

State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017

[2017-454]



New South Wales

Status Information

Currency of version

Repealed version for 18 December 2021 to 28 February 2022 (accessed 17 July 2024 at 19:19)

Legislation on this site is usually updated within 3 working days after a change to the legislation.

Provisions in force

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

Notes—

- **Repeal**

This Policy was repealed by [State Environmental Planning Policy \(Biodiversity and Conservation\) 2021 \(722\)](#), Sch 14, sec 13 with effect from 1.3.2022.

Authorisation

This version of the legislation is compiled and maintained in a database of legislation by the Parliamentary Counsel's Office and published on the NSW legislation website, and is certified as the form of that legislation that is correct under section 45C of the [Interpretation Act 1987](#).

File last modified 18 December 2021

State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017



New South Wales

Contents

| | |
|---|----|
| Part 1 Preliminary | 5 |
| 1 Name of Policy | 5 |
| 2 Commencement | 5 |
| 3 Aims of Policy | 5 |
| 4 Definitions | 5 |
| 5 Land to which Policy applies | 6 |
| 6 Relationship to other planning instruments | 7 |
| 6A Maps | 7 |
| Part 2 Clearing vegetation in non-rural areas | 8 |
| 7 Clearing that requires permit or approval | 8 |
| 8 Clearing that does not require permit or approval | 8 |
| 8A Clearing permitted without development consent | 9 |
| Part 3 Council permits for clearing of vegetation in non-rural areas | 10 |
| 9 Vegetation to which Part applies | 10 |
| 10 Council may issue permit for clearing of vegetation | 10 |
| 11 Miscellaneous provisions relating to permits | 11 |
| 12 Appeal to Land and Environment Court | 11 |
| Part 4 Approval of Native Vegetation Panel for clearing native vegetation in non-rural areas | 11 |

| | |
|--|----|
| 13 Provisions relating to exercise of functions of Panel under this Policy | 11 |
| 14 Obtaining approval of Panel for clearing of native vegetation..... | 12 |
| 15 Biodiversity development assessment report and retirement of biodiversity credits | 13 |
| 16 Modification of approvals of Panel under this Part..... | 14 |
| 17 Application form | 15 |
| 18 Fees for applications..... | 15 |
| 19 Information required in application for approval by Panel or modification of approval..... | 15 |
| 20 Panel may request further information about an application for approval or modification of approval | 16 |
| 21 Time for dealing with applications for approval or modification of approval | 16 |
| 22 Appeal against approval decisions of Panel..... | 16 |
| 23 Lapsing of approval | 17 |
| 24 Miscellaneous provisions relating to approvals of Panel | 17 |

Part 5 Clearing of native vegetation on primary production land in Zones R5, E2, E3 and E4 that does not require permit or approval

| | |
|-------|----|
| | 17 |
|-------|----|

Division 1 Preliminary 17

| | |
|--|----|
| 26 Definitions | 18 |
| 27 General requirements..... | 18 |
| 28 Measurement of maximum distances for clearing..... | 18 |
| 29 Separate items of infrastructure to be constructed to reduce overall distance of clearing | 19 |

Division 2 Clearing in Zones R5, E2, E3 and E4 19

| | |
|--|----|
| 30 Land to which Division applies | 19 |
| 31 Clearing for construction and maintenance of fences and farm tracks | 19 |
| 32 Clearing for maintenance of water supply and gas infrastructure..... | 20 |
| 33 Clearing for maintenance of telecommunications infrastructure..... | 20 |
| 34 Clearing for maintenance of electricity transmission infrastructure | 20 |
| 35 Clearing for maintenance and operation of private power lines..... | 21 |

Division 3 Clearing in Zones R5, E3 and E4 21

| | |
|---|----|
| 36 Land to which Division applies | 21 |
| 37 Clearing for construction of farm tracks | 22 |
| 38 Clearing of planted native vegetation | 22 |

| | |
|---|----|
| 39 Clearing for environmental protection works..... | 23 |
| 40 Clearing for construction of private power lines | 23 |

State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017



New South Wales

Part 1 Preliminary

1 Name of Policy

This Policy is *State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017*.

2 Commencement

This Policy commences on 25 August 2017 and is required to be published on the NSW legislation website.

3 Aims of Policy

The aims of this Policy are—

- (a) to protect the biodiversity values of trees and other vegetation in non-rural areas of the State, and
- (b) to preserve the amenity of non-rural areas of the State through the preservation of trees and other vegetation.

4 Definitions

(1) In this Policy—

Allowable Clearing Map means the *State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017 Allowable Clearing Map*.

approval means an approval granted by the Native Vegetation Panel under Part 4.

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

biodiversity offsets scheme threshold means the biodiversity offsets scheme threshold referred to in section 7.4 of the *Biodiversity Conservation Act 2016*, except that, for the purposes of this Policy, the threshold is to be determined without regard to clause 7.3 (4) of the *Biodiversity Conservation Regulation 2017*.

Note—

Clause 7.3 (4) provides that the threshold is not exceeded merely because proposed development (other than subdivision) is to be carried out on a lot included on the *Biodiversity Values Map* if the lot was the result of a subdivision carried out before the commencement of that Act and the lot is within land zoned R1 to R4, RU5, B1 to B8 or IN1 to IN3.

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

clear vegetation, includes—

- (a) cut down, fell, uproot, kill, poison, ringbark, burn or otherwise destroy the vegetation, or
- (b) lop or otherwise remove a substantial part of the vegetation.

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.

native vegetation has the same meaning as in Part 5A of the *Local Land Services Act 2013*.

Native Vegetation Panel means the Native Vegetation Panel established under section 60ZE of the *Local Land Services Act 2013*.

non-rural areas of the State, means the land to which this Policy applies.

permit means a permit issued by a council under Part 3.

private land, for Part 5—see clause 26.

the Act means the *Environmental Planning and Assessment Act 1979*.

vegetation means a tree or other vegetation, whether or not it is native vegetation.

Note—

The Act and the *Interpretation Act 1987* contain definitions and other provisions that affect the interpretation and application of this Policy.

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

5 Land to which Policy applies

- (1) This Policy applies to the following areas of the State (the non-rural areas of the State)—
 - (a) land in the following local government areas—

Bayside, City of Blacktown, Burwood, Camden, City of Campbelltown,
Canterbury-Bankstown, Canada Bay, Cumberland, City of Fairfield, Georges

River, City of Hawkesbury, Hornsby, Hunter's Hill, Georges River, Inner West, Ku-ring-gai, Lane Cove, City of Liverpool, Mosman, Newcastle, North Sydney, Northern Beaches, City of Parramatta, City of Penrith, City of Randwick, Rockdale, City of Ryde, Strathfield, Sutherland Shire, City of Sydney, The Hills Shire, Waverley, City of Willoughby, Woollahra.

(b) land within the following zones under an environmental planning instrument—

Zone RU5 Village, Zone R1 General Residential, Zone R2 Low Density Residential, Zone R3 Medium Density Residential, Zone R4 High Density Residential, Zone R5 Large Lot Residential, Zone B1 Neighbourhood Centre, Zone B2 Local Centre, Zone B3 Commercial Core, Zone B4 Mixed Use, Zone B5 Business Development, Zone B6 Enterprise Corridor, Zone B7 Business Park, Zone B8 Metropolitan Centre, Zone IN1 General Industrial, Zone IN2 Light Industrial, Zone IN3 Heavy Industrial, Zone IN4 Working Waterfront, Zone SP1 Special Activities, Zone SP2 Infrastructure, Zone SP3 Tourist, Zone RE1 Public Recreation, Zone RE2 Private Recreation, Zone E2 Environmental Conservation, Zone E3 Environmental Management, Zone E4 Environmental Living or Zone W3 Working Waterways.

(2) This Policy does not apply to national park estate and other conservation areas, or State forestry land, referred to in section 60A (b) and (c) of the [Local Land Services Act 2013](#). However, this Policy applies to land that is any such national park estate and other conservation area only because it is a declared area of outstanding biodiversity value under the [Biodiversity Conservation Act 2016](#).

Note—

Part 5A (Land management (native vegetation)) of the [Local Land Services Act 2013](#) does not apply to non-rural areas to which this Policy applies.

6 Relationship to other planning instruments

- (1) This Policy does not affect the provisions of any other State Environmental Planning Policy or any provisions of a local environmental plan that are mandatory provisions under the [Standard Instrument \(Local Environmental Plans\) Order 2006](#).
- (2) This Policy prevails to the extent of any inconsistency with any provisions of a local environmental plan that are not mandatory provisions under the [Standard Instrument \(Local Environmental Plans\) Order 2006](#).

Note—

This Policy does not affect authorisations under other Acts that are required to be obtained in connection with the clearing of vegetation.

6A Maps

- (1) A reference in this Policy to a named map adopted by this Policy is a reference to a

map by that name—

- (a) approved by the Minister when the map is adopted, and
 - (b) as amended or replaced from time to time by maps declared by environmental planning instruments to amend or replace the map, and approved by the persons making the instruments when the instruments are made.
- (2) Two or more named maps may be combined into a single map and a reference in this Policy to the named map is a reference to the relevant part or aspect of the single map.
- (3) The maps adopted by this Policy are to be kept in electronic form and made available for public access in accordance with arrangements approved by the Minister.

Part 2 Clearing vegetation in non-rural areas

7 Clearing that requires permit or approval

- (1) A person must not clear vegetation in a non-rural area of the State to which Part 3 applies without the authority conferred by a permit granted by the council under that Part.
- (2) A person must not clear native vegetation in a non-rural area of the State that exceeds the biodiversity offsets scheme threshold without the authority conferred by an approval granted by the Native Vegetation Panel under Part 4.
- (3) Subclause (2) does not apply to clearing on biodiversity certified land under the [Biodiversity Conservation Act 2016](#), Part 8.
- (4) Clearing of vegetation is not authorised under this clause unless the conditions to which the authorisation is subject are complied with.
- (5) Subclause (4) extends to a condition that imposes an obligation on the person who clears the vegetation that must be complied with before or after the clearing is carried out.
- (6) For the purposes of the Act, section 4.3, clearing vegetation that requires a permit or approval under this Policy is prohibited if the clearing is not carried out in accordance with the permit or approval.

8 Clearing that does not require permit or approval

- (1) A permit or approval to clear vegetation is not required under this Policy if it is clearing of a kind that is authorised under the [Local Land Services Act 2013](#), section 600 or Part 5B.
- (2) Despite the [Local Land Services Act 2013](#), section 600(a)(i) and (b)(i), subclause (1)

does not apply to clearing that is part of or ancillary to the carrying out of exempt development or complying development.

- (3) A permit or approval is not required under this Policy for—
 - (a) the removal of vegetation that the council is satisfied is a risk to human life or property, or
 - (b) clearing for a traditional Aboriginal cultural activity, other than a commercial cultural activity.
- (4) A permit is not required under this Policy for the removal of vegetation that the council is satisfied—
 - (a) is dying or dead, and
 - (b) is not required as the habitat of native animals.
- (5) An approval is not required under this Policy for the removal of vegetation that the Native Vegetation Panel is satisfied—
 - (a) is dying or dead, and
 - (b) is not required as the habitat of native animals.

Note—

See also Part 5, which sets out certain clearing that does not require a permit or approval under this Policy if the clearing—

- (a) is carried out on certain primary production land in Zone R5, E2, E3 or E4, and
- (b) complies with the requirements of Part 5.

8A Clearing permitted without development consent

Clearing of vegetation in a non-rural area of the State is permitted without development consent if—

- (a) the clearing—
 - (i) is not ancillary to the carrying out of other development, and
 - (ii) does not require a permit or approval, and
- (b) the vegetation is not—
 - (i) a heritage item or an Aboriginal object, or
 - (ii) located in a heritage conservation area or Aboriginal place of heritage significance.

Part 3 Council permits for clearing of vegetation in non-rural areas

9 Vegetation to which Part applies

- (1) This Part applies to vegetation in any non-rural area of the State that is declared by a development control plan to be vegetation to which this Part applies.
- (2) A development control plan may make the declaration in any manner, including by reference to any of the following—
 - (a) the species of vegetation,
 - (b) the size of vegetation,
 - (c) the location of vegetation (including by reference to any vegetation in an area shown on a map or in any specified zone),
 - (d) the presence of vegetation in an ecological community or in the habitat of a threatened species.

10 Council may issue permit for clearing of vegetation

- (1) A council may issue a permit to a landholder to clear vegetation to which this Part applies in any non-rural area of the State.
- (2) A permit cannot be granted to clear native vegetation in any non-rural area of the State that exceeds the biodiversity offsets scheme threshold.
- (3) A permit under this Part cannot allow the clearing of vegetation—
 - (a) that is or forms part of a heritage item or that is within a heritage conservation area, or
 - (b) that is or forms part of an Aboriginal object or that is within an Aboriginal place of heritage significance,unless the council is satisfied that the proposed activity—
 - (c) is of a minor nature or is for the maintenance of the heritage item, Aboriginal object, Aboriginal place of heritage significance or heritage conservation area, and
 - (d) would not adversely affect the heritage significance of the heritage item, Aboriginal object, Aboriginal place of heritage significance or heritage conservation area.
- (4) A permit may be granted under this Part subject to any conditions specified in the permit.

11 Miscellaneous provisions relating to permits

- (1) An application for a permit—
 - (a) is to be made in the form and manner required by the council, and
 - (b) is to be accompanied by the application fee (if any) determined by the council.
- (2) The council may request an applicant for a permit to provide the council with such further information about the proposed clearing as the council considers necessary for its proper consideration of the application (including information about previous clearing of vegetation in the area or surrounding area).
- (3) The council may deal with the application if the applicant notifies the council that the information will not be provided or if the information has not been provided within the period specified by the council or within such further period as the council may allow.
- (4) The council is to determine an application for a permit within 28 days after the date on which the application was duly made.
- (5) Any period after the applicant is requested by the council to provide further information to enable the application to be dealt with and until the information is provided (or the applicant notifies the council the information will not be provided) is not to be counted in calculating that 28-day period.
- (6) An application for a permit that has not been determined is taken to have been refused after the expiration of that 28-day period.
- (7) The council may grant or refuse to grant a permit even if the application is taken to have been refused under this clause.

12 Appeal to Land and Environment Court

- (1) An applicant for a permit may appeal to the Land and Environment Court against the refusal by a council to grant the permit.
- (2) Any such appeal is to be made within 3 months after the date on which the applicant is notified of the decision or within 3 months after the council is taken to have refused the application (whichever is the later).

Part 4 Approval of Native Vegetation Panel for clearing native vegetation in non-rural areas

13 Provisions relating to exercise of functions of Panel under this Policy

- (1) This clause applies in relation to the exercise of the functions of the Native Vegetation Panel under this Policy.
- (2) The Native Vegetation Panel has the function of determining applications under this

Part for approval to clear native vegetation in non-rural areas of the State.

- (3) The Native Vegetation Panel is not subject to the direction or control of the Minister or of any council or other body under the Act.
- (4) The Native Vegetation Panel may delegate the exercise of its functions under this Policy in relation to any non-rural area of the State to the council of the non-rural area (other than this power of delegation).
- (5) The Minister may, for the purposes of this Policy, make arrangements for the provision to the Native Vegetation Panel of staff and facilities of (and information relating to the administration of this Policy held by) a Public Service agency responsible to the Minister or a council.

14 Obtaining approval of Panel for clearing of native vegetation

- (1) An application may be made to the Native Vegetation Panel by or on behalf of the landholder for approval to clear native vegetation in any non-rural area of the State.
- (2) The Native Vegetation Panel may, in accordance with this Part, grant an approval to clear the native vegetation under this Part or refuse the application.
- (3) An application for approval for the clearing of native vegetation may only be dealt with under this Part if the clearing exceeds the biodiversity offsets scheme threshold.
- (4) An approval may only be granted under this Part 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—
 - (i) development consent, other than a complying development certificate, or
 - (ii) State significant infrastructure approval under the Act, 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 the Act.
- (5) In determining an application for approval under this Part, the Native Vegetation 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 Native Vegetation 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 this Part,

- (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.

The Native Vegetation Panel is also to take into consideration any biodiversity or heritage matter that an applicable environmental planning instrument or development control plan requires the Panel to take into consideration in relation to the impact of the proposed clearing.

- (6) The Native Vegetation Panel must refuse to grant approval under this Part 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 Part 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 subclause (5)). However, an approval cannot be granted subject to conditions relating to the use of the land after it has been cleared.
- (8) An approval under this Part may be granted even if part of the clearing is otherwise authorised under clause 8.
- (8A) An approval under this Part may not be granted to carry out forestry operations within the meaning of Part 5B of the *Local Land Services Act 2013*.
- (9) An approval under this Part may be granted subject to a condition that any development consent that authorises the clearing of native vegetation on the land is surrendered under the Act. Any such development consent may be granted subject to a condition that any approval under this Part is surrendered.
- (10) An application for approval under this Part 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 Part having regard to the whole area that is the subject of the application.

15 Biodiversity development assessment report and retirement of biodiversity credits

- (1) An approval may only be granted under this Part 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 Native Vegetation Panel.
- (2) The Native Vegetation Panel is to provide the Environment Agency Head under the

Biodiversity Conservation Act 2016 with a copy of any biodiversity development assessment report that is submitted to the Native Vegetation Panel in connection with an application for approval.

- (3) If the Native Vegetation 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 subclause (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 clause 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 Native Vegetation 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 purpose for which the land is to be used after it is cleared. The Native Vegetation Panel must give reasons for a decision to reduce or increase the number of biodiversity credits.
- (5) An approval under this Part 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 Part 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 Part, 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 clause does not operate to limit the measures that the Native Vegetation Panel may require to avoid or minimise the impacts of proposed clearing or the power of the Native Vegetation Panel to refuse to grant approval because of those impacts.

16 Modification of approvals of Panel under this Part

- (1) An application may be made to the Native Vegetation Panel for the modification of an approval granted under this Part to clear native vegetation in any non-rural area of the State. 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 Native Vegetation Panel in connection with the application unless the Native Vegetation 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 Native Vegetation Panel may—
 - (a) grant the application and modify the approval granted under this Part accordingly,
or
 - (b) refuse the application.

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

17 Application form

An application to the Native Vegetation Panel for approval to clear native vegetation (or for the modification of an approval of the Panel)—

- (a) is to be made in the form and manner required by the Panel, and
- (b) is to include any information or documentation required by that form.

18 Fees for applications

- (1) The Native Vegetation Panel may charge a fee for an application for approval under this Part, but not exceeding—
 - (a) \$3,000 if the area proposed to be cleared is less than 5 hectares, or
 - (b) \$9,000 if the area proposed to be cleared is 5 hectares or more.
- (2) The Native Vegetation Panel may also charge a fee for an application for the modification of an approval under this Part, but not exceeding the fee that may be charged under Part 5A of the [Local Land Services Act 2013](#) in connection with a similar application under Division 6 of that Part.

19 Information required in application for approval by Panel or modification of approval

An application to the Native Vegetation Panel for approval to clear native vegetation (or for the modification of an approval of the Panel) under this Part that seeks to vary like-for-like credit retirement obligations specified in the biodiversity development assessment report is to include information about the reasonable steps that the applicant has taken to

secure the like-for-like biodiversity credits.

20 Panel may request further information about an application for approval or modification of approval

- (1) The Native Vegetation Panel may request an applicant for approval to clear native vegetation, or for the modification of an approval of the Panel, under this Part to provide the Panel with such further information about the proposed clearing or the proposed modification as the Panel considers necessary for its proper consideration of the application (including information about previous clearing of vegetation in the area or surrounding area).
- (2) The request—
 - (a) must be writing, and
 - (b) may specify a reasonable period within which the information must be provided to the Native Vegetation Panel, and
 - (c) must include notice of the effect of a failure to provide the information on the determination of the application and on the applicant's rights of appeal with respect to the application.
- (3) The Native Vegetation Panel may deal with the application if the applicant notifies the Panel in writing that the information will not be provided or if the information has not been provided within the period specified by the Panel or within such further period as the Panel may allow.

21 Time for dealing with applications for approval or modification of approval

- (1) The Native Vegetation Panel is to determine an application for approval to clear native vegetation (or to modify an approval of the Panel) under this Part within 90 days after the date on which the application was duly made.
- (2) Any period after the applicant is requested by the Native Vegetation Panel to provide further information to enable the application to be dealt with and until the information is provided (or the applicant notifies the Panel the information will not be provided) is not to be counted in calculating that 90-day period.
- (3) An application for approval (or the modification of an approval) that has not been determined is taken to have been refused after the expiration of that 90-day period.
- (4) The Native Vegetation Panel may grant or refuse to grant an application even if the application is taken to have been refused under this clause.

22 Appeal against approval decisions of Panel

- (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 Part or for the modification of any such approval or against a decision to impose a condition of any such approval.

- (2) Any such appeal is to be made within 6 months after the date on which the applicant is notified of the decision or within 6 months after the Panel is taken to have refused the application (whichever is the later).
- (3) In this clause, a reference to a landholder includes a reference to a person who makes a relevant application on behalf of the landholder.

23 Lapsing of approval

- (1) An approval of the Native Vegetation Panel to clear native vegetation lapses 5 years after the date from which it operates.
- (2) Any such approval does not lapse if the clearing is commenced before the date on which the approval would otherwise lapse.
- (3) The Native Vegetation Panel may set out, in any such approval, circumstances in which clearing is or is not taken to be commenced for the purposes of this clause.

24 Miscellaneous provisions relating to approvals of Panel

- (1) An approval under this Part 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 Part is refused by the Native Vegetation Panel, the applicant is to be given the reasons for the decision.
- (3) An approval of the Native Vegetation Panel to clear native vegetation operates from the date the approval is granted or, if a later date is specified in the approval, from that later date. If an application for approval is refused and the Land and Environment Court decides to grant approval on appeal, the decision is taken to be an approval granted by the Native Vegetation Panel and operates from the date of that decision.
- (4) To avoid doubt, the Native Vegetation Panel is not a determining authority for the purposes of Part 5 of the Act when granting or modifying an approval under this Part.

Part 5 Clearing of native vegetation on primary production land in Zones R5, E2, E3 and E4 that does not require permit or approval

Division 1 Preliminary

26 Definitions

(1) In this Part—

private land has the same meaning as in the [Local Land Services Act 2013](#).

(2) In this Part, a reference to land in Zone R5, E2, E3 or E4 is a reference to the following zones under an environmental planning instrument that applies to the land—

- (a) Zone R5 Large Lot Residential,
- (b) Zone E2 Environmental Conservation,
- (c) Zone E3 Environmental Management,
- (d) Zone E4 Environmental Living.

27 General requirements

- (1) This Part sets out the clearing of native vegetation that does not require a permit or approval under this Policy.
- (2) A permit or approval is not required to clear native vegetation under this Policy only if the requirements of this Part that apply to the clearing are complied with.
- (3) The clearing must be carried out by or on behalf of the landholder, unless otherwise provided.
- (4) The clearing must be carried out in a way that minimises the risk of soil erosion.
- (5) The clearing must be carried out only to the minimum extent necessary for the purpose for which the clearing is carried out.
- (6) This Part does not authorise the clearing of native vegetation on land that is subject to an order under the [Biodiversity Conservation Act 2016](#), Part 11.

28 Measurement of maximum distances for clearing

- (1) In this Part, the maximum distance of clearing of native vegetation means—
 - (a) for linear infrastructure—the total width of the clearing, or
 - (b) for fixed point infrastructure—the maximum distance of the clearing measured from the perimeter of the infrastructure.
- (2) The maximum distance of clearing for fixed point infrastructure includes the area on which the infrastructure is located in addition to the maximum distance of the clearing from the perimeter of the infrastructure.
- (3) The maximum distances of clearing of native vegetation are not cumulative.

- (4) If the maximum distance for an item of infrastructure overlaps with the maximum distance for another item of infrastructure, the distances are not to be combined.
- (5) A maximum distance of clearing specified in this Part in relation to an item of infrastructure on a landholding applies even if part of the clearing within the maximum distance is carried out on an adjoining landholding.

29 Separate items of infrastructure to be constructed to reduce overall distance of clearing

This Part does not apply to clearing for an item of infrastructure constructed by a landholder on the same landholding as another item of infrastructure for which clearing may be carried out without a permit or approval under this Part if—

- (a) the item of infrastructure could have been constructed closer to the other item of infrastructure to reduce the overall distance of the 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.

Division 2 Clearing in Zones R5, E2, E3 and E4

30 Land to which Division applies

This Division applies to land identified as “Allowable clearing land” on the [Allowable Clearing Map](#) that is—

- (a) land used for primary production within the meaning of the [Land Tax Management Act 1956](#), section 10AA, and
- (b) in Zone R5, E2, E3 or E4.

31 Clearing for construction and maintenance of fences and farm tracks

- (1) A permit or approval to clear native vegetation is not required under this Policy if the clearing is for—
 - (a) the construction of a permanent boundary fence, or
 - (b) the maintenance of—
 - (i) an existing permanent boundary fence, or
 - (ii) an existing permanent internal fence, or
 - (iii) an existing farm track.

Note—

See clause 37 in relation to clearing for the construction of a farm track on land in Zones R5, E3 and E4.

- (2) The maximum clearing distance is 6 metres.

32 Clearing for maintenance of water supply and gas infrastructure

- (1) A permit or approval to clear native vegetation is not required under this Policy if the clearing is for the maintenance of an existing public utility associated with water supply infrastructure or gas supply infrastructure.
- (2) The clearing must be carried out by or on behalf of—
- (a) the owner of the infrastructure, or
 - (b) the landholder.

33 Clearing for maintenance of telecommunications infrastructure

- (1) A permit or approval to clear native vegetation is not required under this Policy if the clearing is for the maintenance of existing telecommunications infrastructure.
- (2) The clearing must be carried out by or on behalf of—
- (a) the owner of the infrastructure, or
 - (b) the landholder.

34 Clearing for maintenance of electricity transmission infrastructure

- (1) A permit or approval to clear native vegetation is not required under this Policy if the clearing is for the maintenance of an existing public utility associated with the transmission of electricity (an **electricity utility**).
- (2) Maintenance of an electricity utility includes the following activities only if the activity is carried out by or at the written direction of a relevant person—
- (a) maintaining the necessary safety clearance—
 - (i) under power lines, conductors and structures, and
 - (ii) 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) Maintenance of an electricity utility does not include the following—
- (a) the construction of a new access road or track,
 - (b) the removal of low growing groundcover,

(c) maintaining a safety clearance from power lines that exceeds either of—

(i) the maximum clearing distance, or

(ii) the minimum distance that will ensure reliability of supply under all loading and environmental conditions and minimise the risk of arcing.

(4) In this clause—

maximum clearing distance means the distance specified in the following table for the voltage of the power line—

| Nominal operating voltage of power line | Maximum clearing distance |
|--|----------------------------------|
| 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 |

relevant person means the person or body—

(a) in which the electricity utility is vested, or

(b) that has the responsibility for the electricity utility's safe operation.

35 Clearing for maintenance and operation of private power lines

A permit or approval to clear native vegetation is not required under this Policy if the clearing is reasonably necessary for the maintenance or operation of existing privately owned power lines on private land.

Note—

See clause 40 in relation to clearing for the construction of privately owned power lines on private land in Zones R5, E3 and E4.

Division 3 Clearing in Zones R5, E3 and E4

36 Land to which Division applies

This Part applies to land identified as “Allowable clearing land” on the [Allowable Clearing Map](#) that is—

(a) land used for primary production within the meaning of the [Land Tax Management Act 1956](#), section 10AA, and

- (b) in Zone R5, E3 or E4.

37 Clearing for construction of farm tracks

- (1) A permit or approval to clear native vegetation is not required under this Policy if the clearing is for the construction of a farm track if—
- (a) the farm track is reasonably required to access sites within or on the other side of the land, and
 - (b) the route of the farm track minimises the clearing that is required to be carried out.

Note—

See clause 31 in relation to clearing for the maintenance of an existing farm track on land in Zones R5, E2, E3 and E4.

- (2) The maximum clearing distance is 6 metres.

38 Clearing of planted native vegetation

- (1) A permit or approval to clear native vegetation that has been planted is not required under this Policy if the clearing complies with the requirements of this clause.
- (2) If the clearing is carried out on land to which a private native forestry plan applies and native vegetation has been planted as part of stocking or regeneration requirements, the stocking or regeneration requirements must be met.
- (3) The clearing must not be carried out on land within a buffer distance from a water body, within the meaning of the [Land Management \(Native Vegetation\) Code 2018](#), clause 15.
- (4) This clause does not apply if the native vegetation was planted with the assistance of public funds granted for a purpose other than for forestry purposes.
- (5) In this clause—

Land Management (Native Vegetation) Code 2018 means the [Land Management \(Native Vegetation\) Code 2018](#) under the [Local Land Services Act 2013](#), Part 5A, Division 5 as in force on 5 December 2019.

private native forestry plan has the same meaning as in the [Local Land Services Act 2013](#), Part 5B.

stocking or regeneration requirements means stocking or regeneration requirements that apply under—

- (a) a private native forestry code of practice, within the meaning of the [Local Land Services Act 2013](#), Part 5B, or

- (b) a direction given or requirement made by the Environment Protection Authority.

39 Clearing for environmental protection works

- (1) A permit or approval to clear native vegetation is not required under this Policy if the clearing is for the purpose of environmental protection works.
- (2) For the purposes of this clause, **environmental protection works** are—
 - (a) works associated with the rehabilitation of land towards its natural state, and
 - (b) works to protect land from environmental degradation.
- (3) Environmental protection works include the following—
 - (a) re-vegetation or bush regeneration works,
 - (b) wetland protection works,
 - (c) erosion protection works,
 - (d) dune restoration work.
- (4) Environmental protection works do not include coastal protection works, within the meaning of the [Coastal Management Act 2016](#).

40 Clearing for construction of private power lines

A permit or approval to clear native vegetation is not required under this Policy if the clearing is reasonably necessary for the construction of privately owned power lines on private land.

Note—

See clause 35 in relation to the maintenance and operation of existing privately owned power lines on private land in Zones R5, E2, E3 and E4.