

Native vegetation for Relevant Authorities

This fact sheet has been prepared to assist Relevant Authorities (as defined under the *Planning, Development and Infrastructure Act 2016* (PDI Act)) to understand what is required for the assessment of a proposed development that involves the clearance of native vegetation, as defined under the *Native Vegetation Act 1991*. This advice can also be utilised in pre-lodgement discussions to guide Applicants. Planners 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.

Planning and Native Vegetation approvals

Two approvals are still required to be obtained, however the PDI Act 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. Utilising the same Data Report, the intent is for development applications (requiring Native Vegetation Council (NVC) referral) to resolve any design and siting matters early in the process to ensure native vegetation is avoided and minimised. Addressing these matters through the planning process enables a streamlined assessment of the native vegetation application.

Native Vegetation Overlays

The Native Vegetation Overlay (NV Overlay) applies to areas of the State where the *Native Vegetation Act 1991* applies.

The State Significant Native Vegetation Areas Overlay (SSNVA Overlay) applies to wilderness protection areas, National and Conservation Parks and areas subject to Heritage Agreements.

To confirm where an overlay applies, check [SAPPA](#).

Mandatory information

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

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

Data Reports

A native vegetation report (i.e. Data Report) must be prepared by a [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*.

Using the Data Report

The Data Report does the heavy-lifting for Relevant Authorities and is used in the development assessment process to:

1. quantify the extent and location of clearance in relation to the proposed development;
2. identify the level of risk which is relevant for referrals; and
3. address the Overlay Assessment Provisions.

Assessment Provisions

For all proposals which involve Level 1 and 2 clearance (as identified in the Data Report), Relevant Authorities are responsible for assessing the proposal against the Overlay Assessment Provisions. Regardless of the type of development, all relevant information to assess the overlay provisions can be found in the Data Report.

Assessing PO 1.1

PO 1.1

Development avoids, or where it cannot be practically avoided, minimises the clearance of native vegetation taking into account the siting of buildings, access points, bushfire protection measures and building maintenance.

- This will be addressed in the Data Report – refer 'Addressing the Mitigation Hierarchy'.
- Consider if the development could be located in an area devoid of native vegetation.
- Ensure all relevant ancillary elements are included eg. driveway / CFS turnaround areas, outbuildings, water tanks, power, sewer and water infrastructure, construction laydown areas.
- As a minimum, any dwelling should be positioned at least 20m from native vegetation to allow for an appropriate fuel reduced zone around the building.

Practical alternatives

- Negotiating the development to be sited in a more degraded area; or
- Siting the development so the least amount of clearance is required.

NB. No clearance or Level 1 clearance satisfies DTS/DPF 1.1

Assessing PO 1.2

PO 1.2

Native vegetation clearance in association with development avoids the following:

- significant wildlife habitat and movement corridors
- rare, vulnerable or endangered plants species
- native vegetation that is significant because it is located in an area which has been extensively cleared
- native vegetation that is growing in, or in association with a weedland environment.

- For Level 1 and 2 clearances, sections (a) and (b) will be addressed in the Data Report – refer ‘Principles of Clearance’ (Principles 1b and 1c).
- Items (c) and (d) will not be addressed in the Data Report for Level 1 and 2 clearance.
- For Level 3 and 4 clearances, Items (a) to (d) will be assessed by the NVC via the formal referral process.

Assessing PO 2.1 – Land Division

PO 2.1

Land division does not result in the fragmentation of land containing native vegetation, or necessitate the clearance of native vegetation unless such clearance is considered minor, taking into account the location of allotment boundaries, access ways, fire breaks, boundary fencing and potential building siting or the like.

- Allotments should be suitably proportioned to accommodate the likely intended use of the land. For example, residential subdivisions should ensure a house footprint, driveway, CFS buffer area and ancillary infrastructure can be accommodated with no or minimal clearance.
- Logical allotment boundaries should consider existing native vegetation and the likely installation of fence lines. Ensure boundaries do not bisect or fragment a tract of vegetation.
- Consider management of development impacts on Tree Protection Zones eg. trenching, earthworks, laydown areas and construction vehicle movement.
- To ensure future clearance is limited by subsequent landowners, it is not recommended to incorporate vegetation into proposed allotments (see below).

Practical alternatives

- Consider negotiating the retention of scattered trees or patches of vegetation in open space reserves.
- Where clearance cannot be avoided, minimise clearance to previously degraded areas or limit clearance to small juvenile trees.

Frequently Asked Questions

What is native vegetation?

Native vegetation is a plant or plants that are indigenous to South Australia. This includes grasses, herbs, shrubs, trees, mistletoe, aquatic plants (milfoil, reeds and sedges) and marine plants (sea grasses).

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 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 a [NVC 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 NVC, would likely be a breach of the *Native Vegetation Act 1991* and subject to additional penalties.

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. An Accredited Consultant must assess the proposed clearance of native vegetation against the Principles of Clearance.

What is a Significant Environmental Benefit?

A Significant Environmental Benefit (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. The Data Report will identify the SEB and how the Applicant intends to achieve the environmental benefit.

Are other approvals required?

Separate to the planning consent, where native vegetation clearance is proposed, an application to the NVC is required to be submitted for assessment. The same Native Vegetation Data Report should be submitted for the planning consent and native vegetation consent processes.

Which application should be lodged first?

Ideally, the development application should be lodged first accompanied by either the Declaration or Data Report. For Level 3 or 4 clearance, this allows native vegetation to be considered in a coordinated manner.

Where the NVC have been referred an 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 offset (SEB).
2. The NVC will issue a response to the Applicant, advising of the outcome of the application.

CFS Requirements

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

Where the assessment provisions or 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.

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 [SAPPA](#)).

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 1991*.

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).

For more information

Native Vegetation Branch

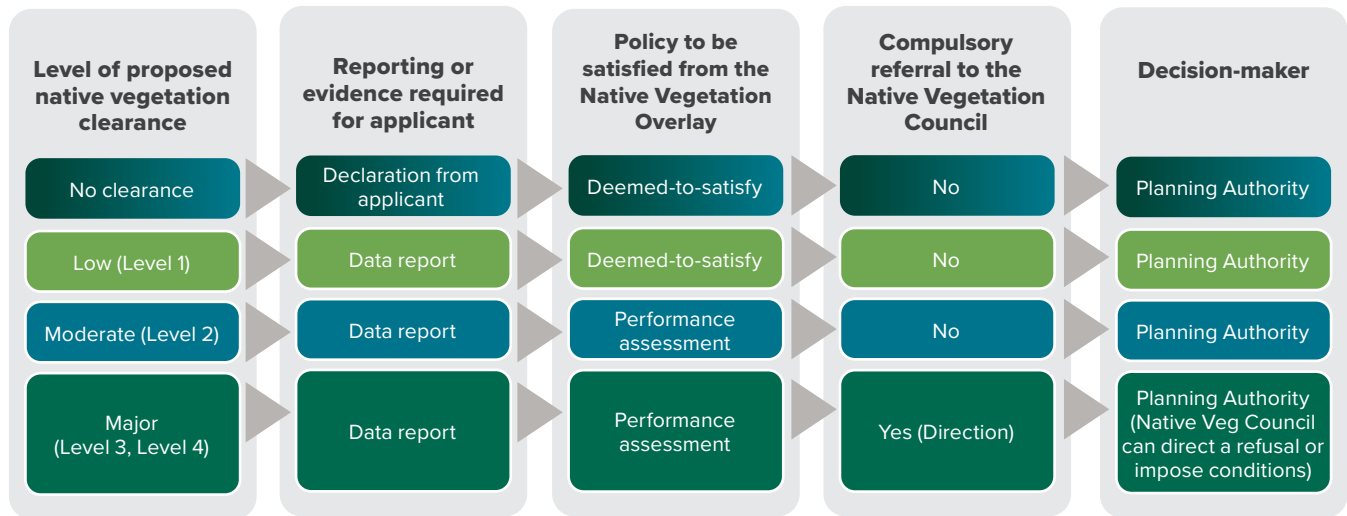
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www.environment.sa.gov.au/nativevegetation

Procedural Matters – Referrals

The flow charts below summarise when applications need to be referred under Schedule 9 of the Planning, Development and Infrastructure (General) Regulations 2017:

Native Vegetation Overlay in the planning process



State Significant Native Vegetation Areas Overlay in the planning process

