biodiversity Conservation Act 2016*.

Estuarine area means any part of a river whose level is periodically or intermittently affected by coastal tides or any lake or other partially enclosed body of water that is periodically or intermittently open to the sea.

Important wetland means a wetland that is—

- (a) listed in the Australian Wetland Database, including Australian Ramsar Wetlands and the Directory of Important Wetlands in Australia from time to time, available from the Australian Government Department of the Environment and Energy (<http://www.environment.gov.au/water/wetlands/australian-wetlands-database>), or
- (b) a Coastal Wetland.

Keith vegetation formation means a vegetation formation specified in Schedule 2 to this Code.

Land management activity means any management of or impacts on native vegetation, including clearing, undertaken for an agricultural purpose.

Local wetland means a wetland other than an important wetland.

Minimal disturbance to soil and groundcover means no greater than 30% of the soil surface and existing groundcover is disturbed (total area) as a result of the clearing.

Nil disturbance to soil and groundcover means no greater than 5% of the soil surface and existing groundcover is disturbed (total area) as a result of the clearing.

Rotational land management activity means a land management activity undertaken on a continuous, repetitive or cyclical basis or where the impact of the land management activity on native vegetation is maintained by subsequent active management of the land or vegetation.

Stream means an incised watercourse that exhibits the features of a defined channel with bed and banks.

Stream order means the stream order as defined in Part 1 of Schedule 2 to the *Water Management (General) Regulation 2011*.

Threatened ecological community or **TEC** means an ecological community identified in Schedule 2 to the *Biodiversity Conservation Act 2016*.

Threatened species has the same meaning as in the *Biodiversity Conservation Act 2016*.

Treatment area means an area of category 2-regulated land subject to a current notification made under this Code or a parcel of land subject to a current voluntary or mandatory code compliant certificate issued under the Code. A treatment area constitutes the entire contiguous area of land within which clearing under a Division is to occur, as specified in the relevant notification or certificate.

Vulnerable ecological community or *VEC* means an ecological community identified in Part 3 of Schedule 2 to the *Biodiversity Conservation Act 2016*.

Water body means a stream, local wetland, important wetland or estuarine area as defined in this Code.

Wetland means a natural body of water, other than a floodplain (such as a marsh, billabong, swamp or sedgeland) that is inundated cyclically, intermittently or permanently with water and vegetated with wetland plant communities.

Schedule 6 Notification requirements

- (1) The notification must be in the form provided by Local Land Services or using the Local Land Services online notification system.
- (2) The notification must be provided to Local Land Services at least two weeks prior to the first date on which the proposed clearing is intended to be carried out.
- (3) The notification must include the following information—
 - (a) the Part and Division of the Code under which clearing is intended to be carried out,
 - (b) details of the land on which the clearing is to be carried out (including the address and Lot and Deposited Plan details of the land),
 - (c) the parcels comprising the landholding on which the clearing is proposed, and the location of those parcels,
 - (d) the name of the owner of the land,
 - (e) GPS points or the provision of a map for the area of the activity,
 - (f) the area (in hectares) of the land to be cleared,
 - (g) the date or dates on which the intended clearing is to take place,
 - (h) the name of the person or persons who is or are to carry out the intended clearing,
 - (i) confirmation that any landholding restrictions provided in the Division of the Code do not apply to the land on which clearing is intended to be carried out,
 - (j) the species of native vegetation intended to be cleared if the Part and Division under which the clearing is to be carried out restricts the species of native vegetation that may be cleared,
 - (k) the method of the intended clearing if the Part and Division under which the clearing is to be carried out restricts the method of clearing,
 - (l) in the case of proposed clearing under Division 1 or 3 of Part 5, the area of the landholding and the number of paddock tree areas or small areas to be cleared.

Historical notes

The following abbreviations are used in the Historical notes:

Am	amended	LW	legislation website	Sch	Schedule
Cl	clause	No	number	Schs	Schedules
ClI	clauses	p	page	Sec	section
Div	Division	pp	pages	Secs	sections
Divs	Divisions	Reg	Regulation	Subdiv	Subdivision
GG	Government Gazette	Regs	Regulations	Subdivs	Subdivisions
Ins	inserted	Rep	repealed	Subst	substituted

Table of amending instruments

Land Management (Native Vegetation) Code 2018 (83). LW 9.3.2018. Date of commencement, 10.3.2018, cl 2. This Code has been amended as follows—

2019	(361)	<i>Land Management (Native Vegetation) Code Amendment (Monaro and Werriwa Grassy Woodland Critically Endangered Ecological Communities) 2019</i> . LW 2.8.2019. Date of commencement, on publication on LW, cl 2.
	No 14	<i>Statute Law (Miscellaneous Provisions) Act (No 2) 2019</i> . Assented to 21.11.2019. Date of commencement of Sch 2.11, 14 days after assent, sec 2(1).

Table of amendments

Cl 7	Am 2019 (361), Sch 1 [1].
Cl 17	Am 2019 No 14, Sch 2.11[1].
Cl 19A	Ins 2019 (361), Sch 1 [2].
Cl 72	Am 2019 No 14, Sch 2.11[2].