



New South Wales

Local Land Services Amendment (Private Native Forestry) Regulation 2018

under the

Local Land Services Act 2013

The Administrator, with the advice of the Executive Council and on the joint recommendation of the Minister for Primary Industries and the Minister for the Environment, has made the following Regulation under the *Local Land Services Act 2013*.

NIALL BLAIR, MLC
Minister for Primary Industries

GABRIELLE UPTON, MP
Minister for the Environment

Explanatory note

The object of this Regulation is to make further provision with respect to private native forestry plans and land subject to those plans as a consequence of the enactment of the *Forestry Legislation Amendment Act 2018* and other related matters.

This Regulation is made under the *Local Land Services Act 2013*, including sections 60G (3), 60K (3), 60R, 60S (2), 60ZP (2) and 206 (the general regulation-making power).

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1 Name of Regulation

This Regulation is the *Local Land Services Amendment (Private Native Forestry) Regulation 2018*.

2 Commencement

This Regulation commences on 9 November 2018 and is required to be published on the NSW legislation website.

Schedule 1 Amendment of Local Land Services Act 2013 No 51

[1] Schedule 5A Allowable activities clearing of native vegetation

Insert after clause 4:

4A Meaning of “private native forestry code of practice” and “private native forestry plan”

For the purposes of this Schedule, *private native forestry code of practice* and *private native forestry plan* have the same meanings as in Part 5B of this Act.

[2] Schedule 5A, clause 14

Insert “or from forestry operations authorised by a private native forestry plan” after “code” in clause 14 (4).

[3] Schedule 5A, clause 14 (5)

Insert after clause 14 (4):

- (5) The clearing must not occur on land that is subject to a private native forestry plan and described as a riparian exclusion zone or riparian buffer zone in the private native forestry code of practice that applies to the private native forestry plan.

[4] Schedule 5A, clause 15

Insert after clause 15 (1):

- (1A) If the land is subject to a private native forestry plan, the clearing must not cause land degradation, including soil erosion, rising water tables, increase in salinity, mass movement by gravity of soil or rock, stream bank instability and any process that results in declining water quality.

[5] Schedule 5A, clause 15 (2)

Insert “or from forestry operations authorised by a private native forestry plan” after “code”.

[6] Schedule 5A, clause 15 (4)

Insert after clause 15 (3):

- (4) The clearing must not occur on land that is subject to a private native forestry plan and described as a riparian exclusion zone or riparian buffer zone in the private native forestry code of practice that applies to the private native forestry plan.

[7] Schedule 5A, clause 16

Insert at the end of the clause:

- (2) This clause does not apply to land that is subject to a private native forestry plan.

[8] Schedule 5A, clause 17

Insert after clause 17 (2):

- (3) If the land is subject to a private native forestry plan, clearing is not authorised if native vegetation has been planted as part of stocking or regeneration requirements:

- (a) under a relevant private native forestry code of practice, or
- (b) as a result of a direction given or requirement made by the Chief Environmental Regulator of the Environment Protection Authority, and the stocking and regeneration requirements are not met.

[9] Schedule 5A, clause 19

Insert after clause 19 (2):

- (3) This clause does not apply to land that is subject to a private native forestry plan.

[10] Schedule 5A, clause 34

Insert at the end of the clause:

- (2) Despite subclause (1), this Part does not apply to land that is subject to a private native forestry plan other than:
 - (a) land that is subject to a private native forestry plan and designated as category 2-sensitive regulated land, or
 - (b) land that is subject to a private native forestry plan and designated as category 2-vulnerable regulated land, or
 - (c) land that is subject to a private native forestry plan and is required to be designated as category 2-regulated land by section 60I (2) (a) (that is, because the land contains native vegetation that was grown or preserved with the assistance of public funds other than funds for forestry purposes), but only for the period during which any obligations attached to the receipt of funding are ongoing.

[11] Schedule 5A, clause 35

Insert after clause 35 (1):

- (1A) Subclause (1) does not apply to land that is subject to a private native forestry plan other than:
 - (a) land that is subject to a private native forestry plan and designated as category 2-sensitive regulated land, or
 - (b) land that is subject to a private native forestry plan and designated as category 2-vulnerable regulated land, or
 - (c) land that is subject to a private native forestry plan and is required to be designated as category 2-regulated land by section 60I (2) (a) (that is, because the land contains native vegetation that was grown or preserved with the assistance of public funds other than funds for forestry purposes), but only for the period during which any obligations attached to the receipt of funding are ongoing.

[12] Schedule 5A, clause 35 (3)

Insert “, except on land that is subject to a private native forestry plan” after “of environmental protection works”.

Schedule 2 Amendment of Local Land Services Regulation 2014

[1] Clause 105 Definitions

Insert after clause 105 (2):

- (3) For the purposes of this Part, *private native forestry plan* has the same meaning as in Part 5B of the Act.

[2] Clause 108 Additional sub-category of regulated land: category 2-sensitive regulated land (s 60G (3) (c))

Omit clause 108 (2) (d).

[3] Clause 113 Additional land to be designated as category 2-regulated land (s 60I (2) (n))

Omit “category 2-regulated sensitive land” from clause 113 (2).

Insert instead “category 2-sensitive regulated land”.

[4] Clause 113 (3)

Insert after clause 113 (2):

- (3) Land is not subject to re-categorisation as a result only of a change in the relevant criteria published under subclause (1) (j) (ii) or (k) (ii) if the land was determined to contain old-growth forests or rainforests in accordance with either of the following:

- (a) *Private Native Forestry Code of Practice Guideline No 2: Protocol for re-evaluating old-growth forest on private property* (published in August 2007 by the Department of Environment and Climate Change),
- (b) *Private Native Forestry Code of Practice Guideline No 3: Protocol for re-evaluating rainforest on private property* (published in August 2007 by the Department of Environment and Climate Change).

This subclause extends to the application of subclause (1) (j) or (k) under clause 108 and a designation of the land as category 2-sensitive regulated land.

[5] Clause 116 Additional grounds on which land is authorised to be re-categorised to category 1-exempt land (s 60K (3) (f))

Insert “or that plan has ceased to have effect” after “variation of that plan” in clause 116 (2) (a) (ii).

[6] Clause 124 Category 2-sensitive regulated land and certain other land excluded from application of codes (s 60S (2))

Insert after clause 124 (1) (b):

- (c) land that is subject to a private native forestry plan that was approved under Part 5C of the *Forestry Act 2012* before the repeal of that Part,
- (d) land that is subject to a private native forestry plan under Part 5B of the Act.