



New South Wales

Land Management (Native Vegetation) Code 2017

under the

Local Land Services Act 2013

I, the Minister for Primary Industries, make the following *Land Management (Native Vegetation) Code* under section 60S of the *Local Land Services Act 2013*.

Dated this DDth day of Month 201x.

NIALL BLAIR, MLC
Minister for Primary Industries

Explanatory note

The concurrence of the Minister for the Environment will be obtained prior to the making of this Code.

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Preliminary

1 Name

This Code is the Land Management (Native Vegetation) Code 2017.

2 Commencement

This Code commences on the day it is published on the NSW legislation website.

3 Aims

- (1) The aim of this Code is 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) The Dictionary at the end of this Code defines words and expressions 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) Nothing in this Code prevents the Native Vegetation Panel from considering and determining an application for the carrying out of clearing native vegetation under Division 6 of the Act.

5 Structure of this Code

- (1) This Code is divided into the following Parts:
 - (a) **Part 1, Invasive Native Species** – permits, by several treatment methods, clearing of native vegetation on Category 2- regulated land that has been identified as an Invasive Native Species, and permits certain agricultural activities in treatment areas;
 - (b) **Part 2, Pasture Expansion** – permits a range of clearing of woody native vegetation on Category 2- regulated land, in particular to encourage groundcover growth in treatment areas for grazing purposes;
 - (c) **Part 3, Stock Fodder Harvesting** – permits clearing of certain native vegetation species on Category 2- regulated land in prescribed parts of the State for the purposes of harvesting stock fodder;
 - (d) **Part 4, Continuing Use** – permits continuation of a farming or vegetation management practice that was undertaken prior to commencement of the *Local Land Services Amendment Act 2016*; permits certain agricultural activities in treatment areas; and in prescribed circumstances authorises re-categorisation of mapped land;
 - (e) **Part 5, Property Vegetation Plan Transition** – provides for extinguishment of a Property Vegetation Plan made under the *Native Vegetation Act 2003* and in prescribed circumstances provides for establishment of set aside areas on Category 2- regulated land;
 - (f) **Part 6, Equity** – 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; and provides for establishment of set aside areas on Category 2- regulated land;

- (g) **Part 7, 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 provides for re-categorisation of set aside areas established in accordance with the Part.

6 Land to which this code applies

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

7 Unauthorised clearing of native vegetation

- (1) Clearing of native vegetation is not authorised by this Code if:
- (a) the native vegetation is on land that is identified as Category 2 – Sensitive Regulated Land on a map made under the *Local Land Services Act 2013*, or
 - (b) it is on land designated as category 2 – regulated land as old growth forest, unless Local Land Services makes a determination otherwise in accordance with clause 125 of the *Local Land Services Regulation 2014* (as amended by the draft *Local Land Services Amendment (Land Management - Native Vegetation) Regulation 2017*), or
 - (c) the native vegetation forms part of a Critically Endangered Ecological Community; or
 - (d) the native vegetation is required to be retained under any Division or Part of this Code.
- (2) This Code does not authorise any clearing (including thinning) for the purposes of private native forestry

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

In the course of carrying out clearing that is authorised by this Code, the person who carries out the clearing must not harm an animal that is a threatened species if that person knew that the clearing was likely to harm the animal.

Note: Except for an act referred to in this clause, any act which harms a threatened species or its habitat does not constitute an offence under the *Biodiversity Conservation Act 2016*, if the act occurs in the course of clearing that is authorised by this Code.

9 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 6, Equity
 - (c) Part 7, 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 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 have not been carried out.
- (4) Where a 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.

10 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) Intended clearing of native vegetation must comply with the terms of the relevant Part of this Code.
- (3) Notification of intended clearing must be made in accordance with Schedule 3 to this Code.
- (4) Notified clearing of native vegetation must be carried out in accordance with the relevant Part of this Code.
- (5) Notified clearing of native vegetation may only be undertaken by or on behalf of the landholder of the land on which the clearing is intended to be carried out.
- (6) A notification made under this code has effect for:
- (a) in the case of a notification that does not result in re-categorisation of land – 15 years from the date on which the notification is made, or
 - (b) in the case of a notification that results in the re-categorisation of land – in perpetuity.
- (7) If the relevant part of the code is repealed or amended prior to the notified clearing being carried out, then the notified clearing is not permitted (unless specifically authorised by the amended code). However, if a voluntary or mandatory code compliant certificate has been obtained, the clearing may be carried out even if the relevant part of the code is subsequently amended or repealed.
- (8) If land has been re-categorised following a lawful notification under this code, that re-categorisation will not be affected by any subsequent changes to the relevant part of this code.
- (9) 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 are specified in the certificate.
- (10) A voluntary code compliant certificate issued under this Code has effect for:

- (a) in the case of a voluntary code compliant certificate that does not authorise re-categorisation of land – 15 years from the date on which the certificate is issued, or
- (b) in the case of a voluntary code compliant certificate that authorises re-categorisation of land – in perpetuity.

11 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 intended clearing complies with the terms of the relevant Part of the Code.
- (2) Applications for a mandatory code compliant certificate for intended clearing of native vegetation must be made in accordance with Schedule 4 to this Code.
- (3) Certified clearing of native vegetation must be carried out in accordance with the relevant certificate.
- (4) Certified clearing of native vegetation may only be undertaken by or on behalf of the landholder of the land to which the certificate applies.
- (5) A mandatory code compliant certificate issued under this Code has effect for:
 - (a) in the case of a mandatory code compliant certificate that does not authorise re-categorisation of land – 15 years from the date on which the certificate is issued, or
 - (b) in the case of a mandatory code compliant certificate that authorises re-categorisation of land – in perpetuity.

12 Power for LLS to refuse certificate

- (1) Local Land Services may refuse to issue a mandatory code compliant certificate 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 consideration of the application for a mandatory code compliant certificate, and
 - (b) in the opinion of the Local Land Services, the cumulative impact of all clearing, including the proposed clearing, on the relevant land is likely to lead to significant adverse impacts on biodiversity on the land.
- (2) Nothing in this clause prevents clearing under more than one Part or Division of this Code on the same area of land.

Note: The intention of this clause is to prevent “stacking”, that is, the inappropriate application of clearing under multiple parts of this code that would 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.

13 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 establishes a set aside area must identify the location of the set aside area and the management obligations that apply in the set aside area.
- (3) All set aside areas will be registered on the public register of set aside areas established by the Act.

14 Prohibition on clearing native vegetation in set aside areas

- (1) No clearing of native vegetation is permitted in a set aside area except:
 - (a) clearing consistent with or required to manage the set aside area in accordance with the Act and Regulation and this Code, and
 - (b) clearing permitted or required by the mandatory code compliant certificate that establishes the set aside area.

15 Buffer distances for wetlands and streams

- (1) This clause applies where this code refers to the inclusion of a requirement on a mandatory code compliant certificate prescribing a distance from the edge of wetland or top bank of an incised stream.
- (2) In considering whether to include such a requirement, Local Land Services is to have regard to the Strahler system of stream classification and the provisions of the Department of Primary Industries – Office of Water document titled “Guidelines for riparian corridors on waterfront land”, in particular, the recommended riparian corridor widths in Table 1 of that document .
- (3) If a watercourse is a first or second order stream and does not exhibit the features of a defined channel with bed and banks, Local Land Services may determine that the watercourse is not a stream for the purposes of this Code.

16 Management of set aside areas

- (1) The landholder of land on which the 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) The landholder is to carry out the management actions that are set out in the mandatory code compliant certificate.
- (3) Local Land Services may only include management actions in a mandatory code compliant certificate following consultation with the landholder.

- (4) Local Land Services may change the management actions in a mandatory code compliant certificate at any time, but only with the agreement of the landholder.

Management actions set out in a mandatory code compliant certificate must be consistent with the management strategies set out in Schedule 4 of this Code or any relevant guidelines published by Local Land Services. .

- (5) Where there is evidence, being evidence obtained in the course of Local Land Services' monitoring and evaluation program, that one or more of the management actions being undertaken in respect of the set aside area is or are causing an adverse impact on the environment, Local Land Services may vary the mandatory code compliant certificate to remove one or more management actions. In such circumstances, the agreement of the landholder is not required.
- (6) A variation under subclause (5) may only be made after Local Land Services has consulted with the landholder and made reasonable attempts to agree on a variation.
- (7) The consultation referred to in subclause (6) must include, as a minimum, the following steps:
- (a) Local Land Services must provide the landholder with notice of the proposed variation, along with reasons for the proposed variation,
 - (b) the landholder must be provided with a reasonable opportunity in which to make submissions on the proposed variation, and
 - (c) Local Land Services must consider those submissions prior to making a decision on the proposed variation.
- (8) A certificate may only be varied under this subclause (5) by an officer of Local Land Services at director level or higher.
- (9) 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 would have no material impact on the biodiversity value of the set aside area.

17 Identification of Threatened Ecological Communities

- (1) For the purposes of set aside area requirements in this Code, native vegetation is taken to be an instance of a Threatened 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 viability of an instance of a functioning ecological community over the long term, Local Land Services is to have regard to:

- (a) the structure and condition of the instance of the community including the species present and the proportion of each species in each vegetation strata, including any guidelines produced by Local Land Services for the purpose of determining that structure and condition,
 - (b) the area over which the instance of the community is present,
 - (c) the location of the instance of the community in relation to other native vegetation in the landscape, and
 - (d) impacts on the instance of the community arising from activities on immediately adjacent land, including whether such activities are likely to have an adverse impact on the instance on the community.
- (3) This section does not apply to intended clearing of native vegetation that require notification to Local Land Services unless the landholder applies to Local Land Services for a voluntary code compliant certificate.
- (4) This clause also applies where native vegetation is to be cleared under Part 6 (Equity Code) and Part 7 (Farm Plan) and a set aside area must be established in respect of that clearing.
- (5) If no guidelines have been made under subclause (2) in respect of a particular ecological community, then 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 the certifying Local Land Services officer, 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.

Part 1 Invasive Native Species

Division 1 Management burning

18 Permitted clearing of native vegetation

- (1) Clearing of invasive native species by management burning.

19 Requirements prior to undertaking permitted clearing

- (1) Prior to undertaking clearing of native vegetation under this Division, a landholder must notify Local Land Services of the intended clearing or obtain from Local Land Services a voluntary code compliant certificate for the clearing.

20 Landholding restrictions

- (1) Nil.

21 Treatment area restrictions

- (1) Nil.

22 Method and clearing conditions

- (1) Clearing of native vegetation under this Division must be limited to the clearing of non-invasive native species to the minimum extent necessary.
- (2) Clearing of native vegetation under this Division must be undertaken in a manner that results in nil soil disturbance and no land degradation in the treatment area.
- (3) Clearing must not result in the introduction of non-native vegetation.

Division 2 Individual plant clearing of invasive native species

23 Permitted clearing of native vegetation

- (1) Clearing is limited to individual plants that are invasive native species.
- (2) Invasive native species with a diameter at breast height over bark less than 20 cm must be retained at 20 stems per hectare.
- (3) Clearing is limited to invasive native species with a maximum diameter at breast height over bark of 20cm, or the maximum diameter at breast height over bark specified for the species in the table below.

Invasive native species	Maximum diameter at breast height over bark (cm)
<i>Callitris endlicheri</i> (black cypress)	30 cm
<i>Callitris glaucophylla</i> (white cypress)	30 cm
<i>Eucalyptus camaldulensis</i> (river red gum)	30 cm
<i>Eucalyptus intertexta</i> (red box)	30 cm
<i>Eucalyptus populnea</i> subsp. <i>bimbil</i> (bimble box, poplar box)	30 cm

24 Requirements prior to undertaking permitted clearing

- (1) Prior to undertaking clearing of native vegetation under this Division, a landholder must notify Local Land Services of the intended clearing or obtain from Local Land Services a voluntary code compliant certificate for the intended clearing.

25 Landholding restrictions

- (1) Nil.

26 Treatment area restrictions

- (1) For each 1000 hectares treatment area, or part thereof, 10% of the treatment area must not be cleared by any other Division unless authorised by a:
 - (a) Mandatory code compliant certificate issued by Local Land Services, or
 - (b) clearing approval under Division 6 of the Local Land Services Act 2013.
- (2) For the purposes of (1)(a), in the issue of a mandatory code compliant certificate LLS must consider the cumulative impact the proposed clearing would have on the retained treatment area.

27 Method and clearing conditions

- (1) Clearing of native vegetation under this Division must be limited to the clearing of non-invasive native species to the minimum extent necessary.
- (2) Clearing of native vegetation under this Division must be undertaken in a manner that results in nil soil disturbance and no land degradation in the treatment area.
- (3) Clearing must not result in the introduction of non-native vegetation.

Note for public exhibition draft: This clause may be changed to deal with any clearing of non-invasive native species which is permitted by this Division.

Division 3 Clearing at paddock scale with minimal disturbance

28 Permitted clearing of native vegetation

- (1) Clearing is limited to invasive native species with a maximum diameter at breast height over bark of 20cm, or the maximum diameter at breast height over bark specified for the species in the table below.

Invasive native species	Maximum diameter at breast height over bark (cm)
<i>Callitris endlicheri</i> (black cypress)	30 cm
<i>Callitris glaucophylla</i> (white cypress)	30 cm
<i>Eucalyptus camaldulensis</i> (river red gum)	30 cm
<i>Eucalyptus intertexta</i> (red box)	30 cm
<i>Eucalyptus populnea</i> subsp. <i>bimbil</i> (bimble box, poplar box)	30 cm

- (2) Invasive native species with a diameter at breast height over bark less than 20 cm must be retained at 20 stems per hectare.
- (3) Invasive native species must comprise more than 50% of the total number of trees and shrubs in the treatment area.

29 Requirements prior to undertaking permitted clearing

- (1) Prior to undertaking clearing of native vegetation under this Division, a landholder obtain from Local Land Services a mandatory code compliant certificate for the intended clearing.

30 Landholding restrictions

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

31 Treatment area restrictions

- (1) For each 1000 hectares treatment area, or part thereof, 10% of the treatment area must not be cleared by any other Division unless authorised by a:
- Mandatory code compliant certificate issued by Local Land Services, or
 - clearing approval under Division 6 of the Local Land Services Act 2013.
- (2) For the purposes of (1)(a), in the issue of a mandatory code compliant certificate LLS must consider the cumulative impact the proposed clearing would have on the retained treatment area.
- (3) The total clearing of non-invasive native species is limited to no more than 10% of the total number of trees and shrubs in a treatment area.
- (4) Non-invasive native species with a diameter at breast height over bark greater than 20 cm must be retained.
- (5) Clearing of native vegetation is not permitted under this Division:
- on Category 2- vulnerable regulated land, or

- (b) within the distance an estuary, wetland or incised watercourse specified by the Department of Primary Industries – Office of Water document titled “Guidelines for riparian corridors on waterfront land”, in particular, the riparian corridor widths specified in Table 1 of that document, or
- (c) on land with sandy soils (soil less than 5% clay content, which is identified by a ribbon length less than 5 millimetres), or
- (d) on land with a slope exceeding:
 - (i) an 8 metre fall over a 100 metre (8%) distance, or
 - (ii) a 25 metre fall over a 100 metre (25%) distance where Local land Services are satisfied that the land is not a run-on area and there is no evidence of existing erosion.

Note for public exhibition draft: This clause may be changed to restrict clearing within a certain distance of an estuary, wetland or incised watercourse.

32 Method and clearing conditions

- (1) Clearing of native vegetation under this Division must be undertaken in a manner that will result in minimal soil and groundcover disturbance and not result in land degradation.
- (2) Cut stems and debris arising from clearing of native vegetation under this Division cannot be stacked around or against mature trees or woody shrubs not cleared.
- (3) Clearing of native vegetation under this Division must not result in the introduction of non-native vegetation, except by sowing of annual or non-persistent perennial species by zero till.
- (4) The mandatory code compliant certificate issued by Local Land Services under this Division may specify species of native vegetation that may not to be cleared in the treatment area.

Division 4 Clearing at paddock scale with temporary disturbance

33 Permitted clearing of native vegetation

- (1) Clearing is limited to invasive native species with a maximum diameter at breast height over bark of 20cm, or the maximum diameter at breast height over bark specified for the species in the table below.

Invasive native species	Maximum diameter at breast height over bark (cm)
<i>Callitris endlicheri</i> (black cypress)	30 cm
<i>Callitris glaucophylla</i> (white cypress)	30 cm
<i>Eucalyptus camaldulensis</i> (river red gum)	30 cm
<i>Eucalyptus intertexta</i> (red box)	30 cm
<i>Eucalyptus populnea</i> subsp. <i>bimbil</i> (bimble box, poplar box)	30 cm

- (2) Invasive native species with a diameter at breast height over bark less than 20 cm must be retained at 20 stems per hectare.
- (3) Invasive native species must comprise more than 50% of the total number of trees and shrubs in the treatment area.

34 Requirements prior to undertaking permitted clearing

- (1) Prior to undertaking clearing of native vegetation under this Division, a landholder obtain from Local Land Services a mandatory code compliant certificate for the intended clearing.

35 Landholding restrictions

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

36 Treatment area restrictions

- (1) For each 1000 hectares treatment area, or part thereof, 10% of the treatment area must not be cleared by any other Division unless authorised by a:
- Mandatory code compliant certificate issued by Local Land Services, or
 - clearing approval under Division 6 of the Local Land Services Act 2013.
- (2) For the purposes of (1)(a), in the issue of a mandatory code compliant certificate LLS must consider the cumulative impact the proposed clearing would have on the retained treatment area.
- (3) The total clearing of non-invasive native species is limited to no more than 20% of the total number of trees and shrubs in a treatment area.
- (4) Non-invasive native species with a diameter at breast height over bark greater than 20 cm must be retained.
- (5) Clearing of native vegetation is not permitted under this Division:
- on Category 2- vulnerable regulated land, or

- (b) within the distance an estuary, wetland or incised watercourse specified by the Department of Primary Industries – Office of Water document titled “Guidelines for riparian corridors on waterfront land”, in particular, the riparian corridor widths specified in Table 1 of that document, or
- (c) on land with sandy soils (soil less than 5% clay content, which is identified by a ribbon length less than 5 millimetres), or
- (d) on land with a slope exceeding:
 - (i) an 8 metre fall over a 100 metre (8%) distance, or
 - (ii) a 25 metre fall over a 100 metre (25%) distance where Local land Services are satisfied that the land is not a run-on area and there is no evidence of existing erosion.

Note for public exhibition draft: This clause may be changed to restrict clearing within a certain distance of an estuary, wetland or incised watercourse.

37 Method and clearing conditions

- (1) Clearing of native vegetation under this Division must be undertaken in a manner that will not result in land degradation.
- (2) Cut stems and debris arising from clearing of native vegetation under this Division cannot be stacked around or against mature trees or woody shrubs not cleared.
- (3) Clearing of native vegetation under this Division must not result in the introduction of non-native vegetation, except the sowing of annual or non-persistent perennial species up to 5 times in a 15 year period with no more than 3 consecutive years of introduction.
- (4) The mandatory code compliant certificate issued by Local Land Services under this Division may specify species of native vegetation that may not to be cleared in the treatment area.

Part 2 Pasture Expansion

Division 1 Uniform thinning of woody native vegetation (notification)

38 Permitted clearing of native vegetation

- (1) Removing 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,
 - (b) the largest stems present on each hectare of the treatment area are retained,
 - (c) all native trees in the treatment area with a diameter at breast height over bark greater than 90 centimetres are retained, and
 - (d) retained trees and shrubs in the treatment area are, as far as reasonably possible, evenly dispersed.
- (2) In this Division, a reference to “thinning” is a reference to the removal of trees and shrubs as set out in this clause .

39 Requirements prior to undertaking permitted clearing

- (1) Prior to undertaking permitted thinning of native vegetation under this Division, a landholder must notify Local Land Services of the intended clearing or obtain from Local Land Services a voluntary code compliant certificate for the intended clearing.

40 Landholding restrictions

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

41 Treatment area restrictions

- (1) Thinning of native vegetation is only permitted under this Division if the vegetation in the treatment area forms part of 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) Thinning 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 Threatened Ecological Community.
- (3) Thinning of native vegetation is not permitted under this Division on land that is an existing treatment area under any Division of this Code.

42 Method and clearing conditions

- (1) Thinning of native vegetation under this Division must be undertaken in a manner that will minimise soil and groundcover disturbance and land degradation in the treatment area.
- (2) Cut stems and debris arising from thinning of native vegetation under this Division cannot be stacked around or against retained mature trees or woody shrubs.
- (3) If thinning is carried out on vulnerable land, thinning is to be carried out only by clearing individual plants with minimal disturbance to soil and groundcover (and not by any other method).

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Division 2 Uniform thinning of woody native vegetation (certification)

43 Permitted clearing of native vegetation

- (1) Removing 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 table below,
 - (b) the largest stems present on each hectare of the treatment area are retained,
 - (c) all native trees in the treatment area with a diameter at breast height over bark greater than 90 centimetres are retained, and
 - (d) retained trees and shrubs in the treatment area are, as far as reasonably possible, evenly dispersed.
- (2) In this Division, a reference to “thinning” is a reference to the removal of trees and shrubs as set out in this clause .

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

- (3) Where the treatment area contains native vegetation that comprises part of an Endangered Ecological Community, the density of native trees and shrubs in the treatment area must be at least the minimum stem density for the Keith vegetation formation set out in the table below.

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

- (4) Where the treatment area is predominately in the Coastal Zone:
 - (a) the treatment area must not contain native vegetation that is a Forested Wetland Keith vegetation formation, and
 - (b) thinning is limited to the following genera: Acacia, Allocasuarina, Angophora, Callitris, Casuarina, Corymbia, Eucalyptus, Leptospermum, Melaleuca and Syncarpia.
- (5) The mandatory code compliant certificate issued by Local Land Services may specify an alternative minimum stem density where Local Land Services is satisfied that:
 - (a) a greater stem density is required to avoid significant adverse environmental impacts at a local or regional scale, or
 - (b) a lower stem density is reasonable and necessary in the context and would have no significant adverse environmental impacts.

44 Requirements prior to undertaking permitted clearing

- (1) Prior to undertaking permitted thinning of native vegetation under this Division, a landholder must obtain from Local Land Services a mandatory code compliant certificate for the intended thinning.

45 Landholding restrictions

- (1) Thinning of native vegetation is not permitted under this Division on a landholding that is a small holding.
- (2) Thinning 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.

46 Treatment area restrictions

- (1) Thinning of native vegetation is only permitted under this Division if the vegetation in the treatment area forms part of 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) Thinning of native vegetation is not permitted under this Division in a treatment area that is less than 1 hectare in size.
- (3) Thinning of native vegetation is not permitted under this Division on land that is an existing treatment area under any Division of this Code.

47 Method and clearing conditions

- (1) Thinning of native vegetation under this Division must be undertaken in a manner likely to minimise soil and groundcover disturbance and land degradation in the treatment area.
- (2) Cut stems and debris arising from thinning of native vegetation under this Division cannot be stacked around or against retained mature trees or woody shrubs.
- (3) Thinning of native vegetation is to be carried out only by clearing individual plants with minimal disturbance to soil and groundcover (and not by any other method) where:

- a) the thinning is carried out on vulnerable land, or
- b) the thinning is carried out within any distance of the edge of a wetland or the top bank of an incised stream prescribed by the mandatory code compliant certificate. Local Land Services may include such a requirement on a mandatory code compliant certificate if it is of the opinion that it is necessary for the protection of a wetland or incised stream.

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Division 3 Mosaic thinning of woody native vegetation (certification)

48 Permitted clearing of on native vegetation

- (1) Removing native trees and shrubs from a treatment area such that:
 - (a) the canopy cover of the remaining native over-story in the treatment area comprises at least 30% of the total treatment area,
 - (b) all native trees in the treatment area with a diameter at breast height over bark greater than 90 centimetres are retained, and
 - (c) retained native vegetation are, as far as reasonably possible, in patches of at least 5 hectares evenly distributed throughout the treatment area.
- (2) The mandatory code compliant certificate issued by Local Land Services may specify where retained patches of trees and shrubs may be thinned to the benchmark stem density for the relevant Keith vegetation formation.
- (3) In this Division, a reference to “thinning” is a reference to the removal of trees and shrubs as set out in this clause.

49 Requirements prior to undertaking permitted clearing

- (1) Prior to undertaking thinning of native vegetation under this Division, a landholder must obtain from Local Land Services a mandatory code compliant certificate for the intended thinning.

50 Landholding restrictions

- (1) Thinning of native vegetation is not permitted under this Division on a landholding which comprises less than 30% Category 2- regulated land.
- (2) Thinning of native vegetation is not permitted under this Division on a landholding that is a small holding.
- (3) Thinning 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.

51 Treatment area restrictions

- (1) On a single landholding, the total treatment areas under this Division must not exceed 30% of the total area of the landholding.
- (2) Local Land Services may, in the mandatory code compliant certificate, restrict the thinning of native vegetation to native vegetation that forms part of one of the following Keith vegetation formations, if satisfied that to do so is reasonably necessary in the circumstances:
 - (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)
- (3) Thinning of native vegetation is not permitted under this Division in a treatment area:

- (a) that contains a Threatened Ecological Community,
 - (b) entirely or partly on Category 2- vulnerable regulated land (unless the mandatory code compliant certificate provides otherwise), or
 - (c) within any distance of the edge of a wetland or the top bank of an incised stream prescribed by the mandatory code compliant certificate. Local Land Services may include such a requirement on a mandatory code compliant certificate if it is of the opinion that it is necessary for the protection of a wetland or incised stream.
- (4) Thinning of native vegetation is not permitted under this Division on land that is an existing treatment area under any Division of this Code.

52 Method and clearing conditions

- (1) Thinning of native vegetation under this Division must not result in the substantial long-term decline in the structure and composition of native groundcover in the treatment area.
- (2) Unless otherwise specified in the mandatory code compliant certificate, thinning of native vegetation is not permitted in retained native vegetation patches.
- (3) Thinning of native vegetation under this Division must be undertaken in a manner likely to minimise soil and groundcover disturbance and land degradation in the treatment area.
- (4) Cut stems and debris arising from thinning of native vegetation under this Division cannot be stacked around or against retained mature trees or woody shrubs.
- (5) The mandatory code compliant certificate issued by Local Land Services under this Division may specify species of native vegetation that may not be thinned in the treatment area.

Part 3 Stock Fodder Code

Division 1 Clearing for Stock Fodder

53 Permitted clearing of native vegetation

- (1) Clearing of mulga species for purpose of stock fodder.

54 Requirements prior to undertaking permitted clearing

- (1) Prior to undertaking clearing of native vegetation under this Division, a landholder must notify Local Land Services of the intended clearing or obtain from Local Land Services a voluntary code compliant certificate for the clearing.

55 Landholding restrictions

- (1) Clearing must not occur:
 - (a) on small holdings,
 - (b) in the Coastal Zone,

56 Treatment area restrictions

- (1) Clearing of native vegetation is not permitted under this Division:
 - (a) on Category 2- vulnerable regulated land, or
 - (b) within 20m of an estuary, wetland or incised watercourse.

57 Method and clearing conditions

- (1) Clearing must not exceed 50% of the total area of mulga species on the landholding within a 10 year period.
- (2) Cleared mulga species must remain on the ground where it falls or be windrowed along a contour.
- (3) Retained mulga species plants must be no more than 20 metres apart.
- (4) Clearing is limited to the minimum extent necessary for supply of stock fodder to stock present on the landholding.
- (5) Clearing must not result in:
 - (a) the introduction of non-native vegetation, or
 - (b) land degradation.

Part 4 Continuing Use

Division 1 Managing woody native regrowth in managed native pastures

58 Authorised clearing of native vegetation

This Division authorises the clearing of woody native vegetation that has regrown since 1 January 1990, except woody native vegetation that has grown or regrown following bushfire, flood, drought or other natural cause.

59 Requirements prior to undertaking authorised clearing

- (1) Nil.

60 Landholding restrictions

- (1) Clearing of native vegetation is not authorised by this Division on a landholding that is a small holding.

61 Treatment area restrictions

- (1) This Division authorises the clearing of woody native vegetation only if woody native vegetation has been lawfully cleared from the treatment area (whether by the current or a previous landholder) on at least one previous occasion.
- (2) Native vegetation is not taken to have been lawfully cleared if the clearing was caused by bushfire, flood, drought or other natural cause.

62 Method and clearing conditions

- (1) Clearing of woody native vegetation under this Division must not result in the substantial long-term decline in the structure and composition of native groundcover in the treatment area.
- (2) Clearing of native vegetation under this Division must be undertaken in a manner likely to minimise soil and groundcover disturbance and land degradation in the treatment area.
- (3) Cut stems and debris arising from clearing of native vegetation under this Division are not to be stacked around or against retained mature trees or woody shrubs.

Note for public exhibition draft: The intent of this Division is to allow the clearing of woody vegetation from land used for agricultural purposes where the vegetation has regrown since 1990 following earlier clearing, including clearing prior to 1990, only if the clearing would currently be lawfully permitted and the vegetation is not required to be retained under another Part of this Code. It is not intended that this Division will allow the clearing of new growth or natural growth from intact patches of remnant vegetation that have no previous clearing history.

Division 2 Continuation of rotational practices undertaken prior to 1990

63 Authorised clearing of native vegetation

- (1) This Division authorises the clearing of native vegetation associated with a rotational farming or vegetation management practice that:
 - (a) 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
 - (b) remained in place at 1 January 1990.

64 Requirements prior to undertaking clearing

- (1) Prior to undertaking authorised clearing of native vegetation under this Division, a landholder must obtain from Local Land Services a mandatory code compliant certificate for the intended clearing.
- (2) A mandatory code compliant certificate issued under this Division must:
 - (a) specify the rotational farming or vegetation management practice permitted to be undertaken in a treatment area, and
 - (b) set out the clearing of native vegetation associated with the permitted rotational farming or vegetation management practice.

65 Landholding restrictions

- (1) Nil.

66 Treatment area restrictions

- (1) Nil.

67 Method and clearing conditions

- (1) This Division only authorises clearing of native vegetation that is substantially consistent with the specified rotational farming or vegetation management practice. However, this clause does not restrict the manner in which the clearing may be undertaken.
- (2) 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.

68 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 on the Native Vegetation Regulatory Map to Category 1 – exempt land if the rotational farming or vegetation management practice involves clearing of 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 clearing conditions prescribed in this Division do not apply to the treatment area (including during the period between the issuing of the certificate and the amendment of the Map).

Note for public exhibition draft: This clause will also specify the circumstances in which this Division authorises category 2 – regulated land to be re-categorised as category 1 – exempt land.

Part 5 Property Vegetation Plan Transition Code

Division 1 Extinguishing a property vegetation plan that provides for invasive native species, thinning, regrowth identification or continuing use

69 Pre-conditions to extinguish a property vegetation plan

- (1) The landholding must be subject to a property vegetation plan for invasive native species, thinning, regrowth confirmation or continuing use.
- (2) Prior to extinguishing a property vegetation plan under this Division, a landholder must obtain from Local Land Services a mandatory code compliant certificate.

70 Method and clearing conditions

- (1) Local Land Services may vary to end the property vegetation plan, including any offset area and conditions.

71 Re-categorisation of land

- (1) Land that has been cleared in accordance with the property vegetation plan for invasive native species or thinning is authorised to be re-categorised to Category 2 – regulated land
- (2) Land that has been cleared in accordance with the property vegetation plan for regrowth confirmation or continuing use is authorised to be re-categorised to Category 1 – exempt land.

Division 2 Extinguishing a partially exercised property vegetation plan for paddock tree clearing or broadscale clearing

72 Pre-conditions to extinguish a property vegetation plan

- (1) The landholding must be subject to a property vegetation plan for paddock tree clearing or broadscale clearing where clearing under that plan has commenced and not been completed.
- (2) Prior to extinguishing a property vegetation plan under this Division, a landholder must obtain from Local Land Services a mandatory code compliant certificate.

73 Method and clearing conditions

- (1) A property vegetation may be varied such as to bring the plan to an end, in accordance with this Division.

74 Re-categorisation of land

- (1) Land that has been cleared in accordance with the property vegetation plan is authorised to be re-categorised to Category 1 – exempt land.
- (2) Land that was proposed to be cleared under the property vegetation plan, but has not been cleared, is authorised to be re-categorised to Category 2 – regulated land.
- (3) Offsets that have been established under the property vegetation plan are authorised to be re-categorised to Category 2 – regulated land.

75 Set aside area requirements

- (1) The area of land in a set aside area established by a mandatory code compliant certificate issued under this Division must be calculated by:
 - (a) using the average ratio of clearing to offset under the property vegetation plan, and
 - (b) applying that ratio to the area of clearing that has been undertaken.
- (2) Local Land Services may increase or decrease the ratio where, in the judgement of Local Land Services, the clearing area to set aside area ratio does not reflect the biodiversity or threatened species outcomes provided for in the property vegetation plan.
- (3) Set aside areas must be:
 - (a) located on the same landholding as the clearing,
 - (b) on Category 2 – regulated land
 - (c) the same or similar vegetation type and condition to the offset defined in the property vegetation plan..

Note for public exhibition draft: Set aside areas are to be situated in the same location as the offset or offsets under the property vegetation plan.

Part 6 Equity

Division 1 Removing native vegetation from paddock tree areas

76 Permitted clearing of native vegetation

- (1) Removing native vegetation from paddock tree areas.

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

- (2) On any landholding, native vegetation may be removed from paddock tree areas at a rate of one paddock tree area for each 50 hectares of landholding (or part thereof) in any 12 month period.
- (3) For the purposes of determining the number of paddock tree areas from which native vegetation has been removed in any 12 month period, clearing taken to have been carried out from the date on which notification of intended clearing is made.

77 Requirements prior to undertaking permitted clearing

- (1) Prior to undertaking permitted clearing of native vegetation under this Division, a landholder must notify Local Land Services of the intended clearing or obtain from Local Land Services a voluntary code compliant certificate for the intended clearing.

78 Landholding restrictions

- (1) Clearing of native vegetation is not permitted under this Division on a landholding which comprises less than 10% Category 2- regulated land or on which permitted clearing would reduce the proportion of Category 2- regulated land to less than 10% of the total landholding.
- (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.

79 Treatment area restrictions

- (1) Clearing of native vegetation is not permitted under this Division in a treatment area:
 - (a) entirely or partly on Category 2 - vulnerable regulated land, or
 - (b) within any distance of the edge of a wetland or the top bank of an incised stream prescribed by the mandatory code compliant certificate. Local Land Services may include such a requirement on a mandatory code compliant certificate if it is of the opinion that it is necessary for the protection of a wetland or incised stream..
- (2) Clearing of native vegetation is not permitted under this Division on land that is an existing treatment area under any Division of this Code.

80 Method and clearing conditions

- (1) Nil.

81 Re-categorisation of land

- (1) Paddock tree areas which are cleared in accordance with a valid notification of intended clearing has been made under this Division are authorised to be re-categorised on the Native Vegetation Regulatory Map to Category 1 – exempt land.
- (2) The voluntary code compliant certificate issued by Local Land Services under this Division may provide for re-categorisation on the Native Vegetation Regulatory Map to Category 1 – exempt land of paddock tree areas identified in the certificate.

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Division 2 Removing native vegetation from small areas

82 Permitted clearing of native vegetation

- (1) Removing native vegetation from small areas.

Small area means:

- i. 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;
 - ii. 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;
 - iii. in the case of a landholding wholly or predominately in the Tablelands Zone – an area of Category 2- regulated land not more than 2 hectares;
 - iv. in the case of a landholding wholly or predominately in the Coastal Zone – an area of Category 2- regulated land not more than 1 hectares.
- (2) On any landholding, native vegetation may be removed from small areas at a rate of one small area for each 250 hectares of landholding (or part thereof) in any 12 month period.
- (3) For the purposes of determining the number of small areas from which native vegetation has been removed in any 12 month period, clearing is taken to have been carried out from the date on which a mandatory code compliant certificate is issued.

83 Requirements prior to undertaking permitted clearing

- (1) Prior to undertaking permitted clearing of native vegetation under this Division, a landholder must obtain from Local Land Services a mandatory code compliant certificate for the intended clearing.

84 Landholding restrictions

- (1) Clearing of native vegetation is not permitted under this Division on a landholding which, in the opinion of Local Land Services, comprises less than 10% Category 2- regulated land or on which intended clearing would, in the opinion of Local Land Services, reduce the proportion of Category 2- regulated land to less than 10% of the total landholding.
- (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.

85 Treatment area restrictions

- (1) Clearing of native vegetation is not permitted under this Division in a treatment area:
- (a) entirely or partly on Category 2 – vulnerable regulated land,
 - (b) within any distance of the edge of a wetland or the top bank of an incised stream prescribed by the mandatory code compliant certificate. Local Land Services may include such a requirement on a mandatory code compliant certificate if it is of the opinion that it is necessary for the protection of a wetland or incised stream., or

- (c) that is wholly surrounded by Category 2 – regulated land unless the treatment area is immediately adjacent to land on which native vegetation has been lawfully impacted in accordance with Part 5A of Act.

86 Method and clearing conditions

- (1) Nil.

87 Re-categorisation of land

- (1) Small areas identified in a mandatory code compliant certificate issued under this Division as areas from which native vegetation may be removed are authorised to be re-categorised on the Native Vegetation Regulatory Map to Category 1 – exempt land.

88 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 removed, the mandatory code compliant certificate must establish 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 comprising the small areas identified in the mandatory code compliant certificate that contains vegetation that does not form part of a Threatened 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 comprising the small areas identified in the mandatory code compliant certificate that contains vegetation that forms part of a Vulnerable Ecological Community, 1.5 units 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 comprising the small areas identified in the mandatory code compliant certificate that contains vegetation that forms part of an Endangered Ecological Community, 2 units must be established as a set aside area (*2 unit set aside for each unit of EEC vegetation cleared*)
- (3) However, the area of land to comprise the set aside area is reduced by 50% if the proposed set aside area will consist of vegetation which comprises an endangered or critically endangered ecological community.
- (4) Local Land Services may reduce by a maximum of 50% the area of land required in set aside area established by a mandatory code compliant certificate issued under this Division if, in the opinion of Local Land Services, the proposed set aside area is of strategic landscape-scale importance.
- (5) When forming an opinion about the importance of a proposed set aside area, Local Land Services is to have regard to:
 - (a) the type of vegetation in the proposed set aside area,
 - (b) the structure and condition of the vegetation in the proposed set aside area,
 - (c) the size of the proposed set aside area,

- (d) the location of the set aside area in relation to other native vegetation in the landscape,
 - (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 on land immediately adjacent to it.
- (6) 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 Threatened Ecological Community must contain only vegetation that forms part of the same Threatened Ecological Community.

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Division 3 Removing native vegetation from regulated rural areas (regulated land set aside area)

89 Permitted clearing on native vegetation

- (1) Removing native vegetation from regulated rural areas.
- (2) In the three year period immediately following publication of this Code, the area from which native vegetation may be removed on any landholding is whichever is the greater of:
 - (a) 25% of the estimated total area from which native vegetation may be removed under this Division up to a cumulative maximum of 625 hectares, or
 - (b) the total area from which native vegetation may be removed up to 100 hectares.
- (3) The estimated total area from which native vegetation may be removed under this Division is determined by Local Land Services.
- (4) For the purposes of determining the area from which native vegetation has been removed, native vegetation is taken to have been removed from the date on which a mandatory code compliant certificate is issued.

90 Requirements prior to undertaking permitted clearing

- (1) Prior to undertaking permitted clearing of native vegetation under this Division, a landholder must obtain from Local Land Services a mandatory code compliant certificate for the intended clearing.

91 Landholding restrictions

- (1) Clearing of native vegetation is not permitted under this Division on a landholding which, in the opinion of Local Land Services, comprises less than 10% Category 2-regulated land or on which intended clearing would, in the opinion of Local Land Services, reduce the proportion of Category 2-regulated land to less than 10% of the total landholding.
- (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.

92 Treatment area restrictions

- (1) Clearing of native vegetation is not permitted under this Division in a treatment area:
 - (a) entirely or partly on Category 2 – vulnerable regulated land, or
 - (b) within any distance of the edge of a wetland or the top bank of an incised stream prescribed by the mandatory code compliant certificate. Local Land Services may include such a requirement on a mandatory code compliant certificate if it is of the opinion that it is necessary for the protection of a wetland or incised stream.

93 Method and clearing conditions

- (1) Nil.

94 Re-categorisation of land

- (1) Regulated rural areas identified in a mandatory code compliant certificate issued under this Division as areas from which native vegetation may be removed are authorised to be re-categorised on the Native Vegetation Regulatory Map to Category 1 – exempt land.

95 Set aside area requirement

- (1) For every regulated rural area identified in a mandatory code compliant certificate issued under this Division as an area from which native vegetation may be removed, the mandatory code compliant certificate must establish 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 which, in the opinion of Local Land Services, comprises 40% Category 2 – regulated land or greater:
 - (i) for each unit area of land from which native vegetation may be removed that contains vegetation that does not form part of a Threatened Ecological Community, two units must be established as a set aside area (*2 units set aside for each unit of non-TEC vegetation cleared*)
 - (ii) for each unit area of land from which native vegetation may be removed that contains vegetation that forms part of a Vulnerable Ecological Community, three units must be established as a set aside area (*3 units set aside for each unit of VEC vegetation cleared*)
 - (iii) for each unit area of land from which native vegetation may be removed that contains vegetation that forms part of an Endangered Ecological Community, four units must be established as a set aside area (*4 units set aside for each unit of EEC vegetation cleared*)
 - (b) on a landholding which, in the opinion of Local Land Services, comprises 20% Category 2 – regulated land or greater but less than 40%:
 - (i) for each unit area of land from which native vegetation may be removed that contains vegetation that does not form part of a Threatened Ecological Community, three units must be established as a set aside area (*3 units set aside for each unit of non-TEC vegetation cleared*)
 - (ii) for each unit area of land from which native vegetation may be removed that contains vegetation that forms part of a Vulnerable Ecological Community, four and a half units must be established as a set aside area (*4.5 units set aside for each unit of VEC vegetation cleared*)
 - (iii) for each unit area of land from which native vegetation may be removed that contains vegetation that forms part of an Endangered Ecological Community, six units must be established as a set aside area (*6 units set aside for each unit of EEC vegetation cleared*)
 - (c) on a landholding which, in the opinion of Local Land Services, comprises less than 20% Category 2 – regulated land:

- (i) for each unit area of land from which native vegetation may be removed that contains vegetation that does not form part of a Threatened Ecological Community, four units must be established as a set aside area (*4 units set aside for each unit of non-TEC vegetation cleared*)
 - (ii) for each unit area of land from which native vegetation may be removed that contains vegetation that forms part of a Vulnerable Ecological Community, six units must be established as a set aside area (*6 units set aside for each unit of VEC vegetation cleared*)
 - (iii) for each unit area of land from which native vegetation may be removed that contains vegetation that forms part of an Endangered Ecological Community, eight units must be established as a set aside area (*8 units set aside for each unit of EEC vegetation cleared*)
- (7) The area of land comprising a set aside area is reduced by 50% if:
- (a) the vegetation proposed to be cleared does not comprise a vulnerable or endangered ecological community, and
 - (b) the area of vegetation to be cleared exceeds the following thresholds:
 - (i) in the Western Zone, 4 ha,
 - (ii) in the Central Zone, 3 ha,
 - (iii) in the Tablelands Zone, 2 ha,
 - (iv) in the Coastal Zone, 1 ha.
- (8) Local Land Services may reduce by a maximum of 50% the area of land required in set aside area established by a mandatory code compliant certificate issued under this Division if, in the opinion of Local Land Services, the proposed set aside area is of strategic landscape-scale importance.
- (9) When forming an opinion about the importance of a proposed set aside area, Local Land Services is to have regard to:
- (a) the type of vegetation in the proposed set aside area,
 - (b) the structure and condition of the vegetation in the proposed set aside area,
 - (c) the size of the proposed set aside area and its impacts on long term viability,
 - (d) the location of the set aside area in relation to other native vegetation in the landscape,
 - (e) the likely responsiveness of the vegetation in the proposed set aside area to active management, and
 - (f) impacts on the vegetation in the proposed set aside area arising from activities on land immediately adjacent to it.
- (10) 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 Threatened Ecological Community must contain only vegetation that forms part of the same Threatened Ecological Community.

Part 7 Farm Plan Code

Division 1 Removing native vegetation from paddock tree areas (exempt land set aside area)

96 Permitted clearing of native vegetation

- (1) Removing native vegetation from paddock tree areas.

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

97 Requirements prior to undertaking permitted clearing

- (1) Prior to undertaking permitted clearing of native vegetation under this Division, a landholder must obtain from Local Land Services a mandatory code compliant certificate for the intended clearing.
- (2) Native vegetation may not be removed from paddock tree areas identified in a code compliant certificate issued under this Division until 12 months after the issue of the certificate.

98 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.

99 Treatment area restrictions

- (1) Clearing of native vegetation is not permitted under this Division in a treatment area:
 - (a) entirely or partly on Category 2 – vulnerable regulated land, or
 - (b) within any distance of the edge of a wetland or the top bank of an incised stream prescribed by the mandatory code compliant certificate. Local Land Services may include such a requirement on a mandatory code compliant certificate if it is of the opinion that it is necessary for the protection of a wetland or incised stream,
 - (c) that contains native vegetation that forms part of an endangered ecological community.
- (2) Clearing of native vegetation is not permitted under this Division on land that is an existing treatment area under any Division of this Code.

100 Method and clearing conditions

- (1) Nil.

101 Re-categorisation of land

- (1) Paddock tree areas identified in a mandatory code compliant certificate issued under this Division as areas from which native vegetation may be removed are authorised to be re-categorised on the Native Vegetation Regulatory Map to Category 1 – exempt land 12 months from the date on which the mandatory code compliant certificate is issued.
- (2) Set aside areas established by a mandatory code compliant certificate issued under this Division are authorised to be re-categorised on the Native Vegetation Regulatory Map to Category 2 – regulated land.

102 Set aside area requirement

- (1) For every paddock tree area identified in a mandatory code compliant certificate issued under this Division as an area from which native vegetation may be removed, the mandatory code compliant certificate must establish 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 multiplying the number of paddock tree areas identified in the certificate by 0.25 hectares.
- (3) 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 establish, Local Land Services must seek to maximise environmental benefits from the set aside area.
- (4) Local Land Services must specify in the mandatory code compliant certificate issued under this Division 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.

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Division 2 Removing native vegetation from regulated rural areas (exempt land set aside area)

103 Permitted clearing of native vegetation

- (1) Removing native vegetation from regulated rural areas.
- (2) Under this Division, native vegetation may be removed from a maximum of 25% of the Category 2 – regulated land on a property.

104 Requirements prior to undertaking permitted clearing

- (1) Prior to undertaking permitted clearing of native vegetation under this Division, a landholder must obtain from Local Land Services a mandatory code compliant certificate for the intended clearing.
- (2) Native vegetation may not be removed from regulated rural areas identified in a code compliant certificate issued under this Division until 12 months after the issue of the certificate.

105 Landholding restrictions

- (1) Clearing of native vegetation is not permitted under this Division on a landholding which, in the opinion of Local Land Services, comprises less than 10% Category 2-regulated land or on which intended clearing would, in the opinion of Local Land Services, reduce the proportion of Category 2-regulated land to less than 10% of the total landholding.
- (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.

106 Treatment area restrictions

- (1) Clearing of native vegetation is not permitted under this Division in a treatment area:
 - (a) entirely or partly on Category 2 – vulnerable regulated land,
 - (b) within any distance of the edge of a wetland or the top bank of an incised stream prescribed by the mandatory code compliant certificate. Local Land Services may include such a requirement on a mandatory code compliant certificate if it is of the opinion that it is necessary for the protection of a wetland or incised stream.
 - (c) that is a paddock tree area within the meaning of this Code, or
 - (d) that contains native vegetation that forms part of an endangered ecological community.

107 Method and clearing conditions

- (1) Nil.

108 Re-categorisation of land

- (1) Areas identified in a mandatory code compliant certificate issued under this Division as areas from which native vegetation may be removed are authorised to be re-categorised on the Native Vegetation Regulatory Map to Category 1 – exempt land 12 months from the date on which the mandatory code compliant certificate is issued.

Note: Local Land Services may issue an authorised code variation certificate which reduces period before which re-categorisation is authorised. An authorised code variation certificate may only be issued where Local Land Services is satisfied that:

- (a) the proposed variation is for a legitimate purpose associated with the management of the land concerned, and
- (b) the variation is reasonable in the circumstances, and
- (c) the environmental impact of the variation would only be minor. In the case of reducing the period before which re-categorisation is authorised, it is intended that any such reduction would not adversely affect the revegetation of the set aside area.

- (2) Set aside areas established by a mandatory code compliant certificate issued under this Division are authorised to be re-categorised on the Native Vegetation Regulatory Map to Category 2 – regulated land.

109 Set aside area requirement

- (1) For every area identified in a mandatory code compliant certificate issued under this Division as an area from which native vegetation may be removed, the mandatory code compliant certificate must establish a set aside area on Category 1 – exempt 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 which, in the opinion of Local Land Services, comprises 30% Category 2- regulated land or greater – for each unit area of land, one units must be established as a set aside area (*1 unit set aside for each unit cleared*)
 - (b) on a landholding which, in the opinion of Local Land Services, comprises 10% Category 2- regulated land or greater but less than 30% – for each unit area of land from which native vegetation may be removed, three units must be established as a set aside area (*3 units set aside for each unit cleared*)
- (3) 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 establish, Local Land Services must seek to maximise environmental benefits from the set aside area.
- (4) Local Land Services must specify in the mandatory code compliant certificate issued under this Division 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.

Schedule 1 Invasive native species list

Schedule 2 Description of Keith Vegetation Formations

Schedule 3 Notification Requirements

Schedule 4 Set Aside Area Management Strategies

Dictionary

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