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Forest Practices Regulations 2017

Version current from 27 April 2017 to date (accessed 18 October 2018 at 11:35)

Forest Practices Regulations 2017

I, the Governor in and over the State of Tasmania and its Dependencies in the Commonwealth of Australia, acting with the advice of the Executive Council and on the recommendation of the Forest Practices Authority, make the following regulations under the Forest Practices Act 1985 .

10 April 2017

C. WARNER

Governor

By Her Excellency's Command,

GUY BARNETT

Minister for Resources

1. Short title

These regulations may be cited as the Forest Practices Regulations 2017 .

2. Commencement

These regulations take effect on 27 April 2017.

3. Interpretation

In these regulations –

Act means the Forest Practices Act 1985 ;

applicable land means –

(a) in relation to Crown land, any Crown land that is not within 100 metres of –

(i) any other Crown land that is subject to forest practices; or

- (ii) permanent timber production zone land that is subject to forest practices; and
- (b) in relation to permanent timber production zone land, any permanent timber production zone land that is not within 100 metres of –
 - (i) any other permanent timber production zone land that is subject to forest practices; or
 - (ii) Crown land that is subject to forest practices; and
- (c) in relation to any other land, any land set forth in respect of one valuation of land contained in the valuation roll under section 24(1) of the Valuation of Land Act 2001 ;

associated development means development that is related to the construction or use of a building, or to the construction or use of a group of buildings, and includes the development of –

- (a) water, sewerage, gas, electrical, telecommunications and other services to be provided to the building or group of buildings; and
- (b) roads, footpaths and cycle paths; and
- (c) firebreaks; and
- (d) recreational facilities, including but not limited to parks and sportsgrounds; and
- (e) facilities to enable the commercial use of the building or group of buildings;

conservation covenant means a conservation covenant within the meaning of Part 5 of the Nature Conservation Act 2002 ;

Crown land means Crown land within the meaning of the Crown Lands Act 1976 ;

drainage channel means a man-made channel constructed solely for the purpose of land drainage on land where no channel previously existed;

electricity infrastructure has the same meaning as in the Electricity Supply Industry Act 1995 and includes –

- (a) communications equipment used for or in connection with electricity infrastructure; and
- (b) structures and works used for or in connection with electricity infrastructure or communications equipment; and
- (c) access tracks used for or in connection with electricity infrastructure, communications equipment or structures and works; and
- (d) structures and works used for or in connection with such access tracks;

existing infrastructure means –

- (a) infrastructure existing when these regulations take effect; or
- (b) infrastructure built, after these regulations take effect, in accordance with a certified forest practices plan; or
- (c) infrastructure built, after these regulations take effect, for which no certified forest practices plan is required;

fire management work means burning off vegetation and constructing firebreaks and access tracks where –

- (a) the sole purpose of the work is to reduce fire hazards or control wildfires; and
- (b) trees affected by the work are not harvested or cleared for any other purpose; and
- (c) reasonable precautions are taken to avoid harming natural and cultural forest values, including forest cover and regeneration;

infrastructure includes but is not limited to roads, fences, buildings and drainage channels;

mineral exploration activities means activities undertaken in the course of exploring, within the meaning of the Mineral Resources Development Act 1995 , for minerals within the meaning of that Act;

mining activities means activities undertaken in the course of carrying out mining within the meaning of the Mineral Resources Development Act 1995 ;

native vegetation regrowth means native vegetation not containing, in any 0.5 hectare area, more than 20 eucalypt plants, of any species, more than 2 metres in height;

permanent timber production zone land has the same meaning as in the Forest Management Act 2013 ;

previously cleared and converted land means land –

(a) whose owner can demonstrate a history of agricultural or other non-forest land 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

(b) that has been cleared and converted in the immediately preceding 5-year period in accordance with a certified forest practices plan;

public road means –

(a) a State highway within the meaning of section 3 of the Roads and Jetties Act 1935 ; and

(b) a subsidiary road within the meaning of section 3 of the Roads and Jetties Act 1935 ; and

(c) a country road within the meaning of section 3 of the Roads and Jetties Act 1935 ; and

(d) a highway under local management within the meaning of section 4(6) of the Local Government (Highways) Act 1982 ;

reasonable buffer, in relation to infrastructure, means –

(a) a buffer of land of such area as is necessary to provide safe vehicular access to the infrastructure; or

(b) a buffer of land of such width as is necessary to protect the infrastructure from being damaged by falling timber;

vegetation management agreement means an agreement that an owner of land enters into with an instrumentality or agency of the Crown for the purposes of managing native vegetation on that land;

vulnerable land means land that –

(a) is within a streamside reserve or a machinery exclusion zone within the meaning of the *Forest Practices Code*; or

(b) has a slope of more than the landslide threshold slope angles within the meaning of the *Forest Practices Code*; or

(c) is within the High or Very High Soil Erodibility Class within the meaning of the *Forest Practices Code*; or

(d) consists of, or contains, a threatened native vegetation community; or

(e) is inhabited by a threatened species within the meaning of the Threatened Species Protection Act 1995 ; or

(f) contains vulnerable karst soil within the meaning of the *Forest Practices Code*; or

(g) contains an area of trees reserved from the harvesting of timber or the clearing of trees under a forest practices plan where the period specified in the plan has expired.

4. Circumstances in which forest practices plan, &c., not required

For the purpose of section 17(6) of the Act, the following circumstances are prescribed:

(a) the harvesting of timber or the clearing of trees, with the consent of the owner of the land, if the land is not vulnerable land and –

(i) the volume of timber harvested or trees cleared is less than 100 tonnes for each area of applicable land per year; or

(ii) the total area of land on which the harvesting or clearing occurs is less than one hectare for each area of applicable land per year –

whichever is the lesser;

(b) the clearing of trees or native vegetation, with the consent of the owner of the land, to provide a reasonable buffer for existing infrastructure if the clearing is necessary to maintain the infrastructure or for public safety;

(c) the clearing of trees or native vegetation regrowth, with the consent of the owner of the land, from an area of previously cleared and converted land;

(d) the harvesting of timber or the clearing of trees on any land, or the clearance and conversion of a threatened native vegetation community on any land, for one or more of the following purposes:

(i) dam works authorised by a Division 3 permit issued under the Water Management Act 1999 ;

(ii) the construction and maintenance of gas pipelines;

(iii) the construction and maintenance of public roads;

(e) the establishment of trees, with the consent of the owner of the land, on land that has not contained trees or a threatened native vegetation community in the immediately preceding 5-year period where –

(i) establishing the trees does not involve the construction of a road or the operation of a quarry; and

(ii) the relevant area of land is less than 10 hectares for each area of applicable land per year;

(f) the harvesting of tree ferns –

(i) with the consent of the owner of the applicable land; and

(ii) if no more than 6 tree ferns are harvested on each area of applicable land during one year;

(g) the harvesting of timber or the clearing of trees, or the clearance and conversion of a threatened native vegetation community, with the consent of the owner of the land, carried out in accordance with –

(i) a conservation covenant of a kind that the Authority has approved in writing for the purposes of this paragraph; or

(ii) a vegetation management agreement of a kind that the Authority has approved in writing for the purposes of this paragraph;

(h) the clearing of trees, or the clearance and conversion of a threatened native vegetation community, with the consent of the owner of the land, in the course of fire management work carried out under a fire management program of a kind that the Authority has approved in writing for the purposes of this paragraph;

(i) the harvesting of timber or the clearing of trees on any land, or the clearance and conversion of a threatened native vegetation community on any land, in the course of mineral exploration activities, or mining activities, that are authorised under –

(i) a permit granted under the Land Use Planning and Approvals Act 1993 ; or

(ii) an exploration licence within the meaning of the Mineral Resources Development Act 1995 ; or

(iii) a retention licence within the meaning of the Mineral Resources Development Act 1995 ; or

(iv) a mining lease within the meaning of the Mineral Resources Development Act 1995 ;

(j) the harvesting of timber or the clearing of trees on any land, or the clearance 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; or

(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;

(k) the harvesting of timber or the clearing of trees on any land, or the clearance and conversion of a threatened native vegetation community on any land, for the purpose of enabling –

(i) the construction and maintenance of a railway within the meaning of section 3 of the Rail Infrastructure Act 2007 ; and

(ii) the establishment of a buffer of land of the area necessary to provide safe vehicular access to the railway or necessary to protect such a railway from being damaged by falling timber;

(l) the harvesting of timber or the clearing of trees on any land, or the clearance and conversion of a threatened native vegetation community on any land, to enable the construction and maintenance of electricity infrastructure, if –

(i) there is an easement on the land that enables the electricity infrastructure to be constructed or used, or, if there is no such easement, if the owner of the land consents to the construction or maintenance of the electricity infrastructure on the land; and

(ii) the clearance and conversion is undertaken in accordance with an environmental management system endorsed by the Forest Practices Authority.

5. Regulation 4(a) not to apply to future potential production forest land

Regulation 4(a) does not apply to future potential production forest land within the meaning of the Forestry (Rebuilding the Forest Industry) Act 2014 .

6. Prescribed fees

(1) For the purposes of section 18(4A) of the Act, the prescribed application fee for the certification of a forest practices plan is a fee determined in accordance with Table A in Part 1 of Schedule 1 .

(2) For the purposes of section 23(2)(d) of the Act, the prescribed application fee for the variation of a certified forest practices plan is a fee determined in accordance with Table A in Part 1 of Schedule 1 where the variation results in an increase in the area covered by the plan of at least –

(a) 10%; or

(b) 20 hectares.

(3) The fees specified in Part 2 of Schedule 1 are prescribed as the fees payable in respect of the matters to which they respectively relate.

SCHEDULE 1 - Fees

Regulation 6

PART 1 - Fee for application for certification of forest practices plan

Table A - Determination of prescribed fee

FPP ranking	Prescribed fee
0	52 fee units
1	The higher of the following amounts: (a) 52 fee units (b) 6 fee units for each hectare (or part hectare) of land covered by the plan
2	The higher of the following amounts: (a) 77 fee units (b) 16 fee units for each hectare (or part hectare) of land covered by the plan
3	The higher of the following amounts: (a) 129 fee units (b) 25 fee units for each hectare (or part hectare) of land covered by the plan
4	The higher of the following amounts: (a) 513 fee units (b) 30 fee units for each hectare (or part hectare) of land covered by the plan

In Table A –

"FPP ranking" means a forest practices plan's ranking on a scale of complexity ranging from 0 to 4 (with 0 being the least complex and 4 being the most complex), as determined under Table B.

Table B - Determination of FPP ranking for Table A

		Type (operational code) of FPP (as assessed by forest Practices officer)					
		LIGHT SELECTIVE LOGGING OR LOW-LEVEL OPERATION	RETENTION SYSTEM	CLEARFELL SYSTEM	CONVERSION TO NON-FOREST	CONVERSION TO PLANTATION OR CLEARANCE & CONVERSION OF TNVC	ROAD, QUARRY
		(eg, collecting timber for firewood)	(eg, thinning operation leaving forest substantially intact)	(eg, felling all trees and allowing land to regenerate)	(eg, felling all trees and converting land to agricultural use)	(eg, converting native forest to pine plantation, or converting threatened native grassland to cropping)	(eg, constructing vehicular access to facilitate timber harvesting)
Type of land covered by FPP	C	0	0	0	0	4 for an FPP involving the clearance & conversion of a TNVC 2 for another kind of FPP	3
	P	1	1	2	2	2	3
	NF	1	2	3	4	4	3

In Table B –

"C" signifies treeless land or land containing scattered or degraded forest that the Authority has determined comprises –

(a) trees that –

- (i) are mostly dead or show signs of severe dieback; and
- (ii) show no signs of healthy regeneration; or
- (b) trees that –
 - (i) are mostly in poor health; and
 - (ii) have an extensively disturbed or modified understorey dominated by introduced species of grass or other vegetation (such as broom, gorse or blackberry); and
 - (iii) have a low potential to regenerate naturally or regain long-term health; or
- (c) mature trees that –
 - (i) have, collectively, a canopy cover of less than 5% of the canopy cover that would be expected in a healthy forest; and
 - (ii) occur only as solitary specimens, or in small stands of fewer than 10 trees, within a largely cleared landscape; or
- (d) native vegetation regrowth on previously cleared and converted land;

"FPP" means forest practices plan;

"NF" signifies a forest established by the natural or assisted regeneration of trees from seed or other natural propagules;

"P" signifies a forest established by planting trees;

"TNVC" means threatened native vegetation community.

PART 2 - Other fees

- | | | |
|----|--|---------------|
| 1. | Application under section 5(2)(d) of the Act to have land declared as private timber reserve | 350 fee units |
| 2. | Issue of tree fern tag under section 18A(b) of the Act – | |
| | (a) for tree fern stem greater than 30cm in length | 1 fee unit |
| | (b) for tree fern stem 30cm or less in length | 0.5 fee unit |

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