



Determining native vegetation land categorisation for application in the Biodiversity Offsets Scheme

Department of Planning and Environment



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Published by:

Environment and Heritage
Department of Planning and Environment
Locked Bag 5022, Parramatta NSW 2124
Phone: +61 2 9995 5000 (switchboard)
Phone: 1300 361 967 (Environment and Heritage enquiries)
TTY users: phone 133 677, then ask for 1300 361 967
Speak and listen users: phone 1300 555 727, then ask for 1300 361 967
Email: info@environment.nsw.gov.au
Website: www.environment.nsw.gov.au

Report pollution and environmental incidents
Environment Line: 131 555 (NSW only) or info@environment.nsw.gov.au
See also www.environment.nsw.gov.au

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Shortened forms

Shortened form	Description
assessor	a person who is accredited under the <i>Biodiversity Conservation Act 2016</i> for the purposes of applying the Biodiversity Assessment Method
BAM	Biodiversity Assessment Method 2020
BAM-C	Biodiversity Assessment Method Calculator
BAR	Biodiversity Assessment Report; includes Biodiversity Development Assessment Reports (BDARs), Biodiversity Certification Assessment Reports (BCARs) and Biodiversity Stewardship Site Assessment Reports (BSSARs)
BC Act	<i>Biodiversity Conservation Act 2016</i> (NSW)
BC Regulation	Biodiversity Conservation Regulation 2017 (NSW)
the Scheme	Biodiversity Offsets Scheme
Scheme threshold	the Biodiversity Offsets Scheme threshold established under clause 7.1 of the BC Regulation (i.e. the area clearing threshold and Biodiversity Values Map threshold)
CEEC	critically endangered ecological community
CER	Category Explanation Report
the department	NSW Department of Planning and Environment
EP&A Act	<i>Environmental Planning and Assessment Act 1979</i> (NSW)
the guide	<i>Determining native vegetation land categorisation for application in the Biodiversity Offsets Scheme</i> (this document)
IGGAM	Interim Grasslands and other Groundcover Assessment Method
LLS	Local Land Services NSW that forms part of the Department of Regional NSW
LLS Act	<i>Local Land Services Act 2013</i> (NSW)
LLS Regulation	Local Land Services Regulation 2014 (NSW)
NVR map	native vegetation regulatory map
NVR map method	the Native Vegetation Regulatory Map Method Statement and its appendices
prescribed impacts	impacts prescribed under clause 6.1 of the BC Regulation
SEED portal	the NSW Government's central resource portal for Sharing and Enabling Environmental Data
the transitional period	the period from the commencement of Part 5A of the LLS Act (25 August 2017) until an area has been designated on the final native vegetation regulatory map (section 60F, LLS Act)

1. Introduction to this guide

This guide is for accredited assessors applying the Biodiversity Assessment Method (BAM). It is designed for use during the Native Vegetation Regulatory (NVR) map transitional period. A draft NVR map displaying all land categories identified in the LLS Act is being made available in a staged release for some areas of New South Wales. This is a guide for assessment on areas not yet designated on the transitional or draft NVR map. It does not apply to land excluded from the operation of Part 5A of the *Local Land Services Act 2013* (LLS Act) ('excluded land').

In New South Wales, development or clearing proposals on NVR map category 1-exempt land may not require biodiversity assessment within the NSW Biodiversity Offsets Scheme (the Scheme) or may have reduced biodiversity assessment requirements.

The guide *Determining native vegetation land categorisation for application in the Biodiversity Offsets Scheme* (this document) outlines:

- an evidence-based approach to identifying native vegetation regulatory map (NVR map) land categorisation
- biodiversity assessment requirements in relation to category 1-exempt land.

The guide will be reviewed and updated periodically to include new information and reflect legislative or policy changes.

The draft NVR map does not create new legal obligations and is not binding. The **draft map** is being published to enable landholders to review the accuracy of the map of their land before the map is finalised. While the draft NVR map is under review, land categories remain defined by the criteria in the legislation. A published final NVR map will end transitional arrangements and replace application of the guide.

The Department of Planning and Environment (the department) and/or Local Land Services (LLS) should be consulted on the assessment of land category and application of this guide.

2. Categorising land

2.1 Is the subject land designated on the transitional or draft NVR map?

In areas that do not yet have a published draft NVR map available, examine the published **transitional** NVR map to determine if the subject land has been designated as category 2-sensitive regulated land, category 2-vulnerable regulated land or excluded land (see Figure 1, Steps 1 and 2). In areas where the published draft NVR map is available, examine the map to determine if the subject land has been designated category 1-exempt, category 2-regulated, category 2-sensitive, vulnerable regulated or excluded land.

If the subject land is wholly included on the transitional or draft NVR map, the land categorisation must be further assessed when determining entry into the Scheme. Section 3 provides information on assessment considerations for category 1-exempt land. Section 4.4 provides further information on the transitional and draft NVR maps, including how to request a review of mapped land categories. Appendix E provides links to the draft and transitional map viewers.

2.2 Is the subject land category 2-regulated land or category 1-exempt land?

If the subject land is partially identified on the transitional or draft NVR map, a reasonable assessment of the entire subject land, including both that which is off and on the transitional and draft NVR map, must be completed to identify which land category applies.

Assessment criteria for category 2-regulated land and category 1-exempt land are presented in Appendices A, B and C. Complete the assessment in consultation with the landowner.

Supporting resources are outlined in Section 4. Published resources, data or draft map products may inform a reasonable assessment of the land category.

Where published data or draft map products are referenced in an assessment, consider if site-scale refinement is needed for accurate application of NVR map criteria (Appendices A, B and C).

Multiple land categories may be identified across the subject land. Follow the process outlined in Figure 1 until all the subject land has been categorised (i.e. part of the subject land might be categorised in the initial steps, and other areas categorised as you move through the process).

There may be situations where part of the subject land satisfies the criteria for more than one land category; however, these categories cannot overlap (Box 1).

A precautionary approach to land categorisation is required (Box 2).

In addition, site-based floristic assessment is required to verify the presence or absence of critically endangered ecological communities (CEECs) and critically endangered plant species (Box 3).

Document outcomes for consideration in the assessment process (see Section 4.3). An example application of this guide is in Appendix D.

Box 1. Determining land categorisation where land meets criteria for more than one category

Land may satisfy the criteria for both category 1-exempt land section 60H, LLS Act) and category 2-regulated land (section 60I, LLS Act).

In most circumstances, category 2-regulated land criteria will determine the categorisation of the land rather than category 1-exempt land criteria (section 60H(4)(a), LLS Act). These circumstances are generally addressed by the process identified in Figure 1.

In limited circumstances the criteria relating to category 1-exempt land will determine the categorisation (section 60I(3)) as noted in Tables 1 and 2; for example, if the land was not cleared of native vegetation as at 1 January 1990 (category 2-regulated land criteria) but the land contains low conservation value grasslands (category 1-exempt land criteria), then the land should be designated as category 1-exempt land.

Consult with the department and/or LLS where there is uncertainty, or where land meets criteria for multiple categories (Section 4.3).

Box 2. Precautionary approach to land categorisation

During the transitional period, land is taken to be category 1-exempt land or category 2-regulated land if a reasonable person believes that certain matters that require the land to be designated as such apply to the land (section 60F, LLS Act).

The department's policy is to adopt an assessment of land categorisation that is consistent with the precautionary principle. In practice, this means selecting the category that affords a higher level of biodiversity protection when there is uncertainty.

For example, where there is insufficient evidence of past clearing or data is conflicting, the land should be mapped as category 2-regulated land.

Box 3. Land categorisation for critically endangered ecological communities and species of plants

CEECs and critically endangered species of plants are designated as category 2-sensitive regulated land (clause 108(2)(b), LLS Regulation); however, state-wide comprehensive mapping of all CEECs and critically endangered species of plants is not currently published on the transitional NVR map.

The presence of CEECs and/or critically endangered plants must be considered for site-scale refinement, regardless of published map products.

Complete a **site-based floristic assessment** to confirm the presence or absence of CEECs and/or critically endangered plants for any reasonable assessment of NVR map land category. Supporting evidence of this assessment must accompany a clearing or development application.

The landholder may also request a map review to update category 2-sensitive regulated land on the transitional NVR map (Section 4.4).

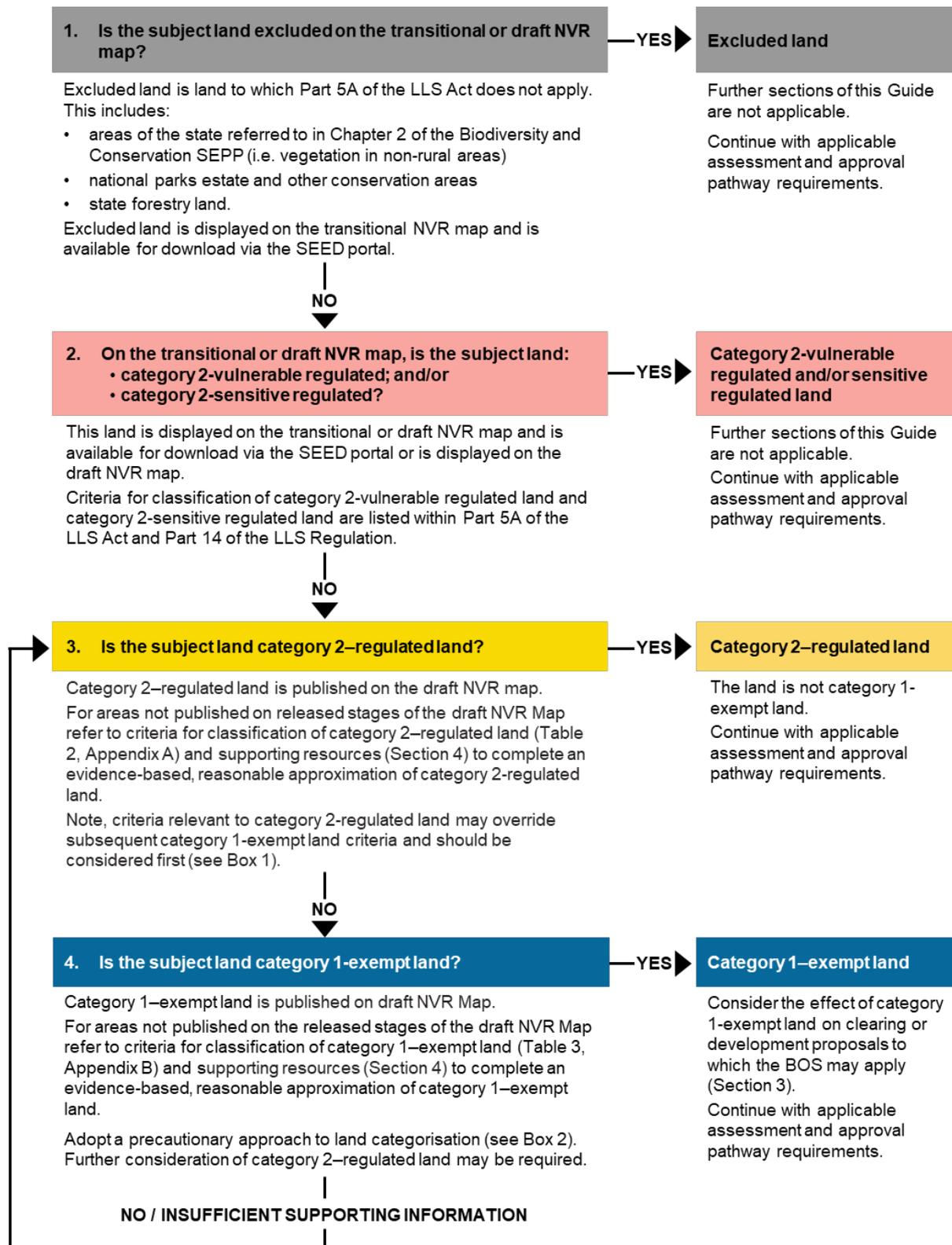


Figure 1 Diagram illustrating the process for determining land categorisation

3. Assessing category 1-exempt land

The presence of category 1-exempt land affects whether the Scheme applies to a clearing or development proposal and the assessment requirements for the Biodiversity Assessment Report (BAR). This is summarised in Table 1.

Refer to *When does the Biodiversity Offsets Scheme apply?* and the Scheme *Biodiversity Assessment and Approval Pathways for Local Government* for supporting information (Appendix E).

Table 1 Application of the Scheme on category 1-exempt land

Clearing or development proposal type	Assessment considerations on category 1-exempt land
Local development assessed under Part 4 of the NSW <i>Environmental Planning and Assessment Act 1979</i> (EP&A Act)	<p>Scheme threshold Category 1-exempt land is not included in the assessment of the threshold (Section 3.1).</p> <p>Threatened species test of significance Proponents must carry out a test of significance for all local development proposals that do not exceed the Scheme threshold (including those on category 1-exempt land).</p> <p>Area of outstanding biodiversity value The Scheme applies to development proposed to be carried out on a declared area of outstanding biodiversity value, irrespective of land category (see Appendix E).</p> <p>BAM Where the Scheme applies, an assessment of impacts prescribed under clause 6.1 of the BC Regulation (prescribed impacts) is required on category 1-exempt land. Clearing of native vegetation on category 1-exempt land does not require BAM assessment (Section 3.2).</p>
State significant development (SSD) and state significant infrastructure (SSI) projects	<p>Biodiversity Development Assessment Report (BDAR) waiver (if applicable) Information demonstrating how land meets the criteria of category 1-exempt land must be provided in a BDAR waiver request (see <i>Biodiversity Development Assessment Report waiver</i>, Appendix E).</p> <p>BAM Where the Scheme applies, an assessment of prescribed impacts is required on category 1-exempt land. Clearing of native vegetation on category 1-exempt land does not require BAM assessment (Section 3.2).</p>
Biodiversity certification	<p>Scheme entry The Scheme applies to all biodiversity certification proposals, including those on category 1-exempt land.</p> <p>BAM An assessment of prescribed impacts is required on category 1-exempt land. Clearing of native vegetation on category 1-exempt land does not require BAM assessment (Section 3.2).</p>

Clearing or development proposal type	Assessment considerations on category 1-exempt land
Clearing of native vegetation in urban areas and areas zoned for environmental conservation set out in Chapter 2, clause 2.3 of the <i>State Environmental Planning Policy (Biodiversity and Conservation) 2021</i> (Biodiversity and Conservation SEPP)	<p>Not applicable</p> <p>Land to which Chapter 2 of the Biodiversity and Conservation SEPP applies is excluded land and cannot therefore be designated as category 1-exempt land.</p>
Clearing of native vegetation in rural areas that requires approval by the Native Vegetation Panel (Part 5A, Division 6, LLS Act)	<p>Clearing not regulated</p> <p>Clearing of native vegetation on category 1-exempt land is not regulated under Part 5A of the LLS Act and will not require approval by the Native Vegetation Panel (section 60E(a), LLS Act).</p>
Activities assessed under Part 5 of the EP&A Act	<p>Test of significance</p> <p>Proponents must carry out a test of significance for all proposals (including those on category 1-exempt land). The proponent may elect to enter the Scheme for activities likely to significantly affect threatened species, ecological communities, or their habitat.</p> <p>BAM</p> <p>For activities where the proponent has elected to provide a BDAR, an assessment of prescribed impacts is required on category 1-exempt land. Clearing of native vegetation on category 1-exempt land does not require BAM assessment (Section 3.2).</p>

3.1 Biodiversity Offsets Scheme threshold

In determining whether a clearing or development proposal exceeds the Scheme’s threshold (i.e. area clearing threshold and Biodiversity Values Map threshold set out in clause 7.1 of the Biodiversity Conservation Regulation 2017 (BC Regulation)), any part of the proposal that involves the clearing of native vegetation on category 1-exempt land can be disregarded (*Biodiversity Conservation Act 2016* (BC Act), section 7.4).

In practice, this means that proposed clearing on category 1-exempt land only will not exceed the threshold. Where a proposal is only partially located on category 1-exempt land, proposed clearing on the remaining land may exceed the threshold.

A development or clearing proposal on category 1-exempt land may involve other biodiversity impacts for which assessment under the BAM will still be required; for example, if the test of significance determines the proposal is likely to significantly affect threatened species, ecological communities, or their habitats (section 7.3, BC Act).

3.2 Prescribed impact assessment

Where the Scheme applies to a clearing or development proposal, an assessment of prescribed impacts is required on category 1-exempt land (BAM 2020, Subsection 1.5.1(d.)). These assessment requirements are set out in the BAM.

However, clearing of native vegetation on category 1-exempt land does not require assessment (BAM 2020, Subsection 1.5.1(d.)). In practice, this means impact assessment relating to vegetation integrity and habitat suitability are not required on category 1-exempt land, and biodiversity credits are not generated in the BAM Calculator (BAM-C).

The BAM needs to be applied to any part of the subject land that is not category 1-exempt land.

3.3 BAM Appendix B.1 and Subsection 11.4.1(6)

Land categorisation is relevant to the definition of scattered trees and determines if the streamlined assessment module – scattered trees assessment can be applied (BAM 2020, Appendix B.1).

In ‘Stage 3: Improving biodiversity values’, native vegetation on category 1-exempt land is considered at high risk of decline in vegetation integrity (BAM 2020, Subsection 11.4.1(6)).

4. Supporting resources and consultation

These resources will assist to identify the land category. Where published data or draft map products are referenced in a reasonable assessment of the land category, consider if site-scale refinement is needed for accurate application of NVR map criteria (Appendices A, B and C).

4.1 Map method and data on the SEED portal

The NVR map is prepared using a peer-reviewed scientific method. The NVR Map Method Statement and its appendices (together referred to as the NVR map method) are published on the department's website (see Appendix E).

The NVR map method provides a comprehensive explanation of how data layers and information are used to categorise land based on criteria identified in the LLS Act (and repeated in Appendices A, B and C). Examine the NVR map method and associated data layers listed below when completing a reasonable approximation of land categorisation.

The following data layers are available on the Sharing and Enabling Environmental Data (SEED) portal (Appendix E). The SEED portal and associated data are subject to periodic updates. Not all data referenced in the NVR map method is available for download on the SEED portal. Access to some datasets may require a data licence (see Appendix E).

Land use

Land-use mapping is used to identify and map existing and historical agricultural land use in New South Wales under the Australian Land Use and Management (ALUM) Classification. Refer to Section 4 of the NVR map method.

The latest available mapping can be accessed on the SEED portal:

- recommended search term: "NSW Landuse" [include quote marks]
- sort by: 'Relevance'.

Woody vegetation extent

Woody vegetation extent identifies and maps native vegetation extent in New South Wales. Refer to Section 6.3 of the NVR map method. Woody vegetation is generally considered to be on category 2-regulated land, unless it is perennial horticulture, exotic vegetation, privately planted native vegetation (i.e. not publicly funded) or otherwise considered to have regrown since 1 January 1990.

The latest available mapping can be accessed on the SEED portal:

- recommended search terms: "NSW woody vegetation extent" or "NSW native vegetation extent" [include quote marks]
- sort by: 'Relevance'.

State-wide Landcover and Tree Survey (SLATS) woody clearing

SLATS woody clearing is used to identify detectable clearing events since January 1990 prior to implementation of the LLS Act. Refer to Section 6.4 of the NVR map method. Where applicable, consult with the department on appropriate use of SLATS woody clearing data to support land categorisation. The 30 m resolution of SLATS woody clearing data may require additional site analysis of tree cover to confirm precise clearing extent.

The latest available mapping can be accessed on the SEED portal:

- recommended search term: “SLATS” [include quote marks]
- sort by: ‘Relevance’.

4.2 Site information and records

Develop a comprehensive understanding of historical land management and disturbance on the subject land (as per the criteria listed in Table 2 and Table 3) from sources such as:

- current and historical high-resolution aerial photography of the subject land
- current and historical photographs of the subject land
- historical land management records maintained by the landowner
- survey data collected on the subject land
- approval documentation and/or statutory declarations demonstrating history of authorisation of clearing and/or development.

4.3 Consultation and documentation

Supporting documentation and data used to identify land categorisation should be provided to the decision-maker as part of the clearing, development or stewardship proposal. Consult with LLS and/or the department early, prior to submission of a clearing or development application, or prior to completing land management activities.

Documentation should clearly identify land determined to be category 1-exempt land, and any site-based floristic assessment used to identify CEECs and critically endangered plant species (Box 3). Documentation may be used to justify whether the Scheme applies (i.e. a BAR is required), or circumstances where BAM requirements differ (Section 3).

4.4 The draft and transitional NVR maps, map review and additional support

The transitional NVR map published in 2017 covers all of New South Wales and remains available.

The draft NVR map is being released in stages until all areas in the state have been released and before a final NVR map is published. The transitional period will continue to apply across all of the state until this process is completed, and a final NVR map is published.

Landholders or their nominated agent can request a Category Explanation Report (CER) on the transitional or draft NVR map. The CER provides a landowner with detailed information about the different published data layers applicable to their landholding. Where applicable, landowners can also ask the Map Review Team to do a Landholder Initiated Map Review (Appendix E), which may result in an update to the transitional or draft NVR map.

Landowners can also ask the Map Review Team to review the Biodiversity Values Map for a property, if the landowner or agent feel a biodiversity value has been incorrectly mapped (Appendix E).

See Appendix E for more support options, department contact details and online resources.

Appendix A. Category 2-regulated land criteria

Examine category 2-regulated land criteria in Table 2. Land is category 2-regulated land if one or more criteria in Table 2 are met (Figure 1). Table 2 provides examples of the information that can be used to evaluate whether the subject land meets these criteria.

When considering these criteria, native vegetation that comprises grasslands or other non-woody vegetation is taken to have been cleared if the native vegetation was significantly disturbed or modified (section 60J(2), LLS Act). Refer to criteria listed in clause 114 of the LLS Regulation (set out in Appendix C) for determining whether native vegetation has been significantly disturbed or modified between 1 January 1990 and 25 August 2017 (commencement of Part 5A, LLS Act).

Table 2 Criteria for designation of category 2-regulated land

Reference	Category 2-regulated land criteria	Applicable criteria (check all that apply)	Information examples
Section 60I(1)(a) LLS Act	The land was not cleared of native vegetation as at 1 January 1990 Note: Land is not to be designated category 2-regulated land if section 60H(2) or (3) requires the land to be designated as category 1-exempt land (section 60I(3), LLS Act; see Table 3)	<input type="checkbox"/> Applicable <input type="checkbox"/> Not applicable <input type="checkbox"/> Insufficient data or information	<p>Refer to the NVR map method and data layers (Sections 4.1)</p> <p>Consult with the landowner to obtain site information and records (Section 4.2)</p> <p>Refer to criteria listed in clause 114 of the LLS Regulation to determine native vegetation that has been significantly disturbed or modified (Appendix C)</p>
Section 60I(1)(b) LLS Act	The land was unlawfully cleared of native vegetation after 1 January 1990 Note: Land is not to be designated category 2-regulated land if section 60H(2) or (3) requires the land to be designated as category 1-exempt land (section 60I(3), LLS Act; see Table 3)	<input type="checkbox"/> Applicable <input type="checkbox"/> Not applicable <input type="checkbox"/> Insufficient data or information	
Section 60I(2)(a) LLS Act	The land contains native vegetation that was grown or preserved with the assistance of public funds (other than for forestry purposes)	<input type="checkbox"/> Applicable <input type="checkbox"/> Not applicable <input type="checkbox"/> Insufficient data or information	Consult with the landowner to obtain site information and records (Section 4.2)
Section 60I(2)(e) LLS Act	The land contains grasslands that are not low conservation value grasslands	<input type="checkbox"/> Applicable <input type="checkbox"/> Not applicable <input type="checkbox"/> Insufficient data or information	Refer to the Interim Grassland and other Groundcover Assessment Method (IGGAM) to determine the conservation value of grasslands or ground cover (Appendix E)
Clause 113(1)(g) LLS Regulation	The land contains low conservation grasslands beneath the canopy or drip line of woody vegetation (that satisfies category 2-regulated land criteria)	<input type="checkbox"/> Applicable <input type="checkbox"/> Not applicable <input type="checkbox"/> Insufficient data or information	During the transitional period, survey data collected in a scientific and objective manner is used to determine the conservation value of grasslands and ground cover (see Section 60F(3), LLS Act)
Clause 109(2) LLS Regulation	The land contains ground cover that is not grasslands or low conservation value	<input type="checkbox"/> Applicable <input type="checkbox"/> Not applicable <input type="checkbox"/> Insufficient data or information	Refer to the NVR map method and data layers (Sections 4.1)

Reference	Category 2-regulated land criteria	Applicable criteria (check all that apply)	Information examples
Clause 108(5) LLS Regulation Section 60I(2)(i) LLS Act	The land is identified as a proximity area for: <ul style="list-style-type: none"> coastal wetlands littoral rainforest <i>(State Environmental Planning Policy (Coastal Management) 2018)</i>	<input type="checkbox"/> Applicable <input type="checkbox"/> Not applicable <input type="checkbox"/> Insufficient data or information	Access relevant data via the ePlanning Spatial Viewer or the SEED portal (Appendix E)
Clause 113(1)(a) LLS Regulation	The land is, or was previously, subject to a: <ul style="list-style-type: none"> private native forestry plan (Part 5B of the LLS Act) private native forestry plan (<i>Forestry Act 2012</i>) property vegetation plan for the purposes of forestry operations (<i>Native Vegetation Act 2003</i>) 	<input type="checkbox"/> Applicable <input type="checkbox"/> Not applicable <input type="checkbox"/> Insufficient data or information	Consult with the landowner to obtain site information and records (Section 4.2), or contact your regional LLS office
Clause 113(1)(c) LLS Regulation	The land was subject to a conservation property vegetation plan or an incentive property vegetation plan before the repeal of the <i>Native Vegetation Act 2003</i> Note: Land that continues to be subject to a plan is category 2-sensitive regulated land (clause 108(2)(e), LLS Regulation)	<input type="checkbox"/> Applicable <input type="checkbox"/> Not applicable <input type="checkbox"/> Insufficient data or information	Consult with the landowner to obtain site information and records (Section 4.2), or contact your regional LLS office
Clause 113(1)(l) LLS Regulation	The land is a travelling stock reserve (excluding the Western Division of the state)	<input type="checkbox"/> Applicable <input type="checkbox"/> Not applicable <input type="checkbox"/> Insufficient data or information	Contact NSW Crown Lands to determine if land is within a travelling stock reserve

Appendix B. Category 1-exempt land criteria

If criteria for category 2-regulated land in Table 2 are **not** met, examine category 1-exempt land criteria in Table 3 (Figure 1). Land is category 1-exempt land if one or more criteria in Table 3 are met (Figure 1). Table 3 provides examples of the types of information that can be used to evaluate whether the subject land meets these criteria.

When considering these criteria, native vegetation that comprises grasslands or other non-woody vegetation is taken to have been cleared if the native vegetation was significantly disturbed or modified (section 60J(2), LLS Act). Refer to criteria listed in clause 114 of the LLS Regulation (set out in Appendix C) for determining whether native vegetation has been significantly disturbed or modified between 1 January 1990 and 25 August 2017 (commencement of Part 5A, LLS Act).

Note: Land may be authorised to be re-categorised to category 1-exempt land in accordance with section 60K(3) of the LLS Act. To determine whether this is applicable, consult with the landowner to obtain site information and records where applicable, check the Land Management Framework Public Registers or contact your regional LLS office.

Table 3 Criteria for designation of category 1-exempt land

Reference	Category 1-exempt land criteria	Applicable criteria (check all that apply)	Information examples
Section 60H(1)(a) LLS Act	The land was cleared of native vegetation as at 1 January 1990 Note: Land is not category 1-exempt land if the land was unlawfully cleared after 1 January 1990 (section 60H(4)(b), LLS Act)	<input type="checkbox"/> Applicable <input type="checkbox"/> Not applicable <input type="checkbox"/> Insufficient data or information	Refer to the NVR map method and data layers (Sections 4.1) Consult with the landowner to obtain site information and records, including history of lawful clearing and/or development (Section 4.2)
Section 60H(1)(b) LLS Act	The land was lawfully cleared of native vegetation between 1 January 1990 and 25 August 2017 (when Part 5A of the LLS Act commenced) Note: Land is not category-1 exempt land if section 60I(2) requires the land to be designated as category 2-regulated land (section 60H(4)(a), LLS Act)	<input type="checkbox"/> Applicable <input type="checkbox"/> Not applicable <input type="checkbox"/> Insufficient data or information	Check for lawful clearing on the Native Vegetation Act public registers, land management framework public registers, or contact your regional LLS office (Appendix E) Refer to criteria listed in clause 114 of the LLS Regulation to determine native vegetation that has been significantly disturbed or modified (Appendix C)
Section 60H(2)(a) LLS Act	The land contains low conservation value grasslands; however, land is not to be designated as category 1-exempt land if the land was unlawfully cleared of native vegetation after 1 January 1990 (section 60H(4)(c), LLS Act)	<input type="checkbox"/> Applicable <input type="checkbox"/> Not applicable <input type="checkbox"/> Insufficient data or information	Refer to the IGGAM to determine the conservation value of grasslands or ground cover (Appendix E) During the transitional period, survey data collected in a scientific and objective manner is used to determine the conservation value of grasslands and ground cover (section 60F(3), LLS Act)
Clause 109(1) LLS Regulation	The land contains only low conservation value ground cover (not being grasslands)	<input type="checkbox"/> Applicable <input type="checkbox"/> Not applicable <input type="checkbox"/> Insufficient data or information	Refer to the NVR map method and data layers (Sections 4.1)
Section 60H(2)(b) LLS Act	The land contains native vegetation that was identified as regrowth in a property vegetation plan referred to in section 9(2)(b) of the <i>Native Vegetation Act 2003</i>	<input type="checkbox"/> Applicable <input type="checkbox"/> Not applicable <input type="checkbox"/> Insufficient data or information	Consult with the landowner to obtain site information and records (Section 4.2) Check for a property vegetation plan on the Native Vegetation Act public registers or contact your regional LLS office (Appendix E)

Reference	Category 1-exempt land criteria	Applicable criteria (check all that apply)	Information examples
Section 60H(3) LLS Act	The land is biodiversity certified under Part 8 of the BC Act or under any Act repealed by that Act	<input type="checkbox"/> Applicable <input type="checkbox"/> Not applicable <input type="checkbox"/> Insufficient data or information	Consult with the landowner to obtain site information and records (Section 4.2) Evidence of a biodiversity certification order recorded on the 'Register of biodiversity certification orders' webpage (Appendix E)

Appendix C. Criteria for determining if native vegetation has been significantly disturbed or modified

Criteria for determining whether native vegetation has been significantly disturbed or modified are provided in clause 114 of the LLS Regulation, which says:

1. Native vegetation that comprises grasslands or other non-woody vegetation is taken to have been significantly disturbed or modified (and therefore cleared) only if –
 - a. there has been a detectable variation (from information obtained from aerial or satellite imagery) in the structure or composition, or both, of non-woody vegetation, and
 - b. that variation is consistent with management of pasture or crops for agricultural purposes, and
 - c. that variation has been sustained for at least 12 months on more than one occasion before the commencement of Part 5A of the Act, and
 - d. that variation has not been caused only by grazing on the land, and
 - e. that variation occurred (from information obtained from aerial or satellite imagery) between 1 January 1990 and the date of commencement of Part 5A of the Act (25 August 2017).
2. During the transitional period referred to in section 60F of the LLS Act, the information that may be used for this purpose includes information obtained from a source other than from aerial or satellite imagery, but only if the landholder has prepared a record of the information and a map showing the areas to which it applies. The landholder is required to retain the record and map for at least 5 years after any clearing that is carried out in reliance on that information.

Appendix D. Example application of the guide

This is a scenario intended to demonstrate application of the process for determining land categorisation. The example provides a description of the process applied (Figure 2), a series of supporting images (Figure 3) and the mapped reasonable approximation of category 2-regulated land and category 1-exempt land (Figure 4).

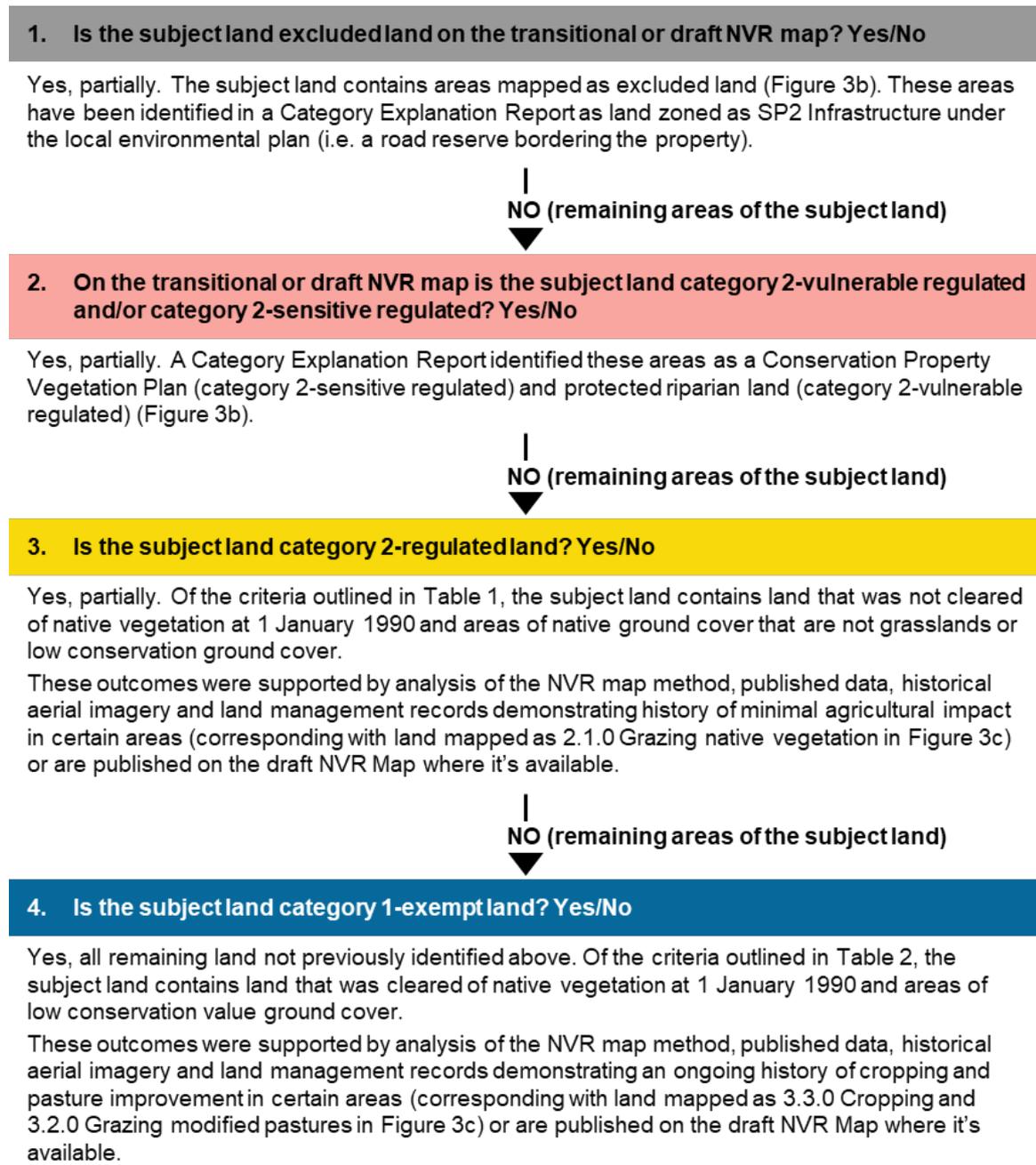


Figure 2 Example application of the process for determining NVR map land categorisation



Figure 3a Example subject land with NSW Imagery

Source: SEED portal.



Figure 3b Transitional NVR map displaying excluded land (grey), category 2-sensitive regulated land (pink) and category 2-vulnerable regulated land (orange)

Source: NVR map viewer.

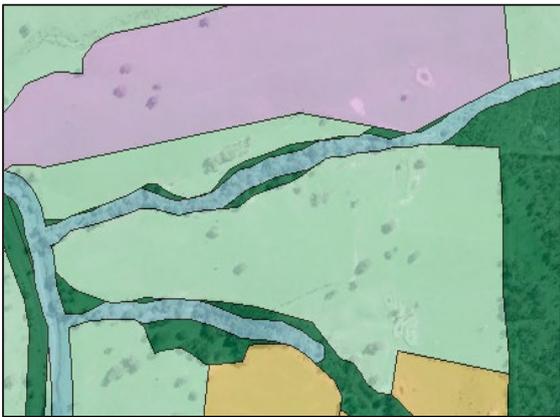


Figure 3c NSW Landuse 2017 displaying 2.1.0 Grazing native vegetation (dark green), 3.2.0 Grazing modified pastures (light green), 3.3.0 Cropping (purple), 5.4.0 Residential and farm infrastructure (orange) and 6.3.0 River (blue)

Source: SEED portal.

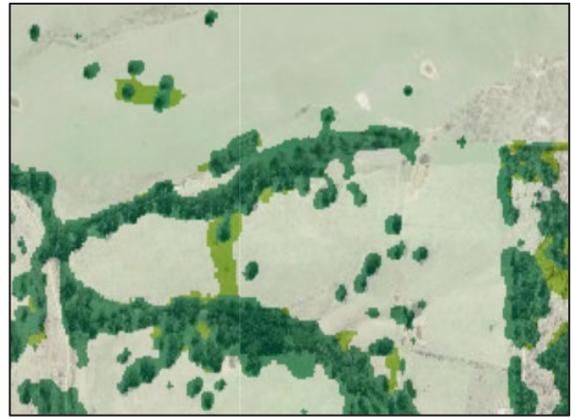
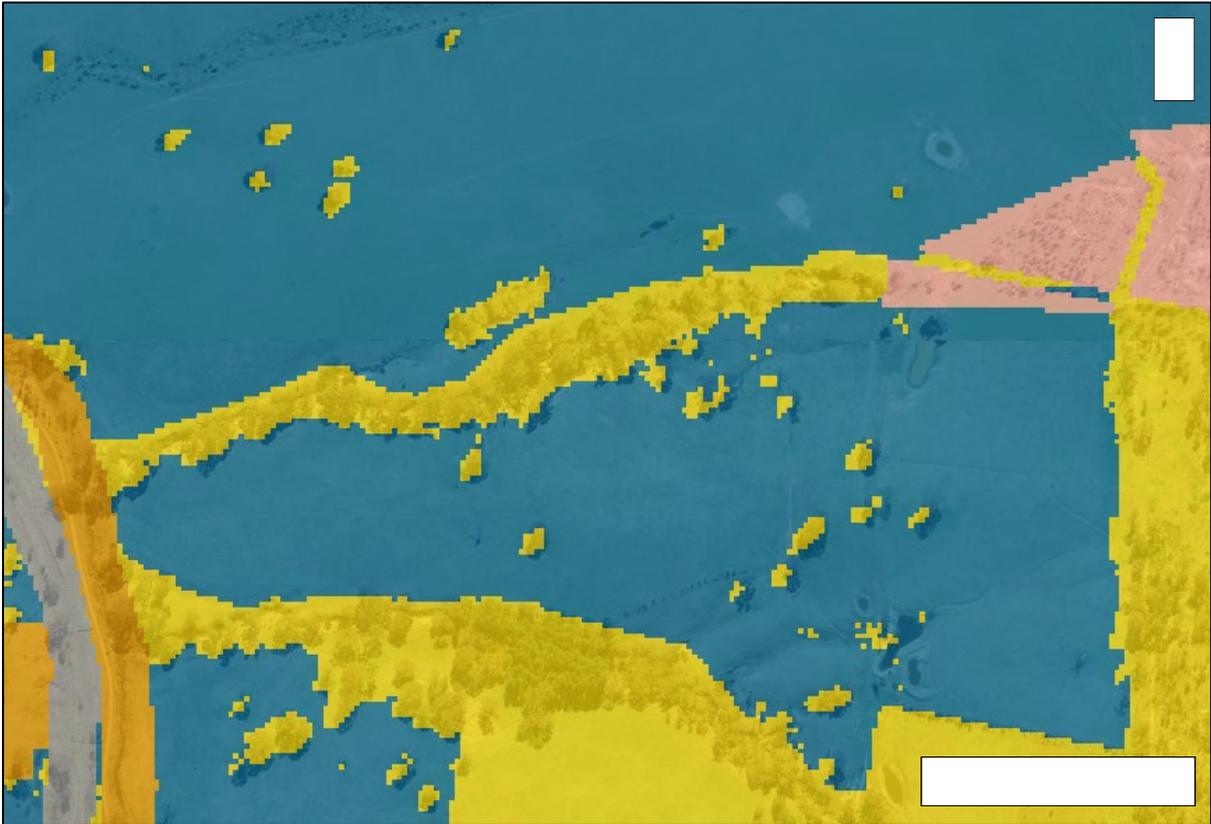


Figure 3d NSW native vegetation extent displaying tree cover (dark green) and woodland matrix (light green)

Source: SEED portal.

Figure 3 Examples of data used to support a reasonable approximation of land categorisation



Legend

- Excluded land
- Category 2-sensitive regulated land
- Category 2-vulnerable regulated land
- Category 2-regulated land (reasonable approximation)
- Category 1-exempt land (reasonable approximation)

Figure 4 Reasonable approximation of category 2-regulated land and category 1-exempt land displayed with published transitional NVR map layers on NSW Imagery

Appendix E. Resources

For general enquiries about the Scheme or application of this guide, contact the department online at [Biodiversity Offsets Scheme Help Desk](#).

You can contact your regional Local Land Services office [via the Contact my local office](#) webpage or call 1300 795 299.

The following are useful resources available online.

Supporting information

- [Assessing biodiversity impacts of Part 5 activities](#)
- [Assessing native groundcover fact sheet \[PDF 1.9MB\]](#)
- [Biodiversity Assessment Method 2020 \(BAM 2020\)](#)
- [Biodiversity certification](#)
- [Biodiversity Development Assessment Report waiver](#)
- [Biodiversity Offsets Scheme](#)
- [Interim Grasslands and other Groundcover Assessment Method](#)
- [Interim Grasslands and other Groundcover Assessment Method \(Gazette\) \[PDF 672KB\]](#)
- [NSW Biodiversity Offsets Scheme and Land Management Framework: Biodiversity Assessment and Approval Pathways for Local Government \[PDF 1.0MB\]](#)
- [Threatened species test of significance](#)
- [When does the Biodiversity Offsets Scheme apply?](#)

Maps and spatial data

- [Areas of Outstanding Biodiversity Value](#)
- [Biodiversity Values Map and Threshold Tool](#)
- [Biodiversity Values Map review](#)
- [Draft Native Vegetation Regulatory Map viewer](#)
- [ePlanning Spatial Viewer](#)
- [Map Review Team enquiry form](#)
- [Native Vegetation Regulatory map](#)
- [Native vegetation regulatory map: method statement](#)
- [Native vegetation regulatory map: method statement appendices](#)
- [Request a free map review](#)
- [SEED Portal](#)
- SEED Portal and data licence support: info@seed.nsw.gov.au
- [Transitional Native Vegetation Regulatory Map viewer](#)

Public registers

- [DPIE Native Vegetation Act 2003 public register](#)
- [LLS Public Register](#) webpage, for work happening under the land management framework
- [Register of biodiversity certification orders](#)

Legislation and State Environmental Planning Policies

- Biodiversity Conservation Act 2016 (BC Act)
- Biodiversity Conservation Regulation 2017 (BC Regulation)
- Coastal Management Act 2016
- Environmental Planning and Assessment Act 1979 (EP&A Act)
- Forestry Act 2012
- Local Land Services Act 2013 (LLS Act)
- Local Land Services Regulation 2014 (LLS Regulation)
- Native Vegetation Act 2003
- State Environmental Planning Policy (Biodiversity and Conservation) 2021 (Biodiversity and Conservation SEPP)
- State Environmental Planning Policy (Coastal Management) 2018 (Coastal SEPP)