

# Local Land Services Act 2013 No 51

[2013-51]



New South Wales

## Status Information

### Currency of version

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### Provisions in force

The provisions displayed in this version of the legislation have all commenced.

### Notes—

- **See also**  
[Statute Law \(Miscellaneous Provisions\) Bill \(No 2\) 2024](#)

### Authorisation

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# Local Land Services Act 2013 No 51



New South Wales

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# Local Land Services Act 2013 No 51



New South Wales

An Act to establish Local Land Services and to repeal the *Rural Lands Protection Act 1998* and the *Catchment Management Authorities Act 2003*; and for other purposes.

## Part 1 Preliminary

### 1 Name of Act

This Act is the *Local Land Services Act 2013*.

### 2 Commencement

- (1) This Act commences on 1 January 2014, except as provided by subsection (2).
- (2) The following provisions commence on a day to be appointed by proclamation—
  - (a) sections 6 and 7 and Schedule 1,
  - (b) clauses 5 and 6 of Schedule 6.

### 3 Objects of Act

The objects of this Act are as follows—

- (a) to establish a statutory corporation (to be known as Local Land Services) with responsibility for management and delivery of local land services in the social, economic and environmental interests of the State in accordance with any State priorities for local land services,
- (b) to establish a governance framework to provide for the proper and efficient management and delivery of local land services,
- (c) to establish local boards for the purpose of devolving management and planning functions to regional levels to facilitate targeted local delivery of programs and services to meet community, client and customer needs,
- (d) to require decisions taken at a regional level to take account of State priorities for local land services,
- (e) to ensure the proper management of natural resources in the social, economic and

environmental interests of the State, consistently with the principles of ecologically sustainable development (described in section 6 (2) of the *Protection of the Environment Administration Act 1991*),

- (f) to apply sound scientific knowledge to achieve a fully functioning and productive landscape,
- (g) to encourage collaboration and shared responsibility by involving communities, industries and non-government organisations in making the best use of local knowledge and expertise in relation to the provision of local land services,
- (h) to establish mechanisms for the charging of rates, levies and contributions on landholders and fees for services,
- (i) to provide a framework for financial assistance and incentives to landholders, including, but not limited to, incentives that promote land and biodiversity conservation.

#### **4 Meaning of “local land services” and “State priorities for local land services”**

- (1) In this Act, **local land services** means programs and advisory services associated with agricultural production, biosecurity, natural resource management and emergency management, including programs and advisory services associated with the following—
  - (a) agricultural production,
  - (b) biosecurity, including animal pest and disease and plant pest and disease prevention, management, control and eradication,
  - (c) preparedness, response and recovery for animal pest and disease and plant pest and disease emergencies and other emergencies impacting on primary production or animal health and safety,
  - (d) animal welfare,
  - (e) chemical residue prevention, management and control,
  - (f) natural resource management and planning,
  - (g) travelling stock reserves and stock watering places,
  - (h) control and movement of stock,
  - (i) related services and programs.
- (2) In this Act, **State priorities for local land services** includes any State-wide standards and targets, and any State and national priorities, for agricultural production, biosecurity, natural resource management or emergency management—

- (a) identified in a State Government policy or plan or an intergovernmental agreement, or
- (b) as advised by the Minister.

## **5 Interpretation**

- (1) Expressions used in this Act that are defined in the Dictionary have the meanings set out in the Dictionary.

### **Note—**

Expressions used in this Act (or in a particular provision of this Act) that are defined in the [Interpretation Act 1987](#) have the meanings set out in that Act.

- (2) Notes included in this Act do not form part of this Act.

## **6 Regions**

For the purposes of this Act, the State is divided into the regions described or identified in Schedule 1.

## **7 Abolition, establishment, amalgamation or change of name or boundaries of regions**

- (1) The Minister may, by order published on the NSW legislation website, amend Schedule 1 for any of the following purposes—
  - (a) to establish a region,
  - (b) to abolish a region,
  - (c) to amalgamate two or more regions,
  - (d) to change the name of a region,
  - (e) to change the boundaries of a region.
- (2) Any such order may contain savings and transitional provisions (including provisions relating to the membership of local boards for a region pending elections).
- (3) The boundaries of each region may be described or identified in Schedule 1 by reference to a local government area or in any other manner (including by reference to a map or other description).

# **Part 2 Local Land Services**

## **Division 1 Constitution and management of Local Land Services**

### **8 Constitution of Local Land Services**

There is constituted by this Act a body corporate with the corporate name of Local Land Services.

**Note—**

Section 50 of the *Interpretation Act 1987* provides for the powers of a statutory corporation.

**9 Status of Local Land Services**

Local Land Services is a NSW Government agency.

**10 Control and management of Local Land Services**

- (1) All decisions relating to the functions of Local Land Services are to be made by or under the authority of the Board.
- (2) The Chief Executive Officer is responsible for the day-to-day management of the affairs of Local Land Services, subject to the policies and directions of the Board.
- (3) Any act, matter or thing done in the name of, or on behalf of, Local Land Services by or under the authority of the Board or the Chief Executive Officer is taken to have been done by Local Land Services.

**Note—**

Local Land Services may delegate its functions under section 16.

**11 Ministerial control**

- (1) Local Land Services is subject to the control and direction of the Minister in the exercise of its functions.
- (2) The Board must—
  - (a) immediately give the Minister written particulars of any decision of Local Land Services to acquire or dispose of a significant asset or to commence or cease to carry out a significant activity, and
  - (b) keep the Minister informed of the activities of Local Land Services, and
  - (c) give the Minister such reports, documents and information in relation to Local Land Services as the Minister may from time to time require within the time limit set by the Minister.
- (3) The Minister may give written guidelines to the Board that are to be used by the Board in deciding whether particulars are required to be given under subsection (2).

**12 Control and direction in emergency responses**

- (1) In this section—

**emergency** has the same meaning as in the *State Emergency and Rescue Management Act 1989* and includes the actual or imminent occurrence of an animal or plant disease or animal or plant pest.



- (2) The Secretary may, if satisfied that governmental action is required for the purposes of this Act to respond to an emergency that affects one or more specified regions or parts of regions, by order in writing given to the Chair of the Local Land Services Board—
  - (a) declare that the Secretary has assumed responsibility for controlling the actions of Local Land Services for the purposes of responding to the emergency, and
  - (b) require the Chair to ensure that Local Land Services and its staff comply with any directions that the Secretary issues to Local Land Services and its staff.
- (3) Local Land Services and its staff are to comply with any such direction while the order under subsection (2) is in force.
- (4) The order is to specify the general nature, location and extent of the emergency.
- (5) The order takes effect as soon as it is given and continues to have effect until revoked by the Secretary.

### **13 Staff of Local Land Services**

Persons may be employed in the Public Service under the [Government Sector Employment Act 2013](#) to enable Local Land Services to exercise its functions.

**Note—**

Section 59 of the [Government Sector Employment Act 2013](#) provides that the persons so employed (or whose services Local Land Services makes use of) may be referred to as officers or employees, or members of staff, of Local Land Services. Section 47A of the [Constitution Act 1902](#) precludes Local Land Services from employing staff.

## **Division 2 Functions of Local Land Services**

### **14 Functions generally**

- (1) Local Land Services has the following functions—
  - (a) to administer, deliver or fund local land services,
  - (b) to develop and implement appropriate governance arrangements for the delivery of local land services,
  - (c) to prepare a State strategic plan,
  - (d) to provide and facilitate education and training in connection with agricultural production, biosecurity, natural resource management and emergency management,
  - (d1) to exercise functions conferred on it by Part 5A and Schedule 5A,
  - (d2) to exercise functions conferred on it by Part 5B,

- (e) to make and levy rates, levies and contributions on rateable and other land for the purpose of carrying out its functions,
  - (f) to provide and administer grants, loans, subsidies or other financial assistance for activities in relation to local land services,
  - (g) to collect, collate, maintain, interpret and report information with respect to its functions,
  - (h) to communicate, consult and engage with the community, including the Aboriginal community, to encourage participation in relation to the delivery of local land services,
  - (i) to provide advice on matters referred to it by the Minister,
  - (j) to exercise such other functions as are conferred or imposed on it by or under this or any other Act.
- (2) Local Land Services is to exercise its functions in accordance with any State priorities for local land services and any plan approved under Part 4.
- (3) Local Land Services may do anything necessary, or supplemental or incidental, to the exercise of its functions.

#### **15 Memorandum of understanding**

- (1) Local Land Services may enter into a memorandum of understanding with a Public Service agency in relation to the exercise of the functions of Local Land Services, including the implementation of plans approved under Part 4.
- (2) The memorandum of understanding may be amended, revoked or replaced from time to time.
- (3) The functions of Local Land Services must, as far as practicable, be exercised in conformity with the memorandum of understanding. However, a failure to comply with this subsection does not itself invalidate anything done or omitted to be done by Local Land Services.

#### **16 Delegation of Local Land Services functions**

- (1) Local Land Services may delegate to an authorised person any of its functions, other than this power of delegation.
- (2) A delegate may sub-delegate to an authorised person any function delegated by Local Land Services if the delegate is authorised in writing to do so by Local Land Services.
- (3) In this section, **authorised person** means—
- (a) a member of the Board, or

- (b) the chair or any other member of a local board, or
- (c) a member of staff of Local Land Services, or
- (d) an authorised officer.

#### **17 Delegation of Ministerial functions**

- (1) The Minister may delegate to an authorised person any of the Minister's functions under this Act, other than this power of delegation.
- (2) A delegate may sub-delegate to an authorised person any function delegated by the Minister if the delegate is authorised in writing to do so by the Minister.
- (3) The Minister may delegate to Local Land Services any function of the Minister under an Act that is administered by the Minister and prescribed by the regulations for the purposes of this section.
- (4) In this section, **authorised person** means—
  - (a) Local Land Services, or
  - (b) the Chair or any other member of the Board, or
  - (c) the chair or any other member of a local board, or
  - (d) a member of staff of Local Land Services, or
  - (e) a person employed in the Department, or
  - (f) an authorised officer.

#### **18 Delegation of Secretary's functions**

- (1) The Secretary may delegate to an authorised person any of the Secretary's functions under this Act or any other Act prescribed by the regulations, other than this power of delegation.
- (2) A delegate may sub-delegate to an authorised person any function delegated by the Secretary if the delegate is authorised in writing to do so by the Secretary.
- (3) In this section, **authorised person** means—
  - (a) Local Land Services, or
  - (b) the Chair or any other member of the Board, or
  - (c) the chair or any other member of a local board, or
  - (d) a member of staff of Local Land Services, or

- (e) a person employed in the Department, or
- (f) an authorised officer.

## **Division 3 Finance and audit**

### **19 Local Land Services Fund**

- (1) Local Land Services is to establish a fund to be called the “Local Land Services Fund” (the **Fund**).
- (2) The money in the Fund may be kept in one or more financial institutions.
- (3) To avoid doubt, the Fund is taken to have been established (and always to have been established) in the Special Deposits Account.

### **20 Payments into and from Fund**

- (1) There is to be paid into the Fund—
  - (a) all money received by or on account of Local Land Services, and
  - (b) the proceeds of any investment of money in the Fund.
- (2) There is to be paid from the Fund—
  - (a) all amounts required to meet expenditure incurred by Local Land Services in the exercise of its functions, and
  - (b) all amounts required to provide loans, grants, subsidies and other financial assistance for the purposes of activities that Local Land Services is authorised to fund by or under this Act.

### **21 Investment powers in relation to Fund**

Local Land Services may invest money in the Fund—

- (a) if Local Land Services is a GSF agency for the purposes of Part 6 of the [Government Sector Finance Act 2018](#)—in any way that Local Land Services is permitted to invest money under that Part, or
- (b) if Local Land Services is not a GSF agency for the purposes of Part 6 of the [Government Sector Finance Act 2018](#)—in any way authorised for the investment of trust funds and in any other way approved by the Minister with the concurrence of the Treasurer.

### **22 Fees for services**

- (1) Subject to the regulations (if any), Local Land Services may charge a fee, determined by it for supplying any service (including any product, commodity or publication)

under this or any other Act or a statutory instrument.

- (2) Local Land Services may require a deposit or prepayment in respect of any such fee.
- (3) Nothing in this section authorises the charging of any fee contrary to the provisions of any Act, regulation or statutory instrument.

### **23 Annual reporting information to include certain matters**

- (1) The annual reporting information prepared for Local Land Services under the *Government Sector Finance Act 2018* is to include a report as to the following during the annual reporting period to which the information relates—
  - (a) the performance and outcomes set out in any State strategic plan achieved by Local Land Services,
  - (b) progress in achieving compliance with State priorities for local land services,
  - (c) community engagement in respect of the provision of local land services,
  - (d) the resources expended and revenue received by Local Land Services, and the management of programs, in each region,
  - (e) any other matter directed by the Minister.

#### **Note—**

Division 7.3 of the *Government Sector Finance Act 2018* requires the accountable authority for a reporting GSF agency to ensure that the annual reporting information for the agency is prepared within the period specified by the Treasurer's directions after the end of the annual reporting period for the agency.

- (2) The annual reporting information may be included in the annual reporting information prepared for the Department or another government agency.

### **24 Audit of Local Land Services**

- (1) The Minister must arrange for an independent audit of the activities of Local Land Services not later than 5 years after the commencement of this Act to determine whether it is carrying out the functions conferred on it by or under this or any other Act effectively and efficiently and in accordance with State priorities for local land services, the State strategic plan and any local strategic plan.
- (2) As soon as possible after the end of every 5-year period following the audit under subsection (1), the Minister is to cause a further audit of the kind set out in that subsection to be undertaken.
- (3) The Minister may, at any time that the Minister considers it appropriate to do so, arrange for an audit of the exercise of all or any particular function of Local Land Services.

- (4) An audit under this section is to be carried out by one or more persons or bodies, or persons or bodies of a class, prescribed by the regulations or appointed by the Minister.
- (5) The Minister is to arrange for a copy of the report of any audit under this section to be placed on the website of Local Land Services.
- (6) The Minister may direct that the costs of an audit (in whole or in part) under this section be paid by Local Land Services.

**Note—**

The Audit Office of New South Wales is responsible for auditing the financial reports of Local Land Services—see Division 7.2 of the [Government Sector Finance Act 2018](#).

## **Part 3 The Local Land Services Board and local boards**

### **Division 1 The Local Land Services Board**

#### **25 Establishment of Local Land Services Board**

- (1) There is to be a Local Land Services Board.
- (2) The Board is to consist of the following members—
  - (a) the Chair,
  - (b) the chair of each local board,
  - (c) such other persons with relevant skills and experience as may be appointed by the Minister.

**Note—**

Schedule 2 contains provisions relating to the members and procedure of the Board.

- (3) A person appointed under subsection (2) (c) is a non-voting member of the Board.

#### **26 Functions of the Board**

- (1) The Board has the following functions—
  - (a) to determine the general policies and strategic direction of Local Land Services,
  - (b) to determine the policies, procedures and directions of Local Land Services in accordance with which a local board must exercise its functions,

**Note—**

See section 29 (2).

- (c) such other functions as are conferred or imposed on it by or under this or any other Act or law.

- (1A) Without limiting subsection (1) (a), the Board is to determine the general policies and strategic direction of Local Land Services with respect to the following—
- (a) organisational governance and strategy,
  - (b) risk management,
  - (c) service delivery priorities,
  - (d) community engagement.
- (2) In exercising functions as members of the Board, members of the Board are to be guided by the principle that the public interest in the delivery of local land services in the State as a whole takes precedence over the delivery of local land services in any region.

**Note—**

Section 10 (1) provides that all decisions relating to the functions of Local Land Services are to be made by or under the authority of the Board.

## **26A Chair of Local Land Services Board**

- (1) There is to be a Chair of the Local Land Services Board.
- (2) The Chair is to be appointed by the Minister.
- (3) Schedule 2A contains provisions relating to the Chair.

## **Division 2 Local boards**

### **27 Local boards**

- (1) There is to be a board for each region, called the [*Name of region*] Local Board.
- (2) The local board for a region is to be constituted by 7 members, being—
  - (a) 3 members elected, in accordance with the regulations, by ratepayers of the region, and
  - (b) 4 members appointed by the Minister.
- (3) Despite subsection (2), the local board for the Western Region is to be constituted by 9 members, being—
  - (a) 4 members elected, in accordance with the regulations, by ratepayers of the region, and
  - (b) 5 members appointed by the Minister.
- (4) A person is not eligible for appointment as a member of a local board unless, in the opinion of the Minister, the person possesses expertise, knowledge or skills (as

demonstrated by relevant qualifications or experience) in one or more of the areas prescribed by the regulations for the purposes of this subsection.

- (5) The regulations may provide for criteria to determine whether a person is eligible or ineligible for election or appointment as a member of a local board.
- (6) In appointing a member of a local board, the Minister is to have regard to the following—
  - (a) the principle that a local board should, as far as possible, be constituted by persons who together have expertise, skills and knowledge (as demonstrated by relevant qualifications or experience) as are relevant to the functions exercisable by the local board,
  - (b) such other matters as may be prescribed by the regulations.
- (7) The Minister is, by an instrument of appointment or a subsequent instrument, to appoint a member of the local board as chair of the local board.

## **28 Status of local boards**

A local board is a NSW Government agency.

## **29 Functions of local boards**

- (1) The functions of a local board for a region are as follows—
  - (a) to prepare a local strategic plan in respect of the delivery of local land services in the region,
  - (b) to monitor the performance of Local Land Services in the region, including by reference to the local strategic plan,
  - (c) to make recommendations to the Board in relation to the making of rates, levies and contributions on rateable and other land in the region,
  - (d) to collect, collate, maintain, interpret and report information with respect to its functions,
  - (e) to communicate, consult and engage with the community in developing plans and in respect of the delivery of programs and services by Local Land Services in the region,
  - (f) to develop a strategy for engagement of the Aboriginal community in the region in respect of the provision of local land services,
  - (g) to provide advice to the Minister,
  - (h) to exercise such other functions as are conferred or imposed on it by or under this



or any other Act.

- (2) A local board must exercise its functions in accordance with the policies, procedures and directions (however described) of Local Land Services.
- (3) A local board for a region may, with the agreement of a local board for another region, exercise functions in the other region.

### **30 Local annual reports**

- (1) A local board is, before 30 March each year, to prepare an annual report on the following matters—
  - (a) the performance of any functions under this Act exercised in the local board's region (whether by the local board or another person or body),
  - (b) the exercise by the local board of any functions under this Act outside the local board's region.
- (2) The local annual report is to be—
  - (a) provided to Local Land Services, and
  - (b) placed on the website of the local board, and
  - (c) published in such other manner as, in the opinion of the local board, will make it readily accessible to persons in the region.

### **31 Delegation of local board's functions**

- (1) A local board may delegate to an authorised person any of the local board's functions, other than this power of delegation.
- (2) A delegate may sub-delegate to an authorised person any function delegated by the local board if the delegate is authorised in writing to do so by the local board.
- (3) In this section, **authorised person** means—
  - (a) a member of the local board,
  - (b) a member of staff of Local Land Services.

### **32 Keeping Board informed**

A local board must—

- (a) keep the Board informed of the activities of the local board, and
- (b) give the Board such reports, documents and information in relation to those activities as the Board requires within the time limit set by the Board.

### **33 Local community advisory groups**

- (1) Each local board is to establish one or more local community advisory groups for its region in accordance with this section.
- (2) A local community advisory group is to consist of persons that the local board considers to be suitably qualified to serve on the group and to be suitably representative of the interests of the local community and stakeholders in the region.
- (3) Each local board is to prepare terms of reference for the local community advisory groups for its region.

## **Division 3 Honesty and conduct**

### **34 Conduct of Board and local board members**

- (1) Every Board and local board member must—
  - (a) act honestly and exercise a reasonable degree of care and diligence in carrying out his or her functions under this or any other Act, and
  - (b) act for a proper purpose in carrying out his or her functions under this or any other Act, and
  - (c) not use his or her office or position for personal advantage, and
  - (d) not use his or her office or position to the detriment of the Board or the member's local board (respectively), and
  - (e) disclose any interest (whether pecuniary or otherwise) that could conflict with the proper performance of his or her functions under this or any other Act and avoid performing any function that could involve such a conflict of interest.
- (2) Although this section places certain duties on Board and local board members, nothing in this section gives rise to, or can be taken into account in, any civil cause of action.

### **35 Codes of conduct**

- (1) The Board may issue a code of conduct to be observed by all members of the Board and local boards.
- (2) Without limiting what may be included in the code, the code may relate to any conduct (whether by way of act or omission) of a member in carrying out his or her functions that is likely to bring the Board or a local board into disrepute.
- (3) In particular, the code may contain provisions for or with respect to the following conduct—

- (a) conduct that contravenes all or specified provisions of this Act or the regulations in all or specified circumstances,
  - (b) improper or unethical conduct,
  - (c) abuse of power and other misconduct,
  - (d) action causing, comprising or involving any of the following—
    - (i) intimidation, harassment or verbal abuse,
    - (ii) discrimination, disadvantage or adverse treatment in relation to employment,
    - (iii) prejudice in the provision of a service to the community,
  - (e) conduct of a member causing, comprising or involving any of the following—
    - (i) directing or influencing, or attempting to direct or influence, a member of staff of Local Land Services in the exercise of the functions of the staff member,
    - (ii) an act of disorder committed by the member at a meeting of the Board or a local board,
  - (f) the disclosure by members of interests (whether pecuniary or otherwise) that could conflict with the proper performance of a member's functions and avoidance of conflicts of interest,
  - (g) the disclosure by members of confidential documents and information.
- (4) A member of the Board or a local board must not contravene the code.
- (5) Nothing in this section or such a code gives rise to, or can be taken into account in, any civil cause of action, and nothing in this section affects rights or liabilities arising apart from this section.

## **Part 4 Planning the delivery of local land services**

### **Division 1 State strategic plan**

#### **36 Purpose and term of State strategic plan**

- (1) A State strategic plan is to set the vision, priorities and overarching strategy for local land services in the State, with a focus on appropriate economic, social and environmental outcomes.
- (2) A State strategic plan has effect for the period of 10 years (or such other period as is prescribed by the regulations) after it is approved by the Minister.

### **37 Preparation of draft State strategic plan**

- (1) Local Land Services must prepare a draft State strategic plan for local land services in the State that complies with this Division and submit the draft plan to the Minister for approval.
- (2) A draft State strategic plan is to be prepared and submitted as soon as practicable after the commencement of this Act and at such later times as may be specified by the Minister.
- (3) In preparing a draft State strategic plan, Local Land Services is to have regard to—
  - (a) any State priorities for local land services, and
  - (b) the provisions of any environmental planning instrument under the *Environmental Planning and Assessment Act 1979* that applies to a region, and
  - (c) any other existing natural resource management plans (including any such plans in the course of preparation) for a region including the State Water Management Outcomes Plan and any management plan under the *Water Management Act 2000*, and
  - (d) sound evidence-based practices to support primary industries, resilient communities and healthy landscapes, and
  - (e) the need for engagement of the community, including the Aboriginal community.

### **38 Contents of draft State strategic plan**

A draft State strategic plan must include the following—

- (a) the outcomes that are expected to be achieved by the implementation of the plan and the timeframes for achieving those outcomes,
- (b) requirements for reporting on whether those outcomes and timeframes have been achieved,
- (c) any other matters that the Minister may direct to be included in the plan.

### **39 Consultation on draft State strategic plan**

Local Land Services is to consult widely on a draft State strategic plan, by giving such public notice of the preparation of the plan and undertaking such public exhibition of the plan as is required by the regulations or the Minister.

### **40 Submission of draft State strategic plan for approval**

- (1) Local Land Services is to submit a copy of the draft State strategic plan to the Minister for approval.

- (2) In assessing the draft State strategic plan, the Minister is to seek the advice of any person or body to which the draft State strategic plan is required to be referred by the regulations and take into account any such advice provided within the time requested by the Minister.
- (3) The Minister may take into account the advice of any other person or body in assessing the draft State strategic plan.
- (4) If a draft State strategic plan requires a person or body other than Local Land Services to carry out any activity, Local Land Services is to provide the Minister with evidence that the person or body has agreed to carry out that activity.

#### **41 Approval of draft State strategic plan**

- (1) The Minister may—
  - (a) approve a draft State strategic plan submitted to the Minister by Local Land Services, without alteration or with such alteration as the Minister thinks fit, or
  - (b) refer the draft State strategic plan back to Local Land Services for further consideration.
- (2) The Minister is not to approve a draft State strategic plan unless the Minister—
  - (a) is satisfied (having regard to the advice of any person or body to which the draft State strategic plan has been referred) that the plan promotes the achievement of State priorities for local land services (if any), and
  - (b) has sought the advice of any person or body engaged to carry out an independent audit of the activities of Local Land Services under section 24, and
  - (c) has obtained the concurrence of the Minister administering the [Native Vegetation Act 2003](#), but only in relation to those parts of the draft plan that relate to natural resource management.
- (3) Before making any alterations to the draft State strategic plan, the Minister must consult Local Land Services.

#### **42 Publication of State strategic plan**

- (1) As soon as practicable after a State strategic plan is approved by the Minister, Local Land Services—
  - (a) is to cause the plan to be published in such a manner as, in the opinion of Local Land Services, will make it readily accessible to persons in the State, and
  - (b) is to arrange for a copy of the plan to be placed on the Local Land Services website.

- (2) The Minister may make any other arrangements that the Minister considers necessary to ensure that State strategic plans are readily accessible to the public.

#### **43 Amendment, replacement or revocation of plans**

- (1) A State strategic plan may be amended or replaced by a subsequent such plan prepared and approved in accordance with this Division.
- (2) The Minister may revoke a State strategic plan, wholly or in part.
- (3) The amendment or revocation of a State strategic plan by the Minister under this section takes effect when notice of the amendment or revocation is published by the Minister or on a later date specified in the notice.

#### **44 Periodic review and auditing of plans**

- (1) Local Land Services is to ensure that the State strategic plan is kept under regular and periodic review and, in particular, is to cause the plan to be reviewed if the Minister so directs.
- (2) The Minister is to ensure that the State strategic plan is audited, at intervals of not more than 5 years, to ascertain whether its provisions are being given effect.
- (3) An audit under this section is to be carried out by the Natural Resources Commission or an independent person, body or panel appointed by the Minister.
- (4) The Minister may direct that the costs of an audit (in whole or in part) under this section be paid by Local Land Services.

### **Division 2 Local strategic plans**

#### **45 Purpose and term of local strategic plans**

- (1) A local strategic plan for a region is to set the vision, priorities and strategy in respect of the delivery of local land services in the region, with a focus on appropriate economic, social and environmental outcomes.
- (2) A local strategic plan has effect for the period of 5 years (or such other period as is prescribed by the regulations) after it is approved by the Minister.

#### **46 Preparation of draft local strategic plans**

- (1) A local board must prepare one or more draft local strategic plans in respect of the delivery of local land services in its region that complies with this Division and submit each draft local strategic plan for approval by the Minister under this Division.
- (2) A draft local strategic plan is to be prepared and submitted as soon as practicable after the commencement of this Act and at such later times as may be specified by the Minister.

#### **47 Contents of draft local strategic plans**

- (1) A draft local strategic plan for a region must include the following—
  - (a) the outcomes that are expected to be achieved by the implementation of the plan in relation to the region and the timeframes for achieving those outcomes,
  - (b) requirements for reporting on whether those outcomes and timeframes have been achieved,
  - (c) any other matters that the Minister may direct to be included in the plan.
- (2) A draft local strategic plan for a region may also include provisions that relate to water quality or other non-regulatory water management issues in the region.
- (3) In formulating a draft local strategic plan for its region, the local board is to have regard to the following—
  - (a) any State priorities for local land services,
  - (b) the State strategic plan,
  - (c) the provisions of any environmental planning instrument under the *Environmental Planning and Assessment Act 1979* that applies to the region,
  - (d) any other existing natural resource management plans (including any such plans in the course of preparation) for the region including the State Water Management Outcomes Plan and any management plan under the *Water Management Act 2000*,
  - (e) sound evidence-based practices to support primary industries, resilient communities and healthy landscapes,
  - (f) the need for engagement of the community, including the Aboriginal community.

#### **48 Consultation on draft local strategic plan**

The local board is to consult widely on a draft local strategic plan, by giving such public notice of the preparation of the plan and undertaking such public exhibition of the plan as is required by the regulations or the Minister.

#### **49 Review of draft local strategic plan by Local Land Services**

- (1) The local board is to refer a copy of each draft local strategic plan prepared by it for a region to Local Land Services for review.
- (2) Local Land Services is to review the draft local strategic plan having regard to the following—
  - (a) any State priorities for local land services,

- (b) the State strategic plan,
  - (c) the provisions of any environmental planning instrument under the *Environmental Planning and Assessment Act 1979* that applies to the region,
  - (d) any other existing natural resource management plans (including any such plans in the course of preparation) for the region including the State Water Management Outcomes Plan and any management plan under the *Water Management Act 2000*,
  - (e) sound evidence-based practices to support primary industries, resilient communities and healthy landscapes,
  - (f) the need for engagement of the community, including the Aboriginal community.
- (3) Local Land Services may request the local board to amend the draft local strategic plan before submitting the plan to the Minister.

#### **50 Submission of draft local strategic plans for approval**

- (1) Local Land Services is to submit a copy of the draft local strategic plan to the Minister for approval.
- (2) In assessing the draft local strategic plan, the Minister is to seek the advice of any person or body to which the draft local strategic plan is required to be referred by the regulations and take into account any such advice provided within the time requested by the Minister.
- (3) The Minister may take into account the advice of Local Land Services or any other person or body in assessing the draft local strategic plan.
- (4) If a draft local strategic plan requires a person or body other than Local Land Services to carry out any activity, Local Land Services is to provide the Minister with evidence that the person or body has agreed to carry out that activity.

#### **51 Approval of draft local strategic plans**

- (1) The Minister may—
  - (a) approve a draft local strategic plan for a region submitted by Local Land Services, without alteration or with such alteration as the Minister thinks fit, or
  - (b) refer the draft local strategic plan back to Local Land Services for further consideration.
- (2) The Minister is not to approve a draft local strategic plan unless the Minister—
  - (a) is satisfied (having regard to the advice of any person or body to which the draft local strategic plan has been referred) that the plan promotes the achievement of



State priorities for local land services (if any) so far as those priorities relate to the region, and

- (b) has sought the advice of any person or body engaged to carry out an independent audit of the activities of Local Land Services under section 24, and
- (c) has obtained the concurrence of the Minister administering the *Native Vegetation Act 2003*, but only in relation to those parts of the draft plan that relate to natural resource management.

(3) Before making any alterations to the draft plan, the Minister must consult Local Land Services.

## **52 Publication of local strategic plans**

(1) As soon as practicable after a local strategic plan for a region is approved by the Minister—

(a) the Minister is to arrange for a copy of the plan to be placed on the website of Local Land Services and the website of the local board, and

(b) the local board for the region may cause the plan to be published in such other manner as, in the opinion of the local board, will make it readily accessible to persons in the region.

(2) The Minister may make any other arrangements that the Minister considers necessary to ensure that local strategic plans are readily accessible to the public.

## **53 Amendment, replacement or revocation of plans**

(1) A local strategic plan may be amended or replaced by a subsequent local strategic plan prepared and approved in accordance with this Division.

(2) The Minister may revoke a local strategic plan, wholly or in part.

(3) The amendment or replacement of a local strategic plan takes effect on the date the plan as amended or replaced is published on the website of Local Land Services or a later date specified in that plan.

(4) The revocation of a local strategic plan takes effect on the date that notice of the revocation is published on the website of Local Land Services or on a later date specified in the notice.

## **54 Periodic review and auditing of local strategic plans**

(1) Local Land Services is to ensure that each local strategic plan is kept under regular and periodic review and, in particular, is to cause a plan to be reviewed if the Minister so directs.

- (2) The Minister is to ensure that each local strategic plan is audited, within 3 years of its approval, to ascertain whether its provisions are being given effect.
- (3) The Minister may, at any time the Minister considers it appropriate to do so, arrange for an audit of a local strategic plan.
- (4) An audit under this section is to be carried out by the Natural Resources Commission or an independent person, body or panel appointed by the Minister.
- (5) The Minister may direct that the costs of an audit (in whole or in part) under this section be paid by Local Land Services.

## **Part 5 Rates, levies and contributions**

### **Division 1 Preliminary**

#### **55 When is a holding within a region?**

- (1) For the purposes of this Act, a holding located partly in 2 or more regions is to be regarded as wholly within the region in which the greater part lies.
- (2) For the purposes of this section, if the parts of a holding are equal in size, the part on which the principal residence (if any) is located is to be regarded as being the greater part. If there is no principal residence, any dispute as to which part of such holding is to be treated as the greater part is to be decided by the Minister.

### **Division 2 Rates, levies and contributions**

#### **56 What is rateable land?**

For the purposes of this Act, land within a region is rateable land if it is the whole or any part of a holding that is within the region and either—

- (a) the land has an area that is not less than the area prescribed by the regulations in relation to the region for the purposes of this paragraph, or
- (b) if the regulations provide for land to be rateable land in any other specified circumstances—those circumstances exist in respect of the land.

#### **57 Imposition of rates, levies and contributions**

- (1) Local Land Services may make and levy, in accordance with the regulations, such types and amounts of rates, levies and contributions on rateable or other land in a region as are prescribed by, or determined in accordance with, the regulations.
- (2) The regulations may—
  - (a) provide for the period in respect of which a rate, levy or contribution is payable, and

- (b) describe the purposes for which or basis or bases on which any particular type of rate, levy or contribution may be imposed, and
- (c) describe the rateable or other land in respect of which a particular type of rate, levy or contribution is payable.

## **Division 3 Annual returns**

### **58 Annual returns of land and stock**

- (1) An annual return for a holding in a region must be lodged in accordance with the regulations by any person prescribed by the regulations as the person responsible for the lodgment of such a return.

Maximum penalty—20 penalty units.

- (2) The annual return is to give details of the matters prescribed by the regulations.

### **59 Change of occupier after lodgment of return**

An annual return for a holding that is lodged in accordance with section 58 remains the annual return for that holding for the year it concerns irrespective of any changes occurring in that year in respect of the ownership or occupation of the land or the stock kept on the holding.

### **60 Duty to supply information in respect of land or stock**

Local Land Services may, subject to the regulations, require any person who lodges an annual return, or any owner or occupier of the holding to which an annual return relates, to provide any specified information relating to matters covered by the return for the purpose of—

- (a) verifying or updating Local Land Services' records, or
- (b) inquiring into the accuracy of information contained in the return.

**Note—**

It is an offence in some circumstances to fail to provide information when required to do so under this Act—see section 192 (Offences relating to provision of information in relation to certain matters).

## **Part 5A Land management (native vegetation)**

### **Division 1 Preliminary**

#### **60A Rural areas of State to which Part applies**

This Part applies to any area of the State, other than the following—

- (a) urban areas of the State to which *State Environmental Planning Policy (Vegetation in*

*Non-Rural Areas) 2017* applies,

- (b) national park estate and other conservation areas, namely—
  - (i) a wilderness area declared under the *Wilderness Act 1987*, or
  - (ii) land reserved under the *National Parks and Wildlife Act 1974* or acquired by the Minister administering that Act under Part 11 of that Act, or
  - (iii) land dedicated or set apart as a flora reserve under the *Forestry Act 2012* (or any Act repealed by that Act), or
  - (iv) land to which an interim heritage order or listing on the State Heritage Register under the *Heritage Act 1977* applies, or
  - (v) a declared area of outstanding biodiversity value under the *Biodiversity Conservation Act 2016*, or
  - (vi) an area declared to be critical habitat under Division 3 of Part 7A of the *Fisheries Management Act 1994*, or
  - (vii) a declared World Heritage property within the meaning of the *Environment Protection and Biodiversity Conservation Act 1999* of the Commonwealth, or
  - (viii) land dedicated or reserved under the *Crown Lands Act 1989* for similar public purposes for which land is reserved, declared or listed under the other Acts referred to in this paragraph, or
  - (ix) land to which an interim protection order under Part 11 (Regulatory compliance mechanisms) of the *Biodiversity Conservation Act 2016* applies, or
  - (x) Lord Howe Island,
- (c) State forestry land, namely—
  - (i) land that is a State forest or timber reserve under the *Forestry Act 2012*, or
  - (ii) land acquired under Division 4 of Part 3 of the *Forestry Act 2012* for the purposes of a State forest (not being any such land acquired for the purposes of a timber plantation).

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).

#### **60B Meaning of “native vegetation”**

- (1) For the purposes of this Part, **native vegetation** means any of the following types of plants native to New South Wales—
  - (a) trees (including any sapling or shrub or any scrub),

- (b) understorey plants,
  - (c) groundcover (being any type of herbaceous vegetation),
  - (d) plants occurring in a wetland.
- (2) A plant is native to New South Wales if it was established in New South Wales before European settlement. The regulations may authorise conclusive presumptions to be made of the species of plants native to New South Wales by adopting any relevant classification in an official database of plants that is publicly accessible.
- (3) For the purposes of this Part, native vegetation extends to a plant that is dead or that is not native to New South Wales if—
- (a) the plant is situated on land that is shown on the native vegetation regulatory map as category 2-vulnerable regulated land, and
  - (b) it would be native vegetation for the purposes of this Part if it were native to New South Wales.
- (4) For the purposes of this Part, native vegetation does not extend to marine vegetation (being mangroves, seagrasses or any other species of plant that at any time in its life cycle must inhabit water other than fresh water). A declaration under section 14.7 of the *Biodiversity Conservation Act 2016* that specified vegetation is or is not marine vegetation also has effect for the purposes of this Part.

#### **60C Meaning of “clearing” native vegetation**

For the purposes of this Part, **clearing** native vegetation means any one or more of the following—

- (a) cutting down, felling, uprooting, thinning or otherwise removing native vegetation,
- (b) killing, destroying, poisoning, ringbarking or burning native vegetation.

#### **60D Other definitions**

In this Part—

**category 1-exempt land** means areas of the State to which this Part applies designated as category 1-exempt land on the native vegetation regulatory map.

**category 2-regulated land** means areas of the State to which this Part applies designated as category 2-regulated land on the native vegetation regulatory map (including category 2-vulnerable regulated land that is so designated).

**Environment Agency Head** means the Chief Executive of the Office of Environment and Heritage.

**land management (native vegetation) code** means a land management (native vegetation) code made under Division 5 and in force.

**landholder** means a person who is the owner of land or who, whether by reason of ownership or otherwise, is in lawful occupation or possession, or has lawful management or control, of land.

**landholding** includes several parcels of land (whether held under the same title, different titles or different kinds of titles) that constitute or are worked as a single property and that—

- (a) are contiguous with one another or are separated from one another only by a road, river, creek or other watercourse, or
- (b) are certified in writing by Local Land Services to be in the same sub-bioregion and within sufficient proximity to one another so as to constitute a single landholding for the purposes of this Part.

**native vegetation regulatory map** means a native vegetation regulatory map prepared and published under Division 2.

**plant** means any plant, whether vascular or non-vascular, and in any stage of biological development, and includes fungi and lichens, but does not include marine vegetation.

**regulated rural area** means any area of the State to which this Part applies that is category 2-regulated land.

## Division 2 Native vegetation regulatory map

### 60E Purpose of native vegetation regulatory map

The purpose of the native vegetation regulatory map is to designate areas of the State to which this Part applies—

- (a) where the clearing of native vegetation is not regulated under this Part (**category 1-exempt land**), and
- (b) where the clearing of native vegetation is regulated under this Part (**category 2-regulated land**), and
- (c) where the clearing of native vegetation is regulated under this Part but (because of its vulnerability) is subject to additional restrictions and extended to the clearing of dead and non-native plants (**category 2-vulnerable regulated land**).

### 60F Transitional arrangement until preparation of maps

- (1) This section applies to an area of the State to which this Part applies during the period from the commencement of this Part until the area has been designated on a native

vegetation regulatory map (the ***transitional period***).

- (2) For the purposes of this Part, the area is taken, during the transitional period, to be—
- (a) category 1-exempt land, if this Part requires the land to be designated as category 1-exempt land on the native vegetation regulatory map, or
  - (b) category 2-regulated land, if this Part requires the land to be designated as category 2-regulated land on the native vegetation regulatory map (except as provided by paragraph (c)), or
  - (c) category 2-vulnerable regulated land, if the land is designated on a transitional native vegetation regulatory map published by the Environment Agency Head as steep or highly erodible land, as protected riparian land or as special category land.
- (3) For the purposes of this Part, an area is taken, during the transitional period, to be low conservation value grasslands if it comprises only groundcover whose clearing was permitted by section 20 of the [Native Vegetation Act 2003](#), as in force immediately before the repeal of that Act.

**Note—**

Generally that section permitted clearing if the vegetation comprised less than 50% of indigenous species of vegetation.

- (4) A provision of this Part that determines the relevant categorisation of land by reference to a reasonable belief of the Environment Agency Head about a particular matter is to be construed, for the purposes of this section, as a reference to what a reasonable person would believe about the matter.
- (5) The Environment Agency Head may, in connection with any legal proceedings against a landholder, issue a certificate that the land described in the certificate is (for the reasons set out in the certificate) category 1-exempt land or category 2-regulated land (including category 2-vulnerable regulated land). The certificate is, in those legal proceedings, prima facie evidence of the category of the land during the transitional period.
- (6) The regulations may make further provision with respect to the application of this Part during the transitional period, including—
- (a) provisions applying to the identification of low conservation value grasslands, and
  - (b) the issue of certificates by the Environment Agency Head, at the request of a landholder, as to the relevant categorisation of land, and
  - (c) the preparation and publication of draft native vegetation regulatory maps for the purposes of the publication of maps at the end of the transitional period and the application of provisions of this Part in relation to those draft maps.

### **60G Responsibility for preparation and publication of maps**

- (1) The Environment Agency Head is responsible for preparing and publishing native vegetation regulatory maps under this Part.
- (2) Native vegetation regulatory maps are to be prepared in relation to the areas of the State to which this Part applies.
- (3) A native vegetation regulatory map may designate—
  - (a) category 1-exempt land, and
  - (b) category 2-regulated land (including category 2-vulnerable regulated land), and
  - (c) any other sub-category prescribed by the regulations.
- (4) The Environment Agency Head is to publish information about the scientific method used to prepare a native vegetation regulatory map.
- (5) A native vegetation regulatory map is to be published on a government website.

### **60H Category 1-exempt land mapping**

- (1) Land is to be designated as category 1-exempt land if the Environment Agency Head reasonably believes that—
  - (a) the land was cleared of native vegetation as at 1 January 1990, or
  - (b) the land was lawfully cleared of native vegetation between 1 January 1990 and the commencement of this Part.
- (2) Land is to be designated as category 1-exempt land if the Environment Agency Head reasonably believes that—
  - (a) the land contains low conservation value grasslands, or
  - (b) the land contains native vegetation that was identified as regrowth in a property vegetation plan referred to in section 9 (2) (b) of the *Native Vegetation Act 2003*, or
  - (c) the land is of a kind prescribed by the regulations as category 1-exempt land.
- (3) Land is to be designated as category 1-exempt land if the land is biodiversity certified under Part 8 of the *Biodiversity Conservation Act 2016* or under any Act repealed by that Act.
- (4) However—
  - (a) land described in subsection (1) or (2) is not to be designated as category 1-exempt land if section 60I (2) requires the land to be designated as category



2-regulated land, and

(b) land described in subsection (1) (a) is not to be designated as category 1-exempt land if the land was unlawfully cleared of native vegetation after 1 January 1990, and

(c) land described in subsection (2) (a) is not to be designated as category 1-exempt land if the land was unlawfully cleared of native vegetation after 1 January 1990.

(5) The regulations may make provision for the purposes of determining whether grasslands are low conservation value grasslands for the purposes of this Division.

### **60I Category 2-regulated land mapping**

(1) Land is to be designated as category 2-regulated land if the Environment Agency Head reasonably believes that—

(a) the land was not cleared of native vegetation as at 1 January 1990, or

(b) the land was unlawfully cleared of native vegetation after 1 January 1990.

(2) Land is to be designated as category 2-regulated land if the Environment Agency Head reasonably believes that—

(a) the land contains native vegetation that was grown or preserved with the assistance of public funds (other than funds for forestry purposes), or

(b) the land is eligible for designation as category 2-vulnerable regulated land, or

(c) the land is subject to a private land conservation agreement under the *Biodiversity Conservation Act 2016*, or

(d) the land is subject to be set aside under a requirement made in accordance with a land management (native vegetation) code under this Part, or

(e) the land contains grasslands that are not low conservation value grasslands, or

(f) the land is or was subject to a requirement to take remedial action to restore or protect the biodiversity values of the land under this Part or the *Biodiversity Conservation Act 2016* or under the *Native Vegetation Act 2003* or the *National Parks and Wildlife Act 1974*, or

(g) the land 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, or

(h) the land is an offset under a property vegetation plan under the *Native Vegetation Act 2003* or is a set aside under a Ministerial order under Division 3 of Part 6 of the *Native Vegetation Regulation 2013*, or

- (i) the land is in the coastal wetlands and littoral rainforests area of the coastal zone referred to in the *Coastal Management Act 2016*, or
  - (j) the land is identified as koala habitat (of a kind prescribed by the regulations) in a plan of management made under *State Environmental Planning Policy No 44—Koala Habitat Protection*, or
  - (k) the land is a declared Ramsar wetland within the meaning of the *Environment Protection and Biodiversity Conservation Act 1999* of the Commonwealth, or
  - (l) the land has (subject to the regulations) been mapped by the Environment Agency Head as land containing critically endangered species of plants under the *Biodiversity Conservation Act 2016*, or
  - (m) the land has been mapped by the Environment Agency Head as land containing a critically endangered ecological community under the *Biodiversity Conservation Act 2016*, or
  - (n) the land is of a kind prescribed by the regulations as category 2-regulated land.
- (3) However, land described in subsection (1) is not to be designated as category 2-regulated land if section 60H (2) or (3) requires the land to be designated as category 1-exempt land.

**60J Matters relating to determination of mapped category of land**

- (1) This section makes provision relating to the mapping of land under this Division as category 1-exempt land or category 2-regulated land.
- (2) Native vegetation that comprises grasslands or other non-woody vegetation is taken to have been cleared if the native vegetation was significantly disturbed or modified. The regulations may make provision for the purposes of determining whether native vegetation has been significantly disturbed or modified for the purposes of this Division.
- (3) Determinations may be made by the Environment Agency Head that land was unlawfully cleared of native vegetation only if compliance or enforcement action of a kind prescribed by regulations was taken in relation to the clearing.
- (4) Determinations may be made by the Environment Agency Head that land was cleared of native vegetation as at 1 January 1990 or between that date and the commencement of this Part only on the basis of the best available aerial photographs or satellite imagery before and after the relevant date, and any evidence provided by the landholder under section 60K (8).
- (5) Determinations made (or taken on appeal to have been made) by the Environment Agency Head as to whether land was or was not unlawfully cleared of native

vegetation does not affect any decision made with respect to compliance or enforcement action taken under this or any other Act in relation to the clearing.

### **60K Re-categorisation of mapped land**

- (1) Re-categorisation of land is the preparation and publication of a native vegetation regulatory map in accordance with this Part for any of the following purposes—
  - (a) the designation of land that is designated on a published map as one category to another category,
  - (b) the designation of land that is not designated as any category on a published map as land of a particular category,
  - (c) the removal of the designation of land on a published map.
- (2) The Environment Agency Head is to keep the categorisation of land under review and undertake an annual review of published maps.
- (3) The Environment Agency Head may re-categorise land if—
  - (a) there is an error in a published map, or
  - (b) the Environment Agency Head obtains new or improved information about historical vegetation cover or land use for a particular landholding, or
  - (c) in the case of category 2-regulated land that the landholder applies to be re-categorised as category 1-exempt land—the Environment Agency Head reasonably believes that the land has been lawfully cleared after the commencement of this Part in accordance with a property vegetation plan under the *Native Vegetation Act 2003* that remains in force, with an approval under Division 6 or with a development consent under the *Environmental Planning and Assessment Act 1979* or an approval under Part 5.1 of that Act (unless the land concerned is required to be re-vegetated under the conditions of any such approval or consent), or
  - (d) the land is subject to a successful review or appeal of an existing categorisation or of a re-categorisation (and the re-categorisation gives effect to the decision on the review or appeal), or
  - (e) the land is authorised to be re-categorised by a land management (native vegetation) code, or
  - (f) the land is authorised to be re-categorised by the regulations.
- (4) The Environment Agency Head is required to re-categorise land if the status of the land changes so that—
  - (a) the land becomes (or ceases to be) an area that is excluded from the operation of this Part, or

(b) the land is required to be designated as land of a different category.

A change in the status of land that results in the land being excluded from the operation of this Part has effect when the status of the land changes, whether or not the land has been re-categorised by the Environment Agency Head.

- (5) The Secretary of the Department of Planning, Industry and Environment is to notify the Environment Agency Head and the Secretary of the Department (within the meaning of this Act) of any proposed environmental planning instrument that is likely to result in land becoming (or ceasing to be) an area that is excluded from the operation of this Part or that is likely to result in a re-categorisation of a kind prescribed by the regulations.
- (6) Land that is category 2-regulated land cannot be re-categorised as category 1-exempt land because of—
- (a) any clearing activity authorised under this Part, or
  - (b) any authorised clearing activity referred to in section 600 (Clearing authorised under other legislation),
- unless the re-categorisation is authorised by this Part, a land management (native vegetation) code or the regulations.
- (7) The Environment Agency Head is required to consult the landholders concerned before land is re-categorised and to give the landholders at least 30 days to make submissions to the Environment Agency Head about proposed re-categorisations, unless the re-categorisation has been requested by the landholder or relates to the exclusion of land from (or inclusion of land into) the operation of this Part. The regulations may make provision for consultation by individual notification to all or specified landholders of any land or by a public consultation process.
- (8) The Environment Agency Head, when making a determination that grasslands or other non-woody vegetation was significantly disturbed or modified on 1 January 1990 or between that date and the commencement of this Part for the purposes of a re-categorisation of the land, is to take into account any evidence provided by the landholder.
- (9) If the Environment Agency Head notifies the landholder of category 1-exempt land of a proposed re-categorisation of the land to category 2-regulated land, the land is taken to be category 2-regulated land until whichever of the following first occurs—
- (a) the Environment Agency Head notifies the landholder that the land is not to be re-categorised or the land is re-categorised,
  - (b) the period prescribed by the regulations for the purposes of this subsection expires.

The Environment Agency Head is required to advise the landholder of the effect of this subsection when notifying the landholder of the proposed re-categorisation.

- (10) If a person commits an offence against section 60N in relation to land to which subsection (9) applies, the maximum penalty for the offence is (despite that section) a Tier 3 monetary penalty (within the meaning of the *Biodiversity Conservation Act 2016*).
- (11) The regulations may make further provision for or with respect to authorising or preventing the clearing of native vegetation during the process of the consideration of a re-categorisation of land or pending the publication of new maps to give effect to a re-categorisation decision.

#### **60L Review of categorisation decisions**

- (1) The relevant landholder may request the Environment Agency Head to review a decision relating to the categorisation or re-categorisation of land on a native vegetation regulatory map.
- (2) The grounds on which a request for a review may be made are the same grounds on which the Environment Agency Head may re-categorise the land.
- (3) The grounds on which a request for a review may be made extend to a categorisation based on whether or not clearing was lawful, unless the categorisation was based on a determination of the matter made by a court.
- (4) The Environment Agency Head is to determine a request for a review, and for that purpose may arrange for an official who was not responsible for the original decision to conduct the review.
- (5) The regulations may make provision for or with respect to reviews, including the following—
  - (a) the form of requests for a review,
  - (b) the information to be provided in connection with a request for a review,
  - (c) the extension of any request relating to a part of the landholding concerned to other parts of the landholding,
  - (d) the fee payable for dealing with a request for a review,
  - (e) notification of and consultation with affected persons or bodies.

#### **60M Appeal against categorisation or re-categorisation decisions**

- (1) The relevant landholder may appeal to the Land and Environment Court against a decision relating to the categorisation or re-categorisation of land on a native vegetation regulatory map.

- (2) An appeal cannot be made against any such decision unless—
  - (a) it is a decision made after a review under section 60L, or
  - (b) a request has been made for a review of the decision under section 60L but the review has not been determined within the period prescribed by the regulations.
- (3) An appeal is to be made within the time prescribed by the regulations.
- (4) The lodging of an appeal does not, except to the extent the Court otherwise directs in relation to the appeal, operate to stay the decision appealed against.

### **Division 3 Regulation of clearing of native vegetation in regulated rural areas**

#### **60N Unauthorised clearing of native vegetation in regulated rural areas—offence**

- (1) A person who clears native vegetation in a regulated rural area is guilty of an offence unless the person establishes any of the following defences—
  - (a) that the clearing is for an allowable activity authorised under Division 4 and Schedule 5A,
  - (b) that the clearing is authorised by a land management (native vegetation) code under Division 5,
  - (c) that the clearing is authorised by an approval of the Panel under Division 6,
  - (d) that the clearing is authorised under section 600 (Clearing authorised under other legislation etc),
  - (e) that the clearing is the carrying out of a forestry operation authorised under Part 5B (Private native forestry).

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.
- (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.

- (2) 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).

- (3) For the purposes of this section, clearing of native vegetation is not authorised as referred to in subsection (1) unless the conditions to which the authorisation is subject (including any conditions of a land management (native vegetation) code relating to the clearing or any certificate or approval issued or granted for the clearing) are complied with. This subsection extends to conditions that impose obligations on the person who clears the native vegetation that are required to be complied with before or after the clearing is carried out.
- (4) This section does not operate to preclude the commission of an offence under the *Environmental Planning and Assessment Act 1979* or the *Biodiversity Conservation Act 2016* in relation to the clearing of native vegetation.

### **600 Clearing authorised under other legislation**

For the purposes of this Part, the clearing of native vegetation in a regulated rural area is authorised under other legislation in any of the following cases—

(a) **Planning approval**

The clearing was authorised by—

- (i) a development consent under Part 4 of the *Environmental Planning and Assessment Act 1979*, or
- (ii) a State significant infrastructure approval under Part 5.1 of that Act, or
- (iii) a transitional Part 3A project approval under Schedule 6A to that Act.

**Note—**

A planning approval may authorise clearing as part of or ancillary to the carrying out of other development, but except in limited cases does not authorise only clearing of native vegetation—see section 60P.

**(b) Other planning authorisation**

The clearing was—

- (i) a part of or ancillary to the carrying out of exempt development within the meaning of the *Environmental Planning and Assessment Act 1979*, or
- (ii) an activity carried out by a determining authority within the meaning of Part 5 of that Act after compliance with that Part, or
- (iii) authorised by an approval of a determining authority within the meaning of Part 5 of that Act granted after compliance with that Part.

**(c) Biodiversity conservation authorisation**

The clearing was authorised by a biodiversity conservation licence under the *Biodiversity Conservation Act 2016* or was authorised by a regulation made under section 2.9 of that Act (including under a code of practice made or adopted by any such regulation).

**(d) Rural fires authorisation**

The clearing was—

- (i) an emergency fire fighting act or emergency bush fire hazard reduction work within the meaning of the *Rural Fires Act 1997*, or
- (ii) bush fire hazard reduction work to which section 100C (4) of the *Rural Fires Act 1997* applies or vegetation clearing work under Part 4, Division 9 of that Act.

**(e) Electricity network operator bush fire risk mitigation direction**

The clearing was required to be carried out to give effect to a direction of a network operator under Division 2A of Part 5 of the *Electricity Supply Act 1995*.

**(f) State emergency authorisation**

The clearing was authorised by or under the *State Emergency and Rescue Management Act 1989* or the *State Emergency Service Act 1989* and was reasonably necessary in order to avoid a threat to life or property.

**(g) Biosecurity authorisation**

The clearing was an authorised action for the purposes of section 386 of the *Biosecurity Act 2015*.

**(h) Plantation operations authorisation**

The clearing was the carrying out of a plantation operation on an authorised plantation in accordance with the *Plantations and Reafforestation Act 1999*, the



conditions of the authorisation and the provisions of the Plantations and Reafforestation Code applying to the plantation.

(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.

(j) **Water management authorisation**

The clearing was authorised by a licence, permit, approval or other authority under the *Water Management Act 2000*.

(k) **Mining/petroleum authorisation**

The clearing was authorised by a lease, licence or other authority under the *Mining Act 1992* or the *Petroleum (Onshore) Act 1991*.

(l) **Fisheries management authorisation**

The clearing was authorised by a licence under Division 6 of Part 7A of the *Fisheries Management Act 1994* or was authorised under Division 3 or 4 of Part 7 of that Act.

(m) **Survey work**

The clearing was required to be carried out for the purposes of a survey under the *Surveying and Spatial Information Act 2002* and was carried out by or under the direction of a surveyor.

(n) **Roads authorisation**

The clearing was authorised by a consent under Division 3 of Part 9 of the *Roads Act 1993*.

(o) **Private land conservation agreement**

The clearing was authorised by a private land conservation agreement under the *Biodiversity Conservation Act 2016*.

(p) **Other legislative authorisation**

The clearing was authorised by or under any other Act that has effect despite this Part.

**60P Limitation on planning instruments requiring consent for clearing only**

- (1) An environmental planning instrument under the *Environmental Planning and Assessment Act 1979* (other than a State environmental planning policy or so much of

a local environmental plan that adopts a mandatory provision of a standard instrument under that Act) may not be made to require development consent or other authorisation only for the clearing of native vegetation in an area of the State to which this Part applies. Any such requirement in an environmental planning instrument has no effect.

- (2) This section does not affect the imposition of conditions relating to the clearing of native vegetation on a development consent of any other kind.

## **Division 4 Allowable activities clearing of native vegetation**

### **60Q Allowable activities clearing—Schedule 5A**

- (1) Schedule 5A sets out the clearing of native vegetation in regulated rural areas for allowable activities that is authorised without any approval or other authority under this Part for the clearing.
- (2) Schedule 5A does not permit clearing or any other activity—
- (a) without an approval or other authority required by or under another Act or another Part of this Act (or in anticipation of the grant of any such approval or other authority), or
  - (b) in contravention of any provision of or made under (or in contravention of any agreement made under) another Act or another Part of this Act.

### **60R Amendment of Schedule 5A**

The regulations may amend Schedule 5A.

## **Division 5 Clearing native vegetation under land management (native vegetation) code**

### **60S Authorised clearing by landholders under codes**

- (1) The clearing of native vegetation in a regulated rural area is authorised without any approval or other authority under this Part if it is clearing carried out by or on behalf of the landholder in accordance with a land management (native vegetation) code under this Division.
- (2) The clearing of native vegetation is not authorised by a land management (native vegetation) code in any part of a regulated rural area that is excluded by the regulations or that is excluded by the code concerned.
- (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).

- (3) Clearing of native vegetation authorised by Division 4 and Schedule 5A is not subject to a land management (native vegetation) code despite anything to the contrary in the code.
- (4) A land management (native vegetation) code does not permit clearing or any other activity—
  - (a) without an approval or other authority required by or under another Act or another Part of this Act, or
  - (b) in contravention of any provision of or made under another Act or another Part of this Act, or
  - (c) if the regulations so provide, without the consent of all landholders or other persons with a specified interest in the land.

#### **60T Responsibility for preparation and making of codes**

- (1) The Minister is responsible for preparing and making land management (native vegetation) codes under this Division.
- (2) The Minister may make a land management (native vegetation) code only with the concurrence of the Minister administering the *Biodiversity Conservation Act 2016*.
- (3) When preparing or giving concurrence to a land management (native vegetation) code, the Minister or the Minister administering that Act (as the case requires) is to have regard to the principles of ecologically sustainable development (described in section 6 (2) of the *Protection of the Environment Administration Act 1991*).

#### **Note—**

Those principles require economic, social and environmental considerations to be effectively integrated in decision-making processes.

- (4) A land management (native vegetation) code is to be published on the NSW legislation website.

#### **60U Public consultation on proposed codes**

- (1) Before a land management (native vegetation) code is made, the proposed code is to be made publicly available for a period of at least 4 weeks.
- (2) During the period of public consultation, 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 land management (native vegetation) code, 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 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.

#### **60V Amendment or repeal of codes**

- (1) A land management (native vegetation) code may be amended or repealed in the same way as a code may be made.
- (2) Public consultation under section 60U applies to the amendment or repeal of a land management (native vegetation) code.
- (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 the concurrence of the Minister administering the *Biodiversity Conservation Act 2016* on any amendment of a code if satisfied it should be dispensed with because of the minor nature of the matter.

#### **60W Content of codes**

- (1) A land management (native vegetation) code may make provision for or with respect to authorising the clearing of native vegetation on category 2-regulated land.
- (2) A code may, in connection with any clearing authorised by the code—
  - (a) set out the circumstances in which a set aside area for native vegetation is required in connection with any such clearing, and
  - (b) provide for the re-vegetation, weed control and other land management actions on category 1-exempt land or other land to establish or maintain a set aside area or to protect areas that may be impacted by any such clearing, and
  - (c) authorise the re-categorisation of land in connection with any such clearing.
- (3) A code may (without limitation) make provision for or with respect to the following—
  - (a) the clearing of native vegetation in particular regions or other areas,
  - (b) the clearing of native vegetation in connection with particular activities,

- (c) the clearing of particular kinds of native vegetation,
- (d) when clearing of native vegetation may or may not be carried out,
- (e) the clearing of native vegetation that may continue to be carried out for the purposes of rotational farming practices that were in place as at 1 January 1990,
- (f) the manner in which clearing of native vegetation is to be carried out,
- (g) the giving of notice to Local Land Services and others before or after the clearing of native vegetation is carried out,
- (h) voluntary or mandatory certificates from Local Land Services confirming that the clearing may lawfully be carried out and certificates from Local Land Services authorising minor variations of the code (including the duration of any such certificates),
- (i) the keeping of records relating to the clearing of native vegetation,
- (j) the conservation of biodiversity,
- (k) the transition to this Part of clearing and other requirements under property vegetation plans under the *Native Vegetation Act 2003*,
- (l) any other matter prescribed by the regulations.

#### **60X Notice to Local Land Services of clearing**

- (1) The landholder must give, or cause to be given, to Local Land Services notice of the clearing of native vegetation under the authority conferred by a land management (native vegetation) code unless the code exempts the landholder from giving notice of clearing of that kind.

Maximum penalty—

- (a) in the case of a corporation—\$110,000, or
  - (b) in the case of an individual—\$22,000.
- (2) The notice is to be given within the time (whether before or after the clearing), and in the form and manner, specified in the land management (native vegetation) code.

#### **60Y Certification by Local Land Services prior to clearing—general**

- (1) Local Land Services may, on the application of a landholder, issue the following certificates—
  - (a) a certificate confirming that proposed clearing of native vegetation, by or on behalf of the landholder, of the kind set out in the certificate is compliant with the requirements of a specified land management (native vegetation) code (a

***voluntary code compliant certificate***),

- (b) a certificate for the clearing of native vegetation of the kind set out in the certificate that is required under a land management (native vegetation) code before the clearing is carried out under the code (a ***mandatory code compliant certificate***),
  - (c) a certificate that authorises minor variations of a land management (native vegetation) code in its application to the landholding concerned of the kind set out in the certificate (an ***authorised code variation certificate***).
- (2) A certificate under this section may adopt relevant terms for the certificate that are prescribed by the regulations or the land management (native vegetation) code.
  - (3) An authorised code variation certificate may be combined with a voluntary code compliant certificate or a mandatory code compliant certificate.
  - (4) Local Land Services may vary the terms of a certificate under this section by notice in writing to the landholder.
  - (5) Local Land Services may revoke a certificate under this section by notice in writing to the landholder.
  - (6) A certificate under this section remains in force for the period specified in the certificate unless sooner revoked by Local Land Services or surrendered by the landholder. The relevant land management (native vegetation) code may limit the maximum period that may be so specified in the certificate.
  - (7) A certificate under this section continues to have effect in relation to any clearing of native vegetation that was carried out before the certificate expired or was revoked or surrendered.
  - (8) A certificate under this section continues to have effect in relation to the completion of the clearing of native vegetation that is carried out after the certificate expires if the clearing authorised by the certificate had been substantially carried out before the expiry of the certificate.
  - (9) If the relevant land management (native vegetation) code is amended or repealed after a certificate is issued under this section, the continued clearing of native vegetation in compliance with the certificate is clearing authorised by a land management (native vegetation) code.
  - (10) A certificate under this section applies to the clearing of native vegetation by or on behalf of the landholder to whom it was issued and by or on behalf of any other person who becomes a landholder of the land concerned after the certificate was issued.

- (11) A landholder is not entitled to any compensation because a certificate issued under this section is revoked or its terms are varied.
- (12) The regulations may make provision for or with respect to certificates under this section, including for or with respect to the following—
- (a) the making of applications for certificates (including information to be provided by the landholder),
- Note—**
- See section 22 with respect to fees payable in relation to the issue of certificates.
- (b) the issue of certificates by authorised persons or bodies on behalf of Local Land Services,
  - (c) the terms and form of certificates,
  - (d) the amendment, revocation or surrender of certificates.
- (13) To avoid doubt, Local Land Services is not a determining authority for the purposes of Part 5 of the *Environmental Planning and Assessment Act 1979* when issuing or varying a certificate under this section.

#### **60Z Voluntary and mandatory code compliant certificates**

- (1) Local Land Services is to issue a voluntary code compliant certificate or a mandatory code compliant certificate for which a landholder has applied if satisfied that the proposed clearing will be clearing carried out in accordance with the relevant land management (native vegetation) code, and is to refuse to issue that certificate if not so satisfied.
- (2) The clearing of native vegetation by or on behalf of a landholder in accordance with a voluntary code compliant certificate or a mandatory code compliant certificate is conclusively presumed to be clearing carried out in accordance with the relevant land management (native vegetation) code.
- (3) However, any such certificate may restrict the application of the certificate to specified aspects of the clearing of native vegetation. Any other aspect of the clearing is not conclusively presumed to be clearing carried out in accordance with the relevant land management (native vegetation) code.
- (4) For the purposes of this section, any clearing is not conclusively presumed to be clearing carried out in accordance with the relevant land management (native vegetation) code if the information provided in the application for the certificate (or pursuant to a request by Local Land Services to determine the application) was false or misleading in a material particular.
- (5) This section does not apply to any contravention of section 60ZC (Provisions relating

to set aside areas).

**60ZA Limitation on issue of mandatory code compliant certificates**

- (1) The Minister administering this Division and the Minister administering the *Biodiversity Conservation Act 2016* may, by order published jointly in the Gazette, restrict the issue of mandatory code compliant certificates.
- (2) Any such restriction may, without limitation, exclude the issue of those certificates in particular areas or all areas and for particular periods or indefinitely.
- (3) Local Land Services is to exercise its functions under this Division subject to any such restriction.
- (4) An order may be made under this section without prior notice to affected landholders and affected landholders are not entitled to any compensation because of the operation of the order.

**60ZB Authorised code variation certificates**

- (1) Local Land Services is to issue an authorised code variation certificate for which a landholder has applied if 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,and is to refuse to issue that certificate if not so satisfied.
- (2) The clearing of native vegetation by or on behalf of a landholder in accordance with a land management (native vegetation) code, as varied by an authorised code variation certificate, is clearing carried out in accordance with that code.
- (3) However, any such clearing is not clearing carried out in accordance with that code to the extent it relies on a variation authorised by the certificate if the information provided in the application for the certificate (or pursuant to a request by Local Land Services to determine the application) was false or misleading in a material particular.

**60ZC Provisions relating to set aside areas**

- (1) This section applies where a land management (native vegetation) code requires a set aside area for native vegetation on part of a landholding and clearing of native vegetation on any other part of the landholding is carried out in reliance on the authority conferred by the code. This section does not apply if the clearing of the native vegetation on a set aside area is carried out in accordance with an approval under Division 6. This section applies despite any authorisation to clear native



vegetation for an allowable activity under Division 4 and Schedule 5A.

- (2) The land management (native vegetation) code is to contain the requirements for set aside areas under the terms of a mandatory code compliant certificate, including the characteristics of areas suitable to be set aside, the size of the area to be set aside, any re-vegetation or other management actions required or prohibited in the set aside area, when the area is to be set aside and the consent to the set aside of landholders or other persons with a specified interest in the area.
- (3) Clearing under the land management (native vegetation) code may not be carried out until the set aside area is registered on a public register of set aside areas maintained by Local Land Services in accordance with the regulations.
- (4) A set aside area cannot be an area—
  - (a) that is covered by a private land conservation agreement under the *Biodiversity Conservation Act 2016*, or
  - (b) that is set aside from clearing for biodiversity purposes because of any other agreement or any statutory or other legal obligation (other than under a law of the Commonwealth that relates to the same impacts arising from the same activity), or
  - (c) that is of a kind that the regulations exclude from being a set aside area.
- (5) The landholder of any land containing a set aside area (including any future landholder of the area) has the following obligations—
  - (a) the landholder is required to comply with the obligations of the relevant land management (native vegetation) code (and the necessary mandatory code compliant certificate) with respect to establishing the set aside area,
  - (b) the landholder must not clear native vegetation on the set aside area, other than—
    - (i) in the course of land management activities authorised or required by that code or certificate, or
    - (ii) for allowable activities under Schedule 5A that improve the native vegetation on the set aside area as determined under that code and certificate,
  - (c) the landholder must carry out such land management actions as are required by that code or certificate to protect the biodiversity values of the set aside area or other part of the landholding concerned.
- (6) A landholder who contravenes an obligation of the landholder under subsection (5) is guilty of an offence if the set aside area and obligation concerned are recorded on the public register of set aside areas.

Maximum penalty—

(a) in the case of a corporation—\$1,650,000, or

(b) in the case of an individual—\$330,000.

(7) The obligations of landholders under this section have effect despite section 42 of the *Real Property Act 1900*.

(8) The regulations may make provision for or with respect to set aside areas, including the following—

(a) the registration of set aside areas (and any changes to set aside areas) on the public register of set aside areas and inquiries in connection with information on the register,

(b) the notification of set aside areas to relevant local councils,

(c) authorising Local Land Services to change the location of a set aside area to an area of equal or higher biodiversity value or to reduce or extinguish a set aside area if clearing on the set aside area under other legislative authority is inconsistent with the continuation of the set aside area,

(d) authorising Local Land Services to change or suspend land management activities required to be carried out on set aside areas.

**Note—**

The *Environmental Planning and Assessment Act 1979* and the instruments made under that Act (and the biodiversity offsets scheme under the *Biodiversity Conservation Act 2016*) may deal with the obligations of planning authorities with respect to the impact of development on set aside areas and relevant offsets for any loss of biodiversity values associated with clearing for development in a set aside area.

## **Division 6 Approval for clearing native vegetation not otherwise authorised**

### **60ZD Definitions: Division 6**

In this Division—

**biodiversity development assessment report**—see section 6.12 of the *Biodiversity Conservation Act 2016*.

**biodiversity values**—see section 1.5 of the *Biodiversity Conservation Act 2016*.

**Panel** means the Native Vegetation Panel established under section 60ZE.

### **60ZE The Panel**

(1) The Minister is to establish a panel for the purposes of this Division, to be called the

Native Vegetation Panel.

- (2) The Panel is to consist of the following 3 members appointed by the Minister—
  - (a) a Chairperson of the Panel, being a person with expertise in planning, public administration or social assessment,
  - (b) a person with expertise in economics, agricultural economics or agricultural land production systems,
  - (c) a person with expertise in ecology or the protection and conservation of biodiversity.
- (3) The Panel has the function of determining applications under this Division for approval to clear native vegetation.
- (4) The Panel is not subject to the direction or control of the Minister (except in relation to the procedure of the Panel or as provided by or under this Act).
- (5) The Panel is a NSW Government agency.
- (6) Schedule 5B contains provisions with respect to the members and procedure of the Panel. The regulations may amend Schedule 5B.
- (7) The Minister may make arrangements for the provision to the Panel of staff and facilities of (and information relating to the administration of this Part held by) Local Land Services or a Public Service agency responsible to the Minister.
- (8) Legal proceedings by or against the Panel are to be taken in the name of the Panel and not by or against the members of the Panel.

**60ZF Obtaining approval for clearing of native vegetation**

- (1) An application may be made to the Panel by or on behalf of the landholder for approval to clear native vegetation on land in any area of the State to which this Part applies.
- (2) The Panel may, in accordance with this Division, grant an approval to clear the native vegetation under this Division or refuse the application.
- (3) An approval for the clearing of native vegetation on any land may only be granted under this Division if the land comprises or includes category 2-regulated land.
- (4) An approval may only be granted under this Division if the land is being cleared for a purpose specified in the application for approval and—
  - (a) the land can be used for that purpose without development consent or State significant infrastructure approval under the *Environmental Planning and Assessment Act 1979*, and

- (b) the clearing of the land is not part of an activity that is carried out by, or that requires the approval of, a determining authority within the meaning of Part 5 of that Act.
- (5) In determining an application for approval under this Division, the Panel is to take into consideration the environmental, social and economic impacts of the proposed clearing (in accordance with the principles of ecologically sustainable development) having regard to the purpose for which the land is to be used after it is cleared. In relation to the environmental impacts, the Panel is to take into consideration (without limitation) the following—
- (a) the likely impact of the proposed clearing on biodiversity values as set out in a biodiversity development assessment report that has been submitted by the applicant for the approval in accordance with section 60ZG,
- (b) whether the clearing of the native vegetation is likely to cause or increase soil erosion, salination, acidification, land slip, flooding, pollution or other adverse land or water impacts,
- (c) any future clearing of native vegetation on the land that has been duly authorised or notified but not yet carried out.
- (6) The Panel must refuse to grant approval under this Division if the Panel is of the opinion that the proposed clearing of native vegetation is likely to have serious and irreversible impacts on biodiversity values. **Serious and irreversible impacts on biodiversity values** means serious and irreversible impacts on biodiversity values as determined under section 6.5 of the *Biodiversity Conservation Act 2016* that would remain after the measures proposed to be taken to avoid or minimise the impact of the proposed clearing on biodiversity values.
- (7) An approval under this Division may be granted subject to such conditions relating to the clearing as are specified in the approval (including in relation to any matter referred to in subsection (5)). However, an approval cannot be granted subject to conditions relating to the use of the land after it has been cleared.

**Note—**

The *Environmental Planning and Assessment Act 1979* deals with land use.

- (8) An approval under this Division may be granted even if part of the clearing is otherwise authorised under this Part or under section 600 (Clearing authorised under other legislation etc).
- (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.

- (9) An approval under this Division may be granted subject to a condition that any development consent under the *Environmental Planning and Assessment Act 1979* that authorises the clearing of native vegetation on the land is surrendered under that Act. Any such development consent may be granted subject to a condition that any approval under this Division is surrendered under this Division.
- (10) An application for approval under this division may be made jointly by or on behalf of a group of landholders. In that case, the application is to be assessed and determined under this Division having regard to the whole area that is the subject of the application.
- (11) The regulations may make provision for or with respect to the fees payable in connection with an application for an approval under this Division.

**60ZG Biodiversity development assessment report and retirement of biodiversity credits**

- (1) An approval may only be granted under this Division if a biodiversity development assessment report in respect of the proposed clearing has been obtained by the applicant for that approval and provided to the Panel.
- (2) The Panel is to provide the Environment Agency Head with a copy of any biodiversity development assessment report that is submitted to the Panel in connection with an application for approval.
- (3) If the Panel decides to grant approval, the conditions of the approval must require the applicant to retire biodiversity credits to offset the residual impact on biodiversity values of the number and class set out in the report (subject to subsection (4)). The residual impact is the impact after the measures that are required to be carried out by the terms or conditions of the approval to avoid or minimise the impact on biodiversity values of the proposed clearing (being measures on which the report was based).

**Note—**

Division 6 of Part 6 of the *Biodiversity Conservation Act 2016* enables a person who is required under this section to retire biodiversity credits to make a payment instead to the Biodiversity Conservation Fund of the value of the credits in accordance with the offsets payment calculator.

- (4) The Panel may reduce or increase the number of biodiversity credits that would otherwise be required to be retired if the Panel determines that the reduction or increase is justified having regard to the environmental, social and economic impacts of the proposed clearing and the agricultural purpose for which the land is to be used after it is cleared. The Panel must give reasons for a decision to reduce or increase the biodiversity credits.
- (5) An approval under this Division does not authorise the clearing of native vegetation until any obligation under the approval to retire biodiversity credits has been complied

with.

- (6) However, an approval under this Division may provide for the staged clearing of native vegetation and for the corresponding staged retirement of the relevant number of biodiversity credits before each such stage of clearing is carried out.
- (7) For the purposes of this Division, the impact on biodiversity values of proposed clearing includes the impact of clearing or retaining dead vegetation on the land concerned, and accordingly the measures required to be carried out by the terms or conditions of an approval may include the retention of dead vegetation.
- (8) This section does not operate to limit the measures that the Panel may require to avoid or minimise the impacts of proposed clearing or the power of the Panel to refuse to grant approval because of those impacts.

**60ZH Regulations and application of planning approval provisions to approvals under this Division**

- (1) The regulations may make provision for or with respect to applications for approvals under this Division and to approvals granted under this Division.
- (2) In particular, the regulations may apply provisions (with or without modification) of the *Environmental Planning and Assessment Act 1979* relating to applications for development consent or to development consent to applications for approvals or to approvals under this Division.

**60ZI Modification of approvals under this Division**

- (1) An application may be made to the Panel for the modification of an approval granted under this Division to clear native vegetation on any land. The application may be made by or on behalf of the landholder concerned.
- (2) A further biodiversity development assessment report is to be provided to the Panel in connection with the application unless the Panel determines that the application will not increase the impact on biodiversity values.
- (3) The biodiversity development assessment report is to be made in relation to the clearing as proposed to be modified, but is to take into account any measures to avoid, minimise or offset the impacts of the proposed clearing to which the modification relates that have already been taken in connection with the approval before its modification.
- (4) The Panel may—
  - (a) grant the application and modify the approval granted under this Division accordingly, or
  - (b) refuse the application.

The Panel may vary the terms of the modification sought by the applicant.

- (5) The regulations may make further provision with respect to applications for the modification of approvals under this Division (including exemptions to the application of this section).

#### **60ZJ Appeal against approval decisions**

- (1) A landholder may appeal to the Land and Environment Court against a decision to refuse an application by the landholder for approval under this Division or for the modification of any such approval or against a decision to impose a condition of any such approval.
- (2) An appeal is to be made within the time prescribed by the regulations.
- (3) The regulations may provide that a failure to determine an application for an approval or for the modification of an approval within the period provided by the regulations is taken to be a refusal of the application for the purposes of this section.
- (4) In this section, a reference to a landholder includes a reference to a person who makes a relevant application on behalf of the landholder.

#### **60ZK Miscellaneous provisions relating to approvals**

- (1) An approval under this Division applies to the clearing of native vegetation by or on behalf of the landholder to whom it was granted and by or on behalf of any other person who becomes a landholder of the land concerned after the approval was granted.
- (2) If an application for approval (or for the modification of an approval) under this Division is refused by the Panel, the applicant is to be given the reasons for the decision.
- (3) To avoid doubt, the Panel is not a determining authority for the purposes of Part 5 of the *Environmental Planning and Assessment Act 1979* when granting or modifying an approval under this Division.

#### **60ZL SEPP may apply approvals under this Division to the clearing of native vegetation on urban land**

- (1) A State environmental planning policy under the *Environmental Planning and Assessment Act 1979* may apply the provisions of this Division to any urban area of the State that is not an area of the State to which this Part applies.
- (2) The provisions of this Division may be so applied, with or without modifications or additions.

### **Division 7 Miscellaneous**

### **60ZM Enforcement under [Biodiversity Conservation Act 2016](#)**

- (1) The [Biodiversity Conservation Act 2016](#) contains provisions relating to the enforcement of this Part and Schedule 5A.

**Note—**

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).

- (2) Accordingly—

- (a) functions under Part 11 (Powers of authorised officers) are not exercisable in relation to any matter arising under this Part or Schedule 5A,
- (b) proceedings for an offence against this Part or the regulations under this Part cannot be instituted under Part 12 (Enforcement provisions) and that Part does not apply to any such alleged offence.

### **60ZN Local Land Services to report on rates of allowable clearing**

- (1) Local Land Services is to publicly report on an annual basis on its estimate of the overall rate of clearing of native vegetation in regulated rural areas—

- (a) as a result of clearing for allowable activities under Division 4 and Schedule 5A, and
- (b) as a result of clearing authorised by a land management (native vegetation) code under Division 5.

- (2) Local Land Services may include that report in the annual reporting information prepared for it under the [Government Sector Finance Act 2018](#).

### **60ZO Local Land Services to maintain public information registers in relation to native vegetation management**

- (1) Local Land Services is to maintain and make publicly available registers of the following (**public information registers**)—

- (a) aggregate information about notices given under section 60X (Notice to Local Land Services of clearing),
- (b) aggregate information about certificates under section 60Y (Certification by Local Land Services prior to clearing—general),



- (c) aggregate information about certificates under Schedule 5A to which section 60Y applies,
- (d) approvals (and any modification of approvals) granted under Division 6,
- (e) applications for approval (or for modifications of approvals) that have been refused and the reasons for the refusal.

Aggregate information about notices or certificates is to be compiled on a regional basis and is not to identify the particular landholder who gave the notice or to whom the certificate was issued (or the address of the landholding concerned).

- (2) Public information registers are to be made available on or from a government website maintained by Local Land Services.
- (3) Where a public information register contains only aggregate information in relation to notices or certificates, Local Land Services is required to make arrangements with other public authorities to enable them to obtain access to individual notices or certificates for the purposes of exercising their functions.
- (4) The regulations may make further provision for or with respect to public information registers (including the information required to be included in, or excluded from, the registers and the correction of the registers).

#### **60ZP Regulations: Part 5A**

- (1) Regulations made under Divisions 1, 2, 4 and 5 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 clearing of native vegetation authorised by or under this Part.

### **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.

### **Part 6 Travelling stock reserves and public roads**

#### **Note—**

This Part provides—

- (a) for the management, and regulation of the use by travelling stock and persons, of travelling stock reserves that are fully controlled by Local Land Services, and
- (b) for regulation of the use by travelling stock and persons of travelling stock reserves that are not fully controlled but are managed by Local Land Services and of public roads.

### **Division 1 Preliminary**

#### **61 Definitions**

In this Part—

**appropriate permit** means a stock permit or reserve use permit that authorises the holder to engage in the activity or conduct concerned.

**closure order** means an order under section 70.

**controlled travelling stock reserve** means—

- (a) a travelling stock reserve the care, control and management of which is vested in Local Land Services under this Part, or
- (b) a travelling stock reserve that is a stock watering place for which Local Land Services is the controlling authority under Part 7.

**permit** means a stock permit or reserve use permit.

**timber** has the same meaning as it has in the [Forestry Act 2012](#).

**travelling stock** means stock that are being moved by being walked, and includes travelling stock that are grazing.

**travelling stock reserve** means—

- (a) any route or camping place reserved for travelling stock route or camping place under

the *Crown Land Management Act 2016*, or

- (b) any reserve for travelling stock, water reserve, reserve for access or crossing (where the reserve is for the purpose of providing travelling stock with access to or a crossing of water, whether expressly notified for that purpose or not), or
- (c) any stock watering place.

## **Division 2 Controlled travelling stock reserves**

### **62 Vesting care, control and management of certain travelling stock reserves in Local Land Services**

- (1) The Minister administering the *Crown Land Management Act 2016* may, by order published in the Gazette, vest in Local Land Services the care, control and management of any travelling stock reserve to which this section applies.
- (2) This section applies to a travelling stock reserve other than a stock watering place or one that comprises land within—
  - (a) a State forest, or
  - (b) the Western Division that is subject to a lease from the Crown.
- (3) An order under this section relating to that part of a travelling stock reserve that is subject to a lease or a licence granted under the Crown Land Acts does not have effect until the lease or licence is terminated.

### **63 Withdrawal of care, control and management from authority**

- (1) The Minister administering the *Crown Land Management Act 2016* may, by order published in the Gazette, withdraw the care, control and management of a travelling stock reserve from Local Land Services.
- (2) An order may be made only on the recommendation of the Minister administering this section.
- (3) The Minister administering this section is to take into consideration any views of Local Land Services in deciding whether or not to recommend that an order be made.
- (4) Before recommending that an order be made, the Minister administering this section may refer the matter to the Secretary.
- (5) As soon as practicable after the matter is referred to it, the Secretary must inquire into the matter and submit a report of his or her findings in writing to the Minister administering this section.
- (6) The Minister administering this section is not bound to accept the report and no person is entitled to appeal against such a report or have it referred to the Land and

Environment Court.

#### **64 Withdrawal of land required for public purpose from travelling stock reserve**

- (1) The Minister administering the [Crown Land Management Act 2016](#) may, by order published in the Gazette, withdraw from a travelling stock reserve under the care, control and management of Local Land Services any land that is required as a site for a town or village or for any public purpose, other than the purpose of settlement under the Crown Land Acts.
- (2) An order may be made only on the recommendation of the Minister administering this section.
- (3) The Minister administering this section is to take into consideration any views of Local Land Services in deciding whether or not to recommend that an order be made.

#### **65 Compensation for improvements made before withdrawal**

- (1) The Minister administering the [Crown Land Management Act 2016](#) is liable to pay compensation to Local Land Services for any improvements made to land comprising any part of a travelling stock reserve that is withdrawn from the care, control and management of Local Land Services.
- (2) The compensation must not exceed the current value of the improvements.
- (3) If the Minister administering the [Crown Land Management Act 2016](#) and Local Land Services are unable to agree on the amount of compensation, either of them may refer the matter to the Civil and Administrative Tribunal for determination.
- (4) If a matter is referred to the Civil and Administrative Tribunal, the Tribunal must determine the amount of compensation payable.
- (5) The Civil and Administrative Tribunal's determination is binding on the Minister and Local Land Services.

### **Division 3 Timber on controlled travelling stock reserves**

#### **66 Removal or destruction of timber**

- (1) Local Land Services must not remove, fell or destroy timber from an area of more than one hectare of land within a controlled travelling stock reserve unless it has given the Forestry Corporation at least 3 months' notice in writing of its intention to do so.

**Note—**

For the effect of compliance with this section, see section 38 (4) (e) of the [Forestry Act 2012](#).

- (2) Local Land Services must consult the Chief Executive of the Office of Environment and Heritage before it decides whether or not to fell timber on or remove timber felled on a controlled travelling stock reserve that adjoins a national park or a nature reserve.

- (3) Local Land Services may remove timber only after giving due consideration to any representations made by the Chief Executive of the Office of Environment and Heritage.

#### **67 Use of felled timber**

- (1) Local Land Services may sell timber felled on a controlled travelling stock reserve or may use the timber for the purpose of improving any travelling stock reserve within a region or carrying out any work in a region necessary for the exercise of its functions but must not use the timber for any other purpose.
- (2) Local Land Services may sell timber felled on a controlled travelling stock reserve with the consent of the Forestry Corporation, despite anything in the [Forestry Act 2012](#) to the contrary.

#### **68 Licences to remove timber**

- (1) The Forestry Corporation must obtain the consent of Local Land Services before it issues any licence under the [Forestry Act 2012](#) to any person other than Local Land Services to cut or remove timber that is located in a controlled travelling stock reserve.
- (2) A licence may include such conditions or restrictions as the Forestry Corporation and Local Land Services agree on.
- (3) If the Forestry Corporation and Local Land Services are in dispute as to the conditions or restrictions to be included in a licence, either of them may refer the dispute to the Minister administering the [Forestry Act 2012](#) for determination.
- (4) The Minister's determination of the dispute is binding on the Forestry Corporation and Local Land Services.

#### **69 Relationship to other Acts**

Nothing in this Part authorises or permits Local Land Services to take any action in respect of a controlled travelling stock reserve that is contrary to Part 5A or to the [Biodiversity Conservation Act 2016](#).

### **Division 4 Closure of controlled travelling stock reserves**

#### **70 Closure orders**

- (1) Local Land Services may make an order (a **closure order**)—
  - (a) closing a controlled travelling stock reserve (or specified part of a reserve), or
  - (b) suspending an entitlement or authority conferred by or under section 74 to use a controlled travelling stock reserve (or specified part of a reserve) for any recreational activity, or

- (c) suspending the operation of any permit issued under the *Biosecurity Act 2015* in relation to the reserve (or part of any such reserve) except to the extent (if any) specified in the order.
- (2) Local Land Services may make an order under subsection (1) (a)—
  - (a) for the purpose of taking appropriate measures for the following—
    - (i) the conservation of the soil or vegetation,
    - (ii) the prevention or mitigation of soil erosion,
    - (iii) the regeneration or planting of trees or pasture, or
  - (b) to enable Local Land Services to exercise any of its other functions in relation to the reserve.
- (3) Local Land Services may make an order under subsection (1) (b) or (c) if use of the reserve for the purposes of the activity concerned or as authorised by the permit could result in—
  - (a) damage to the reserve or part of the reserve or to any structure or other thing located on the reserve or part of the reserve, or
  - (b) nuisance or annoyance to any members of the public.
- (4) A closure order prevails to the extent of any inconsistency over a control order, biosecurity direction, permit or biosecurity zone regulation under the *Biosecurity Act 2015*.

## **71 Notice of closure**

- (1) Local Land Services must publish or notify the making of a closure order in a manner that Local Land Services is satisfied is likely to bring the notice to the attention of members of the public in the region or regions in which the controlled travelling stock reserve (or part reserve) is located.
- (2) A closure order takes effect on the day on which it is so published or notified or, if a later day is specified in the order, on that later day.
- (3) A closure order (unless sooner repealed or amended) remains in force for the period specified in the order.

## **Division 5 Use of travelling stock reserves and public roads**

### **72 Unauthorised uses of travelling stock reserves**

A person must not, without lawful authority—

- (a) enter or remain on a travelling stock reserve, or

- (b) occupy or make use of any travelling stock reserve for any purpose, or
- (c) engage in any activity that damages, or is likely to damage, a travelling stock reserve.

Maximum penalty—50 penalty units.

### **73 Unauthorised use of public roads**

- (1) A person who owns or has charge of stock must ensure that the stock do not walk or graze on a public road.

Maximum penalty—50 penalty units.

- (2) A person is not guilty of an offence under this section if the stock are being walked or grazed under the authority of an order, biosecurity direction, permit or biosecurity zone regulation under the *Biosecurity Act 2015* or in any other circumstances prescribed by the regulations for the purposes of this subsection.

### **74 Authorised use of travelling stock reserves for recreational activities**

- (1) A person is authorised to use a travelling stock reserve (whether controlled or managed) or part of any such reserve on any day between sunrise and sunset for any recreational activity prescribed by the regulations, subject to this Act and any conditions prescribed by the regulations.

- (2) The Crown is to indemnify Local Land Services in respect of—

- (a) the death of or injury to any person, or

- (b) damage to, or the destruction of, property other than that of Local Land Services, arising out of the use of a travelling stock reserve for the purpose of a recreational activity in accordance with this section.

- (3) Subsection (2) does not apply to the death of or personal injury to the following persons if the death or injury arises in connection with the exercise by Local Land Services of its functions—

- (a) a member of the Board,

- (b) a member of a local board,

- (c) a member of staff of Local Land Services.

### **75 Certain occupiers of land to have a right of access over travelling stock reserves**

- (1) An occupier of land is entitled to a right of way over a travelling stock reserve (whether controlled or managed) to and from the road nearest to the land if no other access to and from the land by means of an established road or track is available.

- (2) A right of way is subject to such conditions as to its exercise (including any conditions as to its position, construction or improvement) as may be imposed by Local Land Services in a particular case.
- (3) Local Land Services is to give notice to the occupier of land of any condition imposed by it on a right of way of the occupier.
- (4) The occupier may, with the approval of Local Land Services, and must if directed to do so by Local Land Services by notice in writing, construct or make improvements to the occupier's right of way over the reserve.
- (5) Any construction or improvements are to be made at the expense of the occupier.

## 76 Appeal about right of way conditions

- (1) An occupier of land may appeal to the Civil and Administrative Tribunal against a decision of Local Land Services to impose a condition or direct the making of any improvement under section 75.

### Note—

An appeal to the Civil and Administrative Tribunal under this section is an external appeal to the Tribunal for the purposes of the *Civil and Administrative Tribunal Act 2013*. A decision of the Tribunal on such an external appeal may be appealed to the Land and Environment Court under Schedule 1 to that Act.

- (2) The appeal must be made within 28 days of receipt of notice of the decision or direction.
- (3) On hearing the appeal, the Tribunal may—
  - (a) revoke the decision or direction, or
  - (b) confirm the decision or direction.
- (4) (Repealed)

## 77 Reserve use permit

- (1) Local Land Services may issue a permit (a **reserve use permit**) authorising a person or group of persons to engage in any activity in, or to occupy or make use of, a travelling stock reserve in a region for the purpose of establishing and maintaining an apiary or for any other purpose.
- (2) A reserve use permit must specify the days, or times of day, or both, that the activity, or occupation or use, is authorised.
- (3) Despite subsection (1), a reserve use permit cannot be issued to authorise engagement in any activity prohibited by this Act or to authorise occupation or use of a travelling stock reserve—
  - (a) by travelling stock or for any stock for grazing purposes, or



- (b) for any recreational activity prescribed by the regulations under section 74, or
- (c) for any purpose prescribed by the regulations for the purposes of this section.

(4) A reserve use permit is to be in the approved form.

### **78 Stock permits authorising certain uses of travelling stock reserves and public roads**

- (1) An authorised officer of Local Land Services may issue a permit (a **stock permit**) to any person authorising the person to do anything (or omit to do anything) on or in relation to any public road or travelling stock reserve (whether controlled or managed) specified in the permit in respect of stock owned or in the charge of the person and that would otherwise contravene a provision of this Division.
- (2) Without limiting subsection (1), an authorised officer may issue a stock permit authorising a person to do any one or more of the following—
  - (a) enter a controlled travelling stock reserve with stock,
  - (b) remain on a controlled travelling stock reserve with stock,
  - (c) walk stock on a public road or travelling stock reserve,
  - (d) graze stock on a public road or controlled travelling stock reserve.
- (3) A stock permit cannot be issued authorising a person to graze stock (other than travelling stock) on a public road without the concurrence of—
  - (a) in the case of a public road that is not a Crown road—the local authority in which the road is vested, or
  - (b) in the case of a Crown road—the Minister administering the [Crown Land Management Act 2016](#).

#### **Note—**

Under section 40 of the [National Parks and Wildlife Act 1974](#) the concurrence of the Minister is required before the issue of a permit to graze over a travelling stock reserve within the boundaries of a national park or historic site.

- (4) A stock permit is to be in the approved form.
- (5) Nothing in this section authorises or permits an authorised officer to issue a stock permit authorising a person to do (or omit to do) anything on or in relation to a freeway or tollway within the meaning of the [Roads Act 1993](#).

### **79 Applications for stock permits and reserve use permits**

- (1) An application for a permit is to be made to Local Land Services in the manner prescribed by the regulations.

- (2) A permit must not be issued unless—
- (a) in relation to a reserve use permit (as referred to in section 77 (1))—the fee (if any) determined by Local Land Services has been paid or arrangements have been made for payment of the fee after issue of the permit, or
  - (b) in relation to a stock permit that solely authorises a person to walk stock on a public road or travelling stock reserve (as referred to in section 78 (2) (c))—the fee (if any) determined by Local Land Services has been paid or arrangements have been made for payment of the fee after issue of the permit, or
  - (c) in relation to a stock permit that solely authorises a person to graze stock on a public road (as referred to in section 78 (2) (d))—the fee (if any) prescribed by the regulations in respect of the permit, or such lesser amount as may be determined by Local Land Services in accordance with subsection (3), has been paid or arrangements have been made for payment of the fee or the lesser amount after issue of the permit, or
  - (d) in relation to a stock permit that solely authorises a person to graze stock on a controlled travelling stock reserve (as referred to in section 78 (2) (d))—the following fee (if any) or amount has been paid or arrangements have been made for payment of the fee or amount after issue of the permit—
    - (i) the fee determined by an auction, public tender or other means approved by Local Land Services for the permit,
    - (ii) the fee (if any) prescribed by the regulations in respect of the permit, or such lesser amount as may be determined by Local Land Services in accordance with subsection (3), or
  - (e) in relation to any other stock permit—the fee (if any) prescribed by the regulations in respect of the permit, or such lesser amount as may be determined by Local Land Services in accordance with subsection (3), has been paid or arrangements have been made for payment of the fee or the lesser amount after issue of the permit.
- (3) For the purposes of subsection (2), any lesser amount determined by Local Land Services must be determined by reference to—
- (a) a class of persons, public roads, travelling stock reserves or activities, or
  - (b) situations that come within circumstances described in the determination.
- (4) Local Land Services must display in a conspicuous place in its office the fees prescribed by the regulations or determined by Local Land Services as payable for applications for permits.
- (5) An application under this section is taken (for the purposes only of any appeal) to

have been refused if it has not been determined within the period of 14 days after the making of the application.

- (6) If Local Land Services has determined that the fee for a stock permit that solely authorises a person to graze stock on a controlled travelling stock reserve is to be determined by an auction, public tender or other means approved by Local Land Services (as referred to in subsection (2) (d) (i)) and such an auction, public tender or determination by other means occurs, Local Land Services may not accept the fee or lesser amount (as referred to in subsection (2) (d) (ii)) for the permit.

#### **80 Duration of stock permits and reserve use permits**

A permit, unless sooner cancelled or suspended, remains in force for the period specified in the permit.

#### **81 Cancellation or suspension of stock permits and reserve use permits**

- (1) A permit may be cancelled or suspended by Local Land Services at any time by notice in writing given to the permit holder.
- (2) The notice is to state the grounds for cancellation or suspension of the permit.
- (3) Without limiting the grounds on which Local Land Services may cancel or suspend a permit, Local Land Services may suspend or cancel a permit on any of the following grounds—
  - (a) the holder of the permit has been convicted of an offence against this Act or the regulations,
  - (b) the holder of the permit has contravened a condition to which the permit is subject,
  - (c) cancellation or suspension is necessary for the protection of any stock or of a public road or travelling stock reserve.

#### **82 Classes of stock permits and reserve use permits**

- (1) The regulations may prescribe different classes of permits and describe the authority conferred on a person by issue of a particular class of permit.
- (2) The regulations may prescribe the conditions to which a class of permit is subject.

#### **83 Conditions of stock permits and reserve use permits**

- (1) A permit is subject to such conditions as are prescribed by the regulations or specified in the permit.
- (2) Local Land Services may by notice in writing to the holder of a permit—

- (a) revoke or vary any conditions attached to the permit that it has specified, or
- (b) attach new conditions to the permit.

(3) A holder of a permit who contravenes any condition of the permit is guilty of an offence.

Maximum penalty—20 penalty units.

#### **84 Movement and grazing of stock authorised by stock permits must comply with Act and regulations**

The holder of a stock permit must ensure that stock that the holder owns or of which the holder has charge are not moved over, or grazed on, a public road or travelling stock reserve in contravention of any provision of this Act or the regulations.

Maximum penalty—20 penalty units.

**Note—**

See also section 191 (Court may order payment of additional penalty in certain cases).

#### **85 Stock permits controlled for adjoining regions**

If a boundary of 2 regions is a public road or a travelling stock reserve, and the walking or grazing of stock on the road or reserve is authorised for one of the regions, the walking or grazing of stock is taken to be authorised for so much of the other region as comprises the road or reserve.

#### **86 Appeals concerning the issue, cancellation or suspension of permits**

(1) An applicant for a permit may appeal to the Civil and Administrative Tribunal against a decision of Local Land Services to refuse to issue a permit.

**Note—**

An appeal to the Civil and Administrative Tribunal under this section is an external appeal to the Tribunal for the purposes of the *Civil and Administrative Tribunal Act 2013*. A decision of the Tribunal on such an external appeal may be appealed to the Land and Environment Court under Schedule 1 to that Act.

(2) The holder of a permit may appeal to the Civil and Administrative Tribunal against a decision of Local Land Services to cancel or suspend the permit.

(3) The appeal must be made within 28 days of the refusal or receipt of the notice of cancellation or suspension.

(4) A decision of Local Land Services to refuse to issue a permit or to cancel or suspend a permit is effective and operates (subject to any final determination on appeal) from the date of the decision.

(5) On hearing the appeal, the Civil and Administrative Tribunal may—

- (a) revoke the decision to refuse to issue the permit and issue the permit (whether or not subject to conditions), or
- (b) confirm the decision to refuse to issue the permit, or
- (c) revoke the decision to cancel or suspend the permit, or
- (d) confirm the decision to cancel or suspend the permit.

(6) (Repealed)

### **87 Compensation**

If the Civil and Administrative Tribunal revokes the decision of Local Land Services to cancel or suspend a permit, the Tribunal may, on application of the holder of the permit, order Local Land Services to pay compensation to the holder for any loss arising out of the cancellation or suspension.

**Note—**

A party to proceedings before the Tribunal under this section may appeal to the Land and Environment Court under Schedule 1 to the [Civil and Administrative Tribunal Act 2013](#).

## **Division 6 Fencing of boundaries of controlled travelling stock reserves**

### **88 Definitions**

In this Division—

**fencing notice** means a notice given under section 91.

**fencing work** means the erection, replacement, repair, alteration or maintenance of a fence.

### **89 Application of Division**

This Division does not apply to the following—

- (a) the holder of a yearly lease,
- (b) a lessee under a lease from the Crown (other than a yearly lease) if the lease has at the relevant date less than 5 years to run,
- (c) a licensee under a licence from the Crown.

### **90 Exclusion of [Dividing Fences Act 1991](#)**

The [Dividing Fences Act 1991](#) does not apply to or in respect of so much of any controlled travelling stock reserve that adjoins land owned by a person other than Local Land Services or that is separated from a controlled travelling stock reserve only by a road or

watercourse.

**91 Owner of land adjoining travelling stock reserve may be required to carry out fencing work**

- (1) Local Land Services may, by notice in writing given to the owner of any land adjoining a controlled travelling stock reserve, or separated from such a reserve only by a road or watercourse, require the owner to carry out fencing work on the common boundary of the land and the reserve or of the land and the road or watercourse by the date specified in the notice.

**Note—**

Section 210 (Service of documents) sets out various ways in which a fencing notice may be given.

- (2) A fencing notice may be given only if Local Land Services considers it is necessary for the fencing work to be carried out for the proper protection or improvement of the controlled travelling stock reserve.
- (3) The fencing notice may specify the standard that the fencing work is required to meet.
- (4) The owner to whom a fencing notice is given must comply with the notice.
- (5) Local Land Services may carry out the fencing work required by the fencing notice if the owner fails to comply with the notice.

**92 Fencing notice to specify contributions payable**

- (1) A fencing notice is to specify whether the owner of the land is to bear the whole or a specified portion of the cost of the fencing work required by the notice and the contribution payable by Local Land Services.
- (2) An owner must not be required to bear more than half the cost of the fencing work except with the concurrence of Local Land Services.

**93 Costs of fencing work**

An owner of land who carries out fencing work required by a fencing notice is entitled to recover from Local Land Services the contribution of Local Land Services to the cost of the fencing work.

**94 Compliance notice—fencing**

- (1) If Local Land Services carries out fencing work required by a fencing notice because the owner to whom a fencing notice was given fails to comply with the notice, it may, by notice in writing given to the owner, require the owner to pay to it—
  - (a) a contribution not exceeding half the cost of the fencing work carried out by Local Land Services, or

(b) if the fencing notice specifies that the owner is liable for a greater portion of the cost of the fencing work, a contribution equivalent to that portion of the cost.

(2) The notice under subsection (1) is to specify the period within which the contribution or amount is payable.

**Note—**

See Schedule 3 regarding charges on land for unpaid amounts and Division 1 of Part 12 and Schedule 5 regarding recovery of unpaid contributions.

**95 Application to Civil and Administrative Tribunal**

(1) If the owner of land to whom a fencing notice has been given and Local Land Services are in dispute with respect to fencing work required by the notice, either of them may apply to the Civil and Administrative Tribunal to determine the matter.

(2) On receiving an application under this section, the Tribunal must hear and determine the application.

**96 (Repealed)**

**97 Civil and Administrative Tribunal may allow time for payment**

(1) In proceedings under this Division before the Civil and Administrative Tribunal for the determination of any contribution, or amount of money, the Tribunal may allow time for payment of the money concerned.

(2) The Tribunal may—

(a) determine that the money be paid in instalments, and

(b) fix the amounts of the instalments and the dates by which they are payable, and

(c) order interest at a rate not exceeding that prescribed by the regulations to be paid on that money.

(3) If the Tribunal exercises the power conferred by subsection (2), the money concerned becomes payable by instalments, on the dates together with interest as fixed under that subsection.

**98 (Repealed)**

**99 Powers of Local Land Services with respect to fences**

(1) Local Land Services may refer to the Secretary any question as to—

(a) any matter requiring Local Land Services' approval or concurrence under this Division, or

(b) any other matter that Local Land Services considers necessary or appropriate to

be inquired into for the purposes of this Division.

- (2) On receiving a reference, the Secretary must—
  - (a) inquire into the question referred, and
  - (b) as soon as practicable after the inquiry is completed—report his or her findings to Local Land Services in writing.

## **Division 7 Miscellaneous**

### **100 Local Land Services not liable for use of pesticides or chemicals on reserves**

- (1) Local Land Services is not liable to pay damages in respect of any pesticide or chemical related injury attributable to the application by Local Land Services of a pesticide or chemical to a controlled travelling stock reserve if Local Land Services has given notice in accordance with the regulations that the pesticide or chemical was about to be applied or had been applied to the reserve.
- (2) This section has effect in relation to a controlled travelling stock reserve (or part of such a reserve) to which a pesticide or chemical has been applied whether or not an appropriate permit is in force that authorises its holder to use the reserve (or part of the reserve) for a particular purpose.
- (3) In this section—

***pesticide or chemical related injury*** means death of, or injury or illness suffered by, a person, or deaths of, or injuries or diseases suffered by, stock or bees, that are attributable to the application of a pesticide or chemical.

### **101 Local Land Services not liable for injury attributable to diseased travelling stock**

- (1) Local Land Services is not liable to pay damages in respect of any disease related injury that is attributable to diseased travelling stock that have been walked or grazed on a travelling stock reserve or public road if Local Land Services has given notice in accordance with the regulations that the stock have been walked over or grazed on the reserve.
- (2) This section has effect in relation to a travelling stock reserve (or part of such a reserve) or public road on which diseased stock have been walked or grazed, whether or not an appropriate permit is in force that authorises the holder to use the reserve (or part of the reserve) or public road for the purpose of walking or grazing stock.
- (3) In this section—

***disease related injury*** means death of, or injury or illness suffered by, a person, or deaths of, or injuries or diseases suffered by, stock or bees, that are attributable to diseased stock.



**102 When may Local Land Services impound bees or beehives placed or kept on a controlled travelling stock reserve?**

- (1) Local Land Services may impound any bees or beehives placed, or being kept, on a controlled travelling stock reserve if the bees or beehives have been placed, or are being kept, otherwise than in accordance with a reserve use permit issued by Local Land Services.
- (2) The bees or beehives are to be impounded in such manner as may be prescribed by the regulations.
- (3) Local Land Services may decline to release any bees or beehives impounded by it to a person who claims to own them unless the person pays to Local Land Services the impounding fee prescribed by the regulations.
- (4) Nothing in this section limits or affects any power with respect to bees or beehives conferred on an authorised officer by the *Biosecurity Act 2015*.

**103 Orders for mustering of stock**

- (1) The person in charge of any stock that are on any part of a public road or a travelling stock reserve must, if requested to do so by a prescribed officer—
  - (a) muster the stock at a specified place in the vicinity of that part of the road or reserve, and
  - (b) allow the prescribed officer to inspect the stock, and
  - (c) assist in counting the stock, and
  - (d) provide the prescribed officer with such other assistance as the prescribed officer may reasonably require, and
  - (e) except as provided by subsection (2), produce for inspection by the prescribed officer an appropriate permit in respect of the stock.

Maximum penalty—10 penalty units.

- (2) The person in charge of stock is not required to produce an appropriate permit for inspection if the person claims that the stock are being conveyed under the authority of an order, biosecurity direction, permit or biosecurity zone regulation under the *Biosecurity Act 2015*.
- (3) A person in charge of stock who claims that stock are being conveyed as referred to in subsection (2) must, if requested to do so by the prescribed officer, produce that order or permit for inspection by the officer within 48 hours after the request is made.

Maximum penalty—10 penalty units.

- (4) In this section, **prescribed officer** means any of the following—
- (a) an authorised officer,
  - (b) a police officer,
  - (c) an authorised officer under the *Biosecurity Act 2015*,
  - (d) any other person prescribed by the regulations for the purposes of this paragraph.

**104 Power of Local Land Services to recover compensation in respect of damage caused to or on controlled travelling stock reserve**

- (1) Local Land Services may recover from a person who—
- (a) damages a controlled travelling stock reserve, or
  - (b) damages or destroys any structure or work located on a controlled travelling stock reserve,
- an amount equal to its expenses in rectifying the damage or replacing the destroyed structure or work.
- (2) This section has effect irrespective of whether the damage or destruction was perpetrated without intention, recklessness or negligence.
- (3) The recovery from a person of an amount under this section does not affect the liability of the person to be dealt with for an offence by or under this Act or under any other law arising out of the same matter.

**105 Exemption power—Local Land Services**

- (1) Local Land Services may exempt a person or a class of persons in writing from the operation of this Part or a specified provision of this Part.
- (2) The exemption may be limited in duration or may be subject to such factors or circumstances as may be specified in the exemption.
- (3) Local Land Services may cancel the exemption in writing at any time.
- (4) Local Land Services is to give notice in accordance with the regulations of any exemption given (or of any cancellation of an exemption made) under this section.

**Part 7 Stock watering places**

**106 Declaration of stock watering places**

The Minister administering the *Crown Land Management Act 2016* may, by order published in the Gazette, declare any of the following to be a stock watering place—

- (a) any Crown land, or land acquired under section 4.2 of the *Crown Land Management Act 2016* for a stock watering place,
- (b) any land acquired for the purpose by a local authority.

**107 Declaration of stock watering place as town water supply**

The Minister administering this section may, by order published in the Gazette, declare a stock watering place to be a town water supply.

**108 Which bodies are to be controlling authorities of stock watering places?**

- (1) The controlling authority of a stock watering place that has been declared to be a town water supply under section 107 is—
  - (a) if the stock watering place is located within a local government area—the local authority, or
  - (b) if the stock watering place is not located within a local government area—a person or body nominated by the Minister.
- (2) The controlling authority of a stock watering place that has not been declared to be a town water supply is—
  - (a) the body specified by the regulations as the controlling authority of the stock watering place, or
  - (b) if no body is so specified—Local Land Services.

**109 Controlling authority may construct water storage works**

- (1) The controlling authority of a stock watering place may—
  - (a) construct water storage works at the watering place, and
  - (b) carry out improvements to any water storage works.
- (2) The controlling authority of a stock watering place is responsible, subject to any provision to the contrary of a lease granted under section 111, for maintaining and, where necessary, repairing any water storage works constructed by it.
- (3) The cost of—
  - (a) constructing a water storage work at a stock watering place that is not under the control of a local authority, or
  - (b) carrying out improvements, maintenance or repairs to any water storage work,is, subject to any provision to the contrary of a lease granted under section 111, payable by the relevant controlling authority.

- (4) The controlling authority of a stock watering place must obtain the approval of the Minister before constructing a water storage work or carrying out any improvements, maintenance or repairs to a water storage work the cost of which exceeds \$20,000 (or such other amount as may be prescribed by the regulations).
- (5) In this section—  
**water storage works** means tanks, dams, reservoirs, pumps (including windmills) and other works for storing water or for providing water.

#### **110 Compensation for improvements on former stock watering place**

- (1) The Minister administering the *Crown Land Management Act 2016* is liable to pay compensation for improvements made by a local authority or Local Land Services, as the controlling authority of a stock watering place, if the land on which the improvements are made is Crown land, or land acquired under section 4.2 of the *Crown Land Management Act 2016* for a stock watering place, that ceases to be, or to form part of, the stock watering place as a consequence of the revocation or variation of the order declaring the stock watering place.
- (2) The compensation must not exceed the current value of the improvements.
- (3) If the Minister administering the *Crown Land Management Act 2016* and the local authority or Local Land Services are unable to reach an agreement as to the amount of compensation payable under this section, either of them may apply to the Civil and Administrative Tribunal to determine the matter.
- (4) The Tribunal to which application is made under this section must determine the amount of compensation payable.

#### **111 Leases of stock watering places**

- (1) The controlling authority of a stock watering place may, following auction, public tender or other means approved by Local Land Services, grant a lease of the watering place.
- (2) The controlling authority must not grant a lease of a stock watering place for a period (including any period for which the lease could be extended or renewed by the exercise of an option) exceeding the period prescribed by the regulations.
- (3) A lease of a stock watering place may, with the approval of the controlling authority of that place, be transferred to another person.

#### **112 Controlling authority and lessee to supply water to certain persons and stock**

The controlling authority, or lessee, of a stock watering place must—

- (a) supply water (if available) to any person or stock of a class prescribed by the

regulations, or

- (b) allow stock to depasture at the stock watering place in the circumstances, and in accordance with any conditions, prescribed by the regulations.

### **113 Offence to damage stock watering place**

- (1) A person must not intentionally or recklessly pollute or, without lawful authority, interfere with any water that flows into, or that is used as, the source of supply for any stock watering place.

Maximum penalty—100 penalty units.

- (2) If any person pollutes or, without lawful authority, interferes with any water that flows into, or that is used as, the source of supply for a stock watering place, the relevant controlling authority may recover from the person an amount equal to the cost of cleaning up or removing the pollution or interference as a debt due in a court of competent jurisdiction.
- (3) Proceedings may be brought under subsection (2) irrespective of whether proceedings could be or have been brought for an offence under subsection (1) arising out of the same matter.

## **Part 8 Impounding of unattended and trespassing stock and abandoned articles**

### **Note—**

The *Impounding Act 1993* empowers persons appointed by Local Land Services (which is an impounding authority for the purposes of that Act) to impound and deal with animals (including pigs and deer) and articles in public places and places owned or under the control of Local Land Services if, in the case of animals, they are unattended or trespassing or, in the case of articles, they have been abandoned or left unattended. It also enables occupiers of private land to impound and deal with animals trespassing on their land, provides for the release of impounded animals and articles that are claimed by their owners and, if they are disposed of by sale, provides for the disposal of the proceeds of sale.

This Part includes some provisions that complement or supplement the provisions of the *Impounding Act 1993*.

### **114 Definitions**

- (1) In this Part—

**stock** includes pig and deer.

- (2) If an expression is defined in the *Impounding Act 1993* and is also used in this Part, the expression as used in this Part has, unless the contrary intention appears, the same meaning as in that Act.

### **Note—**

Expressions used include—

**impounding authority**, which is defined to include Local Land Services.

**unattended** which is defined, in relation to an animal, to include abandoned or straying.

### **115 Unattended stock**

Stock are not unattended for the purposes of sections 9 (2) (d) and 32 (3) (d) of the *Impounding Act 1993* if the stock are unattended on a road or travelling stock reserve—

- (a) in accordance with the authority conferred by (and any conditions of) a stock permit, or
- (b) in any other circumstances prescribed by the regulations for the purposes of this paragraph.

### **116 Offence of causing or permitting stock to be on a public road, travelling stock reserve or public land without authority**

- (1) If stock (whether attended or unattended) are on a public road, travelling stock reserve or other public land except in accordance with the authority conferred by (and in accordance with any conditions of) a stock permit or by or under any law the owner of the stock, and the person in charge of the stock (if not the owner), are each guilty of an offence.

Maximum penalty—50 penalty units.

- (2) It is a defence to a prosecution for an offence against this section if the defendant proves that the defendant had taken all reasonable steps to prevent the contravention.
- (3) An impounding officer may impound any stock the impounding officer suspects to be on a public road, travelling stock reserve or other public land in contravention of this section in the same way that the impounding officer may impound an animal under section 9 of the *Impounding Act 1993*.

### **117 Release of impounded stock**

A person must not, without the authority of an impounding authority—

- (a) release, or
- (b) incite or assist any person to release,

any animal impounded, or seized or detained in a region for the purpose of being impounded.

Maximum penalty—50 penalty units.

## Part 9 Transportation of stock by vehicle

### 118 Definitions

In this Part—

**Accreditation Committee** means the Stock Transportation Accreditation Committee constituted by section 125.

**authorised officer** means an authorised officer who is—

- (a) a police officer, or
- (b) an authorised officer who is authorised to exercise functions conferred on authorised officers by this Part.

**stock** means the following—

- (a) cattle,
- (b) sheep,
- (c) any other kind of animal declared by the regulations to be stock for the purposes of this Part.

**stock transportation particulars**—see section 119.

**Note**—

**Vehicle** is defined in the Dictionary to this Act to include any means of road, rail, waterborne or airborne transport.

**transported stock statement** means a document that contains stock transportation particulars and that is in a form approved for the purposes of this Part under section 127.

### 119 Stock transportation particulars

- (1) For the purposes of this Part, the following are stock transportation particulars in relation to stock—
  - (a) the date the transportation of the stock commenced or is to commence,
  - (b) the address at which the stock were or are to be loaded to commence the transportation,
  - (c) details of the type and number of stock being or to be transported,
  - (d) if the stock are being or are to be transported for the owner or owners of the stock—the name and address of the owner of the stock (or, if there is more than one owner, of at least one of the owners),
  - (e) if the stock are being or are to be transported for a person other than the owner or

owners of the stock who is an employee of the owner or owners or is otherwise responsible for the stock—the name and address of that person,

- (f) the name and address of the person to whom the stock are being or are to be transported,
- (g) the address to which the stock are being or are to be transported (if different from the address referred to in paragraph (f)),
- (h) any other particulars prescribed by the regulations.

(2) In this section—

**address** of a corporation means the registered office or sole or principal place of business of the corporation.

### **120 Restrictions on the transport of stock by vehicle on road**

- (1) An owner of stock that are to be transported by a vehicle on a road must—
- (a) duly complete a transported stock statement in relation to the stock, and
  - (b) if a person other than an owner is to transport the stock, make a copy of the statement,

before the commencement of the transportation.

Maximum penalty—20 penalty units.

#### **Note—**

Section 122 requires records of transported stock statements to be retained.

- (2) If the owner of stock causes another person to transport the stock by vehicle on a road, the owner must provide the person in charge of the vehicle at the commencement of the transportation with a transported stock statement in relation to the stock before the commencement of the transportation.

Maximum penalty—20 penalty units.

- (3) The person who is in charge of a vehicle in which stock are being transported on a road must—
- (a) be in possession of a transported stock statement in relation to the stock, and
  - (b) ensure that the stock correspond with the description of the stock specified in the document.

Maximum penalty—20 penalty units.

- (4) A person is not guilty of an offence under this section if the stock concerned are



transported or are to be transported under the authority of—

(a) a stock permit, or

(b) an order, biosecurity direction, permit or biosecurity zone regulation under the [Biosecurity Act 2015](#).

(5) This section does not apply to the transport of stock by vehicle on a road in the following circumstances—

(a) stock transported into New South Wales from another State or the Australian Capital Territory and transported within New South Wales for up to 30 kilometres before proceeding back into the other State or that Territory as part of an unbroken journey,

(b) stock transported across or along a road from one part of a holding to another part that would be contiguous with the first-mentioned part but for being separated by the road,

(c) stock transported to or from a place for treatment by a veterinary practitioner (within the meaning of the [Veterinary Practice Act 2003](#)),

(d) stock transported in any other circumstances prescribed by the regulations.

(6) In this section—

**owner** of stock includes—

(a) an employee of the owner of the stock, and

(b) a person other than the owner of the stock who is responsible for the stock, and

(c) an employee of a person referred to in paragraph (b).

### **121 Restriction on the consignment of stock by rail, water or air transport**

(1) A person must not consign stock that are to be transported by any form of rail, water or air transport to another person (the **consignee**) unless the person has provided the consignee with a duly completed transported stock statement in respect of the stock.

Maximum penalty—20 penalty units.

(2) A consignee who is provided with a transported stock statement must (unless the consignee is to be responsible for the stock during the transport) provide a copy of the statement to the person who is to be responsible for the stock during the transport.

Maximum penalty—20 penalty units.

(3) A person who is provided by a consignee with a copy of a transported stock statement under subsection (2) must be in possession of the copy until the end of the transport

of the stock concerned.

Maximum penalty—20 penalty units.

- (4) A person is not guilty of an offence under this section if the stock concerned are consigned under the authority of—
- (a) a stock permit, or
  - (b) an order, biosecurity direction, permit or biosecurity zone regulation under the *Biosecurity Act 2015*.

### **122 Records of transported stock statements to be retained**

- (1) An owner of stock who completes a transported stock statement under section 120 (1) in relation to stock that the owner transports by a vehicle must retain the statement for at least 2 years after the day on which the transportation ends.
- (2) An owner of stock who provides another person with a transported stock statement under section 120 (2) or 121 (1) must retain a copy of the statement for at least 2 years after the day on which the transportation ends.
- (3) A person in charge of a vehicle who is provided with a transported stock statement under section 120 (2) must retain the statement for at least 2 years after the day the transportation ends.
- (4) A consignee who is provided with a transported stock statement under section 121 must retain the statement for at least 2 years after the day on which it is provided.

Maximum penalty—20 penalty units.

### **123 Powers to stop and search vehicles transporting stock**

- (1) **Vehicle search powers** An authorised officer may exercise any one or more of the vehicle search powers in respect of a vehicle if the authorised officer has reasonable grounds to believe that the vehicle is being used to transport stock.
- (2) **Power to give reasonable directions** An authorised officer who exercises a vehicle search power under this section has the power to give reasonable directions (to facilitate the exercise of the power) to any person—
  - (a) in or on the vehicle concerned, or
  - (b) in the vicinity of the vehicle concerned.
- (3) **Preconditions for exercise of vehicle search power** An authorised officer may give a direction referred to in subsection (2) only if, before giving the direction, the authorised officer—
  - (a) provides evidence to the person that he or she is an authorised officer (unless the

authorised officer is a police officer in uniform), and

- (b) in the case of a police officer in uniform—provides his or her name and place of duty, and
- (c) informs the person of the reason for the direction, and
- (d) warns the person that a failure to comply with the direction may be an offence.

(4) **Offence** A person must (unless the person has a reasonable excuse for not doing so)—

- (a) stop a vehicle the person is in charge of when directed under this section to do so by an authorised officer, or
- (b) comply with any other direction given under this section by an authorised officer.

Maximum penalty—50 penalty units or 12 months imprisonment, or both.

(5) **Definition** In this section—

**vehicle search power** means any of the following powers—

- (a) a power to stop a vehicle transporting stock for the purposes of determining whether or not—
  - (i) the person in charge of the vehicle is in possession of the transported stock statements required by section 120, or
  - (ii) the person responsible for the stock is in possession of the transported stock statements required by section 121 (2),
- (b) the power to inspect any of the statements referred to in paragraph (a),
- (c) the power to search a vehicle (whether or not stopped under paragraph (a)) transporting stock for the purposes of determining whether stock being transported appear to be the stock to which transported stock statements in the possession of the person in charge of the vehicle, or who is responsible for the stock, relate and to give reasonable directions to any person in the vehicle for the purpose of facilitating the search,
- (d) the power to take possession of any stock or object found in the course of such a search that the authorised officer conducting the search suspects on reasonable grounds constitutes evidence of an offence under this Act or under any other law.

#### **124 Person in charge of vehicle transporting stock to give name and other particulars**

- (1) An authorised officer may request the person in charge of a vehicle that the authorised officer has reasonable grounds to believe is being used to transport stock to give the person's name or residential address, or both.

- (2) An authorised officer may make a request referred to in subsection (1) only if, before making the request, the authorised officer—
  - (a) provides evidence to the person that he or she is an authorised officer (unless the authorised officer is a police officer in uniform), and
  - (b) in the case of a police officer in uniform—provides his or her name and place of duty, and
  - (c) informs the person of the reason for the request, and
  - (d) warns the person that a failure to comply with the request may be an offence.
- (3) A person who (without reasonable excuse)—
  - (a) fails to comply with a request under this section, or
  - (b) in response to the request, gives a name or address that is false or misleading, is guilty of an offence.

Maximum penalty—10 penalty units.

#### **125 Stock Transportation Accreditation Committee**

- (1) There is constituted by this section a Stock Transportation Accreditation Committee.
- (2) The Accreditation Committee consists of 3 members of whom—
  - (a) one is to be a person nominated by the Secretary, and
  - (b) one is to be a person nominated by the Commissioner of Police, and
  - (c) one is to be a person nominated by the Livestock and Bulk Carriers Association Incorporated.
- (3) The member referred to in subsection (2) (b) is to be the Chairperson of the Accreditation Committee.
- (4) The Accreditation Committee has such functions as are conferred or imposed on the Committee by or under this Act.
- (5) The procedure for the calling of meetings of the Accreditation Committee, and for the conduct of business at those meetings is, subject to this Act and the regulations, to be as determined by the Committee.
- (6) Two members constitute a quorum at a meeting of the Committee.
- (7) A decision supported by a majority of the votes cast at a meeting of the Committee at which a quorum is present is the decision of the Committee.

- (8) The Chairperson has a deliberative vote and, in the event of an equality of votes, has a second or casting vote.

### **126 Application for accreditation**

- (1) An application for approval of the form of a consignment note or other document as a transported stock statement made to the Accreditation Committee must be—
- (a) made in such manner and form as the Accreditation Committee may approve, and
  - (b) supported by such information as the Accreditation Committee may require, and
  - (c) accompanied by the application fee (if any) prescribed by the regulations.
- (2) The Accreditation Committee may require an applicant to furnish to the Accreditation Committee, within such time as may be specified, such further particulars as the Accreditation Committee considers necessary to determine the suitability of the proposed form of consignment note or other document for accreditation.

### **127 Approval of form of transported stock statement**

- (1) The Accreditation Committee may, by order in writing, approve as a transported stock statement a form of consignment note or other document for the purposes of this Part on application made to the Committee under section 126.
- (2) The Secretary may, by order published in the Gazette, approve as a transported stock statement a consignment note or other document for the purposes of this Part.
- (3) An approval may be given subject to the condition that a document be compiled or identified in a manner specified by the Accreditation Committee or Secretary.

## **Part 10**

### **128-163 (Repealed)**

## **Part 11 Powers of authorised officers**

### **Division 1 Preliminary**

#### **164 Power of entry**

- (1) An authorised officer may enter any premises to enable the authorised officer to exercise any function conferred or imposed on the authorised officer, or any function of Local Land Services that the officer is authorised to exercise, by or under this Act.
- (2) The authorised officer may enter premises with such persons and with such vehicles, horses and dogs as the authorised officer considers are necessary to enable or assist the authorised officer to exercise the function concerned.

## **165 Purposes for which powers under Part may be exercised**

Powers may be exercised under this Part for the following purposes—

- (a) for determining whether there has been compliance with or a contravention of this Act or the regulations or any order, licence, notice, permit or requirement issued or made under this Act,
- (b) for obtaining information or records for purposes connected with the administration of this Act,
- (c) for the purpose of enabling Local Land Services, the authorised officer or any other person to exercise any function conferred or imposed on the person under this or any other Act.

## **166 Effect on other functions**

Nothing in this Part affects any function under any other Part of this Act.

## **Division 2 Authorised officers**

### **167 Authorised officers**

An authorising authority may appoint a police officer or any other person (including a class of persons) as an authorised officer for the purposes of this Act.

**Note—**

*Authorising authority* is defined in the Dictionary.

### **168 Scope of authority**

- (1) An authorisation of a person as an authorised officer can be given generally, or subject to conditions, limitations or restrictions or only for limited purposes.
- (2) The authority of an authorised officer may be limited by the relevant instrument of appointment to the functions, or the exercise of functions in such region or part of a region, as are specified in the instrument of appointment.
- (3) If such authorisation is given subject to conditions, limitations or restrictions or only for limited purposes, nothing in this Act authorises or requires the authorised officer to act in contravention of the conditions, limitations or restrictions or for other purposes.

### **169 Identification**

- (1) Every authorised officer, other than a police officer, is to be provided by the authorising authority with an identification card.
- (2) In the course of exercising the functions of an authorised officer under this Act, an authorised officer, other than a police officer, must, if requested to do so by any person affected by the exercise of the functions, produce the officer's identification

card to the person.

- (3) In the course of exercising the functions of an authorised officer under this Act, an authorised officer who is a police officer must, if requested to do so by any person affected by the exercise of the functions, produce his or her identification as a police officer (unless he or she is in uniform).
- (4) An identification card is a card or document that—
  - (a) states that it is issued under this Act, and
  - (b) gives the name of the person to whom it is issued, and
  - (c) describes the nature of the powers conferred and the source of the powers, and
  - (d) states the date (if any) on which it expires, and
  - (e) describes the kind of premises to which the power extends, and
  - (f) bears the signature of the person prescribed by the regulations for the purposes of this paragraph.

#### **170 Time of entry**

An authorised officer may enter any premises at any reasonable time.

#### **171 Entry into residential premises only with permission or warrant**

This Part does not empower an authorised officer to enter any part of premises used only for residential purposes without the permission of the occupier or the authority of a search warrant issued under section 178.

#### **172 Powers of authorised officers to do things on premises**

- (1) An authorised officer may, at any premises lawfully entered, do anything that in the opinion of the authorised officer is necessary to be done for the purposes of this Act, including (but not limited to) the things specified in subsection (2).
- (2) An authorised officer who enters premises may do any or all of the following—
  - (a) inspect the premises,
  - (b) search the premises,
  - (c) examine, seize, detain or remove any pest in or about those premises,
  - (d) examine, seize, detain or remove any other thing that the authorised officer has reasonable grounds to believe is being used to contravene this Act or the regulations,

- (e) require the production of and inspect any records in or about those premises,
- (f) take copies of, or extracts or notes from, any such records,
- (g) require any person in or about those premises to answer questions or otherwise furnish information,
- (h) require the occupier of those premises to provide the authorised officer with such assistance and facilities as are reasonably necessary to enable the authorised officer to exercise his or her functions,
- (i) remove or destroy or cause to be removed or destroyed any pest found in or about those premises that is being kept in captivity without lawful authority,
- (j) break open and search any box, container, package or receptacle (including any place that could be used as a receptacle) in or about those premises,
- (k) examine or muster any stock.

### **173 Notice of entry**

- (1) Before an authorised officer enters premises under this Part, the authorising authority must give the occupier of the premises oral or written notice of the intention to enter the occupier's premises on a day or within a period of days specified in the notice.
- (2) The day or any day within the period of days specified must not be the day on which the notice is given.
- (3) This section does not require notice to be given—
  - (a) if entry to the premises is made with the consent of the occupier of the premises, or
  - (b) if entry has been authorised by a search warrant issued under section 178, or
  - (c) if entry is required urgently and the authorising authority has authorised in writing (either generally or in the particular case) entry without notice, or
  - (d) if the authorised officer concerned is a police officer and the giving of notice would defeat the purpose for which it is intended to exercise the power of entry, or
  - (e) if entry is required to eradicate any pest kept in captivity without lawful authority.

### **174 Use of force**

- (1) Reasonable force may be used for the purpose of gaining entry to any premises (other than residential premises) under a power conferred by this Part but only if authorised by the authorising authority in accordance with this section and in accordance with any guidelines.



- (2) No force is to be exercised in any case unless the authorising authority has authorised in writing (either in a specified class of cases or in the particular case) the use of force in the circumstances of the case.
- (3) A general authority given by the authorising authority for the use of force is invalid. The authority is to specify the circumstances that are required to exist in a case before force is used.

#### **175 Notification of use of force or urgent entry**

- (1) An authorised officer must give the authorising authority prompt oral or written advice of—
  - (a) any use of force by the authorised officer for the purpose of gaining entry to premises, or
  - (b) any entry to premises by the authorised officer without notice having been given to the occupier of the premises of the intention to enter as required by section 173.
- (2) The authorising authority must give notice of the entry to such persons or authorities as appear to be appropriate in the circumstances.

#### **176 Care to be taken**

In the exercise of a function under this Part, an authorised officer must do as little damage as possible.

#### **177 Compensation**

An authorising authority must compensate all interested parties for any damage caused by an authorised officer who enters premises under this Part in entering the premises (but not any damage caused by exercising any other function), unless the occupier of the premises obstructed, hindered or restricted the authorised officer in the exercise of the power of entry.

#### **178 Search warrant**

- (1) An authorised officer under this Act may apply to an authorised officer within the meaning of the [Law Enforcement \(Powers and Responsibilities\) Act 2002](#) for a search warrant if the authorised officer under this Act has reasonable grounds for believing that a provision of this Act or the regulations has been or is being or is about to be contravened in or about any premises.
- (2) An authorised officer under this Act may not apply for a search warrant to search premises unless the authorised officer under this Act has notified the authorising authority of the intended application.

- (3) An authorised officer within the meaning of the *Law Enforcement (Powers and Responsibilities) Act 2002* to whom an application is made under this section may, if satisfied that there are reasonable grounds for doing so, issue a warrant authorising an authorised officer under this Act named in the warrant to enter the premises and to exercise there the powers under section 172.
- (4) Division 4 of Part 5 of the *Law Enforcement (Powers and Responsibilities) Act 2002* applies to a search warrant issued under this section.

### **179 Authorised officer may request assistance**

- (1) An authorised officer may request the assistance of any police officer if the authorised officer reasonably believes that the performance of functions conferred or imposed by or under this Act will be obstructed.
- (2) An authorised officer may request the assistance of any person the authorised officer believes to be capable of providing assistance in the performance of functions conferred or imposed by or under this Act.

## **Division 3 Offences in relation to authorised officers**

### **180 Offence: obstructing authorised officer**

- (1) A person who—
  - (a) prevents an authorised officer from exercising a function conferred or imposed by or under this Act, or
  - (b) hinders, obstructs, threatens or assaults an authorised officer in the exercise of such a function, or
  - (c) without reasonable excuse, refuses or fails to comply with a requirement made or to answer a question of an authorised officer asked in accordance with this Act or the regulations, or
  - (d) furnishes an authorised officer with information knowing that it is false or misleading in a material particular,

is guilty of an offence.

Maximum penalty—50 penalty units.

- (2) A person is not guilty of an offence under subsection (1) (c) unless it is established that, at the material time, the authorised officer—
  - (a) identified himself or herself as an authorised officer, and
  - (b) warned the person that a failure or refusal to comply with the requirement may constitute an offence.

**181 Offence: impersonating authorised officer or other authorised person**

A person who impersonates or falsely represents that the person is an authorised officer is guilty of an offence.

Maximum penalty—10 penalty units.

**Part 12 Enforcement provisions**

**Division 1 Recovery of outstanding rates, charges and other amounts**

**182 Sale of land for unpaid amounts owing to Local Land Services**

Local Land Services may sell land to recover unpaid rates, levies or contributions of a kind prescribed by the regulations owing to it in accordance with Schedule 5.

**183 Recovery of rates, charges, fees and other unpaid amounts**

- (1) Any rate, charge, fee or other money due or payable to Local Land Services or any other person under this Act may be recovered by Local Land Services or the person as a debt in a court of competent jurisdiction.
- (2) The amount of any judgment that is recovered in proceedings brought under this section, and of any costs awarded to Local Land Services or other person concerned in respect of the proceedings, is a charge on any land (other than public land) concerned.
- (3) Schedule 5 applies to an amount or any part of an amount awarded or ordered to be paid to Local Land Services or any other person under this section that remains unpaid after the expiration of 5 years from the date of the judgment or order of the court concerned.
- (4) The provisions of this section have effect despite anything contained in section 42 of the [Real Property Act 1900](#).

**184 Accrual of interest on overdue rates, charges and other amounts**

- (1) Interest accrues on rates, charges and other amounts payable to an authority, the Minister or any other person under this Act.
- (2) Interest accrues on a daily basis or on such other basis as is determined by Local Land Services or the person concerned.
- (3) The rate of interest is that set by Local Land Services or the person concerned but must not exceed the rate specified for the time being by the Minister by notice published in the Gazette.
- (4) Accrued interest is, for the purpose of its recovery, taken to be a rate, charge or amount that is due and payable.

- (5) Interest continues to accrue on unpaid rates, charges or amounts even though judgment for payment of the rates, charges or amounts may have been obtained in a court. Interest is not payable on the judgment debt, despite any other Act.

**185 Special provision with respect to recovery of unpaid rates and charges**

Despite anything to the contrary in the *Limitation Act 1969*, proceedings for the recovery of a rate or charge may be commenced at any time within 20 years after the date when the rate or charge becomes payable.

**186 Rebates, waiver, refund or writing off of rates, charges and other amounts**

- (1) Local Land Services may do any one or more of the following—
- (a) grant a rebate or waive payment of a rate, charge or other amount due or payable to it under this Act or the regulations or any part of such a rate, charge or other amount,
  - (b) refund any rate, charge or other amount in whole or in part,
  - (c) write off any rate, charge or other amount.
- (2) Action under this section may be taken in a particular case or class of cases.

**Division 2 Proceedings for offences**

**187 Proceedings for offences**

- (1) Proceedings for an offence against this Act or the regulations are to be dealt with summarily before the Local Court.
- (2) Proceedings for an offence against this Act may instead be dealt with summarily before the Supreme Court in its summary jurisdiction.
- (3) The maximum monetary penalty that may be imposed by the Local Court in proceedings for an offence against this Act or the regulations is 100 penalty units.
- (4) The maximum penalty that may be imposed by the Supreme Court in proceedings for an offence against this Act is the maximum penalty specified by the relevant section in respect of the offence.

**188 Time within which summary proceedings may be commenced**

- (1) Proceedings for an offence under this Act or the regulations may be commenced—
- (a) in the case of a prescribed offence—within but not later than 2 years after the day on which the offence is alleged to have been committed, or
  - (b) in any other case—within but not later than 12 months after that day.

- (2) This section applies only to proceedings that are to be dealt with summarily.
- (3) This section applies despite anything in the *Criminal Procedure Act 1986* or any other Act.
- (4) In this section—  
**prescribed offence** means—
  - (a) an offence arising under section 58 (Annual returns of land and stock),
  - (b) an offence against this Act that is declared by the regulations to be a prescribed offence for the purposes of this section.

### **189 Penalty notices**

- (1) An authorised officer may issue a penalty notice to a person if it appears to the officer that the person has committed a penalty notice offence.
- (2) A penalty notice offence is an offence against this Act or the regulations that is prescribed by the regulations as a penalty notice offence.
- (3) The *Fines Act 1996* applies to a penalty notice issued under this section.

**Note—**

The *Fines Act 1996* provides that, if a person issued with a penalty notice does not wish to have the matter determined by a court, the person may pay the amount specified in the notice and is not liable to any further proceedings for the alleged offence.

- (4) The amount payable under a penalty notice issued under this section is the amount prescribed for the alleged offence by the regulations (not exceeding the maximum amount of penalty that could be imposed for the offence by a court).
- (5) This section does not limit the operation of any other provision of, or made under, this or any other Act relating to proceedings that may be taken in respect of offences.

### **190 Penalties belong to Local Land Services**

- (1) Whenever any monetary penalty is imposed for an offence against this Act that is prosecuted by Local Land Services the proper officer of the court that imposed the penalty must pay the amount of the penalty to Local Land Services.
- (2) An amount paid to Local Land Services under this section, or paid under section 189 for a penalty payable under a penalty notice served by an authorised officer appointed by Local Land Services, belongs to Local Land Services.
- (3) This section applies irrespective of any other law to the contrary.

### **191 Court may order payment of additional penalty in certain cases**

(1) A court that finds a person guilty of an offence under a prescribed section (whether or not it convicts the person of the offence), may, in addition to any other penalty that it may impose, order the person to pay to Local Land Services an amount sufficient to reimburse or compensate Local Land Services for any expenses (including any costs of agistment) incurred or losses suffered by Local Land Services as a result of the offence.

(2) In this section—

**prescribed section** means any of the following sections—

(a) section 84 (Movement and grazing of stock authorised by stock permits must comply with Act and regulations), or

(b) section 116 (Offence of causing or permitting stock to be on a public road, travelling stock reserve or public land without authority).

### **192 Offences relating to provision of information in relation to certain matters**

(1) A person who, having been required under a provision of this Act or the regulations to provide information, fails without reasonable excuse to provide that information is guilty of an offence.

Maximum penalty—10 penalty units.

(2) A person must not make a statement for the purposes of this Act to a person engaged in the administration of this Act, or make a statement in an official document under this Act, that the person knows—

(a) is false or misleading in a material respect, or

(b) omits material matter.

Maximum penalty—20 penalty units.

(3) A document is an **official document** under this Act if it is an application, return, declaration or other document that is required to be given to the Minister, the Board, Local Land Services, the Secretary or an authorised officer for the purposes of this Act or the regulations.

(4) A person who forges or fraudulently alters any permit, licence, authority or other document issued or purporting to be issued under this Act is guilty of an offence.

Maximum penalty—100 penalty units.

### **193 Onus of proof concerning reasonable or lawful excuse**

In any proceedings under this Act, the onus of proving that a person had a reasonable or

lawful excuse (as referred to in any provision of this Act or the regulations) lies with the defendant.

**Note—**

See also sections 156 (Public documents) and 158 (Evidence of certain public documents) of the [Evidence Act 1995](#) in relation to proof of various matters in proceedings under this Act.

## **Division 3 Miscellaneous**

### **194 General description of land sufficient for purposes of legal proceedings**

For the purposes of any proceedings, or an order, notice or permit given, under this Act or the regulations—

- (a) a holding or land need not be described by metes and bounds, and
- (b) it is sufficient if the holding or land is referred to by its name, location or boundaries or in any other way that adequately identifies it.

### **195 Legal proceedings against an occupier or owner whose name is unknown**

If the name of the occupier or owner of a holding or land is unknown to a person who wishes to serve a notice or other document or bring proceedings against that occupier or owner under this Act, the notice or document may be served on, or the proceedings may be brought against, the occupier or owner of the holding or land without specifying the name of that occupier or owner.

### **196 Jurisdiction of court or NCAT not to be ousted in certain proceedings**

- (1) The jurisdiction of a court or the Civil and Administrative Tribunal is not affected merely because, in proceedings before the court or board under or for the purposes of this Act or the regulations, a question arises concerning—
  - (a) title to land, or
  - (b) any matter in which rights in future may be bound, or
  - (c) any general right or duty.
- (2) A decision of a court or the Civil and Administrative Tribunal relating to such a question is not evidence in any other court or in any other legal proceeding.

### **197 Proof of certain matters not required**

In any proceedings under this Act, proof is not required (unless evidence is given to the contrary) of any of the following—

- (a) the constitution of the Board or a local board,
- (b) any resolution of the Board or a local board,

- (c) the election or appointment of, or holding of office by, a member of the Board or a local board,
- (d) the presence of a quorum at a meeting of the Board or a local board,
- (e) the constitution of a particular region,
- (f) the boundaries of a region or of a part of a region,
- (g) the fact that specified land or a specified place is or is not within a particular region or a particular part of a region,
- (h) the appointment of any district veterinarian or any other member of staff of Local Land Services,
- (i) the fact that the defendant is, or at any relevant time was, the occupier, owner, manager or caretaker of a holding or land to which the proceedings relate if the defendant is so described in the process by which the proceedings were initiated,
- (j) the fact that a holding or land to which the proceedings relate is within the jurisdiction of a particular court or the Civil and Administrative Tribunal,
- (k) the notification, dedication, reservation or declaration of a travelling stock reserve or stock watering place.

## **Part 13 Administration of functions of Local Land Services or local board**

### **198 Appointment of administrator of all or some functions of Local Land Services**

- (1) The Minister may, by order published in the Gazette, appoint a person specified in the order as administrator of—
  - (a) all of the functions of Local Land Services, or
  - (b) one or more (but not all) of the functions of Local Land Services specified in the order.
- (2) An order may be made—
  - (a) if the Board has failed to comply with any direction of the Minister, or to carry out to the satisfaction of the Minister, any of its functions, or
  - (b) in such other circumstances as may be prescribed by the regulations.

### **199 Appointment of administrator of all or some functions of local boards**

- (1) The Minister may, by order published in the Gazette, appoint a person specified in the order as administrator of—



- (a) all of the functions of a local board, or
  - (b) one or more (but not all) of the functions of a local board specified in the order.
- (2) An order may be made—
- (a) if the local board has failed to comply with any direction of Local Land Services or to carry out any of its functions to the satisfaction of Local Land Services, or
  - (b) in such other circumstances as may be prescribed by the regulations.

## **200 Provisions applicable to administrators**

- (1) The administrator holds office (subject to this Act) for such period as may be specified in the administrator's instrument of appointment.
- (2) An administrator appointed under this Part has and may exercise, subject to any conditions specified in the order appointing the administrator, the functions of Local Land Services or the local board specified in the order.
- (3) Any delegation or authority made or conferred by the Board in respect of any function of Local Land Services that may be exercised by an administrator appointed under this Part ceases to have effect on that appointment.
- (4) Any delegation or authority made or conferred by a local board in respect of any function of the local board that may be exercised by an administrator appointed under this Part ceases to have effect on that appointment.
- (5) The regulations may make provision for or with respect to administrators appointed under this Part.
- (6) Schedule 4 has effect with respect to an administrator appointed under this Part.

## **Part 14 Miscellaneous**

### **200A Contributions towards management of pests under [Biosecurity Act 2015](#)**

- (1) The Biosecurity Minister may, by notice, require Local Land Services to pay to the Biosecurity Minister an amount as a contribution to the cost of any action taken or to be taken to manage pests under the [Biosecurity Act 2015](#).
- (2) A contribution is payable within such period after the notice is given as is specified in the notice or within such other period as the Biosecurity Minister allows.
- (3) Any contribution that remains unpaid is recoverable by the Biosecurity Minister from Local Land Services in a court of competent jurisdiction.
- (4) The regulations may make provision for or with respect to notices and contributions under this section.

(4A) The Biosecurity Minister may delegate to a person employed in the Department any of the Biosecurity Minister's functions under this section, other than this power of delegation.

(5) In this section—

**Biosecurity Minister** means the Minister administering the *Biosecurity Act 2015*.

**manage** a pest means to prevent, eliminate, minimise or manage the biosecurity risk posed by, or the biosecurity impact of, a pest, within the meaning of the *Biosecurity Act 2015*.

**pest** means a pest within the meaning of the *Biosecurity Act 2015* (other than a pest that is a plant).

## 201 Acquisition of land

- (1) Local Land Services may, for the purposes of this Act, acquire land by agreement or compulsory process in accordance with the *Land Acquisition (Just Terms Compensation) Act 1991*.
- (2) For the purposes of the *Public Works Act 1912*, any such acquisition of land is taken to be for an authorised work and Local Land Services is, in relation to that authorised work, taken to be the Constructing Authority.
- (3) Sections 34–37 of the *Public Works Act 1912* do not apply in relation to works constructed under this Act.

## 202 Entry on land for construction of works and other purposes

(1) In this section—

**construct** includes repair or maintain.

**work** includes any building or structure.

- (2) Local Land Services may, by its staff and other persons, enter and inspect any land (other than a dwelling) for the purpose of exercising the following functions, and there construct any work that it is required or authorised by or under this Act to construct on the land—
  - (a) functions relating to natural resource management,
  - (b) any other functions prescribed by the regulations.
- (3) A person must not, without reasonable excuse, obstruct or hinder Local Land Services acting under this section.

Maximum penalty—10 penalty units.

- (4) In relation to land entered or works constructed, Local Land Services—
  - (a) is to do as little damage as possible in exercising its functions under this section, and
  - (b) is to compensate all persons who suffer damage by the exercise of those functions.
- (5) Compensation may be made by reinstatement or repair, by construction of works or by payment.
- (6) A claim for compensation—
  - (a) is ineffective unless made in writing not later than one year after the damage was suffered, and
  - (b) in the absence of agreement on the compensation, is to be dealt with as if it were a claim for compensation for the compulsory acquisition of land under this Act.

**Note—**

This section continues entry and construction powers under the [Catchment Management Authorities Act 2003](#) relating to catchment management authorities under that Act (which are replaced by Local Land Services under this Act).

**203 Certificate as to rates, charges and other matters**

- (1) Any person may apply to Local Land Services for a certificate as to any of the following matters—
  - (a) the amount (if any) due or payable to Local Land Services by way of rates, levies, contributions, charges or other amounts in respect of land,
  - (b) the person liable to pay any amount referred to in paragraph (a),
  - (c) any other matter prescribed by the regulations for the purposes of this section.
- (2) The application must be in the approved form and be accompanied by the fee prescribed by the regulations.
- (3) Local Land Services is to issue a certificate to the applicant in the approved form containing the information sought.
- (4) The production of the certificate is conclusive proof of the matters certified (including in favour of a purchaser in good faith and for value of the land to which the certificate relates that, at the date of its issue, no amounts were payable to Local Land Services in respect of the land other than such amounts as are specified in the certificate).
- (5) For the purposes of this section, rates, levies, contributions, charges or other amounts are taken to be due or payable even though the requisite period after service of any

relevant rate or other notice may not have expired.

#### **204 Owner of stock may be ordered to muster stock**

- (1) An authorised officer of the Minister or Local Land Services may, with the approval of the Minister or Local Land Services, order a person who owns stock to muster the stock on the person's holding (or on a designated part of it) or at some other designated place for a purpose and at a time specified in the order.
- (2) A person who fails to comply with such an order at the time specified in it is guilty of an offence.

Maximum penalty—20 penalty units.

- (3) If a person fails to comply with such an order at the specified time the authorised officer may have the muster carried out at the person's expense.
- (4) The Minister or Local Land Services may recover the expense of having a muster carried out under this section as a debt in any court of competent jurisdiction.

#### **205 Personal liability**

A matter or thing done or omitted to be done by—

- (a) the Minister, or
- (b) Local Land Services, or
- (c) the Secretary, or
- (d) the Board or the Chair or any other member of the Board, or
- (e) a member of a local board, or
- (f) a member of staff of Local Land Services, or
- (g) a person acting under the direction of a person or body referred to in paragraphs (a)–(f),

does not, if the matter or thing was done or omitted to be done in good faith for the purposes of executing this Act, subject the Minister, the Secretary, any member of the Board or a local board, a member of staff or a person so acting personally to any action, liability, claim or demand.

#### **206 Regulations**

- (1) The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act.

- (2) Without limiting subsection (1), regulations may be made for or with respect to the following—
- (a) fees, rates, charges and other amounts payable under this Act or the regulations,
  - (b) the appointment of members of the Board and local boards,
  - (c) the election of members of local boards,
  - (d) the conferral of jurisdiction on a court with respect to such elections,
  - (e) matters of a savings or transitional nature consequent on any amalgamation of regions,
  - (f) the process of making, and the form and content of, the State strategic plan, local strategic plans and local annual reports,
  - (g) the walking and grazing of stock,
  - (h) the erection of signs when stock are walking or grazing on or near a road and the responsibility of drivers in respect of such signs,
  - (i) the use of travelling stock reserves and the use of any structures or things constructed or kept on those reserves,
  - (j) the use or lease of any stock watering place,
  - (k) permits, licences, authorities and other documents for the purposes of this Act or the regulations,
  - (l) the insurance to be effected and bonds to be given or obtained in connection with the use of such documents,
  - (m) the identification of stock,
  - (n) codes of conduct, including contraventions of a code of conduct,
  - (o) audits and reports required by or under this Act,
  - (p) conferring jurisdiction on the Civil and Administrative Tribunal to hear and determine appeals against decisions concerning rates, charges and other amounts payable under this Act or the regulations (including assessments for the purposes of such rates, changes and amounts).
- (2A) The Minister is not to recommend the making of a regulation containing provisions for the purposes of subsection (2) (p) unless the Minister certifies that the Minister administering the *Civil and Administrative Tribunal Act 2013* has agreed to the provisions.

- (3) The regulations may create an offence punishable by a penalty not exceeding 100 penalty units.

**207 (Repealed)**

**208 Exemptions**

The regulations may exempt from the operation of all or any of the provisions of Parts 5, 6 and 9 any specified land or class of land, any specified person or class of persons or any specified activities or class of activities in such circumstances, and subject to such conditions, as may be specified in the regulations.

**209 Service of documents**

- (1) A document may be served on Local Land Services by—
- (a) leaving it at, or sending it by post to, an office of Local Land Services, or
  - (b) sending it by electronic transmission to an address or location specified by Local Land Services for the service of documents of that kind.
- (2) A document that is authorised or required by this Act or the regulations to be served on any other person may be served by—
- (a) in the case of a natural person—
    - (i) delivering it to the person personally, or
    - (ii) sending it by post to the address specified by the person for the giving or service of documents or, if no such address is specified, the residential or business address of the person last known to the person giving or serving the document, or
    - (iii) sending it by email to an email address specified by the person for the service of documents of that kind, or
  - (b) in the case of a body corporate—
    - (i) leaving it with a person apparently of or above the age of 16 years at, or by sending it by post to, the head office, a registered office or a principal office of the body corporate or to an address specified by the body corporate for the giving or service of documents, or
    - (ii) sending it by email to an email address specified by the body corporate for the service of documents of that kind.
- (3) Nothing in this section affects the operation of any provision of a law or of the rules of a court authorising a document to be served on a person in any other manner.

**210 (Repealed)**

**211 Review of Act (other than native vegetation provisions)**

- (1) The Minister is to review this Act to determine whether the policy objectives of the Act remain valid and whether the terms of the Act remain appropriate for securing those objectives.
- (2) The review is also to determine whether the governance arrangements for Local Land Services, and the composition of the local boards, remain appropriate given current funding arrangements for local land services.
- (3) The review is to be undertaken as soon as possible after the period of 5 years from the date of assent to this Act.
- (4) A report on the outcome of the review is to be tabled in each House of Parliament within 12 months after the end of the period of 5 years.
- (5) Part 5A and Schedules 5A and 5B are not required to be reviewed under this section.

**212 Review of native vegetation provisions of this Act**

- (1) The Minister is to review Part 5A and Schedules 5A and 5B to determine whether the policy objectives of those provisions remain valid and whether the terms of those provisions remain appropriate for securing those objectives.
- (2) The review is to be undertaken in conjunction with the review of the *Biodiversity Conservation Act 2016* that is undertaken under that Act by the Minister administering that Act.
- (3) The review is to be undertaken as soon as possible after the period of 5 years from the commencement of Part 5A and Schedules 5A and 5B.
- (4) A report on the outcome of the review is to be tabled in each House of Parliament within 12 months after the end of the period of 5 years.

## Schedule 1 Local Land Services regions

(Section 6)



## Schedule 2 Constitution and procedure of Board and local boards

### Part 1 General

#### 1 Definitions

In this Schedule—



**appointed member** means a person who is appointed by the Minister as a member of the Board or a local board.

**Chair** means—

- (a) the Chair of the Local Land Services Board, and
- (b) a person who is appointed as chair of a local board.

**elected member** means a person who is elected as a member of the local board for a region.

**member** means a member of the Board or a local board.

## **Part 2 Constitution**

### **Division 1 Provisions relating to local boards**

#### **2 Terms of office of members of local board**

- (1) Subject to this Schedule and the regulations—
  - (a) an appointed member of a local board holds office for such period (not exceeding 4 years) as is specified in the member's instrument of appointment, but is eligible (if otherwise qualified) for election or re-appointment, and
  - (b) an elected member of a local board holds office for a period of 4 years, but is eligible (if otherwise qualified) for re-election or for appointment.
- (2) A person is not eligible to be a member of a local board (whether appointed or elected) for more than 2 consecutive terms of office. However a person who is appointed as Chair of the local board is eligible for 3 consecutive terms in total (consisting of no more than 2 terms as Chair).
- (3) Subject to this Schedule and the regulations, the term of office of an elected member of a board expires on the day immediately before the general election held after his or her election.
- (4) For the purposes of the calculation of a member of a local board's consecutive terms of office only, if—
  - (a) a person is appointed under clause 4 to fill the office of a member that has become vacant otherwise than by the expiration of the member's term of office, and
  - (b) the person is appointed for the balance of his or her predecessor's term of office, the appointment does not constitute (and is taken never to have constituted) an appointment for a term of office.

### **3 Chair of local board**

- (1) The chair of a local board vacates office as chair if he or she—
  - (a) is removed from that office by the Minister under this clause, or
  - (b) resigns that office by instrument in writing addressed to the Minister, or
  - (c) ceases to be a member of the local board.
- (2) The Minister may at any time remove the chair of a local board from office as chair.

**Note—**

If a person ceases to be a chair of a local board, the person ceases to be a member of the Board.

- (3) If the office of a chair of a local board becomes vacant, a person is, subject to this Act and the regulations, to be appointed to fill the vacancy.

### **4 Filling of vacancy in office of member**

- (1) If the office of any appointed member of a local board becomes vacant, a person is, subject to this Act and the regulations, to be appointed to fill the vacancy.
- (2) If the office of an elected member of a local board becomes vacant, a person is, subject to this Act and the regulations, to be elected to fill the vacancy. The member so elected holds office, subject to subclause (3), for the remainder of the term of office of the elected member whose office he or she is filling.
- (3) If the vacation of office occurs within 12 months before the term of office of an elected member would have expired, the Minister may appoint a person who would be qualified to be elected as an elected member to fill the office for the remainder of that term.
- (4) The term of office of a person elected or appointed in accordance with this clause is to be disregarded for the purposes of clause 2.

## **Division 2 Provisions relating to members of Board and local boards (other than Chair of Local Land Services Board)**

### **5 Application of Division**

This Division does not apply to the Chair of the Local Land Services Board.

### **6 Vacancy in office of member**

- (1) The office of a member becomes vacant if the member—
  - (a) dies, or
  - (b) completes a term of office and is not re-appointed or re-elected, or

- (c) resigns the office by instrument in writing addressed to the Minister, or
  - (d) is removed from office by the Minister under this clause, or
  - (e) is absent from 3 consecutive meetings of the Board or local board of which reasonable notice has been given to the member personally or by post, except on leave granted by the Minister or unless the member is excused by the Minister for having been absent from those meetings, or
  - (f) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit, or
  - (g) becomes a mentally incapacitated person, or
  - (h) is convicted in New South Wales of an offence that is punishable by imprisonment for 12 months or more or is convicted elsewhere than in New South Wales of an offence that, if committed in New South Wales, would be an offence so punishable.
- (2) The Minister may remove a member from office at any time for any or no reason and without notice.

## **7 Suspension of members**

- (1) The Minister may, by order in writing, suspend a member of the Board or a local board from office for a period not exceeding 3 months.
- (2) A copy of an order given under this clause must be served on the member.
- (3) The member, while suspended from office under this clause—
  - (a) is not entitled to exercise any functions of the office, and
  - (b) is not entitled to any fee or other remuneration to which he or she would otherwise be entitled as the holder of the office.
- (4) The period of suspension under an order made under this clause commences on the date the order is served on the member or the date specified in the order for the commencement of the period of suspension, whichever is the later.

## **8 Part-time appointments**

Members hold office as part-time members.

## **9 Remuneration**

A member is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister, in consultation with the Secretary of the Premier's Department, may from time to time determine in respect of the member.

## **10 Effect of certain other Acts**

- (1) The provisions of the *Government Sector Employment Act 2013* relating to the employment of Public Service employees do not apply to a member of the Board or a local board.
- (2) If by or under any Act provision is made—
  - (a) requiring a person who is the holder of a specified office to devote the whole of his or her time to the duties of that office, or
  - (b) prohibiting the person from engaging in employment outside the duties of that office,the provision does not operate to disqualify the person from holding that office and also the office of an appointed member or from accepting and retaining any remuneration payable to the person under this Act as a member.

## **Part 3 Procedure**

### **11 General procedure**

The procedure for the calling of meetings of the Board or a local board and for the conduct of business at those meetings is, subject to this Act and the regulations, to be determined by the Board or local board.

### **12 Quorum**

- (1) The quorum for a meeting of the Board or a local board is a majority of its members for the time being.
- (2) A person appointed under section 25 (2) (c) is not to be counted in determining if a quorum for a meeting of the Board exists.

### **13 Presiding member**

- (1) The Chair (or, in the absence of the Chair, a person elected by the members of the Board or local board who are present at a meeting of the Board or local board) is to preside at a meeting of the Board or local board.
- (2) The presiding member has a deliberative vote and, in the event of an equality of votes, has a second or casting vote.

### **14 Voting**

- (1) A decision supported by a majority of the votes cast at a meeting of the Board or local board at which a quorum is present is the decision of the Board or local board.

#### **Note—**

A person appointed under section 25 (2) (c) is a non-voting member of the Board.

- (2) The Chief Executive Officer may attend meetings of the Board and participate in discussions of the Board but is not entitled to vote at a meeting.

### **15 Transaction of business outside meetings or by telephone**

- (1) The Board or local board may, if it thinks fit, transact any of its business by the circulation of papers among all the members of the Board or local board for the time being, and a resolution in writing approved in writing by a majority of those members is taken to be a decision of the Board or local board.
- (2) The Board or local board may, if it thinks fit, transact any of its business at a meeting at which members (or some members) participate by telephone, closed-circuit television or other means, but only if any member who speaks on a matter before the meeting can be heard by the other members.
- (3) For the purposes of—
- (a) the approval of a resolution under subclause (1), or
  - (b) a meeting held in accordance with subclause (2),
- the Chair and each member have the same voting rights as they have at an ordinary meeting of the Board or local board.
- (4) A resolution approved under subclause (1) is, subject to the regulations, to be recorded in the minutes of the meetings of the Board or local board.
- (5) Papers may be circulated among the members for the purposes of subclause (1) by facsimile or other transmission of the information in the papers concerned.

### **16 Disclosure of pecuniary interests**

- (1) If—
- (a) a member has a direct or indirect pecuniary or other interest in a matter being considered or about to be considered at a meeting of the Board or a local board, and
  - (b) the interest appears to raise a conflict with the proper performance of the member's duties in relation to the consideration of the matter,
- the member must, as soon as possible after the relevant facts have come to the member's knowledge, disclose the nature of the interest at a meeting of the Board or local board.
- (2) A disclosure by a member at a meeting of the Board or local board that the member—
- (a) is a member, or is in the employment, of a specified company or other body, or

(b) is a partner, or is in the employment, of a specified person, or

(c) has some other specified interest relating to a specified company or other body or to a specified person,

is a sufficient disclosure of the nature of the interest in any matter relating to that company or other body or to that person which may arise after the date of the disclosure and which is required to be disclosed under subclause (1).

(3) Particulars of any disclosure made under this clause must be recorded by the Board or local board in a book kept for the purpose and that book must be open at all reasonable hours to inspection by any person.

(4) After a member has disclosed the nature of an interest in any matter, the member must not, unless the Board or the local board otherwise determines—

(a) be present during any deliberation of the Board or local board with respect to the matter, or

(b) take part in any decision of the Board or local board with respect to the matter.

(5) For the purposes of the making of a determination by the Board or local board under subclause (4), a member who has a direct or indirect pecuniary or other interest in a matter to which the disclosure relates must not—

(a) be present during any deliberation of the Board or local board for the purpose of making the determination, or

(b) take part in the making of the determination by the Board or local board.

(6) A contravention of this clause does not invalidate any decision of the Board or local board.

## **17 First meeting**

The Minister may call the first meeting of the Board or a local board in such manner as the Minister thinks fit.

## **Schedule 2A Provisions relating to Chair of Local Land Services Board**

(Section 26A (3))

### **1 Term of office**

The Chair of the Local Land Services Board holds office for such term, not exceeding 4 years, as may be specified in the instrument of appointment, but is eligible (if otherwise qualified) for re-appointment.

## **2 Basis of office**

The office of the Chair may be a full-time or part-time office, according to the terms of appointment.

## **3 Employment and remuneration**

- (1) The employment of the Chair is (subject to this Schedule) to be governed by a contract of employment between the Chair and the Minister.
- (2) The following provisions of or made under the *Government Sector Employment Act 2013* relating to the employment of Public Service senior executives apply to the Chair (but in the application of those provisions a reference to the employer of any such executive is to be read as a reference to the Minister)—
  - (a) provisions relating to the band in which an executive is to be employed,
  - (b) provisions relating to the contract of employment of an executive,
  - (c) provisions relating to the remuneration, employment benefits and allowances of an executive,
  - (d) provisions relating to the termination of employment of an executive.

## **4 Vacancy in office**

- (1) The office of the Chair becomes vacant if the holder—
  - (a) dies, or
  - (b) completes a term of office and is not re-appointed, or
  - (c) resigns the office by instrument in writing addressed to the Minister, or
  - (d) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit, or
  - (e) becomes a mentally incapacitated person, or
  - (f) is convicted in New South Wales of an offence that is punishable by imprisonment for 12 months or more or is convicted elsewhere than in New South Wales of an offence that, if committed in New South Wales, would be an offence so punishable, or
  - (g) is removed from office by a termination of employment as referred to in clause 3 (2) (d).
- (2) If the office of the Chair becomes vacant, a person is, subject to this Act, to be appointed to fill the vacancy.

## 5 Chair not Public Service employee

The office of the Chair is a statutory office and the provisions of the *Government Sector Employment Act 2013* relating to the employment of Public Service employees do not apply to that office (except as provided by clause 3).

## 6 Acting Chair

- (1) The Minister may, from time to time, appoint a person to act in the office of the Chair during the illness or absence of the Chair (or during a vacancy in the office of the Chair) and the person, while so acting, has all the functions of the Chair and is taken to be the Chair.
- (2) The Minister may, at any time, remove a person from office as acting Chair.
- (3) An acting Chair is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of the person.

## Schedule 3 Charges on land for unpaid amounts

(Section 94)

### 1 Definition

In this Schedule, **compliance notice** means a notice under section 94 (Compliance notice—fencing).

### 2 Registration of compliance notices in relation to land

- (1) Local Land Services or any other person that gives a compliance notice to the owner or occupier of land may apply to the Registrar-General for registration of the notice in relation to the land.
- (2) An application under this clause must define the land.
- (3) The Registrar-General must, on application under this clause and lodgment of the compliance notice, register the notice in relation to the land in such manner as the Registrar-General thinks fit.
- (4) If the notice relates to land under the provisions of the *Real Property Act 1900*, the notice is to be registered under that Act.

### 3 Charge on land subject to compliance notice

- (1) This clause applies where a compliance notice is registered under clause 2 in relation to land.
- (2) There is created by force of this clause, on the registration of the notice, a charge on



the land in relation to which the notice is registered to secure the payment to Local Land Services or the person that applied for registration of the notice of the amount specified in the notice.

#### **4 When charge ceases to have effect**

- (1) A charge under clause 3 ceases to have effect—
- (a) on payment to Local Land Services or the person concerned of the amount specified in the compliance notice, or
  - (b) on the sale or other disposition of the property with the written consent of Local Land Services or the person concerned, or
  - (c) on the sale of the land to a purchaser in good faith for value who, at the time of the sale, has no notice of the charge,

whichever occurs first.

- (2) The regulations may make provision for or with respect to the removal of a charge under this clause.

#### **5 Charge subject to existing encumbrances**

A charge under clause 3 is subject to every charge or encumbrance to which the land was subject before the notice was registered.

#### **6 Registration of charge is notice**

- (1) If—
- (a) a charge under clause 3 is created on land of a particular kind and the provisions of any law of the State provide for the registration of title to, or charges over, land of that kind, and
  - (b) the charge is so registered,

a person who purchases or otherwise acquires the land after the registration of the charge is, for the purposes of clause 4, taken to have notice of the charge.

- (2) A person who is taken to have notice of a charge under this clause is liable to pay the amount secured by the charge, or so much of it as remains outstanding, as if the person were the person originally liable for the amount.
- (3) This clause does not have the effect of discharging the liability of a person who was originally or previously liable for the amount secured by the charge.

## Schedule 4 Administrators

(Section 200 (6))

### 1 Acting administrator

- (1) If, because of illness or absence, an administrator is unable to exercise the functions of his or her office, the Minister may, by notice published in the Gazette, appoint a person to act in that office during the administrator's illness or absence.
- (2) The Minister may, at any time, remove from office a person appointed under subclause (1).

### 2 Vacation of office

- (1) The office of administrator becomes vacant if the administrator—
  - (a) dies, or
  - (b) resigns the office by instrument in writing addressed to the Minister, or
  - (c) is removed from office by the Minister, or
  - (d) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit, or
  - (e) becomes a mentally incapacitated person, or
  - (f) is convicted in New South Wales of an offence that is punishable by imprisonment for 12 months or more or is convicted elsewhere than in New South Wales of an offence that, if committed in New South Wales, would be an offence so punishable.
- (2) The Minister may at any time, by notice published in the Gazette, remove an administrator from office.

### 3 Effect of certain other Acts

- (1) The provisions of the [Government Sector Employment Act 2013](#) relating to the employment of Public Service employees do not apply to an administrator.
- (2) The office of administrator is not, for the purposes of any Act, an office or place of profit under the Crown.

### 4 Expenses of administrator

An administrator is entitled to be paid, out of the Local Land Services Fund, such remuneration (including travelling and subsistence allowances) as the Minister may direct.

## 5 Administrator not liable for losses incurred during administration

- (1) An administrator is not liable for any loss incurred by Local Land Services during the administrator's term of office unless the loss is attributable to the administrator's intentional misconduct, gross negligence or failure to comply with any provision of this Act.
- (2) Neither the Crown nor the Minister is liable for any loss incurred by Local Land Services during an administrator's term of office, whether or not the administrator is so liable.

## Schedule 5 Sale of land for unpaid money owing to Local Land Services

(Sections 182 and 183)

### 1 Definition

In this Schedule, **charge** means a charge or an amount payable under section 94 (Compliance notice—fencing).

### 2 Overdue rates and charges

For the purposes of this Schedule—

- (a) a rate is overdue if it has remained unpaid for more than 5 years after the date on which it became payable, and
- (b) a charge is overdue if it has remained unpaid for more than 5 years after a judgment or costs were awarded in respect of the charge.

### 3 Sale of land for unpaid rates and charges

- (1) Local Land Services may, in accordance with this Schedule, sell any land (or part of land) on which any rate or charge is overdue.
- (2) Local Land Services must not sell any such land unless it certifies the following in writing—
  - (a) what rates and charges (including overdue rates and charges) are payable on the land,
  - (b) when the rates and charges were made and how they were imposed,
  - (c) when and how each of those rates or charges became payable,
  - (d) what amounts are payable by way of overdue rates and charges on the land,
  - (e) what amounts are payable by way of rates and charges (other than overdue rates and charges) on the land.

- (3) Local Land Services may, in the case of adjoining parcels of land (whether owned by the same person or not) each of which may be sold under this Schedule—
- (a) sell them separately or as a single parcel and under whatever conditions of sale it considers proper, and
  - (b) do such things as it considers appropriate for the purpose of selling the land at its full value.

#### **4 Estate and interest of the Crown in land**

This Schedule does not enable the sale of—

- (a) an estate or interest of the Crown in land, or
- (b) any interest in land owned by the Crown that may not be transferred at law.

#### **5 Notice of proposal to sell land**

- (1) Before selling land under this Schedule, Local Land Services must—
- (a) fix a time and place for the sale, and
  - (b) give notice of the proposed sale by means of an advertisement published in the Gazette and in such other manner as Local Land Services is satisfied is likely to bring the notice to the attention of persons who may be interested in purchasing the land, and
  - (c) take reasonable steps to ascertain the identity of any person who has an interest in the land, and
  - (d) take reasonable steps to notify each such person (and the Crown, if the land concerned is owned by the Crown) of Local Land Services' intention to sell the land under this Schedule.
- (1A) The time fixed for the sale must be no earlier than 3 months and no later than 6 months after the date on which an advertisement is first published in the manner determined by Local Land Services in accordance with this clause.
- (2) If, before the time fixed for the sale—
- (a) all rates and charges payable (including overdue rates and charges) and the expenses of Local Land Services incurred in connection with the proposed sale are paid to Local Land Services, or
  - (b) an arrangement satisfactory to Local Land Services for payment of all such rates, charges and expenses is entered into by the rateable person,
- Local Land Services must not proceed with the sale.

## **6 Sale of land by public auction**

- (1) Any sale of land under this Schedule must be by way of public auction, except as provided by this clause.
- (2) Land that fails to sell at public auction may be sold by private treaty.
- (3) Land must not be sold under this Schedule to the following persons—
  - (a) Local Land Services,
  - (b) a member of the Board or a local board,
  - (c) a relative of a member of the Board or a local board,
  - (d) a member of staff of Local Land Services,
  - (e) a relative of a member of staff of Local Land Services.
- (4) In this clause, a reference to a **relative** of a person is a reference to a spouse or de facto partner of the person or a grandparent, parent, son, daughter, grandchild, brother, sister, uncle, aunt, niece or nephew of the person or of the person's spouse or de facto partner.

## **7 Payment of purchase money**

The purchase money for land sold under this Schedule must be paid to Local Land Services, and the receipt of Local Land Services is a discharge to the purchaser in respect of all expenses, rates, charges and debts referred to in clause 8.

## **8 Application of purchase money**

Local Land Services must apply any purchase money received by it on the sale of land for overdue rates and charges in or towards payment of the following purposes and in the following order—

- (a) firstly, the expenses of Local Land Services incurred in connection with the sale,
- (b) secondly, any rate or charge in respect of the land due to Local Land Services, or any other rating authority, and any debt in respect of the land (being a debt of which Local Land Services has notice) due to the Crown (including any meat industry levy under the [Meat Industry Act 1978](#)) as a consequence of the sale on an equal footing.

## **9 What if the purchase money is less than the amounts owing?**

If the purchase money is insufficient to satisfy all rates, charges and debts referred to in clause 8 (b)—

- (a) the amount available is to be divided between the rates, charges and debts in proportion to the amounts owing on each, and

(b) the rates, charges and debts are taken to have been fully satisfied.

#### **10 What if the purchase money is more than the amounts owing?**

- (1) Any balance of the purchase money must be paid into the Local Land Services Fund and held by Local Land Services in trust for the persons having estates or interests in the land immediately before the sale according to their respective estates and interests.
- (2) Local Land Services may pay the balance of the purchase money or any part of the balance to or among the persons who are, in its opinion, clearly entitled to it, and the receipt of the person to whom any payment is so made is an effectual discharge to Local Land Services for it.
- (3) The *Unclaimed Money Act 1995* applies to the balance of any purchase money held by Local Land Services as if Local Land Services were a business and the money were unclaimed money within the meaning of that Act.

#### **11 Apportionment of rates on subdivided land**

- (1) This clause applies to any land on which a rate or charge is imposed and which is subsequently subdivided.
- (2) If part only of any such land is sold under this Schedule, any unpaid rates and charges in respect of the land may be apportioned by Local Land Services on the recommendation of the Valuer-General.

#### **12 Conveyance or transfer of land**

Local Land Services, on payment to it of the purchase money, may convey or transfer the land to the purchaser without any other authority than that conferred by this clause.

#### **13 Land is conveyed free of certain interests**

- (1) A conveyance or transfer under this Schedule vests the land in the purchaser for an estate in fee simple freed and discharged from all trusts, obligations, estates, interests, contracts and charges, and rates and charges under this or any other Act, but subject to—
  - (a) any reservations or conditions for the benefit of the Crown affecting the land, and
  - (b) any easements, restrictive covenants or positive public covenants created in accordance with section 88D or 88E of the *Conveyancing Act 1919* and public rights of way affecting the land.
- (2) This clause does not apply to a leasehold estate under a lease that may be transferred at law in land owned by the Crown.

#### **14 Special provisions concerning leases of land owned by the Crown**

- (1) This clause applies to a leasehold estate under a lease that may be transferred at law in land owned by the Crown.
- (2) A conveyance or transfer under this Schedule of a leasehold estate to which this clause applies vests the leasehold estate in the purchaser freed and discharged from all trusts, obligations, estates, interests, contracts and charges, and rates and charges under this or any other Act, but subject to—
  - (a) any debt payable to the Crown, and
  - (b) any liability for any breach before the conveyance or transfer of the lease, and
  - (c) the provisions of the *Crown Land Management Act 2016* applicable to the leasehold estate.

#### **15 Transfers not invalid because of procedural irregularities**

A conveyance or transfer issued by Local Land Services under this Schedule is not invalid merely because Local Land Services has failed to comply with a requirement of this Schedule with respect to the sale of the land to which the conveyance or transfer relates.

#### **16 Registration of transfer of land under *Real Property Act 1900***

- (1) On lodgment of a transfer of land under the *Real Property Act 1900*, the Registrar-General is to make such recordings in the Register kept under that Act as are necessary to give effect to this Schedule.
- (2) The transfer does not operate at law until it is registered under the *Real Property Act 1900*.

### **Schedule 5A Allowable activities clearing of native vegetation**

(Section 60Q)

#### **Part 1 Preliminary**

##### **1 Application**

- (1) This Schedule sets out the clearing of native vegetation for allowable activities that is authorised without any other approval under Part 5A of this Act in a regulated rural area (that is, an area of the State to which that Part applies that is category 2-regulated land on the native vegetation regulatory map).
- (2) Section 600 sets out other clearing that is authorised by legislative and other provisions.

**Note—**

Section 60Q provides that this Schedule does not authorise clearing or other activities without obtaining any authority required by or under, or in contravention of, other Acts (including provisions of this Act other than Part 5A).

## **2 Only landholders authorised to clear**

- (1) Clearing of native vegetation authorised by this Schedule to be carried out on a landholding may only be carried out by or on behalf of the landholder (unless this Schedule provides to the contrary).
- (2) If this Schedule authorises the clearing of native vegetation by an infrastructure owner or other person who is not the landholder, this Schedule does not authorise the entry onto land to carry out the clearing.

## **3 The allowable activity zones**

The allowable activity zones for the purposes of this Schedule are as follows—

### **(a) Coastal Zone**

The local government areas of Ballina, Bega Valley, Bellingen, Byron, Central Coast, Clarence Valley (to the east of the line that follows Summerland Way from the north, then Armidale Road until its intersection with Orara Way, then Orara Way), Coffs Harbour, Eurobodalla, Kempsey, Kiama, Lake Macquarie, Lismore, Maitland, Mid-Coast (except the former area of Gloucester), Nambucca, Port Macquarie-Hastings, Port Stephens, Richmond Valley, Shellharbour, Shoalhaven, Tweed and Wollongong.

### **(b) Central Zone**

The local government areas (except any areas or parts of an area in the Western Zone) of Albury, Armidale Regional, Balranald, Bathurst Regional, Berrigan, Bland, Blayney, Blue Mountains, Bogan, Cabonne, Carrathool, Cessnock, Clarence Valley (to the west of the line that follows Summerland Way from the north, then Armidale Road until its intersection with Orara Way, then Orara Way), Coolamon, Coonamble, Cootamundra-Gundagai Regional, Cowra, Dubbo Regional, Dungog, Edward River, Federation, Forbes, Gilgandra, Glen Innes Severn, Goulburn Mulwaree, Greater Hume, Griffith, Gunnedah, Gwydir, Hay, Hilltops, Inverell, Junee, Kyogle, Lachlan, Leeton, Lithgow, Liverpool Plains, Lockhart, Mid-Coast (but only the former area of Gloucester), Mid-Western Regional, Moree Plains, Murray River, Murrumbidgee, Muswellbrook, Narrabri, Narrandera, Narromine, Oberon, Orange, Parkes, Queanbeyan-Palerang Regional, Singleton, Snowy Monaro Regional, Snowy Valleys, Tamworth Regional, Temora, Tenterfield, Upper Hunter, Upper Lachlan, Uralla, Wagga Wagga, Walcha, Walgett, Warren, Warrumbungle, Weddin, Wingecarribee, Wollondilly and Yass Valley.

### **(c) Western Zone**

The Western Division of the State (within the meaning of the [Crown Lands Act 1989](#)).



#### **4 Definition of “small holding”**

For the purposes of this Schedule, a **small holding** is a single landholding in the same ownership that has an area of less than—

- (a) in the case of the Western Zone—40 hectares, or
- (b) in any other case—10 hectares.

#### **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.

#### **5 Measurement of maximum distances for clearing**

- (1) For the purposes of this Schedule, the maximum distance of clearing of native vegetation comprises—
  - (a) in the case of linear infrastructure—the total width of clearing that is authorised for the infrastructure, or
  - (b) in the case of fixed point infrastructure—the maximum distance of clearing that is authorised measured from the perimeter of the infrastructure.
- (2) For fixed point infrastructure, clearing of native vegetation is authorised for the area occupied by the infrastructure in addition to the authorised maximum distance of clearing from the perimeter of the infrastructure.

#### **6 No stacking of maximum distances for clearing**

- (1) The maximum distances of clearing of native vegetation authorised by this Schedule in relation to linear or fixed point infrastructure are not cumulative.
- (2) Accordingly, if the maximum distance for an item of infrastructure overlaps with the maximum distance for another item of infrastructure on the land concerned, those distances are not to be combined to form a composite distance or area. For example, if a road is situated next to a pipeline, the maximum distance of clearing is not the sum of the maximum distance for the road and the maximum distance for the pipeline.

#### **7 Clearing only to minimum extent necessary**

The clearing of native vegetation that is authorised by this Schedule for any purpose only authorises clearing to the minimum extent necessary for that purpose.

#### **8 Separate items of infrastructure to be constructed so as to reduce overall distance of**

## **clearing**

- (1) This Schedule does not authorise clearing of native vegetation in relation to an item of infrastructure constructed by a landholder on the same landholding as another item of infrastructure for which clearing is authorised by this Schedule if—
  - (a) the item of infrastructure could have been constructed closer to the other item of infrastructure so as to reduce the overall distance of clearing for both items of infrastructure to the smallest overall distance, and
  - (b) the landholder does not provide a reasonable justification for the location of the item of infrastructure constructed by the landholder.
- (2) This clause applies only if the item of infrastructure was constructed after the commencement of Part 5A of this Act.

## **9 Clearing for maximum distance that straddles different holdings**

A maximum distance of clearing authorised by this Schedule in relation to an item of infrastructure on a landholding applies even if part of the clearing within that maximum distance is carried out on an adjoining landholding.

## **10 Local Land Services may increase maximum clearing distances**

- (1) Local Land Services may, on application by a landholder, issue a certificate that increases a maximum distance specified in this Schedule in its application to the land concerned.
- (2) Local Land Services is to issue that certificate if it is satisfied that—
  - (a) the proposed increase is for a legitimate purpose associated with the management of the land concerned, and
  - (b) the increase is reasonable in the circumstances, and
  - (c) the environmental impact of the increase would only be minor,and is to refuse to issue that certificate if it is not so satisfied.
- (3) The maximum distance in its application to the land concerned is increased in accordance with that certificate while it remains in force.
- (4) Section 60Y (Certification by Local Land Services prior to clearing—general) also applies to a certificate issued under this clause.

## **11 Exclusion of land subject to remediation direction, stop work order etc**

Despite anything to the contrary in this Schedule, clearing of native vegetation is not authorised on land that is subject to an order under Part 11 (Regulatory compliance

mechanisms) of the *Biodiversity Conservation Act 2016*.

## **Part 2 Clearing for allowable activities—general**

### **Note—**

Part 4 of this Schedule sets out special provisions that apply to category 2-vulnerable regulated land and category 2-sensitive regulated land etc.

### **12 Application**

This Part sets out the clearing of native vegetation that is generally authorised on land.

### **13 Imminent risk**

Clearing of native vegetation that is reasonably necessary to remove or reduce an imminent risk of serious personal injury or damage to property.

### **14 Construction timber**

- (1) Clearing of native vegetation to obtain timber for the purpose of, and used in, the construction, operation or maintenance of rural infrastructure on the same landholding from which the native vegetation was cleared.
- (2) 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.
- (3) The native vegetation must not comprise (or be likely to comprise)—
  - (a) a threatened species or part of a threatened ecological community or the habitat of a threatened species under the *Biodiversity Conservation Act 2016*, or
  - (b) the habitat of threatened species, populations or ecological communities of fish under the *Fisheries Management Act 1994*.

This subclause does not apply to habitat that the landholder concerned does not know is habitat of the relevant kind.

- (4) The clearing of native vegetation to obtain timber for use in the construction, operation or maintenance of rural infrastructure is not authorised if timber suitable for the purpose could be obtained from any other clearing that is authorised under this Schedule or by a land management (native vegetation) code or from forestry operations authorised by a private native forestry plan.
- (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.

## **15 Collection of firewood**

- (1) Clearing native vegetation on land for the purpose of obtaining firewood for use by the landholder on that land or on other land of the landholder.
- (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.
- (2) Clearing for that purpose is not authorised if the firewood could be obtained from any other clearing authorised under this Schedule or by a land management (native vegetation) code or from forestry operations authorised by a private native forestry plan.
- (3) The native vegetation must not comprise (or be likely to comprise)—
  - (a) a threatened species or part of a threatened ecological community or the habitat of a threatened species under the *Biodiversity Conservation Act 2016*, or
  - (b) the habitat of threatened species, populations or ecological communities of fish under the *Fisheries Management Act 1994*.

This subclause does not apply to habitat that the landholder concerned does not know is habitat of the relevant kind.

- (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.

## **16 Exempt farm forestry**

- (1) Clearing of native vegetation that is exempt farm forestry within the meaning of section 6 of the *Plantations and Reafforestation Act 1999*.
- (2) This clause does not apply to land that is subject to a private native forestry plan.

## **17 Planted native vegetation**

- (1) The clearing of native vegetation that has been planted.
- (2) Clearing for that purpose is not authorised if the native vegetation was planted with the assistance of public funds granted for any purpose other than for forestry purposes.
- (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 Environment Protection Authority,

and the stocking and regeneration requirements are not met.

### **18 Traditional Aboriginal cultural activities**

Clearing native vegetation for a traditional Aboriginal cultural activity (other than a commercial cultural activity).

### **19 Environmental protection works**

- (1) Clearing native vegetation for the purpose of environmental protection works.
- (2) **Environmental protection works** means works associated with the rehabilitation of land towards its natural state or any work to protect land from environmental degradation, and includes re-vegetation or bush regeneration works, wetland protection works, erosion protection works, dune restoration works and the like, but does not include coastal protection works (within the meaning of the [Coastal Protection Act 1979](#)).
- (3) This clause does not apply to land that is subject to a private native forestry plan.

### **20 Public works**

- (1) Clearing native vegetation for the construction, operation or maintenance of infrastructure by a public or local authority in the exercise of its land management activities.
- (2) The native vegetation must not comprise (or be likely to comprise)—
  - (a) a threatened species or part of a threatened ecological community or the habitat of a threatened species under the [Biodiversity Conservation Act 2016](#), or
  - (b) the habitat of threatened species, populations or ecological communities of fish under the [Fisheries Management Act 1994](#).
- (3) For the purposes of this clause, **infrastructure** includes cemeteries.

### **21 Gravel pits**

- (1) Clearing native vegetation for the construction, operation or maintenance of gravel pits.
- (2) The clearing of native vegetation for gravel pits is authorised only if—
  - (a) the clearing is carried out by or on behalf of a local council, and
  - (b) the clearing is, in the case of each gravel pit, limited to a single area of land of no more than—

- (i) in relation to the construction, operation or maintenance of gravel pits in the Western Zone—5 hectares, and
- (ii) in relation to the construction, operation or maintenance of gravel pits (other than in the Western Zone)—2 hectares, and
- (c) the native vegetation must not comprise (or be likely to comprise)—
  - (i) a threatened species or threatened ecological community or the habitat of a threatened species under the *Biodiversity Conservation Act 2016*, or
  - (ii) a protected plant under the *Biodiversity Conservation Act 2016*, or
  - (iii) habitat of threatened species, populations or ecological communities of fish under the *Fisheries Management Act 1994*, and
- (d) the clearing is carried out in a way that does not harm any animal that is (or is part of) a threatened species or threatened ecological community under the *Biodiversity Conservation Act 2016* or that is a protected animal under that Act, and
- (e) the clearing is carried out in conjunction with a restoration program or other arrangements that will ensure the restoration of native vegetation on the cleared land of the same or a similar species as the native vegetation cleared and to the same or a similar extent as existed on the cleared land.

## **22 Telecommunications infrastructure**

- (1) Clearing native vegetation for the construction, operation or maintenance of telecommunications infrastructure.
- (2) The clearing is authorised if carried out by or on behalf of the owner of the infrastructure (in addition to by or on behalf of the landholder).

## **23 Private power lines**

Clearing native vegetation that is reasonably necessary for the construction, operation or maintenance of privately owned power lines on private land.

## **24 Electricity transmission infrastructure**

- (1) Clearing native vegetation for the maintenance of public utilities associated with the transmission of electricity.
- (2) The maintenance of those public utilities includes the following activities but only when those activities are being undertaken by or at the written direction of the body in which the public utility concerned is vested or that has the responsibility for that public utility's safe operation—

- (a) maintaining the necessary safety clearances under power lines (conductors and structures) and around communication sites associated with the supply of electricity,
  - (b) minimising fuel loads under power lines to minimise the chance of smoke from a fire resulting in a line trip,
  - (c) maintaining existing access roads and tracks.
- (3) The maintenance of those public utilities does not include any of the following activities—
- (a) construction of new access roads or tracks,
  - (b) removal of low growing groundcover,
  - (c) maintaining safety clearances from power lines that exceed either of the following—
    - (i) the maximum distance set out in the following table—

<b>Nominal operating voltage of power line</b>	<b>Maximum clearing distance</b>
Not more than 11 kV	20 metres
Above 11 kV up to and including 33 kV	25 metres
Above 33 kV up to and including 66 kV	30 metres
Above 66 kV up to and including 132 kV	45 metres
Above 132 kV up to and including 330 kV	60 metres
Above 330 kV	70 metres

- (ii) the minimum distance that will ensure reliability of supply under all loading and environmental conditions and minimise the risk of arcing.

## **25 Sustainable grazing**

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

## **25A Mulga species used for stock fodder on landholding**

- (1) Clearing native vegetation (comprising mulga) for the purpose of obtaining fodder for stock on the same landholding from which the native vegetation is cleared.

- (2) Clearing for that purpose is not authorised—
  - (a) on a small holding, or
  - (b) on land in the Coastal Zone, or
  - (c) on category 2-vulnerable regulated land, or
  - (d) within 20 metres of an estuary, wetland or incised watercourse.
- (3) Clearing for that purpose is authorised only if—
  - (a) the clearing does not exceed 50% of the total area of mulga on the landholding in any period of 10 years, and
  - (b) the cleared mulga remains on the ground where it is cleared or is windrowed along a contour on the landholding, and
  - (c) the clearing does not result in remaining mulga plants being over 20 metres apart, and
  - (d) the clearing does not cause land degradation or the introduction of non-native vegetation.

- (4) In this clause—

**mulga** means the species of plant *Acacia aneura*.

## **26 Airstrips**

- (1) Clearing of native vegetation for the construction, operation or maintenance of an airstrip.
- (2) The clearing is limited to the minimum clearing required to meet civil aviation standards for airstrips.

## **27 Firebreaks**

Clearing of native vegetation for a firebreak in the Western Zone to a maximum distance of 100 metres where the native vegetation predominantly comprises mallee species.

## **27A Water supply and gas supply infrastructure**

- (1) Clearing native vegetation for the maintenance of public utilities associated with water supply infrastructure and gas supply infrastructure.
- (2) The clearing is authorised if carried out by or on behalf of the owner of the infrastructure or by or on behalf of the landholder.



## Part 3 Clearing for rural infrastructure

### Note—

Part 4 of this Schedule sets out special provisions that apply to category 2-vulnerable regulated land and category 2-sensitive regulated land etc.

### 28 Application

This Part sets out the clearing of native vegetation that is authorised on land for rural infrastructure to which this Part applies.

### 29 Definition of “rural infrastructure”

(1) For the purposes of this Schedule—

- (a) **infrastructure** is a building, structure or work, and
- (b) **rural infrastructure** is infrastructure of a kind referred to in this clause that is used for the purposes of, or in connection with, an activity that is being carried out in a regulated rural area or other area of the State to which Part 5A of this Act applies, but only if the activity may be carried out without development consent or State significant infrastructure approval under the [Environmental Planning and Assessment Act 1979](#).

(2) In the Western and Central Zones (other than on small holdings), infrastructure includes (but is not limited to) the following—

- (a) fences, roads, tracks, irrigation channels or pipelines, stock or domestic water supply pipelines, soil conservation earthworks, cut lines for stock movement, bore drains, drains to water storages, telephone lines or cables, power lines or cables or areas for movement of large machinery,
- (b) shearing, machinery, grain, hay or similar sheds, stock handling facilities, dams, ground tanks, windmills, bores, pumps, tanks or water points.

The infrastructure is limited to stationary infrastructure, and does not include any moveable component of infrastructure that extends the area of operation of the infrastructure when it is used.

(3) In the Coastal Zone (other than on small holdings), infrastructure is limited to the following—

- (a) permanent boundary fences, permanent internal fences, roads, tracks or pipelines,
- (b) shearing or machinery sheds, tanks, dams, stockyards, bores, pumps, water points or windmills.

(4) On small holdings in any Zone, infrastructure is limited to the following—

- (a) permanent boundary fences, permanent internal fences, roads, tracks or pipelines,
  - (b) windmills, bores, stockyards, buildings other than habitable buildings, dams, pumps, tanks or water points.
- (5) Local Land Services may, on application by a landholder in the Coastal Zone or of a small holding, issue a certificate that infrastructure on the land concerned includes any additional infrastructure specified in the certificate. While the certificate remains in force, this clause has effect as if the additional infrastructure concerned was infrastructure in relation to the land concerned.
- (6) Local Land Services is to issue that certificate if it is satisfied that the additional infrastructure is required by the landholder for a genuine agricultural activity purpose, and is to refuse to issue that certificate if it is not so satisfied.
- (7) Section 60Y (Certification by Local Land Services prior to clearing—general) also applies to a certificate issued under this clause.

### **30 Clearing for construction, operation or maintenance of rural infrastructure allowable**

The clearing of native vegetation for the construction, operation or maintenance of rural infrastructure on land if—

- (a) the infrastructure is rural infrastructure in the relevant Zone or holding in which it is located, and
- (b) the clearing does not exceed the maximum distance of clearing authorised by this Part in relation to the rural infrastructure.

### **31 Maximum authorised clearing for rural infrastructure**

The maximum distance of clearing for rural infrastructure that is authorised by this Part is as follows—

- (a) in the Western Zone (except on small holdings and for temporary fences)—40 metres,
- (b) in the Central Zone (except on small holdings and for temporary fences)—30 metres,
- (c) in the Coastal Zone (except on small holdings and for temporary fences)—15 metres,
- (d) on a small holding or for temporary fences (in any Zone)—12 metres.

### **32 Landholders of large holdings may be authorised to use allowable activities rules applicable to adjoining zones**

- (1) Local Land Services may, on application by a landholder, issue a certificate that the applicable maximum distances of authorised clearing under this Part for a landholding (other than a small holding) are the maximum distances for an adjoining allowable

activity zone.

- (2) Local Land Services is to issue that certificate if it is satisfied that the landholding displays landscape characteristics consistent with the adjoining zone, and is to refuse to issue that certificate if it is not so satisfied.
- (3) While the certificate remains in force, this Part has effect as if the land concerned was situated in the adjoining zone.
- (4) Section 60Y (Certification by Local Land Services prior to clearing—general) also applies to a certificate issued under this clause.

### **33 Stockyards**

Clearing for stockyards is not authorised by this Part if the stockyard can reasonably be placed on another part of the landholding that does not require the clearing of native vegetation or that is category 1-exempt land.

## **Part 4 Special provisions applying to category 2-vulnerable regulated land and category 2-sensitive regulated land etc**

### **34 Application**

- (1) This Part sets out—
  - (a) the only clearing of native vegetation (and of dead and non-native vegetation) that is authorised on category 2-vulnerable regulated land, and
  - (b) the only clearing of native vegetation that is authorised on category 2-sensitive regulated land and other land on which the clearing of native vegetation is excluded by the regulations under section 60S (2) of the Act from the clearing authorised by a land management (native vegetation) code, and
  - (c) the only clearing of native vegetation that is authorised on category 2-regulated land (other than land that is category 2-sensitive regulated land) that contains either of the following critically endangered ecological communities under the [Biodiversity Conservation Act 2016](#)—
    - (i) Monaro Tableland Cool Temperate Grassy Woodland in the South Eastern Highlands Bioregion,
    - (ii) Werriwa Tablelands Cool Temperate Grassy Woodland in the South Eastern Highlands and South East Corner Bioregions.

#### **Note—**

Dead and non-native vegetation on category 2-vulnerable regulated land is taken to be native vegetation by the operation of section 60B (3) of the Act. Clause 124 of the [Local Land Services Regulation 2014](#) excludes category 2-sensitive regulated land and certain other land from clearing authorised by a code.

- (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, or
  - (d) land that is subject to a private native forestry plan and designated as category 2-regulated land (other than land that is designated as category 2-sensitive regulated land) that contains either of the critically endangered ecological communities referred to in subclause (1) (c).

### **35 Clearing that is authorised**

- (1) The clearing of native vegetation for allowable activities under the other Parts of this Schedule does not apply to the clearing of native vegetation—
- (a) on category 2-vulnerable regulated land, or
  - (b) that is excluded by the regulations under section 60S (2) of the Act from the clearing authorised by a land management (native vegetation) code, or
  - (c) on category 2-regulated land (other than land that is category 2-sensitive regulated land) that contains either of the critically endangered ecological communities referred to in clause 34 (1) (c),

and the clearing authorised by this clause applies instead.

- (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, or

- (d) land that is subject to a private native forestry plan and designated as category 2-regulated land (other than land that is designated as category 2-sensitive regulated land) that contains either of the critically endangered ecological communities referred to in clause 34 (1) (c).

- (2) **Imminent risk** Clearing of native vegetation that is reasonably necessary to remove or reduce an imminent risk of serious personal injury or damage to property.
- (3) **Environmental protection works** Clearing native vegetation for the purpose of environmental protection works, except on land that is subject to a private native forestry plan.

**Environmental protection works** means works associated with the rehabilitation of land towards its natural state or any work to protect land from environmental degradation, and includes re-vegetation or bush regeneration works, wetland protection works, erosion protection works, dune restoration works and the like, but does not include coastal protection works (within the meaning of the [Coastal Protection Act 1979](#)).

- (4) **Electricity transmission infrastructure** The clearing of native vegetation for the maintenance of public utilities associated with the transmission of electricity.

The maintenance of those public utilities includes the following activities, but only when those activities are being undertaken by or at the written direction of the body in which the public utility concerned is vested or that has the responsibility for that public utility's safe operation—

- (a) maintaining the necessary safety clearances under power lines (conductors and structures) and around communication sites associated with the supply of electricity,
- (b) minimising fuel loads under power lines to minimise the chance of smoke from a fire resulting in a line trip,
- (c) maintaining existing access roads and tracks.

The maintenance of those public utilities does not include any of the following activities—

- (a) construction of new access roads or tracks,
- (b) removal of low growing groundcover,

(c) maintaining safety clearances from power lines that exceed either of the following—

(i) the maximum distance set out in the following table—

<b>Nominal operating voltage of power line</b>	<b>Maximum clearing distance</b>
Not more than 11 kV	20 metres
Above 11 kV up to and including 33 kV	25 metres
Above 33 kV up to and including 66 kV	30 metres
Above 66 kV up to and including 132 kV	45 metres
Above 132 kV up to and including 330 kV	60 metres
Above 330 kV	70 metres

(ii) the minimum distance that will ensure reliability of supply under all loading and environmental conditions and minimise the risk of arcing.

- (5) **Permanent boundary fence** The clearing of native vegetation for the construction or maintenance of boundary fencing, with a maximum distance of clearing for the purposes of a boundary fence not exceeding 6 metres.
- (6) **Permanent internal or temporary fence** The clearing of native vegetation for the construction or maintenance of fencing (other than boundary fencing) to improve the management of the land, with a maximum distance of clearing for the purposes of a fence not exceeding 6 metres and only for fencing that is reasonably required to be constructed on the land.
- (7) **Farm access track** The clearing of native vegetation for the construction or maintenance of farm tracks, with a total width of clearing not exceeding 6 metres and only if—
- (a) the track is reasonably required to access sites within or on the other side of the land, and
  - (b) the route of the track minimises the clearing that is required to be undertaken on the land.
- (8) **Sustainable grazing** Clearing of native vegetation during the course of sustainable grazing.

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

(9) **Collection of firewood** Clearing native vegetation on land for the purpose of obtaining firewood for use by the landholder on that land or on other land of the landholder, in accordance with clause 15, but not within a buffer distance from a water body as set out in the *Land Management (Native Vegetation) Code 2018* as in force on the commencement of this subclause.

(10) **Planted native vegetation** The clearing, in accordance with clause 17, of native vegetation that has been planted, but not within a buffer distance from a water body as set out in the *Land Management (Native Vegetation) Code 2018* as in force on the commencement of this subclause.

(11) **Water supply and gas supply infrastructure** Clearing native vegetation for the maintenance of public utilities associated with water supply infrastructure and gas supply infrastructure.

The clearing is authorised if carried out by or on behalf of the owner of the infrastructure or by or on behalf of the landholder.

(12) **Telecommunications infrastructure** Clearing native vegetation for the maintenance of telecommunications infrastructure.

The clearing is authorised if carried out by or on behalf of the owner of the infrastructure or by or on behalf of the landholder.

### **36 Limitation on clearing under this Part in relation to soil erosion**

The clearing of native vegetation that is authorised by this Part authorises only clearing that achieves the purpose of the clearing in a manner that minimises the risk of soil erosion.

## **Part 5**

### **37-39 (Repealed)**

## **Schedule 5B Provisions relating to members and procedure of the Panel**

(Section 60ZE)

### **Part 1 Preliminary**

#### **1 Definitions**

In this Schedule—

**member** means the chairperson or other member of the Panel.

**Panel** means the Native Vegetation Panel established under section 60ZE.

## **Part 2 Provisions relating to members of Panel**

### **2 Terms of office of members**

- (1) A member of the Panel holds office, subject to this Act and the regulations, for such period (not exceeding 3 years) as is specified in the member's instrument of appointment.
- (2) A member is eligible (if otherwise qualified) for re-appointment.

### **3 Part-time office**

The office of a member is a part-time office.

### **4 Remuneration of members**

A member is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of the member.

### **5 Alternate members**

- (1) The Minister may, from time to time, appoint a person to be the alternate of a member, and may revoke any such appointment.
- (2) In the absence of a member, the member's alternate may, if available, act in the place of the member.
- (3) While acting in the place of a member, a person has all the functions of the member and is taken to be a member.
- (4) A person while acting in the place of a member is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of the person.
- (5) The alternate of a member who is the chairperson has the member's functions as chairperson.

### **6 Removal from office of members**

- (1) The Minister may remove a member from office at any time for any reason and without notice. However, the Minister must provide a written statement of the reasons for removing the member from office and make the statement publicly available.
- (2) The Minister may remove a member from office if the Independent Commission Against Corruption, in a report referred to in section 74C of the [Independent Commission Against Corruption Act 1988](#), recommends that consideration be given to the removal of the member from office because of corrupt conduct by the member.



## **7 Vacancy in office of member**

- (1) The office of a member becomes vacant if the member—
  - (a) dies, or
  - (b) completes a term of office and is not re-appointed, or
  - (c) resigns the office by instrument in writing addressed to the Minister, or
  - (d) is removed from office under this or any other Act, or
  - (e) is absent from 3 consecutive meetings of the Panel of which reasonable notice has been given to the member, except on leave granted by the Panel or unless the member is excused by the Panel for having been absent from those meetings, or
  - (f) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit, or
  - (g) becomes a mentally incapacitated person, or
  - (h) is convicted in New South Wales of an offence that is punishable by imprisonment for 12 months or more or is convicted elsewhere than in New South Wales of an offence that, if committed in New South Wales, would be an offence so punishable.
- (2) If the office of a member becomes vacant, a person may, subject to this Act and the regulations, be appointed to fill the vacancy.

## **8 Effect of certain other Acts**

- (1) The provisions of the [Government Sector Employment Act 2013](#) relating to the employment of Public Service employees do not apply to the appointment or office of a member.
- (2) If by or under any Act provision is made—
  - (a) requiring a person who is the holder of a specified office to devote the whole of his or her time to the duties of that office, or
  - (b) prohibiting the person from engaging in employment outside the duties of that office,

the provision does not operate to disqualify the person from holding that office and also the office of a member or from accepting and retaining any remuneration payable to the person under this Schedule as a member.

## **Part 3 Provisions relating to procedure of Panel**

### **9 General procedure**

The procedure for the calling of meetings of the Panel and for the conduct of business at those meetings is, subject to this Act and the regulations, to be as determined by the Panel.

### **10 Quorum**

The quorum for a meeting of the Panel is 3 members.

### **11 Presiding member**

- (1) The chairperson is to preside at a meeting of the Panel.
- (2) The chairperson has a deliberative vote and, in the event of an equality of votes, has a second or casting vote.

### **12 Voting**

A decision supported by a majority of the votes cast at a meeting of the Panel at which a quorum is present is the decision of the Panel.

### **13 Transaction of business outside meetings or by telephone etc**

- (1) The Panel may, if it thinks fit, transact any of its business by the circulation of papers among all the members of the Panel for the time being, and a resolution in writing approved in writing by a majority of those members is taken to be a decision of the Panel.
- (2) The Panel may, if it thinks fit, transact any of its business at a meeting at which members (or some members) participate by telephone, closed-circuit television or other means, but only if any member who speaks on a matter before the meeting can be heard by the other members.
- (3) For the purposes of—
  - (a) the approval of a resolution under subclause (1), or
  - (b) a meeting held in accordance with subclause (2),the chairperson and each member of the Panel have the same voting rights as they have at an ordinary meeting of the Panel.
- (4) A resolution approved under subclause (1) is to be recorded in the minutes of the meetings of the Panel.
- (5) Papers may be circulated among the members for the purposes of subclause (1) by electronic transmission of the information in the papers concerned.

#### **14 Disclosure of pecuniary interests**

(1) If—

- (a) a member has a pecuniary interest in a matter being considered or about to be considered at a meeting of the Panel, and
- (b) the interest appears to raise a conflict with the proper performance of the member's duties in relation to the consideration of the matter,

the member must, as soon as possible after the relevant facts have come to the member's knowledge, disclose the nature of the interest at a meeting of the Panel.

(2) A member has a pecuniary interest in a matter if the pecuniary interest is the interest of—

- (a) the member, or
- (b) the member's spouse or de facto partner or a relative of the member, or a partner or employer of the member, or
- (c) a company or other body of which the member, or a nominee, partner or employer of the member, is a member.

(3) However, a member is not taken to have a pecuniary interest in a matter as referred to in subclause (2) (b) or (c)—

- (a) if the member is unaware of the relevant pecuniary interest of the spouse, de facto partner, relative, partner, employer or company or other body, or
- (b) just because the member is a member of, or is employed by, a council or a statutory body or is employed by the Crown, or
- (c) just because the member is a member of a company or other body that has a pecuniary interest in the matter, so long as the member has no beneficial interest in any shares of the company or body.

(4) A disclosure by a member at a meeting of the Panel that the member, or a spouse, de facto partner, relative, partner or employer of the member—

- (a) is a member, or is in the employment, of a specified company or other body, or
- (b) is a partner, or is in the employment, of a specified person, or
- (c) has some other specified interest relating to a specified company or other body or to a specified person,

is a sufficient disclosure of the nature of the interest in any matter relating to that company or other body or to that person which may arise after the date of the

disclosure and which is required to be disclosed under subclause (1).

- (5) Particulars of any disclosure made under this clause must be recorded by the Panel and that record must be open at all reasonable hours to inspection by any person.
- (6) After a member has disclosed the nature of an interest in any matter, the member must not, unless the Minister or the Panel otherwise determines—
  - (a) be present during any deliberation of the Panel with respect to the matter, or
  - (b) take part in any decision of the Panel with respect to the matter.
- (7) For the purposes of the making of a determination by the Panel under subclause (6), a member who has a direct or indirect pecuniary interest in a matter to which the disclosure relates must not—
  - (a) be present during any deliberation of the Panel for the purpose of making the determination, or
  - (b) take part in the making by the Panel of the determination.
- (8) A contravention of this clause does not invalidate any decision of the Panel.

#### **15 Provision of information by Panel**

The Panel must provide the Minister with such information and reports as the Minister may, from time to time, request.

#### **16 Exclusion of personal liability**

- (1) A matter or thing done, or omitted to be done, by—
  - (a) the Panel, or
  - (b) a member of the Panel, or
  - (c) any individual acting under the direction of the Panel or a member of the Panel,does not subject any such member or individual so acting personally to any action, liability, claim or demand if the matter or thing was done, or omitted to be done, in good faith for the purpose of the exercise of the functions of the Panel.
- (2) However, any such liability attaches instead to the Crown.

## Schedule 6 Savings, transitional and other provisions

### Part 1 General

#### 1 Regulations

- (1) The regulations may contain provisions of a savings or transitional nature consequent on the enactment of this Act or any Act that amends this Act.
- (2) Any such provision may, if the regulations so provide, take effect from the date of assent to the Act concerned or a later date.
- (3) To the extent to which any such provision takes effect from a date that is earlier than the date of its publication on the NSW legislation website, the provision does not operate so as—
  - (a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of its publication, or
  - (b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of its publication.
- (4) Regulations under this clause may have effect despite any provision of this Schedule.

### Part 2 Provisions consequent on enactment of this Act

#### 2 Definitions

In this Part—

**former Act** means the former RLP Act or the former CMA Act.

**former CMA Act** means the *Catchment Management Authorities Act 2003* as in force immediately before its repeal by this Act.

**former RLP Act** means the *Rural Lands Protection Act 1998* as in force immediately before its repeal by this Act.

**repeal date** means the date on which the former RLP Act and the former CMA Act are repealed by this Act.

#### 3 Local Land Services Regulation 2014

- (1) Schedule 9 sets out the terms of the *Local Land Services Regulation 2014*.
- (2) On and from the commencement of this clause—
  - (a) Schedule 9 is taken to be, and to have effect as, a regulation under this Act, and

- (b) the regulation set out in Schedule 9 is taken, for the purposes of section 10 of the *Subordinate Legislation Act 1989*, to have been published on the commencement of this clause, and
- (c) sections 39, 40 and 41 of the *Interpretation Act 1987* do not apply to the regulation set out in Schedule 9 (but apply to any amendment or repeal of the regulation).

(3) Schedule 9 is repealed on the day following the day on which this clause commences.

**Note—**

The continued effect of the regulation set out in Schedule 9 is unaffected by the repeal of Schedule 9. See section 30 of the *Interpretation Act 1987*.

#### **4 Abolition of former corporate and statutory bodies**

(1) On the repeal date—

- (a) each former corporate or statutory body is abolished, and
- (b) each person appointed as a member of the former corporate or statutory body ceases to hold office as such a member (but is eligible, if otherwise qualified, to be appointed as a member of a local board), and
- (c) any assets, rights and liabilities (if any) of the former corporate or statutory body become the assets, rights and liabilities of Local Land Services.

(2) A person who ceases to hold office as a member of the former corporate or statutory body is not entitled to any remuneration or compensation because of the loss of that office.

(3) In this clause—

**assets** means any legal or equitable estate or interest (whether present or future and whether vested or contingent and whether personal or assignable) in real or personal property of any description (including money), and includes securities, choses in action and documents.

**former corporate or statutory body** means the following bodies as constituted under the former RLP Act or the former CMA Act—

- (a) the State Management Council of Livestock Health and Pest Authorities,
- (b) the State Policy Council of Livestock Health and Pest Authorities,
- (c) each livestock health and pest authority,
- (d) each catchment management authority.

**liabilities** means all liabilities, debts and obligations (whether present or future and

whether vested or contingent and whether personal or assignable).

**rights** means all rights, powers, privileges and immunities (whether present or future and whether vested or contingent and whether personal or assignable).

## 5 Interim boards

- (1) Pending the commencement of section 27 (Local boards) on 1 January 2014, there is to be a local board for each region (the **interim local board**) to carry out such functions in relation to the administration of this Act as may be determined by the Minister. An interim local board is to consist of 4 members (or, for the Western Region, 5 members) appointed by the Minister.
- (2) The members of an interim local board are to be persons who together have, in the opinion of the Minister, appropriate skills and knowledge.
- (3) Of the members of an interim local board appointed by the Minister, one is, in and by the instrument of appointment or another instrument made by the Minister, to be appointed as chair of the interim local board.
- (4) A member of an interim local board for a region holds office until 1 January 2014 and is eligible (if otherwise qualified) to be appointed or elected as a member of the local board for the region constituted after the commencement of section 27.
- (5) The Minister may call the first meeting of an interim local board in such manner as the Minister thinks fit.
- (6) Pending the commencement of section 25 (Establishment of Board of Chairs) on 1 January 2014, there is to be a Board of Chairs (the **interim Board of Chairs**) consisting of—
  - (a) the Chair of the Board of Chairs appointed under Chapter 1A of the *Public Sector Employment and Management Act 2002*, and
  - (b) the chair of each interim local board.
- (7) The interim Board of Chairs is to carry out such functions in relation to the administration of this Act as may be determined by the Minister.
- (8) Despite clause 2 of Schedule 2 to this Act, the Minister may appoint a person as a member of the first local board for a region constituted after the commencement of this Act for a period (not exceeding 4½ years) specified in the instrument of appointment of the person.
- (9) Schedule 2 (other than clause 2) to this Act applies to and in respect of the members of an interim local board and the interim Board of Chairs in the same way as it will apply to the members, a local board and the Board on or after 1 January 2014.

- (10) Despite section 27 (7), the chair of each interim local board is (subject to subclause (4)) to be appointed as chair of the first local board for a region constituted after the commencement of this Act.
- (11) Any act or proceeding of the Board of Chairs or a local board (or the interim Board of Chairs or an interim local board) is not to be called into question merely because of any vacancies in the membership of the Board of Chairs or local board (or the interim Board of Chairs or the interim local board) pending the appointment or election of its members in accordance with this Act and the regulations.

## **6 Staff**

Without limiting section 26 of the *Interpretation Act 1987*, a State industrial instrument or other agreement may be entered into before the commencement of Part 2 of this Act with respect to—

- (a) the transfer of staff of livestock health and pest authorities under the former RLP Act and catchment management authorities under the former CMA Act on the commencement of that Part to Local Land Services, and
- (b) the terms and conditions of employment applicable to those persons.

## **7 Rates, catchment contributions and other amounts outstanding under former Acts to remain payable**

- (1) The amount of any catchment contribution, rate, fee or charge that has been levied or imposed under a provision of a former Act and has not been paid when that provision is repealed by this Act is payable and recoverable by Local Land Services as if that provision had not been repealed.
- (2) An amount referred to in this clause that, by virtue of a provision of a former Act, was secured by a charge and that could, if it had first become due and payable under this Act, have been secured by a charge by virtue of a provision of this Act continues to be secured under the provisions of this Act.

## **8 State Council's Fund and funds of livestock health and pest authorities and catchment management authorities**

- (1) On the repeal date—
- (a) the State Council's Fund established under section 30 of the former RLP Act is abolished, and
- (b) any balance standing to the credit of that Fund is transferred to the Local Land Services Fund and may be used for any purpose for which Local Land Services may expend money from the Fund under this Act.
- (2) On the repeal date—



- (a) the funds established under section 50 of the former RLP Act are abolished, and
  - (b) any balance standing to the credit of those funds is transferred to the Local Land Services Fund and may be used for any purpose for which Local Land Services may expend money from that Fund under this Act.
- (3) On the repeal date—
- (a) the funds established under section 30 of the former CMA Act are abolished, and
  - (b) any balance standing to the credit of those funds is transferred to the Local Land Services Fund and may be used for any purpose for which Local Land Services may expend money from that Fund under this Act.

### **9 Assessment of carrying capacity under former RLP Act to continue to have effect**

The last assessment of the carrying capacity of land made under the former RLP Act before the commencement of clause 16 of the [Local Land Services Regulation 2014](#) continues to have effect in respect of the land until superseded by an assessment of the notional carrying capacity of the land made in accordance with that clause.

### **10 Catchment action plans and local strategic plans**

A catchment action plan in force under the former CMA Act before the repeal date continues to have effect in respect of natural resource management (within the meaning of the former CMA Act) of the land to which it applied immediately before the repeal date until superseded by a local strategic plan containing provisions with respect to natural resource management (within the meaning of this Act) of the land is made in accordance with this Act.

### **11 Authorised officers**

- (1) On the repeal date, a person who was an authorised officer for the purposes of a provision of the former RLP Act that corresponds to a provision of this Act is taken to be an authorised officer for the purposes of a corresponding provision of this Act.
- (2) The authority of such an authorised officer is subject to the same conditions, limitations or restrictions as the authority was subject to under the former RLP Act.

### **12 Existing travelling stock reserves and stock watering places**

- (1) On the repeal date, Local Land Services is taken to be vested with the care, control and management of each travelling stock reserve the care, control and management of which was vested in an authority under Part 8 of the former RLP Act.
- (2) Land that, immediately before the repeal date, was a stock watering place under Part 9 of the former RLP Act is taken to have been declared to be a stock watering place under this Act.

### **13 Existing permits relating to stock**

Any stock permit or reserve use permit issued under Part 8 of the former RLP Act (an **original authority**) that, immediately before the repeal date, entitled or authorised a person to enter, remain on, occupy, use or engage in any activity in a travelling stock reserve or public road is taken to be a stock permit or reserve use permit (as the case requires) issued under this Act authorising that person to do that thing subject to any conditions to which the original authority was subject.

### **14 Right of way conditions and directions to make improvements**

Any right of way condition imposed, or direction to make improvements given, under section 98 of the former RLP Act immediately before the repeal date is taken to have been imposed or given under section 75 of this Act.

### **15 Fencing notices**

Any fencing notice given under Division 6 of Part 8 of the former RLP Act having effect immediately before the repeal date is taken to have been given under Division 6 of Part 6 of this Act.

### **16 Stock Transportation Accreditation Committee**

On the repeal date, the Stock Transportation Accreditation Committee as constituted under section 140H of the former RLP Act immediately before that date is taken to have been constituted under section 125 of this Act.

### **17 Notices served under former Acts**

If—

- (a) a notice or notification has been given or served under a provision of a former Act, and
- (b) a similar notice or notification could have been served under a corresponding provision of this Act had this Act been in force at the relevant time, and
- (c) either the period within which the notice or notification was due to take effect had not expired when that corresponding provision commenced or, if it had expired, the notice or notification had not been complied with,

the notice or notification is to be treated as if it were a notice or notification served under that corresponding provision.

### **18 Documents prepared for the purposes of former Acts**

If—

- (a) a certificate or other document prepared or created under or for the purposes of a

provision of a former Act was in force immediately before the repeal of that provision by this Act, and

- (b) a similar certificate or document could be prepared or created under or for the purposes of a corresponding provision of this Act,

that certificate or document continues to have effect as if it had been prepared or created under or for the purposes of that corresponding provision.

## **19 Noxious insects, noxious animals and pest animals**

- (1) In this clause—

**former pest** means—

- (a) any animal or bird of a species that, immediately before the commencement of clause 27 of Schedule 7 to the former RLP Act, was a noxious animal within the meaning of the [Rural Lands Protection Act 1989](#), and
- (b) any insect of any species that, immediately before the commencement of clause 27 of Schedule 7 to the former RLP Act, was a noxious insect within the meaning of the [Rural Lands Protection Act 1989](#), and
- (c) any animal or bird of a species that, immediately before the commencement of clause 27 of Schedule 7 to the former RLP Act, was the subject of a control order made under section 138D of the [Rural Lands Protection Act 1989](#).
- (2) The Minister may make a pest control order under Part 10 of this Act that declares a former pest (or only such species, hybrid or description of such a pest as is specified in the order) to be a pest within the meaning of this Act without complying with the requirements of sections 133 and 134. Such a pest control order is taken to be made in accordance with Division 2 of Part 10.
- (3) Nothing in this clause limits section 26 of the [Interpretation Act 1987](#).

## **Part 3 Provisions relating to enactment of [Biosecurity Act 2015](#)**

### **20 Definition**

In this Part—

**relevant instrument** means any order, approval, warrant, delegation or other instrument made, given, granted or issued under a repealed provision.

**repealed provision** means a provision of this Act repealed by the [Biosecurity Act 2015](#).

### **21 Continuation of instruments and powers under repealed provisions**

- (1) This Act, as in force immediately before its amendment by the [Biosecurity Act 2015](#),

continues to have effect in respect of—

- (a) any relevant instrument in force immediately before the repeal of a repealed provision, and
- (b) anything done (before or after the repeal of a repealed provision) under or in connection with such a relevant instrument.

(2) A relevant instrument—

- (a) continues to have effect (despite the amendments made by the *Biosecurity Act 2015*), and
- (b) may be withdrawn, varied, revoked or cancelled in accordance with this Act (as if those amendments had not been made), and
- (c) ceases to have effect as provided for by this Act, as in force immediately before those amendments were made, or as provided for by this clause (whichever happens first).

- (3) Accordingly, any function conferred on any person under a repealed provision in connection with a relevant instrument (including a power to give directions or to seize or destroy any thing) may continue to be exercised after the repeal of the repealed provision as if that provision remained in force.
- (4) The Secretary of Regional NSW may, by order in writing, declare that a relevant instrument is a superseded instrument.
- (5) A relevant instrument that is declared to be a superseded instrument ceases to have effect when the order takes effect.

## **22 Continuation of regulations**

- (1) Any regulations made under or relating to a repealed provision, as in force immediately before the repeal of the repealed provision, are taken to continue to have effect in relation to the relevant instruments and anything done under or in connection with the relevant instruments.
- (2) The power to make regulations conferred by Part 1 of this Schedule includes power to amend or revoke any regulation that is taken to continue to have effect under this clause.

## **23 Obligations under repealed provisions continue to apply**

- (1) If a repealed provision continues to have effect, any liability or obligation imposed on a person by, under or in connection with a contravention of, that provision also continues to have effect.
- (2) Accordingly, a person may incur liability for an offence under a repealed provision

after the repeal of the repealed provision.

- (3) However, a person cannot be found guilty of both an offence against this Act and an offence against the *Biosecurity Act 2015* in respect of the same act or omission occurring on the same occasion.

#### **24 General saving**

Except as expressly provided for by this Act or the regulations under this Schedule, the amendment of any Act or any regulation by the *Biosecurity Act 2015* does not affect the continued operation of that Act or regulation—

- (a) in respect of a relevant instrument or anything done under or in connection with a relevant instrument, or
- (b) in respect of any appeals or other proceedings arising under or in connection with a repealed provision.

### **Part 4 Provision consequent on enactment of *Local Land Services Amendment Act 2017***

#### **25 Repeal of Part 10**

Schedules 3 and 5, as in force immediately before the repeal of Part 10 by the *Local Land Services Amendment Act 2017*, continue to apply to compliance notices given, and charges imposed, under that Part before that repeal.

### **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.

## Schedules 7-9 (Repealed)

### Dictionary

In this Act—

**administrator** means an administrator appointed under Part 13.

**animal** includes aquatic and terrestrial animals.

**annual return** means a return lodged or required to be lodged with Local Land Services under section 58.

**approved form** means—

- (a) the form prescribed by the regulations for the purposes of the provision in relation to which the expression is used, or
- (b) if no such form is prescribed, the form (if any) approved by Local Land Services for the purposes of the provision in relation to which the expression is used.

**authorised officer** means a person authorised as an authorised officer under section 167.

**authorising authority** means—

- (a) in relation to an authorised officer appointed by Local Land Services—Local Land Services, or
- (b) in relation to an authorised officer appointed by the Minister—the Minister, or
- (c) in relation to an authorised officer appointed by the Secretary—the Secretary.

**biosecurity** means the protection of the economy, environment and community from the negative impact of pests, diseases and weeds.

**Board** means the Local Land Services Board established by section 25.

**cattle** means a bull, cow, ox, heifer, steer, calf or buffalo.

**Chair** means the Chair of the Local Land Services Board.

**Chief Executive Officer** means the person employed in the Public Service as the Chief Executive Officer of Local Land Services.

**code of conduct**—see section 35.

**contribution** means a rate fixed under Part 5.

**controlling authority** of a stock watering place—see section 108.

**Crown land** has the same meaning as it has in the [Crown Land Management Act 2016](#).

**Crown Land Acts** has the same meaning as in the [Crown Land Management Act 2016](#).

**Crown road** has the same meaning as it has in the [Roads Act 1993](#).

**Department** means Regional NSW.

**Eastern and Central Division** means the Eastern and Central Division of New South Wales as defined by section 1.6 of the [Crown Land Management Act 2016](#).

**function** includes a power, authority or duty, and **exercise** a function includes perform a duty.

**Fund** means the Local Land Services Fund established under section 19.

**goat** includes a buck, doe, wether and kid.

**government agency** means any public or local authority, and includes—

- (a) a Public Service agency, State owned corporation and council of a local government area, and
- (b) the head of a government agency.

**holding** means—

- (a) a parcel of land, or
- (b) several parcels of land which—
  - (i) are contiguous with one another or are separated from one another only by a road, river, creek or other watercourse, and
  - (ii) constitute or are worked as a single property,

irrespective of whether those parcels are held under the same title or different titles or titles of different kinds or whether they are in the same region.

**Note—**

See section 55 (When is a holding within a region?).

**horse** means a horse, mare, gelding, colt, filly, foal, hinny, mule, donkey or ass.

**large stock** means horses, cattle, camels or deer.

**local authority** means a council within the meaning of the [Local Government Act 1993](#).

**local board** means a local board established under Division 2 of Part 3.

**Local Land Services** means Local Land Services as constituted by this Act.

**local land services**—see section 4.

**local strategic plan** means a local strategic plan for a region that complies with Division 2 of Part 4.

**natural resource management** extends to the following matters relating to the management of natural resources—

- (a) water,
- (b) native vegetation,
- (c) salinity,
- (d) soil,
- (e) biodiversity,
- (f) coastal protection,



- (g) marine environment (except a matter arising under the *Fisheries Management Act 1994*),
- (h) forestry,
- (i) any other matter concerning natural resources prescribed by the regulations under section 5 of the *Natural Resources Commission Act 2003*.

**occupier** of land means the following—

- (a) the person for the time being entitled to possession of land and includes, if the person so entitled does not reside on the land, the resident manager or other person in charge of the land,
- (b) if the land is public land to which no person is entitled to possession—the person having the care, control and management of the land,
- (c) if the land is reserved or dedicated for any public use or purpose—the trustee or trustees of the land,
- (d) if the land consists of a public road—the roads authority for that road within the meaning of the *Roads Act 1993*,
- (e) if the land consists of a travelling stock reserve—Local Land Services,
- (f) any other person designated by the regulations as an occupier of land for the purposes of this definition.

**owner** of land includes—

- (a) the holder, or the holder subject to mortgage, of any lease or licence or promise of any lease or licence from the Crown, or
- (b) the holder, or the holder subject to mortgage, of any incomplete purchase or perpetual lease from the Crown, or
- (c) the person entitled to an estate of freehold in possession—
  - (i) whether in fee simple or for life or otherwise, or
  - (ii) whether at law or in equity, or
  - (iii) whether absolutely or by way of mortgage, or
- (d) the person in whom is vested any land taken or appropriated under the authority of any statute authorising land to be taken or appropriated for the purpose of any private undertaking.

**pig** includes boar, sow, barrow, piglet and sucker.

**premises** includes any land, structure, building, aircraft, vehicle and place (whether built on or not) and any part of it.

**private land** means a holding and land not including or being public land.

**property** means property of all kinds, whether real or personal and whether tangible or intangible and, in particular, includes choses in action.

**public authority** includes—

- (a) a Minister of the Crown, or
- (b) a local authority constituted by or under an Act, or
- (c) a Public Service agency, or
- (d) a statutory body representing the Crown, or
- (e) the trustee or trustees of land reserved or dedicated for any public use or purpose, or
- (f) a State owned corporation, or
- (g) a member of staff or other person who exercises functions on behalf of any of the above.

**public land** means—

- (a) Crown land that is not the subject of a contract for sale, or
- (b) land, not being a road, that is the subject of a dedication or permanent reservation for public uses or purposes,

being land that is not the subject of any lease or licence under the Crown Lands Acts or under any other Act authorising the occupation or use of land vested in the Crown.

**public road** has the same meaning as it has in the [Roads Act 1993](#).

**rate** means a rate fixed under Part 5.

**rateable land**—see section 56.

**record** includes a book, account, deed, writing, document and any other source of information compiled, recorded or stored in written form, or on microfilm, or by electronic process, or in any other manner or by any other means.

**region** means a region constituted by this Act.

**reserve use permit** means a permit used under section 77.

**Secretary** means the Secretary of the Department.

**sheep** includes ram, ewe, wether and lamb.

**State forest** means a State forest within the meaning of the [Forestry Act 2012](#).

**State priorities for local land services**—see section 4 (2).

**State strategic plan** mean a State strategic plan for the State that complies with Division 1 of Part 4.

**stock** means cattle, horses, sheep, goats, camels, alpacas, llamas, pigs, deer, ostriches, emus or, in relation to any specified provision or provisions of this Act, any other kind of animal declared by the regulations to be stock for the purposes of that provision or those provisions.

**stock permit** means a permit issued under section 78.

**stock watering place** means any land declared to be a stock watering place under section 106.

**travelling stock** has the meaning it has in section 61.

**travelling stock reserve** has the meaning it has in section 61.

**tree** means a tree of any description and includes a sapling and a seedling of a tree.

**vehicle** includes any means of road, rail, waterborne or airborne transport.

**Western Division** has the same meaning as it has in section 1.6 of the [Crown Land Management Act 2016](#).