

Guide to the *Native Vegetation Regulations 2017*

endorsed by the NVC 11 April 2017



Government
of South Australia



Native Vegetation
Council

Natural Resources

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Acronyms and Definitions

Act	<i>Native Vegetation Act 1991</i>
CFS	South Australian Country Fire Service
DEWNR	Department of Environment, Water and Natural Resources
NVC	Native Vegetation Council
Regulations	<i>Native Vegetation Regulations 2017</i>
SEB	Significant Environmental Benefit

Purpose of this Guide

This guide is a reference tool with respect to permitted clearance activities authorised under the *Native Vegetation Regulations 2017* (the Regulations) and is not meant to replace specific advice on an issue. This guide replaces the 'Guide to Exemptions under the *Native Vegetation Regulations 2003*' as the *Native Vegetation Regulations 2003* have been revoked.

Native Vegetation Regulations 2017

The Regulations outline the circumstances where clearing native vegetation is permitted, outside of the clearance controls in the *Native Vegetation Act 1991* (the Act). The Regulations allow clearance for activities that are routinely carried out by South Australians, including building new homes, managing farms, upgrading or establishing infrastructure or making recreational trails. The Regulations seek to balance the requirements of South Australians to clear for everyday activities with the need to protect and restore the remaining native vegetation in South Australia.

In 2014, a routine 10-year review of the *Native Vegetation Regulations 2003* was initiated, with the aim of simplifying the regulations to increase the overall transparency of the system. More than 40 'exemptions' were available to people wanting to clear, each requiring a different approach to assessment and approval. The system was unnecessarily complex.

Data on clearance applications under the past regulations shows that the majority of applications have been for very small patches or very few trees, where there was a very low risk to the conservation of native wildlife, or to issues such as salinity or erosion. The 2017 Regulations contain four (4) streamlined approval pathways where each of the 38 activities is aligned to a single pathway, thus easing the regulatory complexity.

The approval pathways are:

Pathway 1: Permitted Clearance Without Conditions (self-assessed by proponent, notification to the NVC sometimes required)

Pathway 2: Fire Hazard Reduction (requires CFS approval)

Pathway 3: Vegetation Management (requires a Management Plan approved by the NVC)

Pathway 4: Risk Assessment (requires NVC approval and a Significant Environmental Benefit (SEB) offset):

- a. Major developments (section 48 *Development Act 1993*)
- b. Mining, petroleum and exploration activities
- c. Other activities where the level of risk associated with the activity is not yet known.

Mitigation Hierarchy

The Regulations place a great emphasis on the proponent applying the Mitigation Hierarchy, a fundamental principle which encourages proponents to consider all possible ways to avoid and minimise clearance to reduce the level of clearance required. Reducing the level of clearance also reduces the SEB offset (where required) and associated cost to the proponent. The Native Vegetation Council (NVC) assesses whether proponents have adequately applied the Mitigation Hierarchy.

Format of this Guide

This guide provides details of the approval pathways and the associated Schedule 1 activities under each pathway. It should be read in conjunction with the Regulations. To gain approval to clear native vegetation under the Regulations you must be undertaking one of the activities listed in Schedule 1 of the Regulations and you must meet all the criteria that describe the activity. The pathways outline the process for a proposed clearance to be assessed and approved.

If your proposed clearance does not meet the requirements of a regulation, a full clearance application under the Act will be required (and will be subject to different assessment criteria).

This guide describes the requirements of each approval pathway in terms of:

- notification/application requirements;
- assessment procedure;
- approval requirements; and
- SEB requirements.

Following this, each activity in Schedule 1 is described in terms of:

- the activity description (including whether it can be undertaken on land that is subject to a Heritage Agreement (HA) or a Management Agreement (MA);
- the requirements of the regulation;
- the scope of the activity; and
- other regulations that may apply.

This guide should be read in conjunction with:

- the *Native Vegetation Regulations 2017*;
- the Guide for applications to clear native vegetation under the *Native Vegetation Act 1991* or under the *Native Vegetation Regulations 2017*;
- the Native Vegetation Council's Significant Environmental Benefit Policy and Guide; and
- relevant guidelines developed under Section 25 of the Act that support implementation of the Regulations.

Reference is also made to the *Native Vegetation Regulations 2003* (which have been revoked), specifically in relation to the comparable activities (in red text throughout the document). *Note, the comparable regulation is an indication of similar intent only; the 2017 regulation contains differences that contribute to the overall clarity of permitted activities.*

General Principles considered by the NVC - Regulation 19

Proponents should understand that when the NVC makes a decision to approve a clearance, it considers how the proposal:

- a) applies the Mitigation Hierarchy (the proposal must consider alternative sites that avoid and minimise clearance);
- b) minimises potential impacts on biodiversity;

- c) minimises potential impacts on soil, water and other natural resources;
- d) considers comments from agencies or bodies including the regional NRM board;
- e) minimises impacts on species or ecological communities listed as threatened under the *Environment Protection and Biodiversity Conservation Act 1999* of the Commonwealth, or species listed as rare or threatened under the *National Parks and Wildlife Act 1972* of South Australia; and
- f) considers the potential cumulative impact, both direct and indirect, that is reasonably likely from the proposed clearance activity.

The NVC is also obliged under section 14(2) of the *Native Vegetation Act 1991*, to do the following when making a decision to approve a clearance under the Regulations and will consider whether a proposal:

- furthers the objects of the Act;
- furthers the Principles of Native Vegetation Clearance (Schedule 1 of the Act) and does not act in a manner that is seriously at variance with the principles; and
- is aligned with relevant objectives of the State NRM Plan, and any other relevant NRM plan, under the *Natural Resources Management Act 2004*.

Significant Environmental Benefit (SEB) – Regulation 20

If clearance of native vegetation is permitted under the Regulations as a risk-assessed activity and is subject to the achievement of an SEB offset, the SEB is to be achieved by:

- establishing and managing native vegetation on land as specified by the NVC;
- managing and protecting native vegetation that is growing or is situated on land as specified by the NVC;
- entering into a Heritage Agreement for the management of specified native vegetation; or
- taking action in accordance with credit, assignment and/or third party establishment of environmental benefits (Part 4A of the Act).

See the NVC's Significant Environmental Benefit Policy and Guide for more information on SEB options.

Pathway 1: Permitted Clearance Without Conditions (Self-Assessment)

Description: Under this pathway the proponent is responsible for ensuring that the clearance activity meets the specific criteria defined in the Regulations, and can determine their compliance by self-assessment with the information provided.

Process to undertake Clearance for Permitted Clearance Activities

- Part 3, Division 1, Regulation 7
- Part 3, Division 2, Regulation 8(1)

Table 1. Requirements of the proponent to undertake clearance for permitted activities without conditions (self-assessed).

General process	Requirements of proponent
Notification to NVC	None required
Assessment	<p>Self-assessment: Proponent determines if the clearance is within the activity parameters (Schedule 1).</p> <p>A person intending to undertake clearance must:</p> <ul style="list-style-type: none"> • consider other practicable alternatives that would involve no clearance or the clearance of less vegetation (or the clearance of vegetation that is less significant or has been degraded to a greater extent than the vegetation proposed to be cleared); and • comply with any applicable Guidelines adopted by the NVC under section 25 of the <i>Native Vegetation Act 1991</i> - activities with applicable Guidelines are stated in Schedule 1. <p><i>Note, you must obtain the written permission of the landowner if you are acting on behalf of the landowner for any clearance activity.</i></p>
Approval	<p>None required</p> <p><i>Note, Regulation 8(6) Safety of Persons and Property requires an arborist report to be approved by the NVC prior to clearance.</i></p>
Significant Environmental Benefit (SEB)	None required

Table 2. Description of activities for permitted clearance without conditions.

Regulation (Schedule 1)	Description of activity	Proponent must comply with the following additional requirements	Not within scope for the following purposes	Another regulation may apply
<p><i>Regulation 8(1) – Vegetation within 10 metres of existing building</i></p> <p><i>5(1)(a)</i></p> <p><i>5(1)(k)</i></p>	<p>To allow clearance of vegetation within 10 metres of a building for the purpose of maintaining the building.</p> <p>Overhanging limbs can be removed or whole trees removed where absolutely necessary.</p> <p>Residential subdivision: Clearance for this purpose cannot be undertaken in connection with the subdivision of the land on which the vegetation is growing or is situated.</p> <p>River Murray Floodplain Area: Clearance of whole trees is not permitted in the RMFA unless the clearance involves the limb of a plant that is overhanging a building and is confined to removing the limb only.</p> <p><i>*This activity can occur on Heritage Agreement or Management Agreement land</i></p>	<p><i>Building</i> means a building or structure that is permanently fixed to land so that it cannot be moved without dismantling or destroying it, and does not include a building or structure placed in contravention of the <i>Development Act 1993</i>.</p> <p>This could include farm buildings, an office, shop, warehouse, farm shed, garage, shearing shed, animal shelter, grain store or garden shed.</p>	<ol style="list-style-type: none"> 1. Clearance around a building (or structure) that contravenes the <i>Development Act 1993</i> (structures that are exempt from approval under the <i>Development Act 1993</i> are permitted under this regulation); or 2. Clearance of vegetation located within the River Murray Floodplain Area (defined in the <i>River Murray Regulations 2003</i>) is not permitted (unless it is limited to removing the limb of a plant that is overhanging a building); or 3. Clearance undertaken in connection with residential subdivision. 	<p>Clearance 20 metres within a dwelling for fire protection (Regulation 9(1)(17)(1))</p> <p>Clearance of large trees within 20 metres of a dwelling for fire protection (Regulation 9(2)(19)) - no restrictions in the River Murray Floodplain Area (but must have CFS approval)</p> <p>Clearance for the safety of persons or property (Regulation 8(6)) has no restrictions in the RMFA but requires an arborist report approved by the NVC</p> <p>Clearance for residential subdivision (Regulation 12(35)) applies for any clearance within a residential subdivision</p>

Regulation (Schedule 1)	Description of activity	Proponent must comply with the following additional requirements	Not within scope for the following purposes	Another regulation may apply
<i>Regulation 8(2) – Maintenance of infrastructure</i> 5(1)(e) 5(1)(g)	To allow clearance of vegetation incidental to the repair or maintenance of infrastructure, or the repair or maintenance work of the Crown. <i>*This activity can occur on Heritage Agreement or Management Agreement land</i>	1. Clearance can occur in the vicinity of that which was previously lawfully cleared in relation to the construction, repair or maintenance of the infrastructure; and 2. Clearance must only be of plants or parts of plants that have grown or regrown since the previous lawful clearance, and/or 3. Clearance is undertaken in accordance with an NVC-approved Standard Operating Procedure <i>'Infrastructure' is defined in clause 3 of the regulations.</i>		Clearance for new infrastructure (Regulation 12(34))
<i>Regulation 8(3) – Maintenance of dam</i> 5(1)(i)	To allow clearance of vegetation incidental to the repair or maintenance of an existing dam to maintain its structure and integrity. This includes removing native vegetation regrowth that may compromise the structure of the dam wall; and remove built-up sediment.	1. Clearance for the repair or maintenance of an existing dam; and 2. Clearance can occur in the vicinity of that which was previously lawfully cleared in relation to the construction, repair or maintenance of the dam; and 3. Clearance must only be of plants or parts of plants that have grown or regrown since the previous lawful clearance	1. Clearance for modifications or expansion of the dam, involving clearance greater than the previous clearance envelope.	Clearance for a new dam and expansion of a dam on pastoral areas (Regulation 12(38))

Regulation (Schedule 1)	Description of activity	Proponent must comply with the following additional requirements	Not within scope for the following purposes	Another regulation may apply
<p><i>Regulation 8(4) – Clearance under the Electricity Act 1996 or Emergency Management Act 2004</i></p> <p>5(1)(f)</p> <p>5(1)(p)</p>	<p>To allow clearance of vegetation for electricity entities to undertake activities associated with the vegetation management related to public and private powerlines.</p> <p>The regulation also provides for the State Coordinator to cause vegetation clearance in relation to the response to major incidents, emergencies or disasters.</p> <p><i>*This activity can occur on Heritage Agreement or Management Agreement land</i></p>	<ol style="list-style-type: none"> 1. Electricity entities to keep vegetation clear of powerlines (unless that duty is conferred on a council under a vegetation clearance scheme) in accordance with the <i>Electricity (Principles of vegetation clearance) Regulations 2010</i>; and 2. The State Coordinator, upon the declaration of an identified major incident, major emergency or disaster to take any necessary action to remove or destroy vegetation for response and recovery operations; 3. Clearance is undertaken in accordance with an NVC-approved Standard Operating Procedure 		<p>Clearance to establish infrastructure (Regulation 12(34)) will apply if clearance exceeds what is permitted under the <i>Electricity (Principles of Vegetation Clearance) Regulations 2010</i> (and/or the standard operating procedure)</p>
<p><i>Regulation 8(5) – Ongoing grazing practices</i></p> <p>5(1)(zh)(i)</p>	<p>To allow clearance of vegetation for ongoing grazing practices. Grazing practices should prevent degradation of native vegetation by grazing of domestic stock in a way that maintains the value and protection of the vegetation on an ongoing basis.</p> <p>Continuation of grazing practices can occur provided it has not changed over the last 10 years, in relation to the area grazed, manner and rate.</p>	<ol style="list-style-type: none"> 1. Grazing stock of the same species, at the same rate and same manner in which the land has previously been grazed for the last 10 years or more 	<ol style="list-style-type: none"> 1. Grazing stock of a different species; or 2. Increasing the number of domestic stock; or 3. Expanding the land required for grazing; or 4. Grazing in a different manner (even if it is the same species). 	<p>Clearance of vegetation due to a change in the grazing regime that results in non-permanent degradation may be applicable under Grazing of Domestic Stock (Regulation 11(26))</p>

Regulation (Schedule 1)	Description of activity	Proponent must comply with the following additional requirements	Not within scope for the following purposes	Another regulation may apply
<i>Regulation 8(6) – Safety of persons or property</i> 5(1)(l) 5(1)(la)	<p>To allow reasonable clearance of large trees (or limbs) for the purpose of removing risk to the safety of people or property.</p> <p>River Murray Floodplain Area: Clearance of whole trees is permitted in the RMFA subject to an arborist report being approved by the NVC.</p> <p><i>*This activity can occur on Heritage Agreement or Management Agreement land</i></p>	<ol style="list-style-type: none"> 1. Clearance of plants exceeding 2 metres in height posing danger to people or property due to unstable limbs as a result of weakness, disease, wind damage or other causes; and 2. Prior to clearance a written assessment report by a plant health expert is undertaken; and 3. The assessment report of the plant health must be provided to and approved by the NVC (other than in an emergency situation); and 4. Clearance is limited to removing the limb or other part of the plant causing the safety risk and only to destroying the plant if there is no other option to remove the danger. <p><i>Plant health expert means a person holding a Certificate V in Horticulture (Arbor-culture) or a comparable or higher qualification.</i></p>	<ol style="list-style-type: none"> 1. This regulation only applies if it is not reasonably practicable to avoid the risk by avoiding the vicinity in which the tree or plant is growing or situated; or 2. The complete removal of trees for which the safety concern relates to only part/s of the tree/s is not permitted; or 3. Clearance on a road reserve, rail corridor or rail reserve for this purpose is not permitted. Clearance associated with roadsides must be done in accordance with any NVC Guidelines for the Management of Roadside Vegetation. 	<p>Clearance of vegetation within 10 metres of an existing building with restrictions to clearance of <u>limbs only</u> in the RMFA (Regulation 8(1))</p> <p>Clearance within 20 metres of a dwelling (not large trees) for fire prevention and control (Regulation 9(1)(17)(1)) – no restrictions in the RMFA</p> <p>Clearance of large trees within 20 metres of a dwelling (Regulation 9(2)(19)) – no restrictions in the RMFA but CFS approval required</p>

Regulation (Schedule 1)	Description of activity	Proponent must comply with the following additional requirements	Not within scope for the following purposes	Another regulation may apply
<i>Regulation 8(7) – Walking tracks</i> <i>5(1)(u)</i>	<p>To allow reasonable clearance of vegetation for the establishment and maintenance of walking tracks on private land for accessibility by walkers.</p> <p><i>*This activity can occur on Heritage Agreement or Management Agreement land</i></p>	<ol style="list-style-type: none"> 1. Clearance of vegetation to establish or maintain a walking track no more than 0.5 metres in width for private use by walkers (not available for use by members of the public); and 2. There is no other practicable alternative (including, in the case of a new track, to the position of the track) that would involve no clearance, or where the vegetation is shown to be less significant (or more degraded than the vegetation proposed to be cleared). 	<ol style="list-style-type: none"> 1. Clearance on a road reserve, rail corridor or rail reserve is not permitted. Clearance for this purpose associated with roadsides must be done in accordance with any NVC Guidelines for the Management of Roadside Vegetation; or 2. Clearance of vegetation previously established as a condition of a consent for clearance or under regulation (including a condition in respect of clearance permitted under revoked regulations) 	<p>Clearance for tracks for recreational use by the public may be applicable under Regulation 12(36) and requires NVC approval</p>
<i>Regulation 8(8) – Cultural activities</i>	<p>To allow clearance of vegetation for activities comprising the taking of part of a plant by an Aboriginal person for non-commercial use by the person, or by another Aboriginal person, in accordance with Aboriginal culture and tradition.</p> <p>Ecological cultural activities can be done in a number of ways through the collection of native and other natural materials for subsistence, medicinal and other cultural purposes.</p>	<ol style="list-style-type: none"> 1. Clearance of native vegetation is limited to taking part of a plant for Aboriginal Cultural Activities; and 2. Aboriginal Cultural Activities that are non-commercial personal, domestic or communal activities are permitted <p><i>Aboriginal person means a person of Aboriginal descent who is accepted as a member by a group in the community who claim Aboriginal descent.</i></p>	<ol style="list-style-type: none"> 1. Clearance beyond taking part of a plant (ie, removing whole plants) for Aboriginal Cultural Activities 	

Regulation (Schedule 1)	Description of activity	Proponent must comply with the following additional requirements	Not within scope for the following purposes	Another regulation may apply
<i>Regulation 8(9) – Regrowth</i> 5(1)(zf)	To allow clearance of vegetation that has regrown in the immediate 5 years past to maintain the existing use of the land.	<ol style="list-style-type: none"> 1. Clearance on land where vegetation has been lawfully cleared within the past 5 years; and 2. Clearance that is necessary to maintain the land for the purpose of which it has been used during the past 5 years; and 3. Clearance of vegetation limited to parts of plants or plants that have grown or regrown in the past 5 years 	<ol style="list-style-type: none"> 1. Clearance of a greater area of land than previously cleared; or 2. Clearance of regrowth for a change in land use 	Clearance for the maintenance of existing agriculture, forestry or farming that results in non-permanent degradation may be applicable under Regulation 11(24)
<i>Regulation 8(10) – Firewood</i> 5(1)(q)	<p>To allow clearance of vegetation by collecting firewood for domestic use by the landowner in a way that allows for regrowth of cleared vegetation. The collection of firewood can continue in a way that limits the amount that can be cleared for this purpose.</p> <p><i>Note, the definition of native vegetation includes dead plants over a certain size in certain areas and must be considered for their habitat value before removing them for firewood (or for any purpose set out in the regulations). See Clause 4 for a full definition.</i></p>	<ol style="list-style-type: none"> 1. Firewood collected must not exceed 6 cubic metres, including that unburnt over a preceding 2 year period; and 2. Vegetation must have a stem diameter of 300 mm above the base of the plant of 200 mm or less; and 3. Clearance must allow regrowth and should be undertaken at least 300 mm above the base of the plant 	<ol style="list-style-type: none"> 1. Killing vegetation or prevention of regrowth; or 2. Clearance of vegetation for commercial supply of firewood; or 3. Clearance on a road reserve, rail corridor or rail reserve is not permitted. Clearance for this purpose associated with roadsides must be done in accordance with any NVC Guidelines for the Management of Roadside Vegetation; or 4. Clearance of vegetation previously established as a condition of a consent for clearance or regulation (including a condition in respect of clearance permitted under revoked regulations) 	

Regulation (Schedule 1)	Description of activity	Proponent must comply with the following additional requirements	Not within scope for the following purposes	Another regulation may apply
<i>Regulation 8(11) – Taking of seeds and specimens</i> 5(1)(zb)	<p>To allow clearance of vegetation by collecting seeds and specimens in a way that does not substantially damage the plant.</p> <p><i>The collection of seeds, cuttings and specimens on private land requires the consent of the landholder. For collection on roadsides, consent is required from the local council and National Parks and Wildlife. A National Parks permit is required for any collection from crown land including National Parks and Wildlife reserves.</i></p> <p><i>*This activity can occur on Heritage Agreement or Management Agreement land</i></p>	<ol style="list-style-type: none"> 1. Clearance of vegetation to take a specimen; and 2. Clearance of vegetation to take a cutting from a plant for propagation; and 3. Clearance of vegetation to take the part of the plant that is required in order to obtain the seeds of the plant 	<ol style="list-style-type: none"> 1. Substantial damage to any part of the plant; or 2. Cutting an entire branch off a tree to collect seed; or 3. Removal of all harvestable seed from a single plant; or 4. Removal of an entire plant to transplant elsewhere 	
<i>Regulation 8(12) – Cultana training area</i> 5(1)(zn)	<p>To allow clearance of vegetation for the use and management of land known as Cultana (parcels specified) by the Department of Defence.</p>	<p><i>As outlined by the regulation.</i></p>		

Pathway 1 (cont.): Permitted Clearance Without Conditions (Notification Required)

Description: The following permitted clearance activities are self-assessed by a proponent and require notification to the NVC prior to clearance. Notification is required for the purposes of data collection to provide DEWNR with information on the effectiveness and amount of clearance that is occurring under particular regulations.

Process to undertake clearance for permitted clearance activities (notification required)

- Part 3, Division 1, Regulation 7
- Part 3, Division 2, Regulation 8(2)

Table 3. Requirements of the proponent to undertake clearance for permitted clearance without conditions (notification required).

General process	Requirements of proponent
Notification to NVC	<p>The proponent must notify the NVC about the amount and location of clearance by emailing the NVC via nvc@sa.gov.au.</p> <p>Details required for notification:</p> <ul style="list-style-type: none"> • Applicant/landowner information • Property details (section/hundred, allotment/plan) • Reason for clearance and how other alternatives for less or no clearance have been considered • Map of clearance area/photographs • Description of vegetation. <p><i>Note, you must submit the written permission of the landowner if you are acting on behalf of the landowner for any clearance activity.</i></p> <p>A formal record of the notification will be generated and provided to the proponent.</p> <p><i>Notification is not required for activities where the proposed clearance is to maintain an existing track or provide a strip of land on either or both sides of an existing fence (regulations 8(13)-Vehicle Tracks and 8(14)-Fences). Notification is only required for the establishment of a new vehicle track or a new fence.</i></p>

Assessment	<p>Self-assessment: proponent determines if the clearance is within the activity parameters (Schedule 1).</p> <p>A person intending to undertake clearance must comply with any applicable Guidelines adopted by the NVC under section 25 of the <i>Native Vegetation Act 1991</i> (activities with applicable Guidelines are stated in Schedule 1).</p>
Approval	None required
Significant Environmental Benefit (SEB)	None required

Table 4. Description of activities for Permitted Clearance (notification required).

Regulation (Schedule 1)	Description of activity	Proponent must comply with the following additional requirements	Not within scope for the following purposes	Another regulation may apply
<p><i>Regulation 8(13) – Vehicle tracks</i></p> <p>5(1)(t)</p>	<p>To allow reasonable clearance of vegetation for the establishment and maintenance of vehicle tracks to provide access.</p> <p>In establishing vehicle tracks, proponents are to consider the location and position of the track in order to have the least impact on vegetation. It should be able to be demonstrated that alternatives that involve less or no clearance have been considered.</p> <p>Residential subdivision: Clearance for this purpose cannot be undertaken in connection with the subdivision of the land on which the vegetation is growing or is situated.</p> <p>Notification is only required for the establishment of a vehicle track, not for the maintenance of an existing vehicle track.</p> <p><i>*This activity can occur on Heritage Agreement or Management Agreement land for the purposes of maintaining (but not establishing) a track.</i></p>	<ol style="list-style-type: none"> 1. Clearance to establish or maintain a vehicle track that is no more than 5 metres wide for vehicles that have at least 4 wheels; and 2. The track is reasonably required to provide access; and 3. Clearance is limited to the extent reasonably required to achieve the purpose for which the track is required; and 4. There is no other practicable alternative (including, in the case of a new track, to the position of the track) that would involve no clearance, or where the vegetation is shown to be less significant (or more degraded than the vegetation proposed to be cleared). 	<ol style="list-style-type: none"> 1. Clearance on a road reserve, rail corridor or rail reserve is not permitted. Clearance for this purpose associated with roadsides must be done in accordance with any NVC Guidelines for the Management of Roadside Vegetation; or 2. Clearance of vegetation previously established as a condition of a consent for clearance or under regulation (including a condition in respect of clearance permitted under revoked regulations); or 3. Clearance undertaken in connection with residential subdivision. 	<p>Clearance for residential subdivision (Regulation 12(35)) applies for any clearance within a residential subdivision</p> <p>Clearance for vehicles undertaking firefighting activities may be applicable under Regulation 9(2)(22)</p>

Regulation (Schedule 1)	Description of activity	Proponent must comply with the following additional requirements	Not within scope for the following purposes	Another regulation may apply
<i>Regulation 8(14) – Fences</i> 5(1)(s)	<p>To allow clearance of a strip of vegetation on either side or both sides of an existing fence; or to provide access to establish a fence that is reasonably required to control access.</p> <p>In establishing fences, proponents are to consider the location and position of the fence in order to have the least impact on vegetation. This includes the positioning of fences that involve no clearance, or where the vegetation is shown to be less significant or more degraded than the vegetation proposed to be cleared.</p> <p>Residential subdivision: Clearance for this purpose cannot be undertaken in connection with the subdivision of the land on which the vegetation is growing or is situated.</p> <p>Notification is only required for the establishment of a fence, not for the maintenance of an existing fence.</p> <p><i>*This activity can occur on Heritage Agreement or Management Agreement land</i></p>	<ol style="list-style-type: none"> 1. If clearance is required for access to maintain or establish a fence it should be limited to the extent required to obtain that access; and 2. If the fence is on the property boundary of a person's land, clearance up to 5 metres width either side (10 metres total) is permitted; or 3. If the fence is dividing a single property: Clearance up to 5 metres width in total is permitted 	<ol style="list-style-type: none"> 1. Clearance on a road reserve, rail corridor or rail reserve is not permitted. Clearance for this purpose associated with roadsides must be done in accordance with any NVC Guidelines for the Management of Roadside Vegetation; or 2. Clearance of vegetation previously established as a condition of a consent for clearance or under regulation (including a condition in respect of clearance permitted under revoked regulations); or 3. Clearance undertaken in connection with residential subdivision. 	<p>Clearance for residential subdivision (Regulation 12(35)) applies for any clearance within a residential subdivision</p> <p>Clearance for fence line fuel breaks (Regulation 9(1)(17)(2)) applies for clearance required for a fence line fuel break not exceeding 5 metres</p>

Regulation (Schedule 1)	Description of activity	Proponent must comply with the following additional requirements	Not within scope for the following purposes	Another regulation may apply
<i>Regulation 8(15) – Plant and animal control</i> 5(1)(zk) 5(1)(zi)	<p>To allow clearance of vegetation for the control of declared plants and animals under the <i>Natural Resources Management Act 2004</i> where it is not possible to undertake the control without clearing native vegetation.</p> <p>Damage to native vegetation should be avoided where possible but there will be some situations where the control of declared plants and animals will not be possible without some damage to associated native vegetation.</p> <p>NVC Guidelines define how native vegetation clearance to control declared plants and animals can occur.</p> <p><i>*This activity can occur on Heritage Agreement or Management Agreement land</i></p>	<ol style="list-style-type: none"> 1. Clearance of vegetation undertaken in compliance with an obligation under the <i>Natural Resources Management Act 2004</i> to destroy or control animals or plants; and 2. Clearance must be undertaken in compliance with NVC Guidelines for Clearance Associated with the Control of Plant and Animal Pests 		

Regulation (Schedule 1)	Description of activity	Proponent must comply with the following additional requirements	Not within scope for the following purposes	Another regulation may apply
<i>Regulation 8(16) – Native vegetation causing natural resource management problems</i> 5(1)(zb)	<p>To allow clearance to manage native vegetation that is affecting the health of other native species and natural resources.</p> <p>NVC Guidelines define specific species and provisions for clearance including approved removal methods, and other issues to consider in controlling overabundant native species.</p> <p><i>*This activity can occur on Heritage Agreement or Management Agreement land</i></p>	<ol style="list-style-type: none"> 1. Clearance of native vegetation for the purposes of managing native species that have become pests; and 2. Clearance must be undertaken in compliance with NVC Guidelines for Clearance of Native Vegetation causing Natural Resources Management Problems. Species include: Acacia longifolia; Common Reeds (Phragmites Australia) and Bulrushes (Typha domingensis); Bracken (Pteridium esculentum); Box Mistletoe (Amyema miquelii); Western Coastal Wattle (Acacia Cyclops); and Water Milfoil (Myriophyllum salsugineum) and associate water plants. 		

Pathway 2: Fire Hazard Reduction (CFS Approval Required)

Description: This pathway facilitates the clearance of vegetation to support bushfire management activities, particularly strategic actions based on Bushfire Management Plans. Further information can be found in the CFS *Managing Native Vegetation: Reduce the Impact of Bushfire* guidelines which can be accessed on the CFS website.

Bushfire Management Plan means:

- a) a plan prepared by a bushfire management committee for its bushfire management area as required under section 72B of the *Fire and Emergency Services Act 2005*; or
- b) a plan for bushfire prevention prepared by a district bushfire prevention committee under the *Fire and Emergency Services Act 2005*, as in force from time to time; or
- c) another plan for the management of bushfires approved by the NVC or developed in accordance with a standard operating procedure determined or approved by the Council for the purposes of this definition.

This pathway consists of activities under:

- Fire Hazard Reduction 1 – activities that can be self-assessed by a proponent (no CFS approval required).
- Fire Hazard Reduction 2 – activities requiring more significant vegetation clearance where CFS approval is required.

Process to undertake Clearance for Fire Hazard Reduction 1 (self-assessment)

- Part 3, Division 3, Regulation 9(1)

Table 5. Requirements of the proponent to undertake clearance for Fire Hazard Reduction 1 (self-assessment).

General process	Requirements of proponent
Application to CFS	None required
Assessment	<p>Self-assessment by proponent</p> <p>Proponent to determine whether they meet the criteria of the regulation, in accordance with requirements of any relevant bushfire management plan, or another plan for the management of bushfires approved by the NVC. Bushfire Management Plans can be accessed on the CFS website.</p> <p><i>Note, you must obtain the written permission of the landowner if you are acting on behalf of the landowner for any clearance activity.</i></p>

Approval	No CFS approval required
Significant Environmental Benefit (SEB)	None required

Table 6. Description of activities for Fire Hazard Reduction 1 (self-assessment).

Regulation (Schedule 1)	Description of activity	Proponent must comply with the following additional requirements	Another regulation may apply
<p><i>Regulation 9(1)(17) – Fire prevention and control</i></p> <p>(1) Within 20 metres of a dwelling</p> <p>(2) Fence line fuel break less than 5 metres</p> <p><i>5A(1)(a)</i></p>	<p>To allow clearance of vegetation for fire prevention and control measures to be undertaken around dwellings and fence-lines.</p> <p><i>Dwelling</i> means a building or part of a building used as a self-contained residence.</p> <p><i>*This activity can occur on Heritage Agreement or Management Agreement land</i></p>	<ol style="list-style-type: none"> 1. Clearance can be undertaken of vegetation within 20 metres of a dwelling (not large trees that have a trunk circumference of 2 metres or more (measured at a point 1 metre above the base of the tree); or 2. Clearance can be undertaken along a fence-line to establish or maintain a fuel break where the total width does not exceed 5 metres; and 3. Clearance must be undertaken in accordance with any applicable Bushfire Management Plan, or another plan for the management of bushfires approved by the NVC; and 4. Clearance must be undertaken in accordance with the CFS guidelines <i>Managing Native Vegetation: Reduce the Impact of Bushfire</i>. 	<p>Clearance of vegetation within 10 metres of an existing building has restrictions to clearance of <u>limbs only</u> in the RMFA (Regulation 8(1))</p> <p>Clearance of large trees within 20 metres of a dwelling has no restrictions in the RMFA but CFS approval is required (Regulation 9(2)(19))</p> <p>Clearance for safety of people and property has no restrictions in the RMFA but must have an arborist report approved by the NVC (Regulation 8(6))</p> <p>Clearance for fuel breaks can occur in accordance with Regulation 9(2)(21) which requires CFS approval</p> <p>Clearance to establish or maintain a fence can occur in accordance with Regulation 8(14) where clearance can occur on a boundary of a person's land up to 5 metres in width either side of a fence (10 metres total) or if the fence is dividing a single property, clearance up to 5 metres width in total. In <i>establishing</i> a new fence, <i>notification</i> to the NVC is required.</p>

Regulation (Schedule 1)	Description of activity	Proponent must comply with the following additional requirements	Another regulation may apply
<p><i>Regulation 9(1)(18) – Clearance for the purposes of the Fire and Emergency Services Act 2005</i></p> <p>5A(1)(c)</p>	<p>To allow clearance of vegetation associated with fire and emergencies that are necessary to protect the life, health or safety of any person or animal, or protecting property, relevant services or the environment dealing with a fire, emergency or threat. The action may result in damage to property or the environment, including the removal or destruction of native vegetation.</p> <p><i>*This activity can occur on Heritage Agreement or Management Agreement land</i></p>	<p>1. Clearance of native vegetation to be undertaken in emergency situations (under powers enacted by the <i>Fire and Emergency Services Act 2005</i> sections 42, 82, 97 or 118).</p>	

Process to undertake Clearance for Fire Hazard Reduction 2 (CFS approval)

- Part 3, Division 3, Regulation 9(2)

Table 7. Requirements of the proponent to undertake clearance for Fire Hazard Reduction 2 (CFS approval).

General process	Requirements of proponent
Application to CFS	<p>Application to CFS</p> <p><i>Note, you must submit the written permission of the landowner if you are acting on behalf of the landowner for any clearance activity.</i></p> <p>Application must be in accordance with any applicable Bushfire Management Plan, or another plan for the management of bushfires approved by the NVC. Application forms and bushfire management plans can be found on the CFS website.</p>
Assessment	<p>As per CFS assessment</p> <p>In granting approval, regard must be given to any applicable bushfire management plan.</p>
Approval	<p>Written approval by the Chief Officer of the CFS</p> <p>In addition, notification of CFS approval must be forwarded to the NVC; proponent to email NVC at nvc@sa.gov.au.</p> <p><i>Permitted clearance must be undertaken 2 years within approval being granted, unless otherwise specified.</i></p>
Significant Environmental Benefit (SEB)	None required

Table 8. Description of activities for Fire Hazard Reduction 2 (CFS approval).

Regulation (Schedule 1)	Description of activity	Proponent must comply with the following additional requirements	Another regulation may apply
<i>Regulation 9(2)(19) – Fire prevention and control (large trees)</i>	<p>To allow clearance of large trees growing or situated within 20 metres of a dwelling for fire prevention and control purposes.</p> <p>There are no restrictions in the River Murray Floodplain Area.</p>	<ol style="list-style-type: none"> 1. Clearance of large trees with a trunk circumference of 2 metres or more (measured at a point 1 metre above the base of the tree); and 2. Clearance must be undertaken in accordance with any applicable Bushfire Management Plan, or another plan for the management of bushfires approved by the NVC; and 3. Clearance must be undertaken in accordance with the CFS guidelines <i>Managing Native Vegetation: Reduce the Impact of Bushfire</i>. 	<p>Clearance of vegetation within 10 metres of an existing building is restricted to <u>limbs only</u> in the RMFA (Regulation 8(1))</p> <p>Clearance for safety of people and property has no restrictions in the RMFA but must have an arborist report approved by the NVC (Regulation 8(6))</p>
<p><i>Regulation 9(2)(20) – Fuel reduction</i></p> <p><i>5A(1)(b)</i></p>	<p>To allow clearance of vegetation to reduce the risk of combustible material on land as reasonably required for fire prevention and control.</p> <p><i>*This activity can occur on Heritage Agreement or Management Agreement land</i></p>	<ol style="list-style-type: none"> 1. Clearance to reduce combustible material on land; and 2. Clearance must be undertaken in accordance with any applicable Bushfire Management Plan, or another plan for the management of bushfires approved by the NVC; and 3. Clearance must be undertaken in accordance with the CFS guidelines <i>Managing Native Vegetation: Reduce the Impact of Bushfire</i>. 	

Regulation (Schedule 1)	Description of activity	Proponent must comply with the following additional requirements	Another regulation may apply
<i>Regulation 9(2)(21) – Fuel breaks</i> 5A(1)(e)	<p>To allow clearance for fuel breaks on rural council land used for primary production.</p> <p><i>A rural council has the same meaning as in the Fire and Emergency Services Act 2005.</i></p> <p><i>*This activity can occur on Heritage Agreement or Management Agreement land</i></p>	<ol style="list-style-type: none"> 1. Clearance to provide a fuel break of less than 20 metres width; and 2. Land must be located in a rural council area and used for primary production; and 3. The fuel break must not be within 200 metres of land that is already sufficiently clear of vegetation that provides comparable protection to the proposed fuel break (other than one that runs at right-angles to the proposed fuel break); and 4. Clearance must be undertaken in accordance with any applicable Bushfire Management Plan, or another plan for the management of bushfires approved by the NVC; and 5. Clearance must be undertaken in accordance with the CFS guidelines <i>Managing Native Vegetation: Reduce the Impact of Bushfire</i>. 	<p>Clearance for fence line fuel breaks, Regulation 9(1)(17)(2) may apply</p>
<i>Regulation 9(2)(22) – Fire access tracks</i> 5A(1)(d)	<p>To allow clearance for the establishment or maintenance of a fire access track constructed for use by vehicles undertaking firefighting activities.</p> <p><i>*This activity can occur on Heritage Agreement or Management Agreement land</i></p>	<ol style="list-style-type: none"> 1. Clearance of vegetation to establish or maintain a fire access track less than 15 metres in width; and 2. Clearance must be undertaken in accordance with any applicable Bushfire Management Plan, or another plan for the management of bushfires approved by the NVC; and 3. Clearance must be undertaken in accordance with the CFS guideline <i>Managing Native Vegetation: Reduce the Impact of Bushfire</i>. <p><i>Firefighting has the same meaning as in the Fire and Emergency Services Act 2005.</i></p>	<ul style="list-style-type: none"> • Clearance for vehicle tracks less than 5 metres in width may apply under Regulation 8(13).

Pathway 3: Vegetation Management (Management Plans)

Description: This pathway allows for activities in which vegetation clearance (and regrowth) is required, and in which the ongoing management of native vegetation must be facilitated by a management planning process. The following activities require a Management Plan to manage the way in which clearance can occur. Due to the nature of these activities additional information is required by the NVC to assist with the decision to approve the clearance and its ongoing maintenance. This criterion is outlined in NVC Guidelines (developed under section 25 of the *Native Vegetation Act 1991*):

- Guideline for Roadside Vegetation Management
- Guideline for Maintenance of Existing Agriculture, Forestry or Farming
- Guideline for Ecological Purposes and Guideline for Ecological Prescribed Burning
- Guideline for Grazing of Domestic Stock.

Process to undertake Clearance for a Vegetation Management activity

- Part 3, Division 4, Regulation 11

Table 9. Requirements of the proponent to undertake clearance that requires a management plan.

General process	Requirements of proponent
Application to NVC	Provide the management plan to the NVC via email nvc@sa.gov.au . <i>Note, you must submit the written permission of the landowner if you are acting on behalf of the landowner for any clearance activity.</i>
Assessment	Criteria to address in the management plan is found in NVC Guidelines. The proponent can access DEWNR staff to assist in developing a management plan (or an NVC accredited consultant in circumstances that require specialist advice). Management plans should address considerations for any residual adverse impacts of the proposed clearance. The NVC will assess the management plan against whether the ongoing management avoids, minimises and restores the impact of the clearance as far as practicable, and does not lead to permanent degradation. The NVC may seek advice from the regional NRM board in relation to issuing an approval.
Approval	Approval of the management plan by the NVC
Significant Environmental Benefit (SEB)	None required

Table 10. Description of activities for vegetation management.

Regulation (Schedule 1)	Description of activity	Proponent must comply with the following additional requirements	Not within scope – the regulation is not applicable for the following purposes	Another regulation may apply
<p><i>Regulation 11(23) – Roadside or rail corridor vegetation management</i></p> <p>5(1)(y)</p> <p>5(1)(lb)</p>	<p>To allow clearance of vegetation on road reserves or rail corridors for the personal safety of those entering or passing the land, or of property on the land; or for controlling of pests on the land applicable to a roadside or rail corridor.</p>	<ol style="list-style-type: none"> 1. Clearance can occur by someone acting on behalf of the person with the control and management of the land; and 2. Clearance undertaken in compliance with NVC Guidelines for Roadside Vegetation Management. 	<ol style="list-style-type: none"> 1. Clearance (including residual adverse impacts) that will permanently remove or degrade native vegetation. 	<p>Any proposed clearance under another regulation that involves clearance on a road reserve must consult the NVC's Guidelines for the Management of Roadside Vegetation (developed under Section 25 of the <i>Native Vegetation Act 1991</i>). The proponent is required to contact the local council to obtain approval if the proposed clearance is more extensive than that allowed by the Guideline.</p>
<p><i>Regulation 11(24) – Maintenance of existing agriculture, forestry or farming</i></p> <p>5(1)(zfa)</p> <p>5(1)(zfb)</p> <p>5(1)(zg)</p>	<p>To allow clearance of vegetation on land that has been consistently used for commercial agricultural, forestry or primary production purposes over the past 10 years.</p> <p>Clearance must be to maintain the existing use of the land without permanent degradation or loss of native vegetation.</p> <p>Clearance of vegetation must subsequently be allowed to regrow. This may include rolling regrowth to promote pasture value of the native vegetation.</p> <p>Clearance to establish the initial use of land must have been undertaken lawfully in accordance with the <i>Native Vegetation Act 1991</i>.</p>	<ol style="list-style-type: none"> 1. Clearance undertaken in compliance with NVC Guidelines for the Maintenance of Existing Agriculture, Forestry or Farming. 	<ol style="list-style-type: none"> 1. Clearance (including residual adverse impacts) that will permanently remove or degrade native vegetation. 	<p>Clearance of regrowth less than 5 years may be applicable under Regulation 8(9)</p> <p>If the clearance of vegetation permanently removes or degrades the regrowth, a clearance application under the <i>Native Vegetation Act 1991</i> will be required.</p>

Regulation (Schedule 1)	Description of activity	Proponent must comply with the following additional requirements	Not within scope – the regulation is not applicable for the following purposes	Another regulation may apply
<p><i>Regulation 11(25) – Ecological restoration and management of vegetation</i></p> <p><i>5(1)(zi)</i></p>	<p>To allow clearance of native vegetation to conserve, manage or restore native species, native vegetation or ecological processes.</p> <p>Ecological processes can include clearance to provide access for ecological work, grazing to reduce weeds and improve native understorey diversity, and clearance of increaser species that are dominating landscapes to the detriment of other native species.</p> <p><i>*This activity can occur on Heritage Agreement or Management Agreement land</i></p>	<p>1. Clearance undertaken in compliance with NVC Guidelines for the Ecological Restoration and Management of Vegetation.</p>	<p>1. Clearance (including residual adverse impacts) that will permanently remove or degrade native vegetation.</p>	<p>Clearance for cultural activities may be applicable under Regulation 8(8)</p>
<p><i>Regulation 11(26) – Grazing of domestic stock</i></p> <p><i>5(1)(zh)(ii)</i></p>	<p>To allow clearance of vegetation to introduce a new grazing regime that is not consistent with that grazed over the last 10 years.</p> <p>Changing the species of domestic stock or the manner and rate of grazing from that undertaken over the last 10 years must not cause permanent degradation of native vegetation.</p> <p>If the grazing regime is introduced into long ungrazed native vegetation or if it is likely to result in permanent degradation, the application must be assessed under the <i>Native Vegetation Act 1991</i>.</p>	<p>1. Clearance undertaken in compliance with NVC Guidelines for Grazing of Domestic Stock.</p>	<p>1. Clearance (including residual adverse impacts) that will permanently remove or degrade native vegetation; or</p> <p>2. Expanding the land required for grazing.</p>	<p>Ongoing grazing practices may apply for grazing that remains unchanged as that over the previous 10 years (Regulation 8(5)).</p> <p>A clearance application under the <i>Native Vegetation Act 1991</i> will be required if the new grazing regime results in permanent degradation.</p>

Pathway 4: Risk Assessment

Description: The risk assessment pathway is designed to streamline the approval process for activities with low or undefined levels of risk to biodiversity to be identified early, so that the focus of the NVC's assessment can be on activities that pose a high risk to biodiversity. The purpose of performing a risk assessment is to ensure that assessment and approval processes are consistent with the objects of the *Native Vegetation Act 1991*, defensible, transparent and at a level commensurate with the level of risk. The risk assessment determines the level of assessment to be undertaken, and therefore the SEB which will offset the impact of the clearance.

The risk assessment applies to activities defined in Schedule 1 as:

- a. Major developments and projects (Section 48 *Development Act 1993*)
- b. Mining, petroleum and exploration activities
- c. 'Other activities' (activities where the level of risk associated with the activity is undefined)

Applications are risk-assessed against criteria that categorises four (4) levels of clearance according to the significance of the vegetation proposed to be cleared. The criteria for the risk assessment are divided into agricultural and pastoral areas. Within each area, there are thresholds for the number of trees and the size of a patch; these determine the level of risk. The risk level also equates to a level of assessment where Level 1 clearance poses a low risk to biodiversity (desktop assessment), and Level 4 clearance poses a high risk to biodiversity (full assessment).

Through this process, assessment and approval processes are focussed on medium and high risk proposals. See Table 11 for the criteria, assessment and SEB for activities that are risk-assessed.

Escalating factors

The two considerations for assessing the risk to conservation of biodiversity are the size of the patch or number of trees to be cleared, and the presence of threatened species or communities. This information represents three (3) of the Principles of Native Vegetation Clearance, specifically related to biodiversity conservation, from the *Native Vegetation Act 1991*:

'Native vegetation should not be cleared if, in the opinion of the Council –

(b) it has significance as a habitat for wildlife; or

(c) it includes plants of a rare, vulnerable or endangered species; or

(d) the vegetation comprises the whole, or a part, of a plant community that is rare, vulnerable or endangered;...'

In relation to the other Principles of Native Vegetation Clearance, the NVC is obliged when making a decision in accordance with the regulations, to further the Principles and not act in a manner that is seriously at variance with the Principles. See Appendix 2 for the Principles of Native Vegetation Clearance.

There are several escalating factors that will raise the clearance assessment to the next level if found to be positive. For Level 1, in addition to the size of the patch or number of trees, if the clearance meets the following criteria, the assessment will be escalated to Level 2:

- if it involves any trees with a trunk circumference of 50cm or more (measured at 1m above the ground); or
- if there is an associated application to clear on the property within the last 5 years (the accumulative area or number of trees of past approvals will be considered); or
- if there is a high likelihood that the site contains or is habitat for species listed under the *National Parks and Wildlife Act 1972* or a threatened community under the *Environment Protection and Biodiversity Act 1999*;

For levels 2 and 3, if the clearance is seriously at variance with Principles of Native Vegetation Clearance b, c or d, the assessment will be raised to the next level.

In cases involving escalation factors, the NVC will consider the mitigation hierarchy and propose alternative location(s), where practicable, that have less impact on the vegetation or where clearance can occur in a more degraded area. It is in the proponent's best interest to apply these principles of avoidance and minimisation to the proposed clearance to reduce the SEB obligation.

Public comment on level 4 applications

Applications that meet the criteria for Level 4 of the risk assessment will be made available for public comment on the DEWNR website and may be referred to statutory bodies (such as the relevant regional NRM board). These high impact clearances will be subject to a maximum of 28 days within which time any comments can be submitted to the NVC in relation to the granting or refusal of clearance approval (Regulation 18(3)(b)).

Information that contributes to the technical assessment of an application will be considered by the NVC including information in relation to the Principles of Native Vegetation Clearance.

For more information on how the NVC assesses applications, see the *Guide for applications to clear native vegetation under the Native Vegetation Act 1991 or the Native Vegetation Regulations 2017*.

Table 11. Criteria, assessment process and SEB for levels of clearance to be risk-assessed.

	Agricultural (AMLR, EP, N&Y, SAMDB, KI and SE Region)		Pastoral (SAAL and AW NRM regions)		Escalating matters	Approval
	Patches - clearance	Trees - clearance	Patches - clearance	Trees - clearance	Clearance assessment will be raised to the next level if;	
Level 1	0.05 ha or less	5 trees or less	3 ha or less	5 trees or less	Clearance involves any trees with a trunk circumference measured at 1m above the ground of (for multi-stemmed trees, measure the largest trunk/stem): <ul style="list-style-type: none">- 50cm or more for Agricultural zone, or- 30cm of more for the Pastoral zone, <i>or</i> There is an associated application within the last 5 years <i>or</i> There is a high likelihood (as determined by NVC delegate) that the site contains or is habitat for a species listed under the NP&W Act or a threatened community under EPBC Act	Delegation: NVMU, DPC Mining, SOPs
Assessment	Desktop assessment (Applicant to provide information) – a map of area of impact, site photographs, explanation of the purpose of clearance, why there is no alternative and whether there has been any other clearance application in the last 5 years					
SEB	\$500 payment into the Native Vegetation Fund					
Level 2	>0.05 ha to 0.5 ha	6 - 20 trees	>3 ha to 10 ha	6 - 20 trees	The clearance is seriously at variance with Principle of Clearance b, c or d.	Delegation: NVMU, DPC Mining, SOPs
Assessment	Field assessment (Accredited consultant) – Bushland or Rangeland assessment method or Scattered tree assessment					
SEB	Determined as per SEB Policy and Guide					
Level 3	Total Biodiversity Score of less than or equal to 250		Total Biodiversity Score of less than or equal to 2500.		The clearance is seriously at variance with Principle of Clearance b, c or d.	Delegation: NVMU, DPC Mining
Assessment	Field assessment (Accredited Consultant) - Bushland, Rangeland or Scattered tree assessment and a documented Fauna survey.					
SEB	Determined as per SEB Policy and Guide					
Level 4	Total Biodiversity Score of greater than 250		Total Biodiversity Score of greater than 2500			Delegation: NVAP, DPC Mining
Assessment	Field assessment (Accredited Consultant) - Bushland, Rangeland or Scattered tree assessment and a documented Fauna Survey. Application made available to the public and referred to relevant agency or body for comment					
SEB	Determined as per SEB Policy and Guide					

Process to undertake Clearance for a) Major Developments and Projects

- Part 3, Division 5, Regulation 12 & 13

Table 12. Requirements of the proponent to undertake clearance for Major Developments and Projects.

General process	Requirements of proponent
Notification or application to NVC	<p>In accordance with the <i>Development Act 1993</i>, the NVC is provided an environmental impact statement, public environment report or development report for comment.</p> <p><i>Note, you must submit the written permission of the landowner if you are acting on behalf of the landowner for any clearance activity.</i></p>
Assessment	<p>The NVC will assess the clearance against whether there are any other alternatives that involve no clearance, less clearance or clearance of vegetation that is less significant (or has been degraded to a greater extent than the vegetation proposed to be cleared).</p>
Approval	<p>Clearance can occur if development consent is granted under the <i>Development Act 1993</i> and the provision of an SEB (on-ground or payment) is approved by the NVC.</p> <p>For an on-ground SEB, an NVC-approved management plan is required.</p>
Significant Environmental Benefit (SEB)	<p>Required as per SEB approval (or payment into the Native Vegetation Fund).</p>

Table 13. Description of risk-assessed activities: Major Projects

Regulation (Schedule 1 activity)	Description of activity	Requirements of the regulation
<p><i>Regulation 12(27) – Major projects</i></p> <p>5(1)(c)</p>	<p>To facilitate the interactions between the <i>Native Vegetation Act 1991</i> and the <i>Development Act 1993</i> in relation to the approvals for projects of major social, economic or environmental significance.</p> <p>The NVC will comment on the proposal as part of the assessment for major projects as to whether it avoids and minimises clearance as far as practicable, and at the same time determine the SEB required to offset the impact of the clearance.</p>	<ol style="list-style-type: none"> 1. Clearance incidental to a proposed development to which Section 48 of the <i>Development Act 1991</i> applies; and 2. The NVC is to comment within eight (8) weeks on the environmental impact statement, public environmental report or development report – (comments of which are included in the Development Assessment Report); and 3. Clearance can occur as per the Governor’s consent under Section 48 of the <i>Development Act 1991</i>.

Process to undertake Clearance for b) Mining and Petroleum Activities

- Part 3, Division 5, Regulation 12
- Part 3, Division 5, Regulation 14 (Clearance for mining and petroleum activities)
- Part 3, Division 5, Regulation 15 (Clearance for exploratory operations)

Table 14. Requirements of the proponent to undertake clearance for Mining and Petroleum Activities

General process	Requirements of proponent
Notification or application to NVC	<p>As part of the mining authorisation, the NVC is provided the following plans for comment:</p> <p>Under a Mining Act</p> <ul style="list-style-type: none"> • A management plan (authorised under a Mining Act) which incorporates details of the proposed clearance; and • An SEB management plan detailing how the SEB will be achieved. <p>Under the <i>Petroleum and Geothermal Energy Act 2000</i></p> <ul style="list-style-type: none"> • A Statement of Environmental Objectives (SOE) which incorporates details on the proposed clearance; and • An SEB management plan detailing how the SEB will be achieved. <p>Exploration activities are only permitted if undertaken in accordance with NVC-approved industry standards (refer to the Guide for the Mining and Petroleum Industry).</p> <p><i>Note, you must submit the written permission of the landowner if you are acting on behalf of the landowner for any clearance activity.</i></p>
Assessment	In providing comment on the proposed clearance and SEB, the NVC will assess the clearance in accordance with the Guide for the Mining and Petroleum Industry and the mitigation hierarchy.
Approval	Approval is delegated to Department of State Development in accordance with the Guide for the Mining and Petroleum Industry.
Significant Environmental Benefit (SEB)	Required as per SEB management plan (or payment into the Native Vegetation Fund) (unless clearance is in accordance with NVC-approved industry standards for exploration).

Table 15. Description of risk-assessment activities: Mining and Petroleum

Regulation (Schedule 1 activity)	Description of activity	Proponent must comply with the following additional requirements
<i>Regulation 12(28) – Operations</i> <i>5(1)(zd)</i>	To allow the clearance of native vegetation for operations authorised under a Mining Act or the <i>Petroleum and Geothermal Energy Act 2000</i> . <i>*This activity can occur on Heritage Agreement or Management Agreement land</i>	1. Clearance incidental to operations authorised under a Mining Act or the <i>Petroleum and Geothermal Energy Act 2000</i> .
<i>Regulation 12(29) – Exploration</i> <i>5(1)(zc)</i>	To allow the clearance of native vegetation for exploration authorised under a Mining Act or the <i>Petroleum and Geothermal Energy Act 2000</i> . <i>*This activity can occur on Heritage Agreement or Management Agreement land</i>	1. Clearance incidental to exploration authorised under a Mining Act or the <i>Petroleum and Geothermal Energy Act 2000</i> ; and 2. Exploration activities must be undertaken in accordance with NVC-approved industry standards (see Guide for the Mining and Petroleum Industry).
<i>Regulation 12(30) – Mining operations approved before 2003</i> <i>5(1)(zda)</i>	To allow the clearance of native vegetation for mining authorisations that existed prior to 25 August 2003. Any clearance that is in excess or new to that authorised prior to this date is not permitted under this regulation.	1. Clearance incidental to mining operations authorised before 25 August 2003 under the <i>Mining Act 1971</i> ; and 2. Clearance that would reasonably have been expected under a previous authorisation taking into account the circumstances that existed immediately before 25 August 2003.
<i>Regulation 12(31) – Mining operations at private mines</i> <i>5(1)(ze)</i>	To allow the clearance of native vegetation at private mine sites where mining operations have not ceased for more than a 12 month period since 21 November 1984. <i>*This activity can occur on Heritage Agreement or Management Agreement land</i>	1. Clearance incidental to mining operations at a private mine where operations have not been discontinued for more than 12 months anytime after 21 November 1984.

Process to undertake Clearance for c) 'Other activities'

- Part 3, Division 5, Regulation 12 & 16

Table 16. Requirements of the proponent to undertake clearance for 'Other activities'

General process	Requirements of proponent
Application to NVC	<p>Application to the NVC via email nvc@sa.gov.au, or in accordance with an NVC-approved Standard Operating Procedure (SOP).</p> <p><i>Note, you must submit the written permission of the landowner if you are acting on behalf of the landowner for any clearance activity.</i></p>
Assessment	<p>When making a decision for these activities in relation to the information to be provided by an applicant to inform whether approval should be granted, the NVC will assess the level of risk to biodiversity presented by the clearance proposal.</p> <p>The NVC will also assess the proposed clearance against whether there are any other alternatives that involve no clearance, less clearance or clearance of vegetation that is less significant (or has been degraded to a greater extent than the vegetation proposed to be cleared).</p> <p>If an NVC-approved SOP exists, the assessment approach will occur in accordance with the SOP.</p>
Approval	<p>NVC approval required, or in accordance with the approval process outlined in the NVC-approved SOP.</p> <p>Proponent is required to develop an SEB Management Plan that will be approved by the NVC for implementation.</p> <p>Clearance is only permitted for these activities if any conditions (including the SEB) that apply to the approval are complied with.</p> <p><i>Conditions imposed in connection with an approval are binding and enforceable against the person to whom the approval is granted as well as subsequent owners and occupiers of the land.</i></p> <p><i>Permitted clearance must be undertaken 2 years within approval being granted, unless otherwise specified.</i></p>
Significant Environmental Benefit (SEB)	<p>SEB required in accordance with the Management Plan (or payment into the Native Vegetation Fund).</p> <p>If an NVC-approved SOP exists, the approval of the SEB will occur in accordance with the SOP.</p>

Table 17. Description of risk assessment activities: Other activities

Regulation (Schedule 1 activity)	Description of activity	Proponent must comply with the following additional requirements	Not within scope for the following purposes	Another regulation may apply
<i>Regulation 12(32) – Works on behalf of Commissioner of Highways</i> 5(1)(h)	To allow clearance of vegetation incidental to new work being undertaken by or on behalf of the Commissioner of Highways including roads and ports infrastructure.	1. Clearance of vegetation incidental to new work being undertaken by or on behalf of the Commissioner of Highways; and/or 2. Clearance is undertaken in accordance with an NVC-approved Standard Operating Procedure.		Clearance to maintain infrastructure may apply under Regulation 8(2).
<i>Regulation 12(33) – New dwelling or building</i> 5(1)(a) 5(1)(b) 5(1)(da)	<p>To allow clearance of vegetation for a new dwelling or building approved under the <i>Development Act 1993</i>. This also includes clearance for associated structures (that have development approval).</p> <p>The new dwelling/building must be situated in a location that avoids and minimises the loss of native vegetation. It should be able to be demonstrated that any alternatives have been considered. Depending on how large the allotment, consideration of all areas for the dwelling/building should occur, including those areas that involve no vegetation clearance situated on a different part of the block or where the vegetation is shown to be less significant (or more degraded) than the vegetation proposed to be cleared.</p> <p>Residential subdivision: Clearance for this purpose cannot be undertaken in connection with the subdivision of the land on which the vegetation is growing or is situated.</p>	1. Clearance for a new building, dwelling or ancillary development provided that any relevant consent has been provided under the <i>Development Act 1993</i>	1. Clearance of vegetation previously established as a condition of a consent for clearance or regulation (including a condition in respect of clearance permitted under these or revoked regulations); or 2. Clearance undertaken in connection with residential subdivision.	Clearance for residential subdivision (Regulation 12(35)) applies for any clearance associated with a residential subdivision.

Regulation (Schedule 1 activity)	Description of activity	Proponent must comply with the following additional requirements	Not within scope for the following purposes	Another regulation may apply
<i>Regulation 12(34) - Infrastructure</i> 5(1)(d)	<p>To allow clearance of vegetation incidental to the construction or expansion of a building or infrastructure (and associated services) where the Minister has declared that the clearance is in the public interest.</p> <p>'Infrastructure' is defined in the definitions of the regulations (see Appendix 1) and additionally in regulation 12(34).</p>	<ol style="list-style-type: none"> 1. Clearance incidental to the construction or expansion of a building or infrastructure where it is deemed the clearance is in the public interest; and/or 2. Clearance is required in connection with the provision of infrastructure or services to a building or place provided that consent under the Development Act 1993 has been obtained; and/or 3. Clearance is undertaken in accordance with an NVC-approved Standard Operating Procedure. 		Clearance to maintain infrastructure may apply under Regulation 8(2).

<p><i>Regulation 12(35) – Residential subdivision</i></p> <p><i>5(1)(ab)</i></p>	<p>To allow clearance of vegetation in connection with residential subdivision, associated house sites, roads and other associated infrastructure.</p> <p>Applications for clearance approval and development approval are encouraged to be made at the same time.</p> <p>In determining the SEB, the NVC must be provided with written notification of the entire clearance footprint at the allotment scale which includes clearance for the dwelling and any associated structures; clearance within 10 metres of a building for maintenance; fences; vehicle tracks; and any additional clearance for fire safety. Individual regulations for these clearance activities will not apply in connection to new subdivisions and must be considered at this stage.</p> <p>Depending on how large the allotments, consideration of all areas for the dwelling (and associated clearance) should occur, including those areas that involve no vegetation clearance situated on a different part of the block (or where the vegetation is shown to be less significant or more degraded than the vegetation proposed to be cleared).</p> <p>This regulation ensures adequate planning is undertaken for residential subdivisions and the associated house site and residual clearance required. If clearance is avoided and minimised at this stage, the SEB requirement can also be minimised.</p> <p>Clearance can only occur once development approval has been granted and the NVC have approved the clearance and SEB.</p>	<ol style="list-style-type: none"> 1. Development authorisation for the division of land and construction of roads and other infrastructure under the <i>Development Act 1993</i> must have been obtained; and 2. The NVC must be given written notification of the full extent of the clearance expected to occur in connection with the division of land, to determine the required SEB 	<ol style="list-style-type: none"> 1. Clearance of vegetation previously established as a condition of a consent for clearance or regulation (including a condition in respect of clearance permitted under revoked regulations) 	<p>The following clearance activities do not apply when in connection with a residential subdivision (and must be considered for clearance under the Residential Subdivision regulation):</p> <p>Clearance within 10 metres of a building (Regulation 8(1)); and</p> <p>Clearance for fences (Regulation 8(14)); and</p> <p>Clearance for vehicle tracks (Regulation 8(13)); and</p> <p>Clearance for a new dwelling or building (Regulation 12(33)).</p>
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Regulation (Schedule 1 activity)	Description of activity	Proponent must comply with the following additional requirements	Not within scope for the following purposes	Another regulation may apply
<i>Regulation 12(36) – Recreation track</i>	<p>To allow clearance of vegetation to establish or maintain a track for public recreational use involving the use of non-motorised vehicles, such as for bicycles or horses.</p> <p><i>*This activity can occur on Heritage Agreement or Management Agreement land if the terms of the Heritage Agreement or Management Agreement permit clearance.</i></p>	1. Clearance to establish or maintain a track for public recreational use that does not constitute a private-use walking track.	1. Clearance of vegetation previously established as a condition of a consent for clearance or regulation (including a condition in respect of clearance permitted under revoked regulations).	Clearance walking tracks for private use limited to 0.5 metres in width, Regulation 8(7) may apply.
<i>Regulation 12(37) – Commercial vehicle access track exceeding 5 metres</i>	To allow clearance of vegetation to establish or widen a commercial vehicle access track, intended to transport farm machinery.	<ol style="list-style-type: none"> 1. Clearance to establish or widen an access track that is more than 5 metres in width; and 2. Use of the track is for commercial purposes by vehicles having at least 4 wheels; and 3. The track must be reasonably required to provide access for large commercial vehicles. 	1. Clearance of vegetation previously established as a condition of a consent for clearance or regulation (including a condition in respect of clearance permitted under revoked regulations).	<p>Clearance for vehicle tracks less than 5 metres, Regulation 8(13) may apply.</p> <p>Clearance for fire access tracks, Regulation 9(2)(22) may apply.</p>
<i>Regulation 12(38) – New dam and expansion of dam</i> <i>5(1)(j)</i> <i>5(1)(ja)</i>	<p>To allow clearance of vegetation incidental to the lawful construction or expansion of a dam on pastoral land defined under the <i>Pastoral Land Management and Conservation Act 1989</i>.</p> <p>This includes clearance as a consequence of vegetation being flooded by water retained in the dam. Unless the flooded area has been approved for clearance, clearance through flooding could be considered a breach of the <i>Native Vegetation Act 1991</i>.</p>	1. Clearance incidental to the construction or expansion of a dam situated on pastoral land.	1. Clearance of vegetation previously established as a condition of a consent for clearance or regulation (including a condition in respect of clearance permitted under revoked regulations).	<p>Clearance to maintain an existing dam, Regulation 8(3) may apply.</p> <p>For new dams not within pastoral areas, a clearance application under the <i>Native Vegetation Act 1991</i> will be required.</p>

Appendix 1. Definitions (from the Regulations)

Act means the *Native Vegetation Act 1991*

approved form means a form approved by the Council

building means a building or structure that is permanently fixed to land so that it cannot be moved without dismantling or destroying it and—

(a) includes a transportable building if the building is connected to a sewage system or a septic tank and then is not moved after it is first connected to that sewage system or septic tank; but

(b) does not include a building or structure erected or placed on land in contravention of the *Development Act 1993* or a corresponding previous enactment

bushfire management plan means—

(a) a plan prepared by a bushfire management committee for its bushfire management area as required under section 72B of the *Fire and Emergency Services Act 2005*; or

(b) a plan for bushfire prevention prepared by a district bushfire prevention committee under the *Fire and Emergency Services Act 2005*, as in force from time to time; or

(c) another plan for the management of bushfires approved by the Council or developed in accordance with a standard operating procedure determined or approved by the Council for the purposes of this definition

Council means the Native Vegetation Council

Development Plan means a Development Plan under the *Development Act 1993*

dwelling means a building or part of a building used as a self-contained residence

fence means a fence consisting of posts and wire fixed permanently to land and designed for the purpose of controlling access by people or the movement of animals

heritage agreement means a heritage agreement under the Act or a heritage agreement that was entered into in compliance with a condition of consent to clear native vegetation under the repealed Act

infrastructure means—

(a) the infrastructure, equipment, structures, works and other facilities used in or in connection with the supply of water or electricity, gas or other forms of energy, the provision of telecommunications, or the drainage, removal or treatment of waste water or sewage; or

(b) roads and their supporting structures or works; or

(c) ports, wharfs, jetties, railways, trams and busways

management agreement means a management agreement under section 25D of the Act

Mining Act means the *Mining Act 1971*, the *Opal Mining Act 1995*, the *Petroleum and Geothermal Energy Act 2000*, the *Offshore Minerals Act 2000* or the *Roxby Downs (Indenture Ratification) Act 1982*

mitigation hierarchy—see regulation 5

natural resources has the same meaning as in the *Natural Resources Management Act 2004*

NRM region has the same meaning as in the *Natural Resources Management Act 2004*

private mine means land declared under the *Mining Act 1971* to be a private mine

regional NRM board has the same meaning as in the *Natural Resources Management Act 2004*

revoked regulations means the *Native Vegetation Regulations 2003*

SACFS means the South Australian Country Fire Service

SASES means the South Australian State Emergency Service

SAMFS means the South Australian Metropolitan Fire Service.

Appendix 2. Principles of Native Vegetation Clearance (Schedule 1, *Native Vegetation Act 1991*)

Native vegetation should not be cleared if, in the opinion of the Council—

- (a) it comprises a high level of diversity of plant species; or
- (b) it has significance as a habitat for wildlife; or
- (c) it includes plants of a rare, vulnerable or endangered species; or
- (d) the vegetation comprises the whole, or a part, of a plant community that is rare, vulnerable or endangered; or
- (e) it is significant as a remnant of vegetation in an area which has been extensively cleared; or
- (f) it is growing in, or in association with, a wetland environment; or
- (g) it contributes significantly to the amenity of the area in which it is growing or is situated; or
- (h) the clearance of the vegetation is likely to contribute to soil erosion or salinity in an area in which appreciable erosion or salinisation has already occurred or, where such erosion or salinisation has not yet occurred, the clearance of the vegetation is likely to cause appreciable soil erosion or salinity; or
- (i) the clearance of the vegetation is likely to cause deterioration in the quality of surface or underground water; or
- (j) the clearance of the vegetation is likely to cause, or exacerbate, the incidence or intensity of flooding; or
- (k) —
 - (i) after clearance the land will be used for a particular purpose; and
 - (ii) the regional NRM board for the NRM region where the land is situated has, as part of its NRM plan under the *Natural Resources Management Act 2004*, assessed—
 - (A) the capability and preferred uses of the land; and
 - (B) the condition of the land; and
 - (iii) according to that assessment the use of the land for that purpose cannot be sustained; or
- (l) the clearance of the vegetation would cause significant harm to the River Murray within the meaning of the *River Murray Act 2003*; or
- (m) the clearance of vegetation would cause significant harm to the Adelaide Dolphin Sanctuary.



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