

# Native vegetation for Applicants and Planning Consultants

This fact sheet has been prepared to assist Applicants and Planning Consultants to understand the native vegetation assessment process and how it interacts with the planning process.

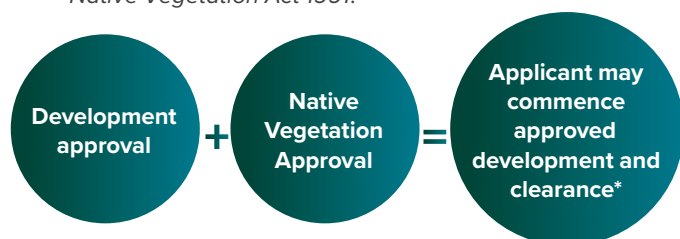
Applicants are encouraged to engage early with the Native Vegetation Branch during the concept phase to discuss proposals. Advice can be provided on the following matters:

- siting and layout;
- avoiding clearance or minimising impacts on native vegetation;
- threatened species and communities; and
- native vegetation application process.

## Development and Native Vegetation approvals

Where a proposed development involves the clearance of native vegetation two separate approvals need to be obtained:

1. a development approval under the *Planning, Development and Infrastructure Act 2016*, and
2. a native vegetation clearance approval under the *Native Vegetation Act 1991*.



The *Planning, Development and Infrastructure Act 2016* now requires native vegetation to also be considered 'up-front' as a fundamental part of the planning process. This better aligns the two approval processes by utilising a formal referral trigger intended to resolve any design and siting matters early in the process, ensuring native vegetation is avoided and minimised. Addressing these matters through the planning process enables a streamlined assessment of the native vegetation application.

## Which overlay applies to the land?

Overlays are primarily spatially represented State Planning Policies in the Planning and Design Code (the P&D Code) which inform what needs to be considered in developing a site. Two overlays are relevant to native vegetation in the P&D Code:

1. The Native Vegetation Overlay (NV Overlay) applies to areas of the State whether the *Native Vegetation Act 1991* applies.
2. The State Significant Native Vegetation Areas Overlay (SSNVA Overlay) applies to wilderness protection areas, National and Conservation Parks and areas subject to Heritage Agreements.

The online mapping tool [SAPPA](#) spatially identifies where the overlays apply.

## What is required?

Applicants for planning consent where an overlay applies, must either:

1. sign the Native Vegetation **Declaration** that no native vegetation is being cleared; or
2. submit a native vegetation **Data Report**.

## Data Reports

A native vegetation report (i.e. Data Report) must be prepared by an [NVC Accredited Consultant](#). Accredited Consultants undertake field surveys to prepare the vegetation assessment and address a range of matters required by the *Native Vegetation Act 1991*. The Data Report will:

1. quantify the extent and location of clearance in relation to the proposed development;
2. identify the level of risk;
3. address the Principles of Clearance and Mitigation Hierarchy; and
3. determine the Significant Environmental Benefit (SEB) offset.

A level of risk will be nominated in the Data Report, ranging from Level 1 (low risk) to Level 4 (high risk). The same Data Report is used for both the development approval and native vegetation approval processes.

## Referrals

To ensure native vegetation is appropriately addressed early in the planning process, the P&D Code requires that for certain applications (based on the level of risk), the NVC will be formally referred the planning application.

The NVC have 20 business days to consider the application, issue a Request for Information (RFI) or provide conditions to be imposed on any development consent granted.

Applicants and Planning Consultants need to be aware that the NVC has the power to direct the Relevant Authority (i.e. the decision-maker) to refuse the application or impose conditions as part of its role as a referral body.

## Frequently Asked Questions

### What is native vegetation?

Native vegetation is defined as all naturally-occurring local native plants, ranging from small ground covers and native grasses to large trees, and including aquatic species. Plants may be part of a community or isolated, such as single trees in pasture. Some dead trees providing habitat for nationally threatened species are also protected under native vegetation legislation. For further guidance, please see the [Dead Trees Fact Sheet](#).

If you're unsure of whether there is native vegetation present on the site, you can seek advice from your region's [Landscape Board](#), a local ecologist or provide information to the Native Vegetation Branch for confirmation.

### How do I know if native vegetation is present?

The Native Vegetation Branch can assist in determining if the vegetation onsite is native or an introduced species. A photo of the vegetation and location can be provided at the following site – [Direct Enquiry](#). Alternatively, you can contact an [Accredited Consultant](#) to confirm the presence of native vegetation.

### What happens if a declaration of no clearance is provided in error?

Providing a declaration stating that no clearance will occur (when clearance is required) could be considered as providing false or misleading information under Section 217 of the PDI Act, which is subject to a maximum penalty of \$20,000. Any subsequent clearance of the native vegetation, without the consent of the Native Vegetation Council (NVC), would likely be a breach of the *Native Vegetation Act 1991* and subject to additional penalties.

### What does clearance mean?

Clearing of native vegetation includes:

- cutting down, burning, poisoning or removing plants
- removing branches, limbs, stems or trunks
- slashing understorey
- draining and reclaiming wetlands
- burning vegetation
- changing grazing practices
- any other activity that is likely to damage vegetation.

### How to determine if the proposal will involve any clearance?

Any clearance required for the following must be considered:

- house / building footprint
- any vegetation within 20 metres of a dwelling and 10 metres from a building
- roads
- ancillary structures, including tanks, sheds, septic systems and fences
- water, gas and electricity connection
- construction or maintenance envelopes
- any requirements of the CFS

### How can the impacts of a proposal be minimised?

A proposed development must first seek to avoid and then minimise any impacts on native vegetation. The following should be considered:

- **Location:** Consider if alternative site/s can be utilised that would avoid or reduce the amount of clearance required or the impact on vegetation with a high conservation value (large trees, threatened species, and wetlands)..
- **Size, scale and design:** Consider if the size, scale and shape of a building or dwelling, or the design of the development can be adjusted to avoid or reduce impacts. In addition, the location of access roads, ancillary buildings or structures such as sheds and tanks and any associated infrastructure should be considered to minimise impacts.
- **Construction method:** Consider if the construction method can be changed to avoid or reduce impacts. For example, smaller machinery, permeable surfaces used to maintain the health of trees. In addition, consider how construction machinery will be managed and stored.

### What are the Principles of Clearance?

The Principles relate to the impacts of clearance on species diversity, habitat, rare and vulnerable plants, remnant vegetation, wetlands, soil erosion and flooding. Approval can only be granted where the proposed clearance is not at variance with the Principles.

### What is a Significant Environmental Benefit?

A SEB is a means of offsetting the impacts of approved clearance and is either in the form of a payment into the Native Vegetation Fund, or via on-ground works. Upon completion of the vegetation assessment for applications Level 2-4, the Accredited Consultant will inform you of the SEB required for the proposed clearance. Further information is available at [How to offset a clearance](#).

### Which application should be lodged first?

Ideally, the development application should be lodged first accompanied by either the Declaration or Data Report.

Where the NVC have been referred a development application which involves clearance, the subsequent clearance application timeframes will be streamlined.

### Will there be more fees?

The native vegetation clearance consent application fee will be waived where a referral fee has already been paid under the PDI Act:

1. The NVC, having already assessed the clearance against the *Principles of Clearance* through the referral process, will only be assessing the adequacy of the proposed SEB offset.
2. The NVC will issue a response to the Applicant, advising of the outcome of the application.

### What could be refused?

The NVC cannot support an application that will result in clearance that is seriously at variance with the Principles of Clearance and will direct refusal in these circumstances

### What about Regulated and Significant Trees?

The Regulated and Significant Tree Overlay and the Native Vegetation Overlay in the Planning and Design Code spatially overlap in parts of metropolitan Adelaide and the urban and township areas of the Adelaide Hills ([check SAPPAs](#)).

In these instances approvals under the *Native Vegetation Act 1991* take precedence, which means that the first consideration should be whether or not approval is required under the Native Vegetation Act.

It should be noted that where the *Native Vegetation Act 1991* provides an exemption for clearance (eg. within 5m of a fenceline), a development approval is required for tree damaging activity to regulated or significant trees (unless separately exempt under the *Planning, Development and Infrastructure (General) Regulations 2017*).

### What are the CFS requirements?

The CFS may also be a referral body (like the NVC). Where the CFS referral comments require clearance, a Data Report should be prepared based on the CFS requirements and submitted to determine the risk assessment level and NVC referral.

In some instances Applicants sign a Declaration stating that no vegetation clearance is proposed, however CFS requirements may necessitate native vegetation clearance.

To confirm CFS requirements, the CFS offer a development assessment service (contact: [das@cfs.sa.gov.au](mailto:das@cfs.sa.gov.au) or 8115 3372).

## For more information

### Native Vegetation Branch

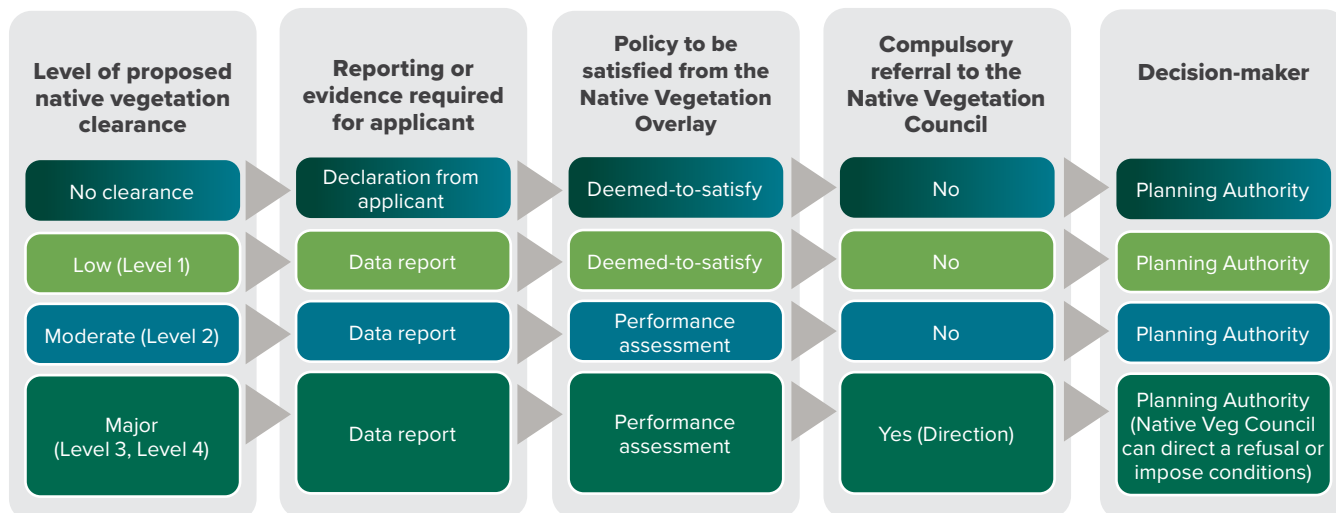
Department for Environment and Water  
T (08) 8303 9777 E [nvc@sa.gov.au](mailto:nvc@sa.gov.au)

[www.environment.sa.gov.au/nativevegetation](http://www.environment.sa.gov.au/nativevegetation)

## Process flowcharts

The images graphically present the planning process followed, where a subject site is located within the Native Vegetation Overlay or State Significant Native Vegetation Overlay.

### Native Vegetation Overlay in the planning process



### State Significant Native Vegetation Areas Overlay in the planning process

