



Clearance associated with the maintenance of existing agriculture, forestry or farming

Native Vegetation Council Guideline under Section 25 of the *Native Vegetation Act 1991* for regulation 11(24) of the *Native Vegetation Regulations 2017* | 13 February 2018

Purpose of this Guideline

The purpose of this Guideline is to inform landowners and land managers about the information that should be included in the preparation of a Management Plan for carrying out activities that impact native vegetation in the process of maintaining existing agriculture, forestry or farming practices that will not cause permanent degradation to the native vegetation management area.

Background

The *Native Vegetation Act 1991* (the Act) prevents the clearance of native vegetation other than through approval by the Native Vegetation Council (NVC) or in accordance with activities regulated in the *Native Vegetation Regulations 2017*.

Under the Act and regulation 11(24), clearance of native vegetation for the maintenance of existing agriculture, forestry or farming may occur provided:

- The landowner has prepared a Management Plan that complies with the criteria outlined in this Guideline;
- The Management Plan has been approved by the NVC; and
- The clearance is undertaken in accordance with the Management Plan.

This Guideline, prepared under section 25 of the Act, applies to the clearance of native vegetation to maintain existing agriculture, forestry or farming in areas protected by the *Native Vegetation Act 1991*.

Clearance of native vegetation under this regulation must include agreement between the landowner and the NVC, and where relevant the regional Natural Resources Management Board and other relevant organizations. It should also consider the requirements of other legislation.

Regulation 11(24)

Regulation 11(24) allows for native vegetation clearance and associated management of land in a way that allows native vegetation to regrow. The land must have been consistently used for agricultural, forestry or farming practices within the last 10 years. Impacts on native vegetation can occur to allow the existing use of the land to be maintained but must be done in a way that avoids permanent degradation or loss of native vegetation across the entire management area. The regulation allows for clearance of vegetation where the vegetation will have the capacity to regrow and re-establish within the following 10 years.

If landowners are unsure whether their situation may be applied under this regulation, they should seek advice from the Native Vegetation Branch on 8303 9777.

There are two other regulations that deal with related management issues including:

- Regulation 8(9) – Regrowth
This regulation is for clearance of vegetation to maintain the land for the purpose for which it was originally cleared within the last five (5) years.
- Regulation 11(26) – Grazing of Domestic Stock
This regulation is for clearance of vegetation by grazing domestic stock on land in a manner, and at a rate that is not consistent with the manner and rate of grazing during the previous 10 years. It must not cause permanent degradation of the native vegetation.

The following management situations are *examples* of situations not covered by the regulations and require a full clearance application under section 28 of the *Native Vegetation Act 1991*:

- if the proposed clearance permanently removes or degrades the vegetation;
- if the vegetation has returned to a largely undisturbed natural state;
- if a landowner wishes to expand (or change) the use of land that has *not* been consistently used for agriculture, forestry or primary production as part of a commercial enterprise over the last 10 years; or
- if a landowner wishes to clear land that was not lawfully cleared in the past.

Management Plan requirements

The following information summarises what needs to be provided in the Management Plan for it to be assessed against the requirements of the regulation.

You will need to include in your Management Plan:

a. Background information

- Landowner, property, location and details (as per Certificate of Title)
- Land use history
 - o Evidence that the land on which the vegetation is situated has been consistently used for agriculture, forestry or farming purposes as part of a commercial enterprise
 - o Information relating to the period of time passed since the last lawful clearance and the vegetation that has subsequently regrown

b. Site-specific information

- Location of proposed clearance (including aerial photograph and paddock plans)
- Description of the vegetation present (species, age, densities, regeneration), and extent to which the vegetation has returned to its natural state
- Identification of any species, ecological communities or sites of conservation significance
- Description of how the ongoing management will maintain the system without permanent loss of native vegetation occurring; and whether the vegetation clearance will be balanced by vegetation retention

Case study: Scattered regrowth mallee over introduced pasture grasses



This area has been consistently used for cropping and pasture since the 1970s. It contains regrowth (10 years old) of mallees (*E. yalatensis*, *E. oleosa*, and *E. dumosa*) up to 3 metres high over scattered shrubs and grasses on grey calcareous sands. Most of the regrowth is about 3 years old. Ground cover is dominated (>80%) by introduced pasture grasses (oats, brome).

Proposed management:

Clearance of mallee regrowth will occur every 6-8 years using steel bars towed behind a tractor and periodic sowing of pasture species (oats, rye, medics).

**The case studies throughout this Guideline demonstrate situations where a Management Plan may apply. The proposed management strategies described are dependent on the landscape context and are examples only.*

c. Proposed management

The Management Plan should demonstrate how the proposed clearance will assist in maintaining the current land use and allowing for the regrowth of native vegetation.

- Description of the proposed management of the vegetation (describing what species or area is being managed, why it needs managing, and how it will be managed).

Scenario 1 example,

- Year 1-3: half of paddock thinned of Cutting Grass by 75% by burning; half left to regrow
- Year 4-6: apply treatment to opposite half of paddock; continue to alternate in 3-yearly cycles

Scenario 2 example,

- Yacca regrowth inhibiting access by increasingly large farm machinery – maintain access by thinning regrowth in strategic areas x, y and z while allowing continued regrowth over the remainder of the paddock
- A series of photographs to adequately illustrate the vegetation proposed to be managed
- Identification of native vegetation to be retained; areas to be revegetated or natural regeneration encouraged
- Description of risks to vegetation and fauna, and associated management of potential impacts of the clearance

d. Other legislation

Consider whether the activity might trigger the application of other legislation, as NVC approval within this Guideline is applicable only to the *Native Vegetation Act 1991*. Other legislation may include:

Environment Protection and Biodiversity Conservation Act 1999 (Cwth)

Existing Recovery Plans and relevant Conservation Advices for species and ecological communities with conservation significance

Pastoral Land Management and Conservation Act 1989

Natural Resources Management Act 2004

Regional Natural Resources Management Plans, Biodiversity plans or strategies

National Parks and Wildlife Act 1972

Aboriginal Heritage Act 1988

Water Resources Act 1997

e. Natural Resources Management (NRM) Board consultation

It is recommended that proponents liaise with the relevant NRM Board staff for relevant biodiversity and landscape context information. Evidence of consultation with the relevant NRM Board (<http://www.naturalresources.sa.gov.au/home>) should be provided, together with any concerns raised by that Board.

Who can prepare the Management Plan?

The Management Plan must contain sufficient information for the NVC to make a decision. Landowners may choose to develop the plan themselves or seek specialist assistance. For more complex situations and specialist advice, including a list of the NVC's Accredited Consultants (engaged by the proponent), land managers are encouraged to contact their local [Natural Resources Office](#).

Approval process

Approval is required from the NVC. If approval is given, it should be noted that the approval is only for the area specified in the approval. The clearance can only occur in accordance with the approved Management Plan. The NVC may approve a Management Plan subject to conditions.

Conditions could be directly related to the clearance; the method of clearance; monitoring the regrowth; or managing an area for vegetation to regenerate (including how that area will be encouraged to regrow (for example, by fencing, pest control, access restrictions)). Any clearance outside of the area(s) approved would be considered a breach of the *Native Vegetation Act 1991*. Management Plans must be reviewed, including site verification, every five (5) years, or as deemed appropriate.

In receiving approval under regulation 11(24), it should be noted that the NVC is approving compliance with the *Native Vegetation Act 1991*. In undertaking the activity, it is the proponent's responsibility to ensure compliance with any other relevant legislation.

If the lodgement of the Management Plan is to be undertaken by a person other than the landowner, written permission is required from the landowner to be provided to the NVC before the application will be processed.

To read more about the regulations and their application refer to the *Guide to the Native Vegetation Regulations 2017*, which is available on the DEWNR website <http://www.environment.sa.gov.au/managing-natural-resources/native-vegetation>.

Lodging a Management Plan

For more information contact your local Natural Resources Office or the Native Vegetation Branch, DEWNR.

The proposed Management Plan should be posted to:

- Native Vegetation Council, GPO Box 1047, Adelaide SA 5001, or
- Emailed to nvc@sa.gov.au, or
- Faxed to 08 8303 9780.

There is no application fee for lodgement of this Management Plan. There is no requirement for a Significant Environmental Benefit offset.

Guidelines issued in relation to the clearance or management of native vegetation are legally enforceable. Adhering to the Guidelines will ensure that there is no breach of the *Native Vegetation Act 1991*.

Case Study: Yaccas (*Xanthorrhoea caespitosa*) at mid to low density in pastured paddock



The area was cleared for pasture renovation approximately 30 years ago and has since been consistently grazed by sheep and cattle, with periodic rolling and burning of the Yaccas.

Proposed management:

Cultivation (ploughing) and rolling, to be repeated at 5-10 year intervals to allow pasture renovation (to sow improved lucerne, perennial grass and clover). Some level of Yacca regeneration is expected between renovation cycles.

Situations where a Management Plan for the maintenance of existing agriculture, forestry or farming *may* apply

A Management Plan for the maintenance of existing agriculture, forestry or farming is about the ongoing management of native vegetation regrowth. The Management Plan may apply to one or more paddocks, or an entire property. It may include a pasture renovation program, practical long-term strategies for regrowth and/or a mechanism allowing land managers to adopt management processes that may encourage the natural regeneration of native vegetation. It *may* also apply to situations where,

- Regrowth of native vegetation has, or may have, an impact on the ability to implement appropriate and effective land and vegetation management practices;
- Pasture renovation programs are based on a rotation of longer than five (5) years (beyond requirements of regrowth regulation 8(9)) and those programs will involve (by necessity) some clearance of native vegetation;
- Regrowth has reduced the existing extent of agricultural use of, or access to, previously cleared land and the landowner wishes to continue to use the land for agriculture;
- Regrowth has become established as a monoculture in previously cleared land, such as Yaccas (*Xanthorrhoea* species), cutting grass (*Gahnia* species) or bracken (*Pteridium esculentum*);
- Scattered regrowth on land where grazing has been consistent over less than ten (10) years;
- The regrowth is of mallee (*Eucalyptus* species) that has regenerated following an earlier lawful clearance action on land previously used for agriculture;
- A landowner is seeking to encourage the retention or re-establishment of additional areas of native vegetation on the property (such as the recruitment of additional trees), but wants to make a determination on the final areas to be retained over a longer period of time; or
- Harvesting and subsequent replanting of forestry that may require management of native vegetation during the harvesting, replanting and ongoing management process. Forestry rotations for harvesting greater than 10 year intervals can be considered by the NVC.

The Management Planning process aims to provide landowners with increased security for their long-term planning, and to reduce the costs of regrowth management. The NVC will assess each management plan on a case by case basis, and if the management is deemed to be of greater impact on the native vegetation causing it to permanently degrade, a full clearance application under section 28 of the *Native Vegetation Act 1991* will be required.

Case Study: Removal of scattered *Acacia Victoriae* to improve pasture



Scattered regrowth (5-10 years old) of Elegant Wattle *Acacia victoriae*. The ground cover is dominated by native and introduced pastures, and includes bare scalded areas. The proposed clearance aims to prevent the area from becoming densely covered by *Acacia* plants and promoting growth of pasture grasses. Some retention of *Acacia victoriae* in areas that do not interfere with paddock management. Any ripping will occur parallel to watercourses to prevent water erosion.

Proposed management:

Removal of 150-200 scattered *Acacia victoriae* plants with front-end loader. Removed plants will be heaped and burnt. Cleared areas to be contour ripped and planted to improve pastures.

For more information

Native Vegetation Branch

Department of Environment,
Water and Natural Resources

T (08) 8303 9777

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www.environment.sa.gov.au/nativevegetation