



New South Wales

Native Vegetation Amendment Regulation 2007

under the

Native Vegetation Act 2003

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Native Vegetation Act 2003*.

IAN MACDONALD, M.L.C.,
Minister for Natural Resources

Explanatory note

Under the *Native Vegetation Act 2003*, the clearing of native vegetation is permitted to be carried out without the authority of a development consent or property vegetation plan if it is done for routine agricultural management activities. The object of this Regulation is to extend routine agricultural management activities to include the construction, operation or maintenance of certain infrastructure by local or county councils. The Regulation also updates the Assessment Methodology approved by the Minister for the purpose of assessing broadscale clearing.

This Regulation is made under the *Native Vegetation Act 2003*, including sections 11 (2), 28 (g) and 51 (the general regulation-making power).

2007 No 120

Clause 1 Native Vegetation Amendment Regulation 2007

Native Vegetation Amendment Regulation 2007

under the

Native Vegetation Act 2003

1 Name of Regulation

This Regulation is the *Native Vegetation Amendment Regulation 2007*.

2 Amendment of Native Vegetation Regulation 2005

The *Native Vegetation Regulation 2005* is amended as set out in Schedule 1.

Schedule 1 Amendments

(Clause 2)

[1] Clause 3 Definitions

Insert in alphabetical order:

council means a council, or a county council, within the meaning of the *Local Government Act 1993*.

managed area means an area of land set aside by a council for the purposes of protecting native vegetation in connection with a routine agricultural management activity as referred to in clause 18A.

[2] Clause 9 Content of PVPs

Insert at the end of clause 9 (1) (i):

, and

- (j) include details of any other proposals for the protection and management of native vegetation provided for by the PVP, whether or not financial incentives have been or are to be provided.

[3] Clause 9 (2)

Omit “or (i)”. Insert instead “, (i) or (j)”.

[4] Clause 18A

Insert after clause 18:

18A Infrastructure works by councils

- (1) The activities that comprise routine agricultural management activities for the purposes of section 11 of the Act are extended to include the construction, operation or maintenance of any of the following (referred to in this clause as *infrastructure works*) by a council:
 - (a) sewerage treatment works,
 - (b) waste disposal landfill operations,
 - (c) waste management facilities,
 - (d) water supply works,
 - (e) gravel pits,
 - (f) cemeteries.

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Schedule 1 Amendments

- (2) This clause authorises the clearing of native vegetation only if:
- (a) the clearing is, in each case, limited to a single area of land of no more than 2 hectares, and
 - (b) the native vegetation does not comprise (or is not likely to comprise):
 - (i) a threatened species, or a component of a threatened population or threatened ecological community, under the *Threatened Species Conservation Act 1995*, or
 - (ii) habitat of threatened species, populations or ecological communities of fish under the *Fisheries Management Act 1994*, and
 - (c) the native vegetation does not comprise an overcleared vegetation type as determined in accordance with the Assessment Methodology, and
 - (d) the catchment management authority (*CMA*) for the area of operations in which the relevant areas are situated is satisfied that arrangements are in place to ensure that the native vegetation on the managed area set aside by the council in connection with the routine agricultural management activity will be protected in perpetuity.
- (3) Before any clearing that is authorised by this clause is carried out, the council must:
- (a) provide detailed information to the CMA of:
 - (i) the alternative areas of land on which the infrastructure works could be constructed, operated or maintained, and
 - (ii) the proposed managed area (including the means by which it will be protected), and
 - (b) consult with the CMA as to the following:
 - (i) the location of the relevant areas,
 - (ii) the presence of any overcleared vegetation types in the relevant areas,
 - (iii) the presence of any threatened species, populations or ecological communities (including in relation to fish) in the relevant areas, and
 - (c) provide to the CMA the Global Positioning System (*GPS*) coordinates, and a statement of the location and size (expressed in hectares), of the relevant areas, and

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- (d) provide evidence to the CMA that all approvals or licences required under relevant legislation for the construction, operation or maintenance of the infrastructure works have been obtained, and
 - (e) obtain from the CMA a statement in writing to the effect that the managed area proposed is appropriate and that it is satisfied as to the arrangements referred to in subclause (2) (d).
- (4) The Minister is to make publicly available on the Internet the following information as to the clearing authorised under this clause:
- (a) the name of the council involved,
 - (b) the type of infrastructure works involved,
 - (c) the Global Positioning System (**GPS**) coordinates, and a statement of the location and size (expressed in hectares), of the relevant areas,
 - (d) the means by which the relevant managed area set aside by the council is to be protected.
- (5) Subclauses (2) (b) and (c) and (3) (a) (i) and (b) do not apply if:
- (a) the area of land on which the infrastructure works are to be constructed, operated or maintained was owned by the council on or before 31 August 2006, and
 - (b) that area was identified, on or before 31 August 2006, by the council as the area of land on which the infrastructure works are to be constructed, operated or maintained, and
 - (c) the council provides evidence to the CMA of any such ownership and identification.
- (6) In this clause, the **relevant areas** means:
- (a) the area of land on which the infrastructure works are to be constructed, operated or maintained, and
 - (b) the area of land that is to be cleared, and
 - (c) the area of land comprising the managed area.

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Schedule 1 Amendments

[5] Clause 24 Adoption of Minister's Assessment Methodology

Omit clause 24 (2). Insert instead:

(2) In this Part:

Assessment Methodology means the methodology titled *Environmental Outcomes Assessment Methodology* approved by the Minister for the purpose of providing a methodology for assessing and determining whether proposed broadscale clearing will improve or maintain environmental outcomes, as in force and as published in the Gazette on 2 March 2007.

BY AUTHORITY
