

Clearing native vegetation for residential subdivision

South Australia's native vegetation is protected by the *Native Vegetation Act 1991* (the Act) and the *Native Vegetation Regulations 2017*. **Regulation 12, Schedule 1; clause 35** allows for clearance of native vegetation in connection with residential subdivision and associated house sites, roads and infrastructure.

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.

It is important to note that clearance is any activity that might damage or destroy native vegetation, including cutting down and removing plants, burning, poisoning, slashing of understorey, removal of trunks or branches (eg. overhanging branches), and the ripping of roots for installation of infrastructure such as pipes and cables.

Do I need approval?

In order to clear native vegetation for a residential subdivision, approval must be granted by the Native Vegetation Council (NVC). Please note, development approval under the *Planning, Development and Infrastructure Act 2016* (PDI Act) is also required, see 'Consider other Acts' below.

Subdivision within Protected Areas

Please note that Regulation 12, Schedule 1; clause 35 does not apply where there is a Heritage Agreement or Management Agreement on the land. [NatureMaps](#) provides information on where Agreements exist on the land. Any clearance within these areas for a subdivision of land would be subject to a clearance application under the *Native Vegetation Act 1991* and potential may not be approved.

How to apply

Step 1: Consider the location

Any proposed development should seek to avoid or minimise potential impacts on native vegetation through the application of the [mitigation hierarchy](#). This requires that clearance of native vegetation must first be avoided or, where it can't be avoided, it must be minimised.

Potential impacts on native vegetation from development relate to more than just the footprint of individual dwellings. When seeking to avoid or minimise impacts, consideration must also be given to any clearance required for the subdivision, including house sites and associated buildings and structures (sheds, water tanks etc), driveways, fencing, roads, infrastructure (electricity, gas, water and sewerage connections), earthworks and CFS requirements for bushfire protection. The CFS can provide further advice about their requirements through their development assessment service das@cfs.sa.gov.au

Particular consideration should be given to any impacts from construction or development within Tree Protection Zones. This includes impacts such as trenching, cut and fill or construction within this zone. These impacts can have long term impacts on the structural integrity and health of the tree and must be avoided and appropriately managed.

Where possible, land devoid of native vegetation should be used in relation to residential subdivisions. However, where native vegetation does occur, consideration must be given to a layout which avoids clearance. For example, housing allotments should be placed in areas with no native vegetation, while retaining areas of native vegetation in proposed public open space reserves (see Figure 1).

Whilst it might be possible to retain trees and vegetation within housing allotments, commonly when the properties are purchased, the subsequent owners seek the removal of the vegetation for safety or construction purposes.

Therefore, unless the lots will be large rural living allotments, it is not recommended to incorporate vegetation into the proposed housing allotments.

Where clearance cannot be avoided, it should be limited to minor areas of native vegetation that include small juvenile trees or have been subject to past degradation.

Integrating native vegetation into the layout minimises the biodiversity impact and subsequently reduces the SEB requirement (discussed below).

Important: early engagement with the Native Vegetation Branch is highly recommended. Proponents are encouraged to discuss proposals early in the planning process i.e. prior to purchasing any land, preparing plans, submitting development applications, entering into agreements or submitting applications to the Branch. Advice can be provided in relation to the nature and location of development, suitability of the proposal and application process, identifying and addressing any potential issues.

Step 2: Assessment pathway

A risk assessment against set criteria is required to determine the significance of the proposed clearance and the approval pathway for your project. Your clearance will fall into one of four categories (Level 1 to Level 4), indicated in the [risk assessment fact sheet](#).

All levels of clearance require you to engage an [NVC Accredited Consultant](#). The Accredited Consultant will be able to assist in ensuring that the Principles of Clearance (matters that must be addressed when applying to undertake clearance of native vegetation) and mitigation hierarchy are considered, particularly in relation to identifying areas with the least amount or lowest quality of native vegetation.



Figure 1: Native vegetation incorporated into subdivision layout

The Accredited Consultant will prepare a Data Report in relation to the proposed development, including an assessment of all the vegetation clearance required, the value of the vegetation and habitat it provides and measures taken to avoid and minimise clearance.

Step 3: Determine Significant Environmental Benefit (SEB)

An 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. Level 1 applications are subject to a \$500 payment into the Native Vegetation Fund. 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.

To calculate the total SEB for the subdivision, the entire clearance footprint needs to be documented. Be advised that the following activities cannot be used in conjunction with residential subdivisions, only on long-standing existing allotments:

- clearance within 10m of a building (Regulation 8, Schedule 1; clause 1)
- clearance for fences (Regulation 8, Schedule 1; clause 14)
- clearance for vehicle tracks (Regulation 8, Schedule 1; clause 13)
- clearance for a new dwelling or building (Regulation 12, Schedule 1; clause 33).

There are a range of options available for achieving an SEB, including purchasing credits or engaging someone else to undertake works on your behalf. Further information is available at: [How to offset a clearance](#).

The likely costs associated with an SEB increases with the scale and significance of the clearance. These costs should be considered early in the planning process to ensure they can be accommodated by the development.

Step 4: Submit Application

All applications can be lodged through the online portal: apps.environment.sa.gov.au/nvmu/

Note: the Accredited Consultant is able to submit the application on your behalf.

Should clearance not be considered minimised or not meet the requirements of the Regulation, then you may be asked to reconsider your proposal or face risk of refusal.

Please allow up to 10 weeks for a decision.

What happens next?

If the clearance proposal adequately addresses the relevant Principles of Clearance and mitigation hierarchy, a Decision Notification letter and Plan will be sent to the applicant. This letter will provide further advice and may include conditions.

After reviewing the Decision Notification, you must sign this document and send it to the Native Vegetation Branch. If clearance consent is granted, an invoice for the SEB will then be issued to you.

Consider other Acts

Approval to remove vegetation does not give you consent under other Acts, such as the PDI Act. Please be aware that a development approval is required under the PDI Act. To confirm the assessment pathway and development application requirements, contact the Relevant Authority (i.e. Local Council or State Planning Commission).

A report will need to be submitted with the development application which addresses the proposed clearance of native vegetation and the relevant provisions of the [Planning and Design Code](#), specifically the Native Vegetation Overlay and / or State Significant Native Vegetation Areas Overlay.

As part of the development assessment process, applications subject to the Native Vegetation Overlay which are deemed [Level 3 and 4 clearance](#) will be formally referred to the NVC to assess the potential impacts of the development on native vegetation. The NVC has direction powers to impose conditions or refuse the application during this process.

In considering the land division layout, please note that the provisions of the [Planning and Design Code](#) state that 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.

It is important to note that both development approval (issued by the Relevant Authority) and clearance approval (issued by the NVC) are required before any clearance can occur. It is recommended that landowners lodge their clearance proposal with the NVC at the same time as they lodge their development application with the Relevant Authority.

Exclusions

This Regulation does not apply to clearance in the following circumstances:

- clearance that would conflict with previous vegetation clearance conditions of approval.

For more information

Native Vegetation Branch

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www.environment.sa.gov.au/nativevegetation



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