



FACTSHEET

NATIVE VEGETATION

The *Native Vegetation Act 2003* (“Act”) regulates the clearing of native vegetation in NSW.

The objects of the Act include: to provide for, encourage and promote the management of native vegetation on a regional basis in the social, economic and environmental interests of the State; and to prevent broad scale clearing unless it improves or maintains environmental outcomes—in accordance with the principles of ecologically sustainable development.

The Act and *Native Vegetation Regulation 2013* are the responsibility of the Office of Environment and Heritage, in partnership with Local Land Services.

Clearing land

In general, native vegetation may only be cleared in accordance with a development consent, or a property vegetation plan.

A property vegetation plan is dealt with under Part 4 of the Act. A landholder, or group of landholders, may submit a plan for the Minister’s approval. The plan may deal with various aspects of native vegetation management of the land—including proposals for clearing native vegetation.

A property vegetation plan operates for the period outlined in it, subject to a maximum period of 15 years for provisions dealing with clearing. Agreed management actions linked to offsets and incentives may continue for a longer period. A plan that does not include clearing can last for any time that is approved by the Minister.

Once approved by the Local Land Service and signed, a property vegetation plan is a legally binding agreement which will be binding on successors in title; that is, they will “run with the land”. Once the parties to the plan have consented, it can be registered in the General Register of Deeds; and if appropriate, in the register kept under the *Real Property Act 1900* which relates to the land to which the plan applies. Once registered, the plan is binding on the successors in title to the parties to the plan.

The Act does not require any authority for certain types of clearing, such as the clearing of native vegetation that is not protected regrowth, and for routine agricultural management activities. The provisions regarding routine management activities are very prescriptive and should be reviewed closely before relying on them to undertake clearing.

Clearing is also allowed under three self-assessable codes, which are for:

- Clearing of paddock trees in a cultivation area
- Thinning of native vegetation, and
- Clearing of invasive native species.

These codes outline the requirements as to what vegetation can be cleared, and in what circumstances it can be done. If clearing is consistent with one of these codes, a property vegetation plan will not be needed. The codes are available at: www.environment.nsw.gov.au/vegetation/selfassess.htm.

A landholder must notify the Local Land Service before undertaking any clearing under one of the codes. Clearing under the self-assessable codes requires the landholder to set aside certain areas for the protection of native vegetation.



If native vegetation has been cleared in contravention of the Act, the landowner or other person with control or management of the clearing may be given a direction to carry out specified remedial work. A person who does not comply with a direction is guilty of an offence under the Act.

Acting for a purchaser

When acting on the purchase of rural land it is important that your client is aware of, and understands, their obligations under any existing property vegetation plans or directions.

The purchaser should also make enquiries of the vendor to establish if any clearing has taken place under the self-assessable codes outlined above. It may also be prudent to obtain a warranty from the vendor that it has not undertaken any clearing in contravention of the Act.

If the purchaser has any intention to develop the property, including by converting previous pasture land to cropping, the purchaser should make enquiries of the Local Land Service to see if this would require a property vegetation plan or development consent.

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