

Landholding definition under the Local Land Services Act 2013

NUMBER	Landholding definition under LLS Act 2013	VERSION	2.0
AUTHORISED BY	Director, Sustainable Land Management, LLS	AUTHORISED DATE	31/10/2017
ISSUED BY	Group Director, Sustainable Land Management, LLS	EFFECTIVE DATE	31/10/2017

Policy Statement

The aim of this policy is to assist Local Land Services determine what constitutes a “landholding” as defined in the *Local Land Services Act 2013*.

Context

Section 60D in Division 1 of Part 5A of the *Local Land Services Act 2013* (**LLS Act**) defines a “landholding” as including several parcels of land (whether held under the same title, different titles or different kinds of titles) that constitute or are worked as a single property and that:

- (a) are contiguous with one another or are separated from one another only by a road, river, creek or other watercourse, or
- (b) are certified in writing by Local Land Services (**LLS**) to be in the same sub-bioregion and within sufficient proximity to one another so as to constitute a single landholding for the purposes of Part 5A.

A travelling stock reserve can be considered a road for the purposes of the definition of “landholding”, as described in subsection (a).

Under this definition LLS may certify that non-contiguous parcels of land that constitute or are worked as a single property are a single landholding for the purposes of Part 5A if the criteria in subsection (b) of the definition of “landholding” in s 60D are met. Clarity is required on how to determine whether parcels are in the same sub bio region, and what can be determined as ‘sufficient proximity’.

Scope

This policy applies to areas of the State to which Part 5A of the LLS Act applies. For further information regarding areas of the State to which Part 5A applies see s 60A of the LLS Act.

Policy Position

For the purpose of subsection (b) of the definition of “landholding” in s60D of the LLS Act, a delegated officer of LLS may certify in writing that one or more non-contiguous parcels of land that constitute or are worked as a single property constitute a single landholding where the parcels of land:

- (a) are in the same sub-bioregion, AND
- (b) are within sufficient proximity to one another so as to constitute a single landholding for the purposes of Part 5A.

Guidance on “sub-bioregion”

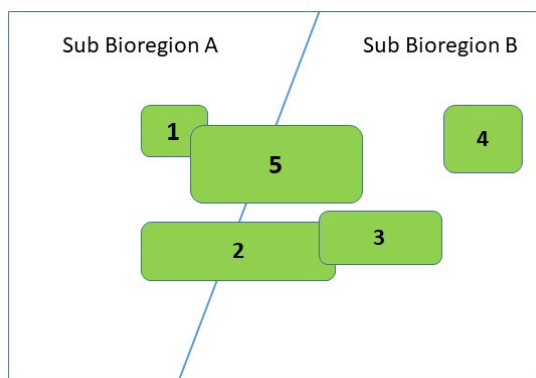
The “sub-bioregion” is a sub-bioregion as shown on the Interim Biogeographic Regionalisation for Australia (IBRA) Version 7 (subregion) dataset, referenced from the Commonwealth Department of the Environment and Energy (<https://data.gov.au/dataset/interim-biogeographic-regionalisation-for-australia-ibra-version-7-subregions>). To determine if two or more parcels of land are within the same IBRA sub-bioregion, the decision maker should review the IBRA map, [available within the ArcGIS SLM Layers within Administrative Boundaries sub-folder](#).

Guidance on landholdings that straddle a sub bioregion boundary.

Where the landholder is seeking to have a landholding declared for a number of non-contiguous parcels that straddle a bioregional boundary, the determination can be challenging. Key points for consideration are:

- Contiguous parcels that are wholly or partly within the same sub-bioregion may be considered a single landholding
- Non-contiguous parcels that are wholly or partly within the same sub-bioregion may be considered as a single landholding (see below)
- Non-contiguous parcels that are not in the same sub-bioregion cannot be certified as a single landholding,

The graphic below is included to assist in understanding the complexity of this issue.



Using the above graphic to illustrate, this would mean that parcels 1, 5 and 2 could be considered a landholding, but parcel 3 could not, as it is not within the same bioregion (unless there’s an error in the spatial distinction between the two sub-bioregions that can be validated on-ground). Similarly, parcels 2, 3 and 5 could be included as one landholding, as could parcel 4 if it fell within the proximity requirements, but not parcel 1.

Guidance on determination of “sufficient proximity”

To determine if two or more parcels of land are within “sufficient proximity” the decision maker may take into account whether at least one perimeter boundary of all parcels of land in the proposed landholding are within:

- (a) 2.5 kilometres in the Coastal Zone,
- (b) 10 kilometres in the Central Zone, and
- (c) 40 kilometres in the Western Zone.

In cases where the perimeter boundaries for the proposed landholding do not fall within the distances specified in this document, the matter may be referred to the decision maker (or other delegate) who may take into account the following factors in determining whether the parcels of land are within sufficient proximity to one another so as to constitute a single landholding:

- (a) The extent to which the perimeter boundaries exceed the distances specified in this document, and
- (b) Knowledge of business, and operating and management arrangements, such as parcels not having a house, evidence of existing management as a single enterprise (this may include rotational grazing of same stock between locations, cropping rotations, use of same machinery, or any related factors).

When determining whether to certify a landholding for the use of the Code, the Group Director or their delegate should have regard to the objects of the Local Land Services Act, specifically those set out in Clause 3 (e) *to ensure proper management of natural resources in the social, economic, and environmental interests of the State, consistently with the principles of ecologically sustainable development*. This is required to ensure that certifications of landholdings are made in the spirit of the Act. If satisfied that the proposal meets triple bottom line outcomes, then the decision maker or delegate can make the determination on proximity.

Roles and responsibilities

LLS has responsibility for ensuring that landholders in NSW apply the Land Management framework consistently with the LLS Act and that functions under the LLS Act are applied consistently.

Policy Products

A template file note for referring the matter to the [Insert relevant delegate].

Legislation

Local Land Services Act 2013

Related policies

An Interim Biogeographic Regionalisation for Australia: a framework for setting priorities in the national reserve system cooperative program, 1995.

Revision history

Version	Date issued	Notes	By
1	25/08/2017	N/A	Group Director
2	31/08/2018		Group Director
3	27/08/2019	Inclusion of TSR clarification	

Review date

This policy will be reviewed in 6 months (February 2020).

Contact

Director, Policy, Local Land Services - Jacquie Tracey