



**Australian Government**  

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**Department of Agriculture**



**Government  
of South Australia**

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Primary Industries  
and Regions SA

# **State Specific Guideline for South Australia**

This guideline has been prepared by the Australian Government and the South Australian Government. It is intended to assist processors who process raw logs from South Australia into another form, in understanding the regulatory framework in South Australia in order for them to carry out their due diligence obligations under the *Illegal Logging Prohibition Amendment Regulation 2013*, which supports the *Illegal Logging Prohibition Act 2012*.

This guideline was co-endorsed by the Australian and South Australian Governments on 23 October 2014.



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## What is required under the new law?

Australia's *Illegal Logging Prohibition Act 2012* (the Act) restricts the movement of illegally logged timber into Australia at the border, for imported timber and timber products; and at timber processing mills, for domestically grown raw logs.

The Act seeks to address the harmful environmental, social and economic impacts of illegal logging, including forest degradation, habitat loss and threats to sustainable livelihoods.

The Act defines illegally logged as:

*‘in relation to timber, means harvested in contravention of laws in force in the place (whether or not in Australia) where the timber was harvested.’*

The *Illegal Logging Prohibition Amendment Regulation 2013* (the Regulation) prescribes due diligence for the regulated community, that is, Australian importers of regulated timber products (for the purposes of the Act a regulated timber product is a product listed in Schedule 1 to the Regulation) and Australian processors of domestic raw logs. Under the Regulation the regulated community have to undertake a due diligence process to minimise the risk of sourcing illegally logged timber.

Due diligence requirements for processors include the following steps:

**Step 1:** Information gathering

**Step 2:** Assessing and identifying risk against a timber legality framework (optional) or a state specific guideline (optional)

**Step 3:** Risk assessment (if required)

**Step 4:** Risk mitigation (if required)

Further information about the Act and the Regulation is available at the Australian Government Department of Agriculture's website ([agriculture.gov.au/illegallogging](http://agriculture.gov.au/illegallogging)).

This guideline is intended to assist a processor of Australian raw logs from South Australia to comply with the due diligence requirements of the Regulation.

Information or evidence listed in this guideline is not an exhaustive list of evidence or documentation required to satisfy due diligence requirements under the Regulation. The Regulation should be referred to for a complete list of the information required to be gathered to satisfy due diligence requirements.

All information needs to be assessed in accordance with the processes outlined in the Regulation to identify the risk that a regulated timber product is, or is made from, or contains illegally logged timber.

## Background information

Timber harvested in South Australia (SA) is generally sourced from plantations. Currently most are covered by certification, and as such constitute a low risk for processors of non-compliance under the Regulation. Nevertheless all processors are required to comply with their regulatory due diligence requirements.

### Resources

Approximately 189,000 hectares of plantation resources exist in SA, including 129,000 hectares of softwood and 60,000 hectares of hardwood. SA's largest plantation area is located in the Green Triangle region, in the state's South East. Other major regions for commercial plantations are Kangaroo Island, Mount Lofty Ranges and the Mid-North.

Figure 1 shows the locations and extent of these plantation areas.

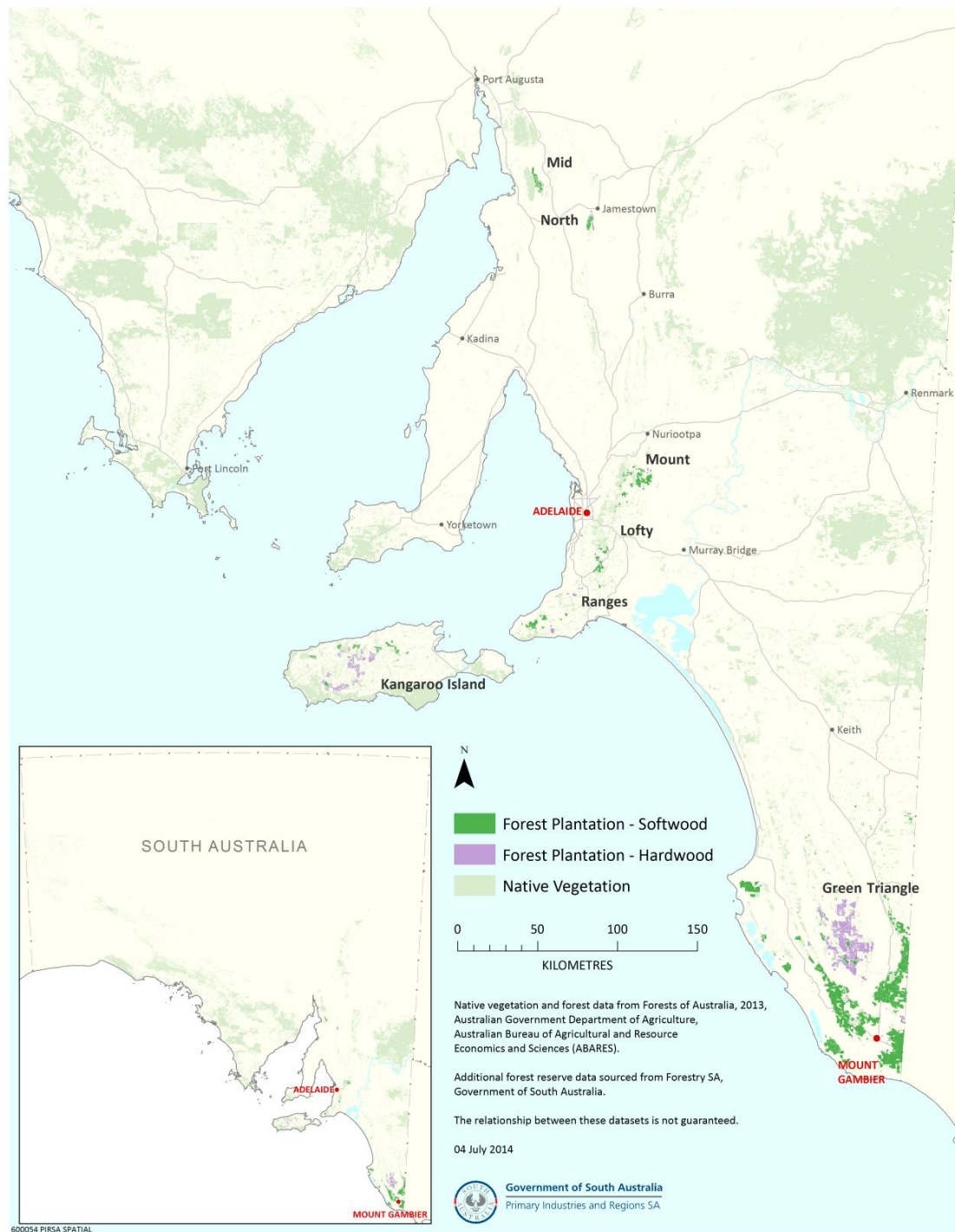
In 2014, the large majority of plantation material harvested in SA is certified under one of two schemes – Forest Stewardship Council (FSC) or Programme for the Endorsement of Forest Certification (PEFC) (discussed below).

SA also has about 4.4 million hectares of naturally occurring native forest protected under the *Native Vegetation Act 1991* (NV Act) and the *Native Vegetation Regulations 2003* (NV Regulations) (see Figure 1 for location and extent). Of this, about 2.2 million hectares is also protected for biodiversity conservation including those proclaimed under the *National Parks and Wildlife Act 1972*, the *Wilderness Protection Act 1992* and the conservation reserves dedicated under the *Crown Land Management Act 2009*.

Major processing centres in SA's share of the Green Triangle region are located in Mount Gambier and the surrounding areas of Millicent, Nangwarry, Tarpeena and Kalangadoo. Other processors exist in the Mount Lofty Ranges, Mid North, Adelaide and on Kangaroo Island.

Given the proximity of the South-Eastern region of SA to South-West Victoria, the State Specific Guideline for South Australia **should be read in conjunction with the State Specific Guideline for Victoria** for timber and timber products sourced from this region.

The State Specific Guideline for Victoria is available on the Australian Department of Agriculture website at [agriculture.gov.au/illegallogging](http://agriculture.gov.au/illegallogging) .



**Figure 1:** Plantation (softwood and hardwood) and native vegetation areas within SA.

# Identifying legal product from South Australia

This section provides information on possible methods to enable a processor to identify if logs harvested in SA have been done so legally.

A flow chart is included in [Figure 2](#), and a template to assist with the collection of due diligence information is provided in the **Due Diligence Template for Domestic Processors (example)** – see [Attachment A](#).

## Plantations

### With certification

Currently, two certification schemes listed in the Regulation are relevant in SA. Specifically, the majority of the wood harvested in SA is currently certified under the Forest Stewardship Council (FSC) or Programme for the Endorsement of Forest Certification (PEFC) scheme. Certification documents from any of these frameworks may suggest there is a low risk that the timber is from an illegal source. For more information on these timber legality frameworks see [info.fsc.org](http://info.fsc.org) (for FSC) and [pefcregs.info](http://pefcregs.info) (for PEFC).

### Without certification

A smaller proportion of SA logs provided to a processor may be from privately owned small growers or plantations. In this instance the private grower may have a right to harvest through a **Commercial Forest Plantation Licence** issued under the *Forest Property Act 2000*, (see an example at [Attachment B](#)). However, this is not a mandatory process for private landowners who wish to harvest.

If SA plantation logs are provided to a processor from either:

- a private grower without a commercial forest plantation licence; or
- a non-certified company (or from a non-certified location within a certified company),

then the processor should undertake their own risk assessment, as per the Regulation.

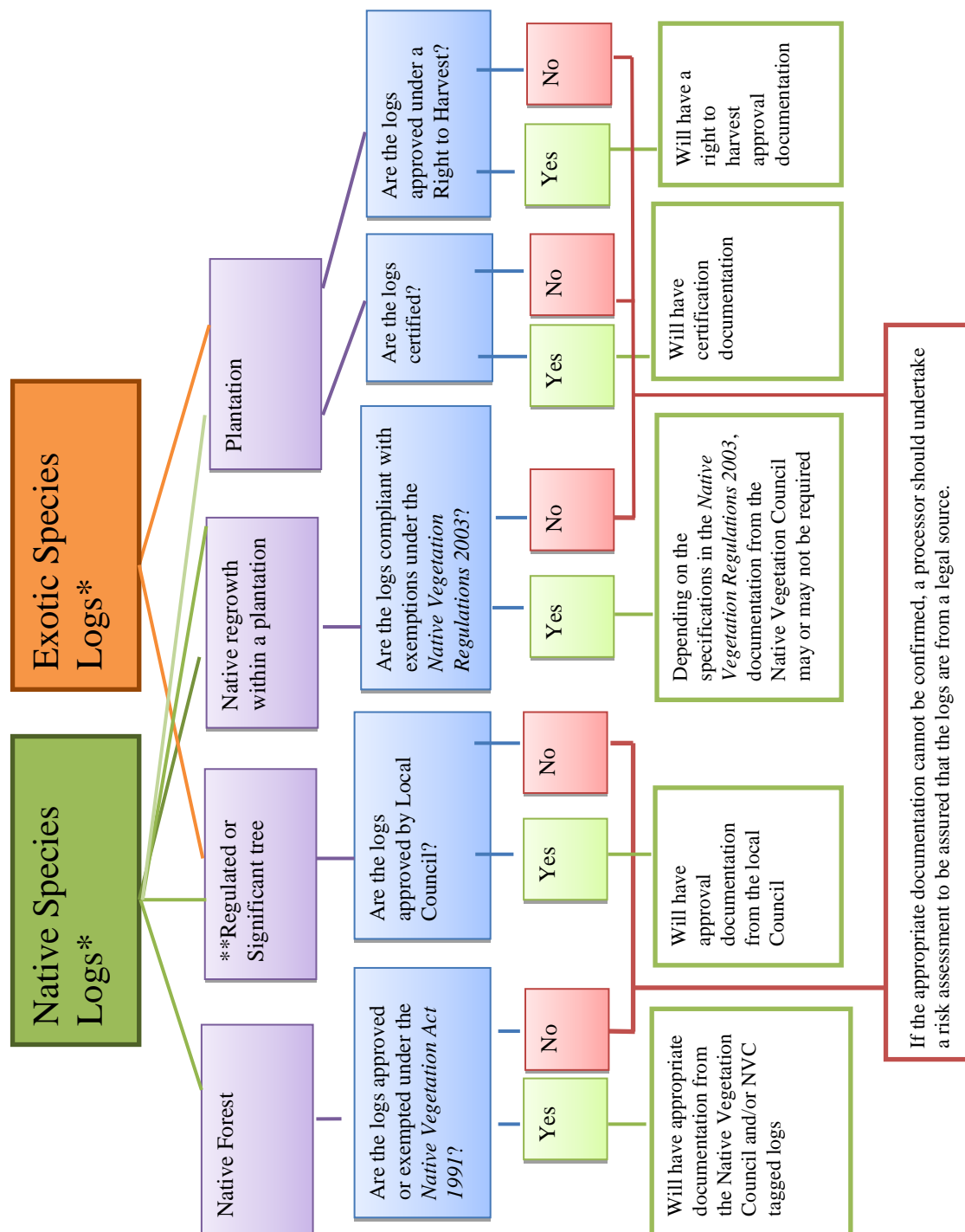
## Native Vegetation (non-plantation)

If logs are sourced from native vegetation (non-plantation), then a harvester is required to possess:

- clearance approval from the Native Vegetation Council (NVC) (and in some circumstances the Minister for Sustainability, Environment and Conservation) under the *Native Vegetation Act 1991* (NV Act) to harvest the logs, or
- an exemption under one of the regrowth regulations (described in more detail below under ‘How timber harvesting is regulated in South Australia’) to harvest/clear the native vegetation.

In the case of the clearance approval, it may be a requirement of the NVC under Section 30A of the NV Act that the native vegetation removed is marked or tagged. In this case, the processor may check that the marking or tagging is authorised and any tags are issued by the NVC.

Alternatively a harvester may have written documents or a letter from the NVC approving the native vegetation clearance. An **Approval documentation from the Native Vegetation Council (example)** is at [Attachment C](#).



**Figure 2:** Process of identifying if SA logs have been legally harvested

\* A log may fit into more than one category.

\*\* For requirements of the Regulated or Significant trees refer to the *Development Act 1993*.



# How is timber harvesting regulated in South Australia?

This section includes existing SA legislation relating to timber harvesting in SA. Laws relating to the growing and establishment of a plantation are outlined in the 'Guidelines for Plantation Forestry in South Australia 2009' which is available on the Department of Primary Industries and Regions website at [pir.sa.gov.au/forestry](http://pir.sa.gov.au/forestry).

## Plantations

The *Forest Property Act 2000* (SA) facilitates commercial forestry development on private land through the provision of:

- Two types of Forest Property Agreements:
  - A **Forest Property (Vegetation) Agreement**, which separates the ownership of trees from the ownership of the land.
  - A **Forest Property (Carbon Rights) Agreement**, which separates the ownership of carbon rights from ownership of the trees.
- **Commercial Forest Plantation Licences**, which may secure a tree owner's 'right to harvest' a forest plantation, subject to conditions (S 6).

A Forest Property (Vegetation) Agreement transfers the ownership of forest vegetation from the owner of the land to another person without severance of the vegetation from the land. It may also specify actions relating to the establishment, management and harvesting of trees, and provide the tree owner with the right to enter the land for these purposes.

A Forest Property (Carbon Rights) Agreement transfers the ownership of carbon rights from the owner of the vegetation to another person. It may also specify actions relating to the establishment, management and harvesting of trees, and provide the tree owner with the right to enter the land for these purposes.

A Commercial Forest Plantation Licence is not compulsory. A licence authorises operations, including harvesting, in relation to a commercial forest plantation. A licence may be subject to conditions. The licence does not authorise the establishment of plantations contrary to State and Local Government planning legislation and requirements.

The *Forest Property Act 2000* only applies to **plantations** and not native forest or vegetation. See the example **Commercial Forest Plantation Licence** at [Attachment B](#).

The *Local Government (Forestry Reserves) Act 1944* provides for the establishment and management of forests by municipal and district Councils. It permits Councils to sell or otherwise dispose of any timber or other products derived from forests established by them.

The *Forestry Act 1950* provides for the creation and management of State forest reserves. The South Australian Forestry Corporation may sell any trees or timber produced in forests under the control and management of the Corporation. Section 15 of the *Forestry Regulations 2013* states that a person must not, without lawful authority, remove a tree or wood from a forest reserve (including plantations).

## Native Vegetation

In SA, native vegetation is protected under the *Native Vegetation Act 1991* (NV Act) and the associated *Native Vegetation Regulations 2003* (NV Regulations). Under this legislation, any clearance of or disturbance to native vegetation on public or private land (including harvesting) is prohibited. However, under section 28 of the NV Act applications may be made to clear native vegetation. Therefore any harvest of individuals of a native species or on a broader scale within forest or woodland, requires approval from the Native Vegetation Council (NVC) through this formal application process.

See the **Approval documentation from the Native Vegetation Council (example)** at [Attachment C](#).

The NV Regulations include exemptions to the general prohibition on clearing native vegetation. If certain criteria are met there are mechanisms to clear native vegetation without applying for a formal clearance. Currently two specifically apply to forestry:

- Regulation 5(1)(zf): Clearance to maintain land for cultivation, pasture or forestry. Allows for the clearance of regrowth native vegetation less than 5 years old on land used for forestry, in order to maintain that land use. Applies only to plants with a diameter of 150mm or less at the lowest point of the stem above ground level. Although no formal approval is required, it is recommended that the exemption be confirmed with a NVC Assessment Officer prior to undertaking any clearance.
- Regulation 5(1)(zfa): Clearance of regrowth greater than 5 years old for agriculture. Allows for the clearance of regrowth native vegetation greater than 5 years old from land that has been used for forestry, as part of a commercial enterprise since the land was lawfully cleared. The clearance must be undertaken in accordance with a Management Plan approved by the NVC.

*Forestry Act 1950* –section 9A establishes that it is the responsibility of the South Australian Forestry Corporation to ensure that no operations are undertaken on a native forest reserve that are inconsistent with the stated purpose of a native forest reserve. Section 15 of the *Forestry Regulations 2013* states that a person must not, without lawful authority, remove a tree or wood from a forest reserve (including native forest reserves).

## Regulated or Significant Trees

*Development Act 1993* – the following trees are protected unless they are of a species specified in the *Development Regulations 2008* and must not be damaged unless development approval has been granted by the relevant council:

- Regulated trees (any tree in metropolitan Adelaide, Adelaide Hills Council townships and parts of Mount Barker Council with a trunk circumference of two metres or more measured at a point one metre above natural ground level - in the case of multiple trunks, a regulated tree has a total circumference of 2 metres or more and an average circumference of 625 millimetres or more); and
- Significant trees (a regulated tree with a trunk circumference of three metres or more measured at a point one metre above natural ground level - in the case of multiple trunks, a significant tree has a total circumference of 3 metres or more and an average circumference of 625 millimetres or more).

## **During harvesting**

*Aboriginal Heritage Act 1988* and *Heritage Places Act 1993* – the objective is to protect heritage values during harvesting operations.

*Native Vegetation Act 1991* and *Native Vegetation Regulations 2003* – the objective is to protect native vegetation adjacent to a plantation from damage during the felling of plantation trees.

*National Parks and Wildlife Act 1972* – the objective is to protect endangered and vulnerable plants and animals in areas adjacent to plantations during harvesting (plant and animal species are listed in Schedules 7, 8 and 9). Note there is a *Koala Management Policy for Plantation Harvest Operations*, the objective of which is to maintain koala welfare and minimise the risk of injury to koalas from forestry operations, mainly in *Eucalyptus globulus* (Tasmanian Blue Gum) plantations.

This list excludes SA legislation that is more general in nature and applies to all sectors, not just to log harvesting (e.g. *Road Traffic Act 1961*).

## **Voluntary Codes of Conduct/ Codes of Practice**

The Commonwealth approved (June 2013) Plantation Forestry Code of Practice in South Australia refers to the Primary Industries and Regions SA (PIRSA) document 'Guidelines for Plantation Forestry in South Australia' (PIRSA, 2009).

## Other relevant laws that relate to legal timber

Below is an additional SA law relating to legal timber (except the growing/establishment of plantations).

### Indigenous

SA's *Native Title Act 1993* provides a mechanism to determine Native Title.

## References

Legislation: [legislation.sa.gov.au](http://legislation.sa.gov.au)

Koala policy and guidelines: [gtplantations.org/environment/environment-publications](http://gtplantations.org/environment/environment-publications)

FSC certification: [info.fsc.org/](http://info.fsc.org/)

PEFC certification: [pefcregs.info/](http://pefcregs.info/)

Primary Industries and Regions SA (2009) Guidelines for Plantation Forestry in South Australia 2009.

## Who should I contact for further information?



**Australian Government**  
**Department of Agriculture**

### **Australian Government**

Department of Agriculture

GPO Box 858

Canberra City ACT 2601

Phone: 02 6272 3933

[agriculture.gov.au/illegallogging](http://agriculture.gov.au/illegallogging)

[illegallogging@agriculture.gov.au](mailto:illegallogging@agriculture.gov.au)



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# **Attachment A – Due Diligence Template for Domestic Processors (example)**

## **Domestic Processor Details**

Business name \_\_\_\_\_ ABN or ACN \_\_\_\_\_

Street address \_\_\_\_\_

Postal address \_\_\_\_\_

## **Person responsible for maintaining the system**

Name \_\_\_\_\_ Position \_\_\_\_\_

Telephone number \_\_\_\_\_ Email \_\_\_\_\_

## **Supplier of raw logs**

### **Public/Crown Land**

1. Business name \_\_\_\_\_ ABN/ACN \_\_\_\_\_

Address \_\_\_\_\_ Phone \_\_\_\_\_

Species purchased \_\_\_\_\_ Quantity purchased (m<sup>3</sup>/tonnes) \_\_\_\_\_

Source (Please circle) Plantation/ Native regrowth/ Native forest/ Regulated or significant tree

Forest name (if applicable) \_\_\_\_\_ Forest certification number (if applicable) \_\_\_\_\_

Native Vegetation Council decision notification reference (if applicable) \_\_\_\_\_

Local Council regulated or significant tree approval reference (if applicable) \_\_\_\_\_

### **Private Land**

2. Business name \_\_\_\_\_ ABN/ACN \_\_\_\_\_

Address \_\_\_\_\_ Phone \_\_\_\_\_

Species purchased \_\_\_\_\_ Quantity purchased (m<sup>3</sup>/tonnes) \_\_\_\_\_

Source (Please circle) Plantation/ Native regrowth/ Native forest/ Regulated or significant tree

Forest name (if applicable) \_\_\_\_\_ Forest Certification number (if applicable) \_\_\_\_\_

Native Vegetation Council decision notification reference (if applicable) \_\_\_\_\_

Local Council regulated or significant tree approval reference (if applicable) \_\_\_\_\_

Commercial Forest Plantation Licence number (if applicable) \_\_\_\_\_

Delivery dockets supporting this information are maintained on site (please circle) Yes/ No

This information is in accordance with the State Specific Guidance for South Australia.

Signed \_\_\_\_\_

Date \_\_\_\_\_

# Attachment B – Commercial Forest Plantation Licence (example)



Government  
of South Australia

## ***FOREST PROPERTY ACT 2000*** **SECTION 16**

### **COMMERCIAL FOREST PLANTATION LICENCE**

**LICENCE NO. [ ]**

I, XXXXXXXX Minister for Forests hereby pursuant to section 16 of the *Forest Property Act 2000* grant the Licence to the licensee in respect of the Commercial Forest Plantation for the term subject to the Conditions listed below.

#### **Licensee**

**Name:**

**Address:**

**ABN:**

#### **Commercial Forest Plantation**

[details of land on which commercial forest plantation established]

#### **Term**

[specify term]

#### **Conditions**

1. ...

[Execution clause] by Minister for Forests

Dated:

[nvc@sa.gov.au](mailto:nvc@sa.gov.au)





**DECISION NOTIFICATION**  
*Native Vegetation Act 1991*

Landowner: **Name**

Application Number: **20XX/20XX/XXX**

Dated: **XX/XX/XXXX**

Registered: **XX/XX/XXXX**

Title Reference: **CT XXXX/XXX**

Parcel: **Section X  
H/L REF XXX**

Note: In respect of the proposed clearance, you are advised that the Native Vegetation Council makes this decision in accordance with the Native Vegetation Act and accepts no responsibility to ensure the landowner complies with the requirements of the Council's "Environment Protection & Biodiversity Conservation Act 1999".

In respect of the proposed clearance, to be completed by you, you are informed that the Native Vegetation Council has considered the application and has decided to grant consent.

Grants consent to the proposed clearance of native vegetation in the area shown in the attached "Decision" made on 20/XX/XX for the purpose of clearing a house would not be considered seriously at variance with Principles of Clearance of Native Vegetation under the Act, subject to the following conditions:

**CONDITIONS**

1. The landowner must adequately inform any prospective purchaser, lessee or occupier of the land affected by conditions in this consent, of the relevant conditions.
2. The landowner must complete the attached form, acknowledging understanding of the decision and forward it to the Secretary, Native Vegetation Council within one month of the Decision Date.

**REASONS FOR DECISION:**

The above conditions are imposed on this consent to ensure that:-

1. the loss of environmental benefits of the vegetation allowed to be cleared is significantly outweighed by the benefits which will be provided over time by the re-establishment of native vegetation in the area set aside.
2. clearance of native vegetation is limited to the area actually approved.
3. the clearance is subject to appropriate conditions to ensure effective monitoring and reporting.

Signed : .....Dated : .....("the Decision Date")