



A guide to determining agricultural use in the Coastal Zone and on small holdings

This fact sheet provides guidance for rural landholders in understanding how 'agricultural activity' is defined in the coastal zone under the Land Management Code 2018 (the Code); and how it applies to native vegetation management.

Overview

To manage native vegetation in coastal zones under the Local Land Services Act and Land Management Code 2018, you should be aware of the following:

- the primary use of the land in the Coastal Zone is for agricultural activities under the Land Management (Native Vegetation) Code 2018 (The Code), and
- additional infrastructure is required by a landholder in the Coastal Zone or on a small holding for a genuine agricultural purpose under Schedule 5A (allowable activities) of the *Local Land Services Act 2013* (LLS Act).

Note: definitions of key concepts are found at the end of this guide.

How can I manage native vegetation in coastal zones?

Local Land Services may issue a certificate allowing clearing of native vegetation in coastal zones under certain parts of the Code, if we are satisfied the primary use of the land is agricultural activities.

The Code restricts clearing in certain circumstances, such as within the Pasture Expansion, Equity (Divisions 1, 3 and 4) and Farm Plan parts of the Code for landholdings predominantly in the Coastal Zone.

Schedule 5A of the Local Land Services Act 2013 (LLS Act) allows clearing for rural infrastructure but limits the types of infrastructure eligible for clearing in the Coastal Zone and on small holdings.

Local Land Services may issue a certificate allowing clearing for additional rural infrastructure if Local Land Services is satisfied that the clearing is for a 'genuine agricultural activity purpose'.

You will need to demonstrate that the additional infrastructure is required for a genuine agricultural activity purpose.

In the Coastal Zone (other than on small holdings), infrastructure is limited to the following—

- (a) permanent boundary fences, permanent internal fences, roads, tracks or pipelines,
- (b) shearing or machinery sheds, tanks, dams, stockyards, bores, pumps, water points or windmills.

Want to know more?

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You'll find other land management resources including fact sheets

Call us: 1300 795 299 and ask for an officer to advise you on land management

Email us: slm.info@lls.nsw.gov.au

Contact us online: www.lls.nsw.gov.au/contact-us



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On small holdings in any Zone, infrastructure is limited to the following—

- (a) permanent boundary fences, permanent internal fences, roads, tracks or pipelines,
- (b) windmills, bores, stockyards, buildings other than habitable buildings, dams, pumps, tanks or water points.

The infrastructure is limited to stationary infrastructure and does not include any moveable component of the infrastructure that extends the area of operation of the infrastructure when it is used.

Clearing under allowable activities for rural infrastructure must be to the minimum extent necessary; to a maximum of 15 metres in the coastal zone (except on small holdings) and to a maximum of 12 metres for small holdings.

Schedule 5A (Allowable activities) does not authorise clearing or other activities without obtaining any authority required by other legislation. Please refer to the allowable activities fact sheets on the Local Land Services website. Go to 'Resources' at www.lls.nsw.gov.au/land-management

What is meant by an agricultural activity?

Local Land Services will consider the following criteria to determine whether an activity is an agricultural activity

Criteria 1:

The activity is:

a) Aquaculture including:

- i. cultivating fish or marine vegetation for the purpose of harvesting the fish or marine vegetation or their progeny with a view to sale, or
- ii. keeping fish or marine vegetation in a confined area for a commercial purpose (such as a fish-out pond).

b) Extensive agriculture including:

- i. the production of crops or fodder (including irrigated pasture and fodder crops for commercial purposes)
- ii. the grazing of livestock for commercial purposes,
- iii. the broadacre agistment of grazing livestock for commercial purposes
- iv. bee keeping
- v. dairy (pasture-based).

c) Intensive livestock agriculture including:

- i. dairies
- ii. feedlots
- iii. piggeries
- iv. poultry farms.

d) Intensive plant agriculture including:

- i. the cultivation of irrigated crops for commercial purposes (other than irrigated pasture or fodder crops)
- ii. horticulture
- iii. turf farming
- iv. viticulture.

Criteria 2:

The agricultural activity:

- a) has a significant and substantial commercial purpose or character; and
 - b) has been engaged in for the purpose of profit on a continuous or repetitive basis (whether or not a profit is actually made); and
 - c) is the predominant commercial activity on the landholding.
- Local Land Services will take into account the indicators and evidence outlined in Table 1 to assess the commercial purpose of the activity on a landholding.



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How is commercial character considered?

Local Land Services will take into account the indicators and evidence outlined in Table 1 to assess the commercial purpose of the activity on a landholding.

Table 1 - Assessing the status of an agricultural activity

Indicator	Evidence
1. Does the agricultural activity have a significant commercial purpose or character?	<ul style="list-style-type: none"> • Does the landholder have the status as a primary producer with the Australian Taxation Office? • Does the landholder have a business plan? • Does the landholder pay rates to Local Land Services? • Is the agricultural activity the principal source of income on the landholding?
2. Does the landholder have more than just the intention of engaging in the agricultural activity?	<ul style="list-style-type: none"> • Has the landholder confirmed that they comply with the necessary legal requirements for the activity, i.e., have they obtained the necessary licenses, permits and registrations required to undertake the activity? • Has the landholder sought advice from the relevant authorities on their operations, i.e., Local Government, experienced farmers, agronomists, agricultural consultants? • Has the landholder obtained soil and water analyses? • Does the landholder have a registered and active Property Identification Code (PIC) in FARMS? • Has the landholder registered beasts on the National Livestock Identification System (NLIS)?
3. Does the landholder profit or have a reasonable prospect of profiting from the agricultural activity?	<ul style="list-style-type: none"> • Has the landholder identified a market for his/her products? • Can the landholder demonstrate that the activity has generated a profit or has a reasonable prospect of doing so in the future, i.e., an updated balance sheet outlining business expenditure and profits/savings?
4. Is the agricultural activity planned, organised and carried out in a manner consistent with comparable agribusinesses?	<ul style="list-style-type: none"> • Does the landholder have a record related to the agricultural activities undertaken on the property? • Is the activity of a size and scale consistent with comparable agribusinesses? • Is the rural infrastructure necessary for the agricultural activity it is purported to serve?

What if the agriculture activity is new?

If you are proposing a new agricultural development, Local Land Services will need to be satisfied that the proposed activity meets the above criteria. You must provide the following evidence and any supporting evidence as requested by Local Land Services:

- (i) A detailed business plan demonstrating that the proposed activity has been carefully planned and could potentially generate profit, and
- (ii) Written confirmation from the relevant consent authority that the proposed agricultural activity (and associated ancillary

activities) does, or does not, require development consent; and
 (iii) Evidence of advice from a suitable qualified agricultural professional that the land is capable for the proposed activity.

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Definitions

Coastal Zone means the local government areas of Ballina, Bega Valley, Bellingen, Byron, Central Coast, Clarence Valley (to the east of the line that follows Summerland Way from the north, then Armidale Road until its intersection with Orara Way, then Orara Way), Coffs Harbour, Eurobodalla, Kempsey, Kiama, Lake Macquarie, Lismore, Maitland, Mid-Coast (except the former area of Gloucester), Nambucca, Port Macquarie-Hastings, Port Stephens, Richmond Valley, Shellharbour, Shoalhaven, Tweed and Wollongong.

Commercial purpose means a business activity that is undertaken for the purposes of financial gain and is at a scale comparable to similar businesses in the region as determined by Local Land Services.

Infrastructure is a building, structure or work.

Small holding in the Coastal and Central Zones means a single landholding in the same ownership that has an area of less than 10 hectares; in the Western Zone a small holding is 40 hectares.

For further information

Go to the Local Land Services Land Management resources page for fact sheets on allowable activities, rural infrastructure and the other approvals that may be required.

www.lls.nsw.gov.au/land-management

Find the relevant legislation:

- Land Management (Native Vegetation) Code 2018: www.legislation.nsw.gov.au/regulations/2018-83.pdf
- Local Land Services Act 2013: www.legislation.nsw.gov.au/#/view/act/2013/51
- Schedule 5A of the Local Land Services Act 2013: www.legislation.nsw.gov.au/#/view/act/2013/51/sch5a

Note: The information in this fact sheet does not constitute legal advice. Contact your nearest Local Land Services office before undertaking any clearing.



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