

Understanding the Mitigation Hierarchy

South Australia's native vegetation is protected by the *Native Vegetation Act 1991* and the *Native Vegetation Regulations 2017*. The Act prevents broad-scale clearance and minimises smaller-scale clearance, enhances and restores the State's native vegetation and outlines certain procedures and assessments that need to be undertaken before any clearance of native vegetation can proceed. One such assessment is the mitigation hierarchy.

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.

What is the mitigation hierarchy?

To achieve the objectives of the Act, the mitigation hierarchy seeks to limit clearance and ensure an environmental benefit is achieved. The mitigation hierarchy provides a framework for Proponents to use when considering development options which involve clearance of native vegetation. The mitigation hierarchy is comprised of four elements, presented in the following order of importance:

1. Avoid

2. Minimise

3. Rehabilitate or restore

4. Offset

When does the mitigation hierarchy apply?

The mitigation hierarchy applies to all developments or activities occurring under the Native Vegetation Regulations 2017.

Addressing the mitigation hierarchy

Demonstrating how the mitigation hierarchy has been considered is the role of the applicant, documented by the [NVC Accredited Consultant](#), engaged to prepare a Data Report for clearance and regulation applications. This report is submitted to the NVC for assessment. The report should clearly demonstrate how the mitigation hierarchy has been considered, if alternative options have been investigated and should articulate the rationale for the chosen site or alignment.

The following provides guidance on how to address the hierarchy.

- 1. Avoid** clearance of native vegetation. In the first instance, consider the mitigation hierarchy when selecting a site, ensuring there is sufficient area to carry out your development or activity without the need to clear native vegetation eg. purchasing cleared land.

Planning your development is an important phase of a project as there may be opportunities to avoid clearance. It includes planning to place infrastructure, buildings or other assets in a way that completely avoids impacts to biodiversity. Consider if the scale of the activity or development be changed to avoid impacts. For example, consider a location for a house that would avoid damaging native vegetation.

Advice can be provided by the Native Vegetation Branch prior to purchasing any land, preparing plans, submitting a development application, 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 site, proposal and application process, identifying and addressing any potential issues.

2. Minimise the duration, intensity and/ or extent of impacts on native vegetation, if clearance cannot be avoided.

Direct, indirect and cumulative impacts are to be considered. Specifically, direct impacts occur at the same time and place as the activity.

For example, consider the use of alternative machinery or methods to minimise the impact of the activity during the construction phase. For residential subdivisions, this may involve identifying a layout which limits the extent of clearance or preserving 'intact' tracts of native vegetation within open space reserves. Infrastructure can be aligned to utilise areas which are more degraded, allowing clearance of high quality vegetation to be minimised.

Indirect impacts stem from the activity but occur at a later date, such as management of dust and weeds as a result of clearance. Consider the incremental impacts, resultant of past, present and future activities. Minimising cumulative impacts takes into account impacts that individually may be minor but, over time and in conjunction with other activities, may be significant. For example, previous nearby clearance activities.

3. Rehabilitate or restore the ecosystems that have been degraded at the site of clearance, if adverse impacts cannot be minimised or avoided. Measures for on-site restoration activities should be identified.

Aim to limit impacts to allow vegetation to naturally re-establish or reinstate the vegetation once the development is complete. For example, consider pruning trees instead of clearance or storing cleared vegetation and/ or top soil containing seed bank for re-establishment after construction has been completed.

4. Offset to compensate for any significant residual adverse impacts that cannot be otherwise avoided, minimised and/ or rehabilitated or restored. A [Significant Environmental Benefit \(SEB\)](#) offset addresses any residual impacts and ensures that there is no net loss of biodiversity.

Further detailed guidance can be found in the [Guide for applications to clear native vegetation](#).

How is the mitigation hierarchy assessed?

Operating as an independent body, the NVC is responsible for assessing and deciding all applications. The NVC is legislatively required to apply the mitigation hierarchy when making a decision on applications to clear native vegetation.

In assessing applications, the NVC will consider if the Proponent has taken sufficient measures to avoid and minimise clearance as far as practicable. For example, the NVC will consider if the development has been situated in the most appropriate location to avoid clearance, or after considering the mitigation hierarchy, has the scale of the development been reduced to minimise impacts.

The NVC will only approve clearances if these steps have been fulfilled. Offsetting is only considered by the NVC when a proponent has identified and documented appropriate measures to avoid and minimise negative impacts (direct or indirect) on biodiversity.



For more information

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