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NSW Government's proposed amendments to Land Management (Native Vegetation) Code 2018

NSW GOVERNMENT'S PROPOSED AMENDMENTS TO LAND MANAGEMENT (NATIVE VEGETATION) CODE 2018: HAVE YOUR SAY BY 11:59PM FRIDAY 1 AUGUST 2025.

Background:

Management of native vegetation on rural zoned land that does not require development consent is regulated under Part 5A of the *Local Land Services Act 2013* ('**the LLS Act**').

This includes Division 5 clearing of native vegetation under the *Land Management (Native Vegetation) Code* ('**the Code**') which authorises certain clearing to support landholders in managing their land to ensure more productive farming while responding to environmental risks.

Local Land Services (**LLS**) administers the Code and must be notified prior to any clearing or provide prior certification.

In August 2023, a statutory review was undertaken of the native vegetation provisions of the LLS Act and recommendations were made for future amendments.

In July 2024 the NSW Government released the *NSW Plan for Nature* committing to the implementation of the review recommendations.

Changes to the Code are part of a suite of planned changes to strengthen environmental protections in the

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Land Management Framework, regulating native vegetation on private rural land.

Proposed amendments:

The proposed changes to the Code are summarised below:

1. Strengthening the invasiveness test in Part 2 (Invasive Native Species)

Part 2 of the Code enables landholders to clear invasive native species to promote regeneration of native vegetation. The 5-year review of the Code found that 80% of all land clearing authorisations are made under this Part.

Strengthening invasiveness testing is intended to guide landholders in the appropriate application of this Part and reduce misuse of this clearing provision. The test is to ensure that only species that are genuinely acting invasively or regenerating densely in a landscape may be treated under this Part.

Proposed Clause 21 (b) will require landholders to form a reasonable opinion that:

- (i) *the species is either invading plant communities where it has not been known to occur previously or regenerating densely following disturbance, and*
- (j) *the invasion or dense regeneration of the species is resulting in a change in the structure or composition of a plant community.*

2. Improving the clarity of the Part 3 (Mosaic Thinning) provisions and providing for better retained area management

Part 3 of the Code allows the removal of woody native vegetation by uniform or mosaic thinning to create a patchwork of cleared land for improving grazing and farming efficiency. Improving clarity of this Part is intended to prevent the overuse and inappropriate use of this type of clearing.

Amendments now include native shrubs as vegetation to be retained along with native trees. There is also an added requirement for retained native vegetation to be managed so as to promote and improve vegetation integrity in the retained area.

3. Removing set aside area discounts and enabling LLS to determine the location of Part 5 (Equity) set aside areas

Some clearing activities under Parts 5 and 6 require a ratio of land to be set aside for conservation in-perpetuity on the same property. The set aside to clearing ratio ranges from 1:1 to 8:1 depending on the amount of rural regulated land and the conservation status of the vegetation.

Part 5 incorporates discounting provisions for set aside ratios where the proposed set-aside land includes high conservation value areas, including Endangered or Critically Endangered Ecological Communities, or an area of strategic landscape-scale biodiversity importance. The original intent of these discounts was to incentivise landholders to include high conservation value areas in their set asides, although reducing the amount of protected land.

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Removal of these discounts is intended to increase protected land while also achieving protection of high conservation value areas by allowing LLS to determine the most appropriate set-aside location.

4. Reintroduce the application of Schedule 4 of the Code to limit (25%, 100 Ha, or 625 Ha) the maximum equity clearing allowed under Part 5, Div 4 (Equity).

Part 5 Division 4 of the Code, when introduced, set caps on the maximum area on a landholding from which native vegetation can be cleared under this Part of the Code, being whichever is the greater of:

- 25% of the estimated total area from which native vegetation may be cleared under Division 4 up to a cumulative maximum of 625 hectares, or
- the total area from which native vegetation may be cleared up to 100 hectares.

The amendments reintroduce these caps indefinitely with the intent of reducing areas approved to be cleared under the Code.

5. Introducing a notification requirement for Woody Native Regrowth management

Part 4 Division 1 allows landholders to clear woody native vegetation that has regrown since 1 January 1990. This type of clearing can currently be undertaken without the need to notify, making ascertaining the extent and impact of these activities difficult.

Introducing this notification requirement is intended to enable better monitoring, reduce reported unallocated clearing and restore public confidence in the Land Management Framework.

6. Reducing the Code authorisation period from 15 years to 7 or 3 years

Before clearing can be carried out under this Code, a notification of intended clearing must be provided to LLS. In certain circumstances, LLS may issue a mandatory Code compliant certificate to permit the clearing. A landholder who holds a voluntary Code compliant certificate is exempt from the requirement to notify. A notification and both certificates have effect for 15 years after they are issued.

This long authorisation period for both certificates and notification has meant that most Code clearing authorisations have only been partly implemented or go unused. Vegetation removal has not commenced for over half of the area of authorisations as of April 2023. This amendment is intended to reduce the amount of unused but active Code authorisations by reducing the authorisation period.

High risk parts of the Code (Part 3 Division 3, Parts 5 & 6) will have future authorisations reduced from 15 years to 3 years. Lower risk parts of the Code (Parts 2-4 except for Part 3 Division 3) will have future authorisations be reduced from 15 years to 7 years, with an option for a 2-year extension in mitigating circumstances. Mitigating circumstances include drought, flooding, wildfires etc.

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7. **New savings and transitional arrangements**

New saving and transitional arrangements will ensure that Code applications made but not yet determined before the commencement of the proposed amendments can be assessed under the existing provisions. These savings and transitional provisions will apply to landholder notifications and certificate applications made before the amended Code commences.

Criticisms:

Submissions from the Environmental Defender's Office, Nature Conservation Council, and Australian Land Conservation Alliance have all criticised the amendments for doing little to prevent the decline of Australia's biodiversity, a reduction in land clearing and or the restoration of habitat.

While the amendments are generally supported by these organisations, they are opposed to the Code fundamentally as a tool for land management and regulation of native vegetation as they allege it permits broadscale clearing without adequate environmental assessment.

Some of these submissions have provided the following criticisms:

- continued use of self-assessment framework for clearing activities, putting the onus on the landholder, make monitoring compliance and quantifying clearing difficult, creating high risk for policy failure. Assessment by a qualified ecologist should be required before any native vegetation clearing.
- removal of set-aside discounts is a bare minimum amendment. Set-asides should not be used as a land management strategy, or otherwise should be followed up with an ecological best practice model for LLS to follow. Set asides should require ecological equivalence instead of a set ratio.
- clearing caps proposed in Part 5 Div 4 of the Code do not go far enough to reduce areas cleared. This part of the Code should be removed completely or caps should be reduced even further.
- exceptions to the shorter authorisation periods as amended should be strictly limited. Natural disasters should trigger a review of whether the clearing authorisation is still appropriate in the landscape.

Farmers and landholders are also expected to oppose the proposed amendments on the basis of interference with landholder rights. There are concerns that amendments threaten viability of State agricultural industries by directly impacting how landholders manage their land and how farmers run their business, thereby impacting the future of their communities.

NSW Farmers, for example, does not support the changes to the Code and has urged followers to make submissions in opposition. They warn that amendments will take away existing land holder rights and increase procedural barriers to operating and managing rural land.

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You can Have Your Say:

via email to consultation@lms.nsw.gov.au

via postal submission to: Land Management (Native Vegetation) Code Amendment Order 2025 Discussion Paper, Local Land Services - Policy Division, PO Box 411, Inverell, NSW 2360.

This article is based on the official announcement by the NSW Government published on 6 June 2025 which can be accessed here: [Land Management Code amendments](#).

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