



New South Wales

# Local Land Services Amendment (Miscellaneous) Bill 2020

## Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

## Overview of Bill

The objects of this Bill are as follows—

- (a) to remove the application of *State Environmental Planning Policy (Koala Habitat Protection) 2019* to land to which Parts 5A and 5B of the *Local Land Services Act 2013* (**the Act**) apply, while preserving the application of *State Environmental Planning Policy No 44—Koala Habitat Protection* to certain core koala habitats in the local government areas of Ballina, Coffs Harbour, Kempsey, Lismore and Port Stephens,
- (b) to remove requirements imposed by other legislation, including the requirement for development consent under the *Environmental Planning and Assessment Act 1979*, in relation to carrying out private native forestry that is authorised by a private native forestry plan under Part 5B of the Act,
- (c) to extend the maximum duration of private native forestry plans made under Part 5B of the Act to 30 years,
- (d) to require the Minister for Agriculture and Western New South Wales to consult with the Minister administering Part 7A of the *Fisheries Management Act 1994* and the Minister administering the *Forestry Act 2012* before making a private native forestry code of practice,
- (e) to allow native vegetation clearing in certain circumstances on land that is used for agricultural purposes without the need for authorisation under other legislation.

## Outline of provisions

**Clause 1** sets out the name (also called the short title) of the proposed Act.

**Clause 2** provides for the commencement of the proposed Act on a day or days to be appointed by proclamation.

## Schedule 1      **Amendment of Local Land Services Act 2013** **No 51**

### Land management (native vegetation)

**Schedule 1[2]** inserts definitions of *allowable activity land* and primary production into Part 5A, for the purposes of that Part and Schedule 5A. *Allowable activity land* is defined to mean a landholding that—

- (a) is in an area of the State to which Part 5A applies, and
- (b) is or was wholly or partly in a rural land use zone and the whole or part of which has been rezoned as Zone E2, Zone E3 or Zone E4, and
- (c) is used for primary production.

**Schedule 1[7]** expands the offence relating to clearing of native vegetation to apply to clearing of native vegetation on *allowable activity land* and to provide a defence to that offence that the clearing is for an allowable activity authorised under Division 4 of Part 5A and Schedule 5A. **Schedule 1[7]** also extends the application of section 60O, which authorises clearing of native vegetation under other legislation in certain cases, to clearing of native vegetation on allowable activity land.

**Schedule 1[8]** provides a defence to unauthorised clearing of native vegetation on allowable activity land if the clearing is authorised under *State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017*.

**Schedule 1[9]** provides that an offence is not committed under the *Environmental Planning and Assessment Act 1979* in relation to the clearing of native vegetation if the clearing is carried out on allowable activity land and for an allowable activity authorised under Division 4 of Part 5A and Schedule 5A.

**Schedule 1[10]** removes the ability for a State environmental planning policy or part of a local environmental plan that adopts a mandatory provision of a standard instrument under the *Environmental Planning and Assessment Act 1979* to require development consent or other authorisation only for the clearing of native vegetation in an area of the State to which Part 5A applies.

**Schedule 1[1]** makes a consequential amendment.

**Schedule 1[11]** extends the application of section 60Q to allowable activity land. That section provides for the listing in Schedule 5A of the allowable activities in relation to which native vegetation clearing is authorised without any approval or other authority under Part 5A for the clearing. **Schedule 1[19]** makes a consequential amendment to Schedule 5A.

**Schedule 1[12]** permits clearing of native vegetation for allowable activities specified in Schedule 5A even if there is no approval or other authority for the clearing required by or under another Act or if it is in contravention of a provision of another Act.

**Schedule 1[4]** substitutes a provision relating to the designation of land as category 2-regulated land for the purposes of mapping areas where the clearing of native vegetation is regulated under Part 5A. The proposed substituted provision designates as category 2-regulated land, certain land in the local government areas of Ballina, Coffs Harbour, Kempsey, Lismore or Port Stephens identified as core koala habitat and that was subject to a plan of management approved on or before 6 October 2020 under *State Environmental Planning Policy No 44—Koala Habitat*

*Protection*, as in force immediately before its repeal, and in force on 6 October 2020. **Schedule 1[5]** makes a consequential amendment.

#### **Private native forestry**

**Schedule 1[13]** extends the application of Part 5B to an area in which forestry operations can be carried out despite a requirement imposed by the *Environmental Planning and Assessment Act 1979*.

**Schedule 1[14]** inserts proposed section 60ZSA, which provides that forestry operations authorised to be carried out under Part 5B on land to which the Part applies do not need development consent under Part 4 of the *Environmental Planning and Assessment Act 1979* and are not subject to Part 5 of that Act. The proposed section also provides that forestry operations cannot be prohibited or restricted, or development consent be required, by an environmental planning instrument made under the *Environmental Planning and Assessment Act 1979*. **Schedule 1[17]** makes a consequential amendment.

**Schedule 1[16]** provides that the Minister for Agriculture and Western New South Wales must consult with the Minister administering Part 7A of the *Fisheries Management Act 1994* and the Minister administering the *Forestry Act 2012* before making a private native forestry code of practice. **Schedule 1[15]** makes a consequential amendment.

**Schedule 1[18]** extends the maximum duration of private native forestry plans to 30 years.

## **Schedule 2      Amendment of Local Land Services Regulation 2014**

**Schedule 2** makes an amendment consequential on the amendment to section 60I(2)(j) of the Act.