

Information on land clearing controls in Tasmania

This information sheet outlines the current controls on land clearing under the *Forest Practices Act 1985*, *Forest Practices Regulations 2017* and the Policy for Maintaining a Permanent Native Forest Estate (30 June 2017). For further information, see the publication *A guide to planning approvals for forestry in Tasmania* on the Forest Practices Authority's website. It is important that the forest practices that you are planning to carry out comply with the legislation; failure to do so can result in substantial penalties. As the legislative requirements change from time to time, landowners are advised to seek up to date information from the FPA before commencing any clearing operations. Landowners should also check with their local council for any restrictions under local planning schemes and the Commonwealth Department of Agriculture, Water and Environment where necessary.

This document should not be relied on as legal advice. Readers should read the current versions of Acts, Regulations and Policies referred to and seek professional legal advice. See Disclaimer at the end of this document.

IF YOU ARE GOING TO CLEAR TREES OR A THREATENED NATIVE VEGETATION COMMUNITY YOU MAY NEED A CERTIFIED FOREST PRACTICES PLAN BEFORE YOU PROCEED – ALWAYS CONTACT THE FOREST PRACTICES AUTHORITY FIRST

1. Where in Tasmania do land clearing controls apply?

The land clearing controls apply to all land in Tasmania, both public and private. They apply to native forest through the Tasmanian Government *Policy for Maintaining a Permanent Native Forest Estate (30 June 2017)* (the Policy) which is implemented through the *Forest Practices Act 1985*. There are also controls on clearance and conversion of threatened native vegetation communities through the *Forest Practices Act 1985*.

All such clearing and conversion operations must be done under a forest practices plan that has been certified by the Forest Practices Authority according to the *Forest Practices Act 1985*. According to the *Forest Practices Regulations 2017* there are some prescribed circumstances where a forest practices may not be required (see Section 7 below).

Under the Policy, broad-scale clearing and conversion of native forest on public or private land is not permitted from 1 July 2017. Broad scale clearance and conversion means clearance and conversion of more than 20 hectares of native forest in any period of five consecutive calendar years per property.

Broad scale clearance and conversion of native forest on public or private land is not limited by the Policy where it:

- is for the construction of new significant infrastructure, or maintaining existing infrastructure; or
- is for the purposes of undertaking routine management activities; or

- is to facilitate any development, which, in its entirety demonstrates substantial public benefit, including conservation benefits that will arise from the proposal through secured actions to improve biodiversity, water quality, soil, or other environmental outcomes; or
- is for agricultural purposes where:
 - it amounts to less than 40 ha on a property in a 12 month period; and
 - the land subject to application is zoned as Rural, Rural Resource, Agricultural or Significant Agricultural, under a current local government planning instrument, and
 - the native forest, which is subject of the clearance and conversion, is not a threatened native vegetation community; or
- has been authorized by the Forest Practices Authority in accordance with provisions of clause 4 of the Policy.

The Policy is available on the Department of State Growth's web site at
https://www.stategrowth.tas.gov.au/energy_and_resources/forestry/native-forest

The above provisions do not remove the need for either a forest practices plan or a Council permit or both. In addition as forestry is not the primary purpose, applicants should seek advice as to whether the activity requires separate approval under the Commonwealth's *Environment Protection and Biodiversity Conservation Act 1999*.

2. What is 'land clearing'?

The controls on land clearing differ between forest and non-forest vegetation.

Forest vegetation

The *Forest Practices Act 1985* defines forests and trees as follows:

Forest means an area containing trees.

Trees means -

- (a) any woody plants with a height or potential height of 5 metres or more, whether or not living, dead, standing or fallen, that are –
 - (i) native to Tasmania; or
 - (ii) introduced into Tasmania and used for the processing or harvesting of timber; and
- (b) tree ferns.

Trees that are non-commercial in nature (e.g. wattle regrowth, ti-tree etc.) may require a forest practices plan for clearing.

Non-forest vegetation

The *Forest Practices Act 1985* applies to clearing and conversion of *threatened native vegetation communities* (as defined in the *Nature Conservation Act 2002*) which includes some non-forest vegetation communities.

Clearance and conversion of a threatened native vegetation community is defined in the *Forest Practices Act 1985* as:

The deliberate process of removing all or most of the threatened native vegetation community from an area of land and –

- a) leaving the area of land, on a permanent or extended basis in an unvegetated state; or
- b) replacing the threatened native vegetation community so removed, on a permanent or extended basis, with any combination of, the following:
 - i. another community of native vegetation;
 - ii. non-native vegetation;
 - iii. agricultural works;
 - iv. residential, commercial or other non-agricultural development; or
- c) doing a combination of any of the above.

Continuation of existing land management practices in non-forest communities is not regarded as clearing, provided that the essential character of the vegetation is maintained.

There are no controls under the *Forest Practices Act 1985* for clearing non-forest vegetation that is not defined as a threatened native vegetation community.

3. How is land clearing controlled?

The *Forest Practices Act 1985* requires a **certified forest practices plan** to authorise land clearing (clearing forest or clearing and converting threatened native vegetation communities). Exemptions apply in some circumstances. These are explained below in section 7.

Preparing a forest practices plan

To prepare a forest practices plan for clearing and conversion you may need to engage a Forest Practices Officer. A list of consulting Forest Practices Officers can be found on the FPA's web site.

Certification of a forest practices plan

Some forest practices officers are delegated by the FPA to make decisions on applications for forest practices plans. The decision can be to certify, refuse or amend the application. You can only proceed once the plan has been certified and only during the lifetime of the plan.

4. Will I be allowed to clear my land?

Clearing of forest is permitted where authorised under a forest practices plan or where an exemption is provided under the regulations (see section 7).

Clearance and conversion of threatened native vegetation communities is not permitted unless the Forest Practices Authority is satisfied of one or more of the following (as outlined in section 19(1AA) of the *Forest Practices Act 1985*):

- a) the clearance and conversion is justified by exceptional circumstances
- b) the activities authorised by the forest practices plan are likely to have an overall environmental benefit
- c) the clearance and conversion is unlikely to detract substantially from the conservation of the threatened native vegetation community
- d) the clearance and conversion is unlikely to detract substantially from the conservation values in the vicinity of the threatened native vegetation community.

A list of threatened native vegetation communities is provided in Table 1 on the last page of this information sheet. A series of information sheets has been produced to assist land owners to identify vegetation communities. These are available on the internet (www.fpa.tas.gov.au) or by contacting the FPA.

5. What if there are threatened species located within the area to be cleared

Land clearing for non-forestry activity is not covered by the Regional Forest Agreement and a separate approval from the Commonwealth may be required before you proceed, even if you have a certified forest practices plan.

The Commonwealth Department of Agriculture Water and Environment should be consulted where there is a Matter of National Environmental Significance, such as a nationally listed threatened species or vegetation community, to seek permission under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) – see <https://www.environment.gov.au/epbc/information-kit>

A forest practices plan is not an automatic approval under the EPBC Act for non-forestry activity (i.e. clearing and conversion of trees to a non-forestry land-use)

6. Is compensation payable if I'm prevented from clearing my land?

The *Nature Conservation Act 2002* sets out the processes and criteria for compensation.

7. Are there any exemptions from requiring a forest practices plan?

The *Forest Practices Regulations 2017* provide some exemptions from the requirement to have a forest practices plan to authorise land clearing. These include:

- small scale clearing can take place providing:
 - the landowner has given consent and
 - the land is not 'vulnerable land' (see definition below) and
 - **up to 1 hectare** per property per year is cleared or timber volumes removed or cleared do not exceed **100 tonnes** (whichever is the lesser)
- clearing of trees or native vegetation, with the consent of the owner of the land, to provide a reasonable buffer for existing infrastructure (e.g. dwellings, fences) or for public safety - (a reasonable buffer is usually considered to be a tree length).
- clearing of trees or native vegetation regrowth (containing no more than 20 eucalypts more than 2 metres tall within a 0.5 hectare area), with the consent of the owner of the land, on previously cleared and converted land (i.e. the owner can demonstrate a history of agricultural or non-forest use over a consecutive period of at least 5 years since 1985, during which the land did not contain trees or threatened native vegetation communities; or the land has been cleared and converted in the immediately preceding 5-year period in accordance with a certified forest practices plan) – this provision allows for the clearing of failed plantations, provided no timber is sold.
- clearing associated with:
 - dam works authorised by a dam permit
 - easements for the construction and maintenance of electricity infrastructure and associated access tracks, where in accordance with an environmental management system endorsed by the FPA

- construction and maintenance of gas pipelines and public roads
- clearing in accordance with a conservation covenant or a vegetation management agreement of a kind approved by the FPA
- clearing carried out in the course of fire management work that is part of a fire management program of a kind approved by the FPA – the FPA accepts that clearance carried out in accordance with the [Tasmania Fire Service guidelines](#) does not require an FPP
- clearing carried out for mining or mineral exploration activities that are authorised under a permit under the *Land Use Planning and Approvals Act 1993* or a licence or lease under the *Mineral Resources Development Act 1995*
- harvesting timber or clearing trees on any land, or clearing and conversion of a threatened native vegetation community on any land for the purpose of enabling
 - (i) the construction of a building within the meaning of the *Land Use Planning and Approvals Act 1993* or of a group of such buildings
 - (ii) the carrying out of any associated development
 - if the construction of the buildings or carrying out of the associated development is authorised by a permit issued under that Act
- clearing for construction and maintenance of a railway within the meaning of the *Rail Infrastructure Act 2007*.

Vulnerable land means land that:

- is within a streamside reserve or a machinery exclusion zone as defined in the *Forest Practices Code* (streamside reserves vary from 10 metres from the streambanks for a Class 4 stream to 40 metres for a Class 1 river)
- has steep slopes in excess of the limits prescribed in the *Forest Practices Code* (these limits range from 11–19 degrees depending on the rock type)
- is within the high or very high soil erodibility class within the meaning of the *Forest Practices Code*
- consists of, or contains, a threatened native vegetation community (see Table 1 below)
- is inhabited by a threatened species
- contains vulnerable karst soils (see the *Forest Practices Code*)
- contains an area of trees reserved from harvesting or clearing under an expired forest practices plan.

Need help or more information

FPA: 30 Patrick St, Hobart 7000; ph. 6165 4090 www.fpa.tas.gov.au; email: info@fpa.tas.gov.au

DPIPWE: 134 Macquarie St, Hobart 7000; ph: 1300 368 550 www.dpipwe.tas.gov.au

Table 1: Threatened native vegetation communities listed under the Nature Conservation Act 2002
<https://dpipwe.tas.gov.au/conservation/threatened-species-and-communities/threatened-native-vegetation-communities>

Threatened forest communities
<i>Allocasuarina littoralis</i> forest (Bull oak forest)
Pencil pine / Deciduous beech short rainforest
Pencil pine open woodland
Pencil pine rainforest
King Billy pine / Deciduous beech short rainforest
King Billy pine rainforest
<i>Banksia serrata</i> (saw-tooth banksia) woodland
<i>Callitris romboidea</i> (Oyster Bay Pine) forest
<i>Eucalyptus amygdalina</i> (black peppermint) forest and woodland on sandstone
<i>Eucalyptus amygdalina</i> (black peppermint) inland forest & woodland Cainozoic deposits
<i>Eucalyptus brookeriana</i> (Brookers gum) wet forest
<i>Eucalyptus globulus</i> (blue gum) dry forest and woodland
<i>Eucalyptus globulus</i> (blue gum) King Island forest
<i>Eucalyptus morrisbyi</i> (Morrisbys gum) forest and woodland
<i>Eucalyptus ovata</i> (black gum) forest and woodland
<i>Eucalyptus risdonii</i> (Risdon peppermint) forest and woodland
<i>Eucalyptus tenuiramis</i> (silver peppermint) forest and woodland on sediments
<i>Eucalyptus viminalis</i> – <i>E. globulus</i> (white gum – blue gum) coastal forest and woodland
<i>Eucalyptus viminalis</i> (white gum) Furneaux forest and woodland
<i>Eucalyptus viminalis</i> (white gum) wet forest
<i>Melaleuca ericifolia</i> (coast paperbark) swamp forest
<i>Notelaea</i> – <i>Pomaderris</i> – <i>Beyeria</i> forest (Native olive – dogwood – pinkwood forest)
Subalpine <i>Leptospermum nitidum</i> (shining tea-tree) woodland
Threatened non-forest communities
King Billy Pine subalpine scrub
<i>Banksia marginata</i> (silver banksia) wet scrub
Heathland scrub complex at Wingaroo
<i>Melaleuca pustulata</i> scrub
Riparian scrub
Rainforest fernland
Seabird rookery complex
Highland <i>Poa</i> grassland
Alkaline pans
Cushion moorland
Highland grassy sedgeland
Subalpine <i>Diplarrena latifolia</i> rushland
Coastal complex on King Island
Heathland on calcarenite
<i>Sphagnum</i> peatland
Wetlands

Disclaimer

The information and other material contained in this document and on the FPA website is provided for your assistance. It should not be relied on as legal advice or as a substitute for legal advice. You should seek appropriate professional legal advice for your own situation.

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