

Forestry Legislation Amendment Act 2018 No 40

[2018-40]



New South Wales

Status Information

Currency of version

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Provisions in force

Some, but not all, of the provisions displayed in this version of the legislation have commenced.

Notes—

- **Note**

Amending Acts and amending provisions are subject to automatic repeal pursuant to sec 30C of the [Interpretation Act 1987 No 15](#) once the amendments have taken effect.

Authorisation

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New South Wales

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Forestry Legislation Amendment Act 2018 No 40



New South Wales

An Act to amend the *Local Land Services Act 2013* with respect to private native forestry; to amend the *Forestry Act 2012* with respect to public native forestry and for other purposes; and to make consequential amendments to other Acts and instruments.

1 Name of Act

This Act is the *Forestry Legislation Amendment Act 2018*.

2 Commencement

This Act commences on a day or days to be appointed by proclamation.

Schedule 1 Amendment of *Local Land Services Act 2013* No 51

[1] Section 14 Functions generally

Insert after section 14 (1) (d1):

(d2) to exercise functions conferred on it by Part 5B,

[2] Section 60N Unauthorised clearing of native vegetation in regulated rural areas—offence

Insert after section 60N (1) (d):

(e) that the clearing is the carrying out of a forestry operation authorised under Part 5B (Private native forestry).

[3] Section 60N (1A)

Insert after section 60N (1):

(1A) The defences under subsection (1) (a)–(c) do not apply if the clearing was the carrying out of a forestry operation in a State forest or other Crown-timber land to which an integrated forestry operations approval under Part 5B of the *Forestry Act 2012* applies.

[4] Section 600 Clearing authorised under other legislation

Omit section 600 (i). Insert instead:

(i) Forestry operations authorisation

The clearing was the carrying out of a forestry operation in a State forest or other Crown-timber land to which an integrated forestry operations approval under Part 5B of the *Forestry Act 2012* applies, being a forestry operation that is carried out in accordance with the approval.

[5] Section 60S Authorised clearing by landholders under codes

Insert after section 60S (2):

(2A) The clearing of native vegetation is not authorised by a land management (native vegetation) code if the clearing is the carrying out of a forestry operation within the meaning of Part 5B (Private native forestry).

[6] Section 60ZF Obtaining approval for clearing of native vegetation

Insert after section 60ZF (8):

(8A) An approval under this Division may not be granted:

- (a) to carry out forestry operations within the meaning of Part 5B, or
- (b) to clear native vegetation on land to which a private native forestry plan under Part 5B applies.

[7] Section 60ZM Enforcement under *Biodiversity Conservation Act 2016*

Insert at the end of the note to section 60ZM (1):

(d) Section 14.7A (Provisions relating to regulation or enforcement of native vegetation legislation).

[8] Part 5B

Insert after Part 5A:

Part 5B Private native forestry

Division 1 Preliminary

60ZQ Definitions: Part 5B

(1) In this Part:

forestry operations means:

- (a) logging operations—namely the cutting and removal of timber from land for the purpose of timber production, or
- (b) the harvesting of forest products—namely the harvesting of the products of trees and other vegetation (other than timber) that are of economic value, or
- (c) ongoing forest management operations—namely activities relating to the management of land for timber production such as thinning, burning and other silvicultural activities, or
- (d) ancillary activities to enable or assist in the above operations such as the provision of roads, snig tracks, waterway crossings and temporary timber storage facilities.

principles of ecologically sustainable forest management means the following:

- (a) maintaining forest values for future and present generations, including:
 - (i) forest biological diversity, and
 - (ii) the productive capacity and sustainability of forest ecosystems, and
 - (iii) the health and vitality of native forest ecosystems, and
 - (iv) soil and water quality, and
 - (v) the contribution of native forests to global geochemical cycles, and
 - (vi) the long term social and economic benefits of native forests, and
 - (vii) natural heritage values,
- (b) ensuring public participation, provision of information, accountability and transparency in relation to the carrying out of forestry operations,
- (c) providing incentives for voluntary compliance, capacity building and adoption of best-practice standards,
- (d) applying best-available knowledge and adaptive management processes to

deliver best-practice forest management,

- (e) applying the precautionary principle (as referred to in section 6 (2) (a) of the [Protection of the Environment Administration Act 1991](#)) in preventing environmental harm.

private native forestry code of practice, in relation to forestry operations, means a code made under Division 2 in relation to those operations and in force.

private native forestry plan means a private native forestry plan approved (or taken to be approved) under this Part and in force.

Note—

See clause 27 of Schedule 6 for provisions that deem continuing property vegetation plans under the former [Native Vegetation Act 2003](#), and continuing private native forestry plans approved under former Part 5C of the [Forestry Act 2012](#), to be private native forestry plans approved under this Part.

- (2) Words and expressions used in this Part have (subject to this Part) the same meanings as in Part 5A.

60ZR Objects of Part

The objects of this Part are:

- (a) to authorise the carrying out of private native forestry in accordance with principles of ecologically sustainable forest management, and
- (b) to protect biodiversity and water quality (including threatened species, populations and ecological communities under Part 7A of the [Fisheries Management Act 1994](#)) in connection with private native forestry operations, and
- (c) to enable landholders to carry out forestry operations in a sustainable manner in areas of the State to which this Part applies, and
- (d) to ensure that differences between private native forestry and native forestry operations in State forests or other Crown-timber land are recognised, including in the application of protocols, codes, standards and other instruments.

60ZS Area of State to which this Part applies

- (1) This Part applies to any area of the State, other than the following:
 - (a) a State forest or other Crown-timber land within the meaning of the [Forestry Act 2012](#),
 - (b) a plantation within the meaning of the [Plantations and Reafforestation Act 1999](#),
 - (c) national park estate and other conservation areas referred to in section 60A

- (b),
 - (d) land that is declared as a marine park or an aquatic reserve under the *Marine Estate Management Act 2014*,
 - (e) land that is subject to a private land conservation agreement under the *Biodiversity Conservation Act 2016*,
 - (f) land that is subject to be set aside under a requirement made in accordance with a land management (native vegetation) code under Part 5A,
 - (g) land that is or was subject to a requirement to take remedial action to restore or protect the biodiversity values of the land under Part 5A or under the *Biodiversity Conservation Act 2016*, the *Native Vegetation Act 2003* or the *National Parks and Wildlife Act 1974*,
 - (h) land that is subject to an approved conservation measure that was the basis for other land being biodiversity certified under Part 8 of the *Biodiversity Conservation Act 2016* or under any Act repealed by that Act,
 - (i) land that is an offset under a property vegetation plan made under the *Native Vegetation Act 2003* that remains in force or is a set aside area under a Ministerial order under Division 3 of Part 6 of the *Native Vegetation Regulation 2013* that remains in force,
 - (j) any area in which forestry operations cannot be carried out because of the requirements of any other Act or statutory instrument or any agreement or court order.
- (2) The regulations may amend this section for the purposes of adding or removing areas of the State to which this Part applies (or of revising references to areas of the State).

Division 2 Private native forestry codes of practice

60ZT Responsibility for preparation and making of codes

- (1) The Minister is responsible for preparing and making private native forestry codes of practice under this Division.
- (2) The Minister may make a private native forestry code of practice only with the concurrence of the Minister administering the *Biodiversity Conservation Act 2016* and of the Minister administering Part 5A of this Act. The Minister is also required to consult the Minister administering Part 7A of the *Fisheries Management Act 1994*.
- (3) A private native forestry code of practice is to make provision for or with respect

to the carrying out of forestry operations to which private native forestry plans apply, including provisions relating to:

- (a) notification of the commencement and cessation of forestry operations, and
 - (b) biodiversity conservation, and
 - (c) the prevention of water pollution, and
 - (d) threatened species, populations and ecological communities under Part 7A of the *Fisheries Management Act 1994*, and
 - (e) the provision of information about forestry operations to Local Land Services and the public, and
 - (f) any other matter prescribed by the regulations.
- (4) A private native forestry code of practice is to specify the land to which it applies.
- (5) When preparing or giving concurrence to a private native forestry code of practice, the relevant Ministers are to have regard to the objects of this Part.
- (6) A private native forestry code of practice is to be published on the NSW legislation website.

Note—

See clause 29 of Schedule 6 for provisions that continue existing private native forestry codes of practice in force until new codes are made under this Division.

60ZU Public consultation on proposed codes

- (1) Before a private native forestry code of practice is made, the proposed code is to be made publicly available for a period of at least 4 weeks.
- (2) During that period, any person may make a written submission to the Minister on the proposed code. The Minister may (but need not) make publicly available the submissions made on the proposed code (or a summary of or report on any such submissions).
- (3) The Minister is, before making a private native forestry code of practice, to consider any submissions duly made on the proposed code.
- (4) If substantial changes are proposed to be made to a proposed code following public consultation, the Minister may undertake further public consultation on the revised proposed code.
- (5) A failure to comply with a requirement under this section in relation to a proposed code of practice does not prevent the code being made, or invalidate

the code once it is made.

- (6) The regulations may make further provision for or with respect to public consultation under this section.

60ZV Amendment or repeal of codes

- (1) A private native forestry code of practice may be amended or repealed in the same way as a code may be made.
- (2) Public consultation under section 60ZU applies to the amendment or repeal of a private native forestry code of practice.
- (3) However, the Minister may:
 - (a) dispense with public consultation on any amendment of a code if satisfied it should be dispensed with because of the minor nature or urgency of the matter, and
 - (b) dispense with any concurrence of, or consultation with, another Minister on any amendment of a code if satisfied it should be dispensed with because of the minor nature of the matter.
- (4) A code that amends or replaces a code extends to forestry operations under a private native forestry plan that was approved before the amendment or replacement (despite anything to the contrary in the plan) unless the amended or replaced code otherwise provides.

Division 3 Private native forestry plans

60ZW Authorised private native forestry operations

- (1) Forestry operations are authorised by this Part if they are forestry operations to which a private native forestry plan applies.
- (2) A private native forestry plan does not authorise the carrying out of forestry operations on any part of the land to which the plan applies that becomes, after the approval of the plan, an area of the State to which this Part does not apply.

Note—

Section 60N provides that it is a defence to the offence of clearing native vegetation in a rural area of the State under that section if (among other things) the clearing comprises forestry operations authorised under this Part (the offence of unauthorised clearing of native vegetation carries a maximum penalty ranging from \$500,000 to \$5 million). Clause 8 of [State Environmental Planning Policy \(Vegetation in Non-Rural Areas\) 2017](#) provides that authority is not required under that Policy for the clearing of native vegetation in a non-rural area of the State if the clearing comprises forestry operations authorised under this Part (a similar maximum penalty applies under environmental planning and assessment legislation for the relevant offences under that legislation).

60ZX Landholders may submit draft private native forestry plans

- (1) A landholder or group of landholders may submit a draft private native forestry plan to Local Land Services for approval under this Part. Any person may submit the draft plan on behalf of the landholder or group of landholders.
- (2) A draft plan cannot be submitted for approval without the consent in writing of:
 - (a) all landholders of land to which the plan applies, and
 - (b) all persons who have a forestry right (within the meaning of section 87A of the *Conveyancing Act 1919*) in the land to which the plan applies, and
 - (c) any other person who has an interest in the land prescribed by the regulations.
- (3) A draft plan must be in the form approved by Local Land Services and contain or be accompanied by the information required by that form.
- (4) The regulations may make provision for or with respect to the fees payable in connection with a draft plan submitted for approval under this Part.

60ZY Approval of private native forestry plans by Local Land Services

- (1) A private native forestry plan has effect only if it is approved by Local Land Services.
- (2) In determining whether to approve a draft plan (with or without modification), Local Land Services is to have regard to the following:
 - (a) whether forestry operations can be carried out under the plan in accordance with the applicable private native forestry code of practice,
 - (b) any other matters required by the regulations.
- (3) An approved private native forestry plan must:
 - (a) identify the land to which the plan applies and on which forestry operations are to be carried out (by means of a map and any other identification particulars), and
 - (b) specify the kinds of forestry operations that are authorised to be carried out, and
 - (c) specify the period for which the plan is to have effect, and
 - (d) include such other details or information as may be required by the regulations.
- (4) An approval under this Part is not an approval of an activity for the purposes of

Part 5 of the *Environmental Planning and Assessment Act 1979*.

60ZZ Duration, variation and termination of private native forestry plans

- (1) A private native forestry plan has effect, subject to this section, for such period (not exceeding 15 years) as is specified in the plan.
- (2) A private native forestry plan may be terminated by Local Land Services:
 - (a) by notice to the landholder for the reasons stated in the notice, or
 - (b) on application by the landholder for the surrender of the plan.
- (3) Local Land Services may not terminate a private native forestry plan by notice to the landholder unless it is satisfied that:
 - (a) approval of the plan was obtained as a result of false or misleading information provided by or on behalf of the landholder, or
 - (b) a requirement imposed by the plan or by an applicable private native forestry code of practice has been contravened by the landholder or by a person carrying out forestry operations on behalf of the landholder, or
 - (c) no further forestry operations to which the plan applies are to be carried out.
- (4) A private native forestry plan may be varied by Local Land Services on application by the landholder.
- (5) Sections 60ZX and 60ZY apply in relation to the variation of a private native forestry plan in the same way as those sections apply in relation to the submission and approval of a draft private native forestry plan.
- (6) A variation of a private native forestry plan may change the landholder authorised by the plan to carry out forestry operations. If the ownership of the land concerned changes, the new landholder is entitled to a variation of the plan to authorise the new landholder to carry out forestry operations in accordance with the existing terms of the plan.
- (7) The regulations may make provision for or with respect to the termination or variation of a private native forestry plan (including the fees payable in connection with an application to vary a plan).

Division 4 Enforcement and other provisions

60ZZA Offence of contravening requirements of plan or code of practice

- (1) A person who contravenes a requirement imposed by a private native forestry plan or by an applicable private native forestry code of practice is guilty of an offence.

Maximum penalty:

(a) for an offence that was committed intentionally and that caused or was likely to cause significant harm to the environment:

(i) in the case of a corporation—\$5 million, or

(ii) in the case of an individual—\$1 million, or

(b) for any other offence:

(i) in the case of a corporation—\$2 million, or

(ii) in the case of an individual—\$500,000.

(2) This section applies to requirements (however described) imposed on relevant landholders or on persons carrying out forestry operations and whether arising before, during or after the carrying out of forestry operations.

(3) The higher maximum penalty under this section does not apply unless:

(a) the prosecution establishes (to the criminal standard of proof) that the offence was committed intentionally and caused or was likely to cause significant harm to the environment, and

(b) the court attendance notice or application commencing the proceedings alleged that those factors applied to the commission of the offence.

If any such allegation in the notice or application is not established by the prosecution, the lower maximum penalty under this section applies (whether or not the notice or application is amended).

(4) This section does not operate to preclude the commission of an offence under Part 5A, the *Environmental Planning and Assessment Act 1979*, the *Protection of the Environment Operations Act 1997*, the *Biodiversity Conservation Act 2016* or Part 7A of the *Fisheries Management Act 1994* in relation to the carrying out of forestry operations.

Note—

Section 122 (2) of the *Protection of the Environment Operations Act 1997* provides a defence to the offence of polluting waters under that Act if the act was the carrying out of a forestry operation authorised by a private native forestry plan and was carried out in accordance with that plan and the applicable private native forestry code of practice. A similar defence applies to an offence relating to the protection of animals and plants under Part 2 of the *Biodiversity Conservation Act 2016* (section 2.8 (1) (h)) and of fish under Part 7A of the *Fisheries Management Act 1994* (section 220ZF (1) (b3) and (b4)).

60ZZB Enforcement functions of EPA

(1) The Environment Protection Authority has the function of monitoring the

carrying out of forestry operations to which this Part applies and the function of enforcing compliance with the requirements for forestry operations under this Part.

- (2) The *Biodiversity Conservation Act 2016* contains provisions relating to the enforcement of this Part, and accordingly:
 - (a) functions under Part 11 of this Act (Powers of authorised officers) are not exercisable in relation to any matter arising under this Part, and
 - (b) proceedings for an offence against this Part or the regulations under this Part cannot be instituted under Part 12 of this Act (Enforcement provisions) and that Part does not apply to any such alleged offence.

Note—

This Part (in addition to Part 5A) is native vegetation legislation (and offences under this Part are native vegetation offences) for the purposes of the *Biodiversity Conservation Act 2016*. Accordingly, the following provisions of that Act apply (to the extent specified in those provisions) to the enforcement of this Part:

- (a) Part 11 (Regulatory compliance mechanisms),
 - (b) Part 12 (Investigation powers),
 - (c) Part 13 (Criminal and civil proceedings),
 - (d) Section 14.7A (Provisions relating to regulation or enforcement of native vegetation legislation).
- (3) The Environment Protection Authority may make recommendations to Local Land Services with respect to the termination or variation of a private native forestry plan as a result of information obtained by the Authority in the exercise of its functions under this section.
 - (4) In this section:

enforcing compliance includes instituting criminal or civil proceedings.

monitoring includes investigating and reporting.

60ZZC Regulations: Part 5B

- (1) Regulations made under this Part are to be made on the joint recommendation of the Minister and the Minister administering the *Biodiversity Conservation Act 2016*.
- (2) In addition to any other regulations specifically authorised by this Part, the regulations may make provision for or with respect to the carrying out of forestry operations to which private native forestry plans apply.

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

Omit “Part 5 of this Schedule sets out special provisions that apply to land subject to a private native forestry plan.” wherever occurring in the notes to Parts 2 and 3.

[10] Schedule 5A, Part 5

Omit the Part.

[11] Schedule 6 Savings, transitional and other provisions

Omit “Part 2” from clause 1 (4). Insert instead “this Schedule”.

[12] Schedule 6, Part 5

Insert at the end of the Schedule:

Part 5 Provisions consequent on enactment of [Forestry Legislation Amendment Act 2018](#)

26 Definitions

amending Act means the [Forestry Legislation Amendment Act 2018](#).

former PNF provisions means Part 5C of the [Forestry Act 2012](#), as in force before its repeal by the amending Act.

27 Private native forestry plans approved or pending under the former PNF provisions

(1) On the commencement of Part 5B of this Act (as inserted by the amending Act):

- (a) a private native forestry plan approved under the former PNF provisions and in force on the repeal of those former provisions, or
- (b) a property vegetation plan that was approved under the [Native Vegetation Act 2003](#) and that was taken to be a private native forestry plan under the former PNF provisions (being a plan in force on the repeal of those former provisions),

is taken to be approved as a private native forestry plan under Part 5B of this Act.

(2) A draft private native forestry plan that was submitted to the regulatory authority under section 69ZE of the [Forestry Act 2012](#) before the repeal of that section by the amending Act, and that was pending approval by the regulatory authority on that repeal, is taken to be a draft plan submitted to Local Land Services under section 60ZX.

28 Saving of previously registered plans that run with land

A private native forestry plan that was registered by the Registrar-General in accordance with section 69ZI of the *Forestry Act 2012* before the repeal of that section by the amending Act is not affected by the repeal of that section by the amending Act, and that section continues to apply to that registered plan despite its repeal.

29 Saving of existing PNF codes of practice

- (1) Until a private native forestry code of practice made under Part 5B of this Act otherwise provides, the following component document that applies to any forestry operations is, for the purposes of that Part, the **private native forestry code of practice** in relation to those forestry operations:
 - (a) the *Private Native Forestry Code of Practice for Northern NSW* published in the Gazette on 16 August 2013,
 - (b) the *Private Native Forestry Code of Practice for Southern NSW* published in the Gazette on 8 February 2008,
 - (c) the *Private Native Forestry Code of Practice for the River Red Gum Forests* published in the Gazette on 8 February 2008,
 - (d) the *Private Native Forestry Code of Practice for Cypress and Western Hardwood Forests* published in the Gazette on 8 February 2008.
- (2) The regulations under Part 1 of this Schedule may amend any such code while it continues to apply to forestry operations.

30 Proceedings for certain offences

Proceedings for an offence against this Act arising from the carrying out of forestry operations within the meaning of Part 5B (as inserted by the amending Act) and that has been committed since 25 August 2017 but before the commencement of Schedule 3.1 to the amending Act may be taken by the Environment Protection Authority.

Schedule 2 Amendment of *Forestry Act 2012* No 96

[1] Section 3 Definitions

Omit paragraphs (c) and (d) from the definition of **forestry operations** in section 3 (1).

Insert instead:

- (c) ongoing forest management operations, namely, activities relating to the

management of land for timber production such as thinning, burning and other silvicultural activities and bush fire hazard reduction, or

- (d) ancillary activities to enable or assist in the above operations such as the provision of roads, snig tracks, waterway crossings and temporary timber storage facilities.

[2] Section 3 (1), definition of “State forest”

Omit “or under the former Act”.

Insert instead “, the former Act or the former *Forestry Act 1909*”.

[3] Section 39 General provisions relating to licences

Insert after section 39 (4):

- (5) Subject to the regulations, a licence does not authorise the taking of timber or forest products on or from land that is identified in an integrated forestry operations approval as an environmentally significant area.

[4] Section 45 Small quantity authorisations

Insert after section 45 (4):

- (5) Subject to the regulations, a small quantity authorisation does not authorise the taking of timber or forest products on or from land that is identified in an integrated forestry operations approval as an environmentally significant area.

[5] Section 61 Ancillary provisions relating to forest permits

Omit section 61 (1). Insert instead:

- (1) A forest permit may not be issued in respect of land within a flora reserve except:
- (a) in accordance with the working plan for the reserve, and
 - (b) in the case of a permit authorising the occupation of the land—with the approval of the Minister.

[6] Section 68A

Insert after section 68:

68A Recovery by land manager of fees or other amounts

Any fee or other amount due or payable to a land manager in respect of a forest permit or forest lease, or in respect of the provision of services or facilities under this

Act, may be recovered by the land manager as a debt in a court of competent jurisdiction.

[7] Sections 69A (2) and 69N (1)

Omit “Minister for Primary Industries” wherever occurring.

Insert instead “Minister for Lands and Forestry”.

[8] Section 69D Public consultation on making agreement

Omit section 69D (2) (a). Insert instead:

(a) giving at least 28 days public notice of the making of the proposed agreement, and

[9] Section 69D (2) (b)

Omit the paragraph. Insert instead:

(b) making the proposed agreement publicly accessible during that period of public notice, and

[10] Section 69F Public consultation on amendment or revocation of agreement

Omit section 69F (2) (a). Insert instead:

(a) giving at least 28 days public notice of the proposed amendment or revocation, and

[11] Section 69F (2) (b)

Omit the paragraph. Insert instead:

(b) making the proposed amendment or revocation publicly accessible during that period of public notice, and

[12] Section 69G Review of agreements and related integrated forestry operations approvals

Omit section 69G (4). Insert instead:

(4) Those Ministers are to ensure that the public is given an opportunity to participate in the review. The public participation is to include the following:

(a) giving at least 28 days public notice of the review (including notice of the proposed terms of reference of the review),

- (b) inviting representations in connection with the proposed terms of reference within the time specified in the notice, and the consideration of any such representations before the terms of reference are settled,
- (c) giving public notice of whether any changes are proposed to the forest agreement or to the integrated forestry operations approval,
- (d) making the proposed changes publicly accessible for at least 28 days after the notice is given,
- (e) inviting representations in connection with any proposed changes within the time specified in the notice,
- (f) consideration of any such representation before a decision is made on the outcome of the review and any changes are made.

[13] Section 69G (7)

Omit the subsection.

[14] Section 69H Annual Parliamentary reports and tabling of documents by Minister

Omit “the Department of Premier and Cabinet” from section 69H (2).

Insert instead “a Public Service agency responsible to the Minister”.

[15] Section 69I Public notice and public availability of agreements, assessments, assessment documents, approvals and reports

Omit “in a newspaper circulating throughout the State and also in a newspaper circulating in the area concerned” from section 69I (1).

[16] Section 69I

Insert at the end of the section:

- (7) After the commencement of Schedule 2 to the *Forestry Legislation Amendment Act 2018*, a reference in this section to the Office of Environment and Heritage is taken to be a reference to the Environment Protection Authority Staff Agency.

[17] Section 69K Forestry operations to which Part applies

Omit section 69K (3).

[18] Section 69L Purpose of integrated forestry operations approvals

Omit section 69L (a). Insert instead:

- (a) that authorises the carrying out of those forestry operations in accordance with principles of ecologically sustainable forest management, and

[19] Section 69L (b)

Insert “, including threatened species, populations and ecological communities under Part 7A of the *Fisheries Management Act 1994*” after “threatened species conservation”.

[20] Section 69L (2)

Insert at the end of section 69L:

- (2) In this section:

principles of ecologically sustainable forest management means the following:

- (a) maintaining forest values for future and present generations, including:
- (i) forest biological diversity, and
 - (ii) the productive capacity and sustainability of forest ecosystems, and
 - (iii) the health and vitality of native forest ecosystems, and
 - (iv) soil and water quality, and
 - (v) the contribution of native forests to global geochemical cycles, and
 - (vi) the long term social and economic benefits of native forests, and
 - (vii) natural heritage values,
- (b) ensuring public participation, provision of information, accountability and transparency in relation to the carrying out of forestry operations,
- (c) providing incentives for voluntary compliance, capacity building and adoption of best-practice standards,
- (d) applying best-available knowledge and adaptive management processes to deliver best-practice forest management,
- (e) applying the precautionary principle (as referred to in section 6 (2) (a) of the *Protection of the Environment Administration Act 1991*) in preventing environmental harm.

[21] Section 69M Granting of approvals

Insert after the note at the end of the section:

Note 2—

Section 122 (2) of the *Protection of the Environment Operations Act 1997* provides a defence to the offence of polluting waters under that Act if the act was the carrying out of a forestry operation authorised by an integrated forestry operations approval and was carried out in accordance with the approval. A similar defence applies to an offence relating to the protection of animals and plants under Part 2 of the *Biodiversity Conservation Act 2016* (section 2.8 (1) (h)) and of fish under Part 7A of the *Fisheries Management Act 1994* (section 220ZF (1) (b3) and (b4)).

[22] Section 69N Approvals to be granted jointly by relevant Ministers

Insert after section 69N (2):

- (3) Before granting an integrated forestry operations approval, the Minister for the Environment and the Minister for Lands and Forestry are required to consult the Minister administering Part 7A of the *Fisheries Management Act 1994*.

[23] Section 69NA

Insert after section 69N:

69NA Public consultation on proposed approvals

- (1) Before an integrated forestry operations approval is granted, public consultation on the proposed approval is to be undertaken.
- (2) The public consultation is to include the following:
 - (a) giving at least 28 days notice of the proposed approval,
 - (b) making the proposed approval publicly accessible during that period of public notice,
 - (c) inviting representations in connection with the proposed approval within the time specified in the notice,
 - (d) consideration of any such representation before the approval is granted.
- (3) Public consultation under this section on a proposed integrated forestry operations approval is not required if the proposed approval has been part of a review under section 69G.
- (4) Any public consultation undertaken in relation to a proposed integrated forestry operations approval before the commencement of this section is taken to have been undertaken for the purposes of this section.

[24] Section 69O Forest agreement prerequisite for approval

Omit the section.

[25] Section 69P Terms of approval

Omit section 69P (2) and (3). Insert instead:

- (2) An integrated forestry operations approval is:
 - (a) to make provision for or with respect to the carrying out of forestry operations covered by the approval, and
 - (b) to set out conditions subject to which those forestry operations are to be carried out, including conditions that may be imposed under any of the following:
 - (i) a biodiversity conservation licence under the *Biodiversity Conservation Act 2016*,
 - (ii) a licence under Part 7A of the *Fisheries Management Act 1994*,
 - (iii) an environment protection licence under the *Protection of the Environment Operations Act 1997*.
- (3) An integrated forestry operations approval may apply or adopt protocols, codes, standards or other instruments that are publicly available and in force from time to time.
- (4) Without limiting subsection (3), any such protocols may include those prepared by the Environment Protection Authority.

[26] Section 69R Revocation, suspension or amendment of approval

Omit section 69R (2).

[27] Section 69RA

Insert after section 69R:

69RA Public consultation on proposed amendment or revocation of approval

- (1) Before an integrated forestry operations approval is amended or revoked, public consultation on the proposed amendment or revocation is to be undertaken.
- (2) The public consultation is to include the following:
 - (a) giving at least 28 days notice of the proposed amendment or revocation,
 - (b) making the proposed amendment publicly accessible during that period of public notice,
 - (c) inviting representations in connection with the proposed amendment or

revocation within the time specified in the notice,

(d) consideration of any such representation before the approval is amended or revoked.

(3) Public consultation under this section on a proposed amendment or revocation of an integrated forestry operations approval is not required if the approval has been reviewed under section 69G.

(4) Public consultation under this section on a proposed amendment of an integrated forestry operations approval is not required if the Minister considers the proposed amendment to be of a minor nature.

[28] Section 69S Civil enforcement of certain conditions of approval

Omit the section.

[29] Part 5B, Division 2A

Insert after Division 2 of Part 5B:

Division 2A Enforcement and other provisions

69SA Offence of contravening requirements of approval

(1) A person who contravenes a requirement imposed by an integrated forestry operations approval is guilty of an offence.

Maximum penalty:

(a) for an offence that was committed intentionally and that caused or was likely to cause significant harm to the environment:

(i) in the case of a corporation—\$5 million, or

(ii) in the case of an individual—\$1 million, or

(b) for any other offence:

(i) in the case of a corporation—\$2 million, or

(ii) in the case of an individual—\$500,000.

(2) This section applies to requirements (however described) imposed on the Forestry Corporation or on persons carrying out forestry operations and whether arising before, during or after the carrying out of forestry operations.

(3) The higher maximum penalty under this section does not apply unless:

(a) the prosecution establishes (to the criminal standard of proof) that the

offence was committed intentionally and caused or was likely to cause significant harm to the environment, and

- (b) the court attendance notice or application commencing the proceedings alleged that those factors applied to the commission of the offence.

If any such allegation in the notice or application is not established by the prosecution, the lower maximum penalty under this section applies (whether or not the notice or application is amended).

- (4) This section does not operate to preclude the commission of an offence under Part 5A of the *Local Land Services Act 2013*, the *Environmental Planning and Assessment Act 1979*, the *Protection of the Environment Operations Act 1997*, the *Biodiversity Conservation Act 2016* or Part 7A of the *Fisheries Management Act 1994* in relation to the carrying out of forestry operations.

69SB Enforcement functions of EPA

- (1) The Environment Protection Authority has the function of monitoring the carrying out of forestry operations to which this Part applies and the function of enforcing compliance with the requirements of integrated forestry operations approvals.
- (2) The *Biodiversity Conservation Act 2016* contains provisions relating to the enforcement of this Part, and accordingly:
- (a) functions under Part 6 of this Act (Investigations and enforcement powers) are not exercisable in relation to any matter arising under this Part, and
- (b) proceedings for an offence against this Part or the regulations under this Part cannot be instituted under Part 7 of this Act (Criminal proceedings and related matters) and that Part does not apply to any such alleged offence.

Note—

This Part (in addition to Parts 5A and 5B of the *Local Land Services Act 2013*) is native vegetation legislation (and offences under this Part are native vegetation offences) for the purposes of the *Biodiversity Conservation Act 2016*. Accordingly, the following provisions of that Act apply (to the extent specified in those provisions) to the enforcement of this Part:

- (a) Part 11 (Regulatory compliance mechanisms), except Divisions 2 and 3,
- (b) Part 12 (Investigation powers),
- (c) Part 13 (Criminal and civil proceedings),
- (d) Section 14.7A (Provisions relating to regulation or enforcement of native vegetation legislation).

See also section 13.14A of the *Biodiversity Conservation Act 2016*.

- (3) In this section:

enforcing compliance includes instituting criminal or civil proceedings.

monitoring includes investigating and reporting.

69SC Enforcement cost recovery

- (1) The Corporation is required to pay to the Environment Protection Authority such annual licence fees in relation to integrated forestry operations approvals as are determined by the Ministers granting those approvals.
- (2) Any such annual licence fees are payable for the purpose of the recovery of the reasonable costs incurred by the Environment Protection Authority in exercising its function of monitoring the carrying out of forestry operations to which this Part applies and the function of enforcing compliance with the requirements of integrated forestry operations approvals.
- (3) Until any such annual licence fees are determined, the Corporation is required to pay to the Environment Protection Authority the annual licence fees payable in respect of the environment protection licences deemed to have been granted under Division 3 before its repeal by the *Forestry Legislation Amendment Act 2018*.

[30] Part 5B, Division 3 Terms of relevant licences under integrated approval

Omit the Division.

[31] Section 69X Application of *Biodiversity Conservation Act 2016*—interim protection orders

Omit “Divisions 2 and 3 of Part 11 of the *Biodiversity Conservation Act 2016* do not”.

Insert instead “Division 3 (Interim protection orders) of Part 11 of the *Biodiversity Conservation Act 2016* does not”.

[32] Section 69ZA Application of statutory provisions relating to proceedings by third parties

Omit section 69ZA (2) (b) and (c). Insert instead:

- (b) a breach of an integrated forestry operations approval,
- (c) a breach of an Act or law that arises because any defence provided by an integrated forestry operations approval is not available as a result of a breach of the approval,

[33] Part 5C Private native forestry

Omit the Part.

[34] Section 92 Regulations

Insert after section 92 (2) (o):

- (p) authorising and regulating bee-keeping and the grazing of cattle and other livestock in forestry areas.

[35] Schedule 1 Special provisions relating to purchase-tenure land

Omit the definition of **prescribed lease from the Crown** from clause 2. Insert instead:

prescribed lease from the Crown has the same meaning as it had in Part 2A of the former Act immediately before its repeal, and includes a Western lands lease (within the meaning of Schedule 3 to the [Crown Land Management Act 2016](#)) that has an area of land of more than 2 hectares.

[36] Schedule 2, clause 7 Transfer of existing offices, workshops and depots to Forestry Corporation

Omit clause 7 (2). Insert instead:

- (2) The Minister may, by notice published in the Gazette:
 - (a) revoke the dedication as State forest of any area of land that is a part of the State forest to which this clause applies, being an area of land not exceeding 20 hectares specified in the notice, and
 - (b) transfer the land concerned to the Corporation.

Any such notice also operates to revoke any declaration of the affected land as a special management zone.

[37] Schedule 2, clause 7 (4)

Omit the subclause. Insert instead:

- (4) For the purposes of this clause, a **relevant building** is a building that:
 - (a) was constructed (or commenced to be constructed) by or on behalf of the Forestry Commission before its dissolution, and
 - (b) was used (or constructed to be used) by the Forestry Commission for the purposes of an administrative office, workshop or depot or as a residence ancillary to any such office, workshop or depot.

[38] Schedule 2, clause 7 (6)

Insert at the end of clause 7:

(6) This clause has effect despite any other provision of this Act.

[39] Schedule 3 Savings, transitional and other provisions

Insert after clause 1 (1):

(1A) Any such provision has effect despite anything to the contrary in this Schedule. The regulations may make separate savings and transitional provisions or amend this Schedule to consolidate the savings and transitional provisions.

[40] Schedule 3, Part 3

Insert after Part 2:

Part 3 Provisions consequent on enactment of [Forestry Legislation Amendment Act 2018](#)

16 Definition

In this Part:

amending Act means the [Forestry Legislation Amendment Act 2018](#).

17 Existing IFOAs

(1) In this clause:

existing IFOA means an integrated forestry operations approval that was in force immediately before the relevant date.

relevant date means the date on which Schedule 2 to the amending Act commences.

(2) An existing IFOA continues to be an integrated forestry operations approval under this Act as amended by the amending Act.

(3) However, any declaration in an existing IFOA of the terms of a relevant licence ceases to have effect. Those terms continue as the terms of the integrated forestry operations approval continued by this clause.

(4) The enforcement functions of the Environment Protection Authority under section 69SB of this Act and under the [Biodiversity Conservation Act 2016](#) in relation to Part 5B of this Act are exercisable in relation to breaches of an

existing IFOA (including the terms of any relevant licence set out in the IFOA) that occurred before the relevant date.

- (5) Subclause (4) does not apply to proceedings brought under section 69S of this Act before the relevant date in relation to an existing IFOA. That section continues to apply, despite its repeal by the amending Act, to any such proceedings that have not been finally determined.

18 Application of amendments to existing licences and small quantity authorisations

Sections 39 (5) and 45 (5) (as inserted by the amending Act) extend to licences and small quantity authorisations in force immediately before the commencement of those subsections.

Schedule 3 Amendment of other Acts and instruments

3.1 Biodiversity Conservation Act 2016 No 63

[1] Section 1.6 Definitions

Insert in alphabetical order in section 1.6 (1):

native vegetation legislation means any of the following provisions and any regulations or other instruments or requirements issued or made under those provisions:

- (a) Part 5A (Land management (native vegetation)) of, and Schedule 5A to, the [Local Land Services Act 2013](#),
- (b) Part 5B (Private native forestry) of the [Local Land Services Act 2013](#),
- (c) Part 5A (Forest agreements) and Part 5B (Integrated forestry operations approvals) of the [Forestry Act 2012](#).

[2] Section 1.6 (1), definition of “native vegetation offence”

Omit the definition. Insert instead:

native vegetation offence means any offence under the native vegetation legislation.

[3] Section 2.8 Acts authorised under other legislation etc

Insert at the end of section 2.8 (1) (b):

The defences under this paragraph do not apply if the act was the carrying out of a forestry operation in a State forest or other Crown-timber land to which an integrated forestry operations approval under Part 5B of the *Forestry Act 2012* applies.

[4] Section 2.8 (1) (h) (ii)

Omit the subparagraph. Insert instead:

- (ii) the carrying out of a forestry operation that is authorised by a private native forestry plan under Part 5B of the *Local Land Services Act 2013*, being a forestry operation that is carried out in accordance with the plan and the applicable private native forestry code of practice.

[5] Sections 11.2 (1), 11.3 (1), 11.7 (1), 11.8 (2), 12.19 (1), 13.10, 13.31 (2) (c) and (d) and 14.4 (3)

Omit “Part 5A of the *Local Land Services Act 2013*” wherever occurring.

Insert instead “the native vegetation legislation”.

[6] Section 11.15 Orders for remediation work relating to damage to land, habitat and plants and animals

Insert after section 11.15 (1) (d):

- (e) in the case of a native vegetation offence under Part 5B of the *Local Land Services Act 2013*—any native vegetation, or any protected animal or plant or the habitat of any protected animal or plant, on land to which a private native forestry plan under that Act applies,
- (f) in the case of a native vegetation offence under Part 5B of the *Forestry Act 2012*—any native vegetation, or any protected animal or plant or habitat of any protected animal or plant, on land to which an integrated forestry operations approval under that Act applies.

[7] Section 12.2 Purposes for which powers under this Part may be exercised

Omit section 12.2 (2). Insert instead:

- (2) Powers may also be exercised under this Part for the following purposes:
 - (a) for determining whether there has been compliance with or a contravention of the native vegetation legislation,
 - (b) for obtaining information or records for purposes connected with the enforcement of that legislation,

(c) generally for the enforcement of that legislation.

[8] Sections 12.14 (1) (a) and 13.9 (1)

Omit “Part 5A of the *Local Land Services Act 2013* or the regulations under that Part” wherever occurring.

Insert instead “the native vegetation legislation”.

[9] Section 12.27 Application of Division

Insert at the end of the section:

(2) However, this Division does not apply to the exercise of powers under this Part to the extent that they relate to Part 5B of the *Forestry Act 2012*.

[10] Section 13.3 Authority to take proceedings

Insert after section 13.3 (2):

(3) In subsection (1), a reference to the Environment Agency Head is, in the case of an offence against this Act or the regulations arising from the carrying out of forestry operations, taken to include a reference to the Environment Protection Authority.

[11] Section 13.6 Liability of directors etc for offences by corporation—offences attracting executive liability

Insert after section 13.6 (1) (e):

(e1) section 60ZZA of the *Local Land Services Act 2013* (Offence of contravening requirements of plan or code of practice),

(e2) section 69SA of the *Forestry Act 2012* (Offence of contravening requirements of approval),

[12] Section 13.11 Continuing offences

Omit “Part 5A of the *Local Land Services Act 2013* and the regulations under that Part” from section 13.11 (4).

Insert instead “the native vegetation legislation”.

[13] Section 13.13 Definition of “breach”

Omit “section”. Insert instead “Part”.

[14] Section 13.14 Civil proceedings to remedy or restrain breaches of this Act or

regulations (or Part 5A or 5B of the [Local Land Services Act 2013](#))

Insert “(including the Environment Protection Authority)” after “Any person” in section 13.14 (1).

[15] Section 13.14 (1) (b)

Insert “or Part 5B” after “Part 5A”.

[16] Section 13.14A

Insert after section 13.14:

13.14A Civil proceedings to remedy or restrain breaches of Part 5B of [Forestry Act 2012](#)

- (1) The Environment Protection Authority may bring proceedings in the Land and Environment Court for an order to remedy or restrain a breach of Part 5B of the [Forestry Act 2012](#).
- (2) Any such proceedings may be brought whether or not proceedings have been instituted for a native vegetation offence under Part 5B of the [Forestry Act 2012](#).
- (3) If the Court is satisfied that a breach has been committed or that a breach will, unless restrained by order of the Court, be committed, it may make such orders as it thinks fit to remedy or restrain the breach.
- (4) Without limiting the powers of the Court under this section, an order under this section may suspend an integrated forestry operations approval with respect to the forestry operations concerned in the breach.

[17] Section 14.7A

Insert after section 14.7:

14.7A Provisions relating to regulation or enforcement of native vegetation legislation

- (1) For the purposes of the provisions of Parts 11–14 of this Act relating to the regulation or enforcement of the native vegetation legislation and the enforcement of this Act in connection with the carrying out of forestry operations:
 - (a) a reference to the Environment Agency Head is taken to include a reference to the Environment Protection Authority, and
 - (b) a reference to an authorised officer is taken to include a reference to an

authorised officer appointed by the Environment Protection Authority under this Act, and

- (c) a reference to the conservation of biodiversity (however expressed) is taken to include a reference to the prevention of the pollution of waters, and
 - (d) the regulations may make further provision with respect to the application of those provisions.
- (2) Relevant information or records held by a native vegetation agency may be provided to another native vegetation agency for the purposes of native vegetation regulation or enforcement by that other agency.
- (3) Native vegetation agencies (and Ministers to whom those agencies are responsible) may rely on relevant information or records provided to them under this section for the purposes of native vegetation regulation or enforcement.
- (4) Subsections (2) and (3) extend to matters arising under this Act and Part 7A of the *Fisheries Management Act 1994* in connection with the carrying out of forestry operations. Accordingly this Act and that Part are, for the purposes of subsections (2), (3) and (5), taken to be native vegetation legislation.
- (5) In this section:

native vegetation agency means any of the following:

- (a) the Environment Agency Head,
- (b) the Environment Protection Authority,
- (c) Local Land Services,
- (d) the part of the Department of Industry in which persons who are principally involved in the administration of Part 7A of the *Fisheries Management Act 1994* are employed.

native vegetation regulation or enforcement means:

- (a) the approval, variation or termination of a certificate, plan or other authorisation under the native vegetation legislation, or
- (b) the issue of notices, orders or directions by or on behalf of a native vegetation agency:
 - (i) under this Act (including, without limitation, under Part 11 or 12), or
 - (ii) under the native vegetation legislation,in connection with the clearing of native vegetation or the carrying out of

forestry operations, or

- (c) the institution of criminal proceedings in respect of native vegetation offences, or
- (d) the taking of civil enforcement proceedings under this Act in connection with the native vegetation legislation.

relevant information or records means information or records obtained (whether or not in connection with the exercise of enforcement powers):

- (a) by a native vegetation agency in connection with the administration of the native vegetation legislation, or
- (b) by a native vegetation agency in connection with a native vegetation offence, or
- (c) by the Environment Protection Authority in connection with the administration of the provisions of the *Protection of the Environment Operations Act 1997* relating to the pollution of waters,

including information obtained in connection with an investigation under any such Act or legislation.

3.2 Biodiversity Conservation Regulation 2017

Schedule 1 Penalty notice offences

Insert at the end of the Schedule:

Offences under Part 5B of *Local Land Services Act 2013*

Section 60ZZA	\$15,000	\$5,000
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Offences under Part 5B of *Forestry Act 2012*

Section 69SA	\$15,000	\$5,000
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3.3 Biodiversity Conservation (Savings and Transitional) Regulation 2017

[1] Clause 54A

Insert after clause 54:

54A Continuation of orders made under Part 11 of Act in relation to forestry

operations

The amendments made by Schedule 3.1 to the *Forestry Legislation Amendment Act 2018* do not affect the continued operation of any order made under Part 11 of the new Act in force on the commencement of those amendments and that was made in connection with the carrying out of forestry operations.

[2] Clause 58 Offences under former Act not affected

Insert after clause 58 (2):

(2A) Without limiting subclause (2) (a), proceedings for an offence against the *Native Vegetation Act 2003* may be taken by the Environment Protection Authority or by the Environment Agency Head.

[3] Clause 58A

Insert after clause 58:

58A Proceedings for certain offences since repeal of former Acts

Without limiting section 13.3 of the new Act, proceedings for an offence against the new Act arising from the carrying out of forestry operations and that has been committed since the repeal of the former Acts but before the commencement of Schedule 3.1 to the *Forestry Legislation Amendment Act 2018* may be taken by the Environment Protection Authority.

[4] Clause 60 Property Vegetation Plans under NV Act continue in force

Omit “Part 5C of the *Forestry Act 2012*” from clause 60 (3).

Insert instead “Part 5B of the *Local Land Services Act 2013*”.

3.4 Fisheries Management Act 1994 No 38

Section 220ZF Defences

Insert after section 220ZF (1) (b2):

(b3) was the carrying out of a forestry operation in a State forest or other Crown-timber land to which an integrated forestry operations approval under Part 5B of the *Forestry Act 2012* applies, being a forestry operation that was carried out in accordance with the approval, or

(b4) was the carrying out of a forestry operation that was authorised by a private native forestry plan and that was carried out in accordance with the plan and the

applicable private native forestry code of practice, or

3.5 Impounding Act 1993 No 31

Dictionary

Omit “Minister administering the *Forestry Act 2012*” wherever occurring in the definitions of **area of operations** and **impounding authority**.

Insert instead “Forestry Corporation”.

3.6 Land and Environment Court Act 1979 No 204

[1] Section 20 Class 4—environmental planning and protection, development contract and strata renewal plan civil enforcement

Omit section 20 (1) (cc).

[2] Section 20 (3) (a)

Omit “or 5C” from the matter relating to the *Forestry Act 2012*.

[3] Section 20 (3) (a)

Insert “or 5B” after “Part 5A” in the matter relating to the *Local Land Services Act 2013*.

3.7 Local Land Services Regulation 2014

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

Omit clause 108 (2) (d). Insert instead:

(d) the land is subject to a private native forestry plan within the meaning of Part 5B of the Act, or

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

Omit clause 113 (1) (a). Insert instead:

(a) the land is (or was previously) subject to a private native forestry plan approved under Part 5B of the *Local Land Services Act 2013*, to a private native forestry plan that was approved under Part 5C of the *Forestry Act 2012* before its repeal or to a property vegetation plan that was approved under the *Native Vegetation Act 2003* before its repeal and that authorised the clearing of native vegetation for the purposes of forestry operations, or

[3] Clause 115 Compliance or enforcement action required for determination that land was unlawfully cleared (s 60J (3))

Omit “or 60ZC (6)” from paragraph (c) of the definition of **relevant offence** in clause 115 (2).

Insert instead “, 60ZC (6) or 60ZZA”.

[4] Clause 115 (2), definition of “relevant offence”

Insert after paragraph (c):

(c1) section 69SA of the *Forestry Act 2012*,

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

Omit clause 116 (2) (a) (i). Insert instead:

(i) was subject to a private native forestry plan approved under Part 5B of the Act or under Part 5C of the *Forestry Act 2012* before its repeal (or a property vegetation plan that was approved under the *Native Vegetation Act 2003* before its repeal and that is or was taken to be such a private native forestry plan), but

[6] Clause 129 Additional areas of land that cannot be established as set aside areas (s 60ZC (4) (c))

Omit clause 129 (b). Insert instead:

(b) an area that is subject to:

(i) a private native forestry plan approved under Part 5B of the Act, or

(ii) a private native forestry plan that was approved under Part 5C of the *Forestry Act 2012* before its repeal, or

(iii) a property vegetation plan that was approved under the *Native Vegetation Act 2003* before its repeal and that authorised the clearing of native vegetation for the purposes of forestry operations,

3.8 National Park Estate (Riverina Red Gum Reservations) Act 2010 No 22

Section 15 Integrated forestry operations approval for Riverina forestry operations

Omit the note to section 15 (1).

3.9 National Park Estate (South-Western Cypress Reservations) Act 2010 No 112

Section 17 Integrated forestry operations approval for South-Western forestry operations

Omit the note to section 17 (1).

3.10 Protection of the Environment Administration Act 1991 No 60

[1] Section 17 Environmental Counsel to Board

Insert at the end of section 17 (8) (c):

, or

- (d) an offence under section 60ZZA of the *Local Land Services Act 2013*, or under section 69SA of the *Forestry Act 2012*, that was committed intentionally and that caused or was likely to cause significant harm to the environment.

[2] Section 34A Environment Protection Authority Fund

Insert after section 34A (3) (b1):

- (b2) any fees payable to the Authority under section 69SC of the *Forestry Act 2012*, and
- (b3) amounts ordered to be paid to the Authority under Division 3 of Part 13 of the *Biodiversity Conservation Act 2016* and any costs of remediation work recovered by the Authority in connection with taking clean-up action or carrying out remediation work under Part 11 of that Act, and

3.11 Protection of the Environment Operations Act 1997 No 156

[1] Section 122 Defence of authority conferred by protection of environment licence or forestry authorisation

Insert at the end of the section:

- (2) It is a defence in proceedings against a person for an offence under this Part if the person establishes that the act constituting the offence was:
 - (a) the carrying out of a forestry operation in a State forest or other Crown-timber land to which an integrated forestry operations approval under Part 5B of the *Forestry Act 2012* applies, being a forestry operation that was carried out in accordance with the approval, or

- (b) the carrying out of a forestry operation that was authorised by a private native forestry plan and that was carried out in accordance with the plan and the applicable private native forestry code of practice.

[2] Schedule 1 Scheduled activities

Omit clause 24 (Logging operations).

[3] Schedule 5 Savings, transitional and other provisions

Insert after Part 16:

Part 17 Provisions consequent on enactment of [Forestry Legislation Amendment Act 2018](#)

46 Revocation of licences for logging operations

Any licence under this Act authorising the carrying out of an activity referred to in clause 24 of Schedule 1 to this Act and in force immediately before the repeal of that clause by the [Forestry Legislation Amendment Act 2018](#) is, on that repeal, revoked.

47 Continuation of environment protection notices relating to logging operations

The repeal of clause 24 of Schedule 1 to this Act by the [Forestry Legislation Amendment Act 2018](#) does not affect the continued operation of an environment protection notice in force on that repeal and that was issued in connection with the carrying out of an activity referred to in that clause.

3.12 Standard Instrument (Local Environmental Plans) Order 2006

[1] Standard instrument, Land Use Table

Insert “or under Part 5B (Private native forestry) of the [Local Land Services Act 2013](#)” after “the [Forestry Act 2012](#)” in item 2 of the matter relating to Zone RU3 Forestry.

[2] Standard instrument, Dictionary

Omit the definition of **forestry** (including the note). Insert instead:

forestry means forestry operations within the meaning of the [Forestry Act 2012](#) or Part 5B of the [Local Land Services Act 2013](#).

3.13 State Environmental Planning Policy (Vegetation in Non-Rural

Areas) 2017

[1] Clause 8 Clearing that does not require authority under this Policy

Insert “or under Part 5B (Private native forestry) of that Act” after “(Clearing authorised under other legislation)” in clause 8 (1).

[2] Clause 14 Obtaining approval of Panel for clearing of native vegetation

Insert after clause 14 (8):

(8A) An approval under this Part may not be granted to carry out forestry operations within the meaning of Part 5B of the *Local Land Services Act 2013*.