

Dam Works Code to Clear Vegetation 2015



A Code issued pursuant to section 301 of the *Water Management Act 1999*.

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Department of Primary Industries, Parks
Water and Environment



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PART I INTRODUCTION

1.1 Division 3 Dam Works Permit

The *Water Management Act 1999* (the Act) provides for the sustainable management and allocation of Tasmania's water resources. Part 8 of the Act regulates dam works and provides for the issuing of dam works permits which authorise the undertaking of dam works.

Part 8 of the Act provides two pathways to obtaining a dam works permit. The first pathway provides for a Division 3 permit, obtained through an application and assessment process¹. The second pathway provides for a Division 4 permit, which is obtained without the need to make an application. A person is entitled to a Division 4 Permit if their dam works meet the criteria specified under section 159 of the Act. This Code does not relate to Division 4 permits.

1.2 Clearance of Vegetation

The Minister's consideration of a Division 3 permit application must take into account, amongst other things, the potential impact of dam works on the conservation and protection of natural values. In this regard, assessing the potential impact of works to clear vegetation at a dam works site is a key matter the Minister must consider. In approving a Division 3 permit application, the Minister may determine that the permit is subject to conditions relating to the clearance of vegetation.

Currently the harvesting of timber, clearing of trees and clearing and conversion of threatened native vegetation communities in Tasmania, other than in circumstances that are prescribed under the *Forest Practices Regulations 2007*², must be carried out under a Forest Practices Plan and in accordance with the *Forest Practices Code 2015*. The harvesting of timber, clearing of trees and the clearing and conversion of a threatened native vegetation community on any land, for the purposes of dam works authorised under a Division 3 permit, are prescribed under the regulations. Accordingly, a Forest Practices Plan is not required in relation to clearing vegetation under a Division 3 permit.

1.3 Dam Works Code to Clear Vegetation 2015

To ensure the harvesting of timber, clearing of trees and the clearing and conversion of a threatened native vegetation community, as part of dam works authorised under a Division 3 permit, are undertaken in a way that minimises environmental impacts, the *Dam Works Code to Clear Vegetation 2015* provides standards for the protection of environmental values during clearing operations.

This Code is based on the *Forest Practices Code 2015*, adopting relevant elements of that Code such that, in general, the same principles will apply to the clearance of vegetation undertaken as part of dam works and the clearing of vegetation as part of forestry operations.

¹ A Division 3 permit is defined in section 138 as a permit issued under section 158.

² In accordance with section 17 of the *Forest Practices Act 1985*.

1.4 Legal Obligations

A person undertaking dam works authorised by a Division 3 permit is entitled to some permit/approval exemptions under other Acts. For example, a permit or special permit is not required under section 60A of the *Land Use Planning and Approvals Act 1993*.

However, holding a dam works permit does not absolve a permit holder from other legal obligations under the *Water Management Act 1999* or other Acts. For example, a person holding a dam works permit may need to:

- apply for an authority to take water into the dam, under the *Water Management Act 1999*;
- determine whether, under the *Commonwealth Environment Protection and Biodiversity Conservation Act 1999*, an action will require approval from the Commonwealth Minister for the Environment if it has, will have, or is likely to have a significant impact on a matter of national environmental significance;
- apply for a permit under the *Aboriginal Relics Act 1975*, if the dam works are going to interfere with an Aboriginal relic;
- obtain a certified Forest Practices Plan under the *Forest Practices Act 1985* to harvest more than six tree ferns (*Dicksonia antarctica*);
- undertake action, under the *Weed Management Act 1999*, against declared weed species.

Off-site activities associated with dam works may also require authorisation under other legislation. This may include providing access to the site (e.g. development or upgrading of roads) or operating an off-site quarry (borrow pit). Prior to dam works commencing, permit holders will need to ensure that all the appropriate authorisations for off-site activities have been obtained from the relevant agency or local council.

The limited examples of potential legal obligations set out above should not be taken to be an exhaustive list and provides guidance only. The onus is on dam works permit holders to make themselves aware of all their obligations under the *Water Management Act 1999* or any other Act, prior to commencing dam works.

PART 2 DAM WORKS CODE TO CLEAR VEGETATION 2015 - OVERVIEW

2.1 Purpose of this Code

The purpose of the *Dam Works Code to Clear Vegetation 2015* is to provide a set of standards, for the protection of environmental values, which apply to the clearance of vegetation undertaken as part of dam works authorised under a Division 3 permit.

2.2 Authority of this Code

Pursuant to section 301 of the *Water Management Act 1999*, a code of practice may be issued in respect of dam works and related matters. This Code has been issued under section 301(1)(b) for the purposes of dam works authorised under a Division 3 permit.

This Code is administered by the Department for Primary Industries, Parks, Water and Environment on behalf of the Minister for Primary Industries and Water.

2.3 Application of this Code

This Code applies to all dam works, including constructing a new dam and repairing, modifying or removing an existing dam, that are authorised under a Division 3 permit, where the works involve any of the following:

- (i) the harvesting of timber on land;
- (ii) the clearing of trees on land;
- (iii) the clearing and conversion of a threatened native vegetation community³ on land;

where the total area of land on which the harvesting or clearing occurs is 10 ha or greater.

2.4 Format

Part 3 of this Code, *Works to Clear Vegetation*, prescribes the manner in which vegetation clearance is to be conducted as part of dam works authorised under a Division 3 permit.

Requirements, over and above those set out in this Code, may be applied to a particular dam works permit. In granting a Division 3 permit, the Minister may consider that specific permit conditions, prescribing requirements different to those contained in this Code, are necessary. In all cases, a dam works permit condition prevails over this Code where there is any inconsistency.

Where a specific action or activity is not addressed by the Code, the permit holder should refer to the conditions specified on the relevant permit, as well as being aware of the statutory requirements of the Act and subordinate legislation such as the *Water Management Regulations 2009* or *Water Management (Safety of Dams) Regulations 2015*. Legislation is available at: <http://www.thelaw.tas.gov.au>.

³ See definitions.

2.5 Definitions

“Dam works footprint” means the total area of land on which dam works are to be undertaken under a Division 3 permit including the dam wall, spillway, the land to be inundated and any land on which clearance of vegetation is to be undertaken under a permit.

“Dam Works Practices Plan” means a plan containing specifications of the practices to be carried out on the land referred to in the plan in connection with the clearance of vegetation as part of dam works authorised under a Division 3 permit.

“Threatened native vegetation community” means a community of native vegetation specified in Schedule 3A of the *Nature Conservation Act 2002*.

“Clearance of vegetation” means the harvesting of timber, the clearing of trees and the clearing and conversion of threatened native vegetation communities.

2.6 Compliance Requirements

This Code provides protocols for ensuring that clearance of vegetation as part of dam works is undertaken with minimal environmental impact. For dam works authorised under a Division 3 permit, where clearance of vegetation corresponds to a circumstance set out in Part 2.3 of this Code, compliance with the provisions of this Code will be required. In these instances, a Dam Works Practices Plan will need to be prepared, based on this Code, as part of the permit application process, and approved. The Dam Works Practices Plan will set out operational planning requirements and specifications of practices relating to the clearance of vegetation to be undertaken as part of the permitted dam works. As a condition of a dam works permit, vegetation clearance practices, where relevant, will be undertaken according to an approved Dam Works Practices Plan.

Under the Act, non-compliance with permit conditions is a breach of the permit and the holder is liable to enforcement action.

Dam works permit holders should ensure that staff, contractors and their employees are familiar with, and observe, those aspects of this Code and related Dam Works Practices Plans applicable to dam works undertaken.

PART 3 WORKS TO CLEAR VEGETATION

Part 3 of this Code outlines, through the development of Dam Works Practices Plans, operational planning requirements and specifications of practices to be undertaken to clear vegetation as part of dam works authorised under a Division 3 permit.

3.1 Dam Works Practices Plan

As noted in Part 2.6 of this Code, for dam works authorised under a Division 3 permit, where clearance of vegetation corresponds to a circumstance set out in Part 2.3, compliance with the provisions of this Code will be required. In these instances, a Dam Works Practices Plan will need to be prepared, based on this Code.

A Dam Works Practices Plan must be submitted as part of an application for a Division 3 permit, where required. Plans will be assessed as part of the application process and approved where they comply with the requirements of this Code. For relevant Division 3 permits, a condition will specify that dam works must be undertaken in accordance with the approved Dam Works Practices Plan.

A Dam Works Practices Plan is prepared by addressing each element of this Code as it pertains to the specific dam works to be undertaken.

3.2 Elements of the *Dam Works Code to Clear Vegetation 2015*

As described in Part 1.3 of this Code, the *Forest Practices Code 2015* provides the basis for the *Dam Works Code to Clear Vegetation 2015*. Table 1 sets out the specific elements of the *Forest Practices Code 2015* that are adopted in this Code. In preparing a Dam Works Practices Plan, applicants for a Division 3 permit must address all of the elements set out in the Table 1, as they are relevant to the specific circumstances associated with their application.

3.3 Interpretation of the *Forest Practices Code 2015*

Where the *Forest Practices Code 2015* refers to a “Forest Practices Plan” this is to be interpreted as meaning a “Dam Works Practices Plan”.

Where the *Forest Practices Code 2015* refers to a Forest Practices Plan as having been “certified” this is to be interpreted as meaning a Dam Works Practices Plan that has been approved as part of the Division 3 permit application.

Where the *Forest Practices Code 2015* refers to a “Forest Practices Officer” this is to be interpreted as meaning the Minister for Primary Industries and Water.

Where the *Forest Practices Code 2015* refers to the “Chief Forest Practices Officer” this is to be interpreted as meaning the Minister for Primary Industries and Water.

Table I. Adoption of the *Forest Practices Code 2015* by the *Dam Works Code to Clear Vegetation 2015*.

FOREST PRACTICES CODE 2015	DAM WORKS CODE TO CLEAR VEGETATION 2015	OTHER REQUIREMENTS
PART B. BUILDING ACCESS TO THE FOREST		
B1 Planning and Locating Roads	Adopted [#]	
B2 Road Design	Adopted [#]	
B3 Road Construction	Adopted [#]	
B4 Upgrading Existing Roads and Access Tracks	Adopted [#]	
B5 Quarries and Borrow Pits	Adopted [#]	
B6 Bridge, Causeway and Ford Construction	Adopted [#]	
B7 Road Maintenance	Adopted [#]	
B8 Water Supply and Other Significant Catchments	Adopted [#]	
<p>[#]These provisions, of Part B of the <i>Forest Practices Code 2015</i>, are adopted only where relevant to the construction of roads and related activities within the area of the dam works footprint. The construction of roads and related activities, to enable access to the dam works area, is not covered by a dam works permit and may require separate approval by the Forest Practices Authority or local Council.</p>		
PART C. HARVESTING OF TIMBER		
C1 Design, Planning and Equipment Considerations	Adopted	
C2 Wet Weather Limitations	Adopted	
C3 Snig Tracks and Landings	Adopted	
C4 Water Quality and Watercourse Protection	The general principles are adopted.	Streamside vegetation at a dam site is to be cleared last.
C6 Steep Country Harvesting	Adopted	
PART D. CONSERVATION OF NATURAL AND CULTURAL VALUES⁴		
D1 Soils	Adopted where applicable to building access to the dam site and associated dam works.	
D2 Water Quality and Flow	The general principles are adopted.	Streamside vegetation at a dam site is to be cleared last.
D6 Geomorphology	The general principles and the basic approaches in relation to karst are adopted.	
PART E. ESTABLISHING AND MAINTAINING FORESTS		
E2 Use of Chemicals	Adopted	
E3 Fire Management	Only Section E3.3 adopted.	
E4 Pest, Disease, and Weed Control	Adopted	

⁴ Impacts on natural values are addressed through conditions on a dam works permit. Conditions may prescribe specific actions or actions in accordance with a relevant management plan.

FOREST PRACTICES CODE 2015	DAM WORKS CODE TO CLEAR VEGETATION 2015	OTHER REQUIREMENTS
PART F. MANAGEMENT OF FUELS, OILS, RUBBISH AND EMISSIONS		
F1 Use of Fuel, Grease and Oils	Adopted	
F2 Disposal of Rubbish	Adopted	
F3 Smoke, Noise and Dust	Adopted	
OTHER		
G. Glossary	Adopted	
H. References	Adopted	
I. Selected Bibliography	Adopted	
APPENDICES		
Appendix 1 – Protocol for forestry field marking colours Appendix 2 – Town water supply and freshwater aquaculture facility intakes Appendix 3 – A guide for operations on very high erodibility class soils Appendix 4 - A guide for operations on soils with high or very high erodibility by wind Appendix 5 – A field test for assessing soil water status Appendix 6 – An outline of soil erodibility classes in relation to soil properties Appendix 7 – Slope angles in degrees and percent	All appendices, where applicable to other adopted Parts of the <i>Forest Practices Code 2015</i> , are adopted.	

The *Forest Practices Code 2015* is available on the FPA's website at:
http://www.fpa.tas.gov.au/_data/assets/pdf_file/0012/110280/Forest_Practices_Code_2015_with_interpretation_of_section_C4.2.pdf