

Native Vegetation Council Guideline

Clearance of Native Vegetation for Ecological purposes under Regulation 5(1)(zi)

Native Vegetation Information Sheet No. 41

February 2014

BACKGROUND

While native vegetation in South Australia is protected under the *Native Vegetation Act 1991* (the Act), there are situations where activities that will preserve or enhance ecological processes in line with the intent of the Act require removal or trimming of native vegetation. This is allowed under the Act through compliance with regulation 5(1)(zi) and the following guideline.

PURPOSE OF THIS GUIDELINE

The *Native Vegetation Act 1991* prevents the clearance of native vegetation other than through approval by the Native Vegetation Council (NVC) or in accordance with exemptions contained within the *Native Vegetation Regulations 2003*.

Under the *Native Vegetation Act 1991* and regulation 5(1)(zi), clearance of native vegetation for the preservation or enhancement of ecological processes **may** occur provided:

- the landowner has prepared a management plan that complies with this guideline;
- the management plan has been approved by the NVC; and
- the clearance is undertaken in accordance with that management plan.

This guideline applies to **the clearance of native vegetation to be carried out for the preservation or enhancement of ecological processes** in areas protected by the *Native Vegetation Act 1991*. The purpose of this guideline is to inform landowners and land managers about the information that must be considered and included in the preparation of a management plan for carrying out and monitoring the effects of the clearance.

Clearance of native vegetation under this regulation must include approval of the landowner, and where relevant, the regional Natural Resources Management Board and other relevant organisations. It should also take into account the requirements of other legislation including the *Environment Protection and Biodiversity Conservation Act 1999* (Cwth) (EPBC Act).

REGULATION 5(1)(zi)

Native Vegetation Regulation 5(1)(zi) 'Clearance for preserving, enhancing ecological processes'

This regulation covers situations where management of native vegetation to preserve or enhance biological diversity involves clearance of native vegetation.

Examples of clearance under this regulation include:

- clearance to provide access for works that preserve or enhance ecological processes.
- grazing to reduce weeds and improve native understorey diversity and extent,
- clearance of increaser species that are dominating landscapes to the detriment of habitat or the original understorey species,
- installation of regulators to manipulate wetland water levels to improve biodiversity, and
- burning to regenerate old stands of vegetation or maintain habitat for threatened species, See Information Sheet 29 for additional requirements.

This regulation allows landowners to establish and work in accordance with a management plan that describes the clearance activities and a program to monitor the effects of clearance as a means of enhancing or preserving biological diversity.

Preparation of the management plan is the responsibility of the landowner/proponent. The management plan must comply with these guidelines and be approved by the NVC.

The person/s responsible for the clearing of the vegetation must do so in line with activities outlined in the approved management plan.

This regulation also applies to land covered under a Heritage Agreement.

WHAT YOU NEED TO DO (LANDOWNER)

- Contact the Native Vegetation Management Unit to ensure that clearance is consistent with regulation 5(1)(zi).
- Prepare or have a management plan prepared that includes information outlined below in **MANAGEMENT PLAN REQUIREMENTS**.
- Submit the management plan for approval by the NVC. Once approval has been granted in writing the person/s responsible for the clearing of the vegetation must do so in line with the activities contained within the approved plan.
- No application fee is required for clearance under regulation 5(1)(zi).

MANAGEMENT PLAN REQUIREMENTS

The NVC's requirements for a management plan for regulation 5(1)(zi) can be incorporated into an overall site management plan if this simplifies the process. However, it must include the information outlined below, which will need to be highlighted in the plan.

For minor clearances a simpler management plan may be negotiated or in some cases if it falls under part 2 of the Regulation, no management plan may be required.

The applicant may choose to seek ecological expertise (at their cost) for the preparation of a management plan. Additional information and advice on preparing a management plan can be sought from the Native Vegetation Management Unit in the Department of Environment, Water and Natural Resources (DEWNR). (See page 4 for a list of useful information sites).

The following information is a summary of what must be included when developing the management plan.

a. Purpose of clearance for preserving, enhancing ecological processes

- An explanation of how ecological processes will be preserved or enhanced by vegetation clearance.
- Goals and supporting actions that are **SMART**
 - **Specific** – target a specific area for improvement.
 - **Measurable** – quantify or at least suggest an indicator of progress.
 - **Agreed upon** – ensure actions are acceptable to stakeholders.
 - **Realistic** – state what results can realistically be achieved, given available resources.
 - **Time-bound** — specify when the result(s) can be achieved.
- Supporting research if available.

b. Property information, history and aerial plan

- Information on physical attributes past history and current land use relevant to planning and conducting of the clearance.

c. Vegetation assessment

Include the following information:

- species to be cleared; and / or
- identify any species or communities to be cleared that are listed under the *Environment Protection & Biodiversity Conservation Act 1999* (including Conservation Advices) (*Cwth*), the *National Parks & Wildlife Act 1972* (SA) or appropriate Recovery Plans
- location and extent of clearance
- other on-ground survey information if relevant
- if proposed works are a subset of larger works identified in a broader management plan, supply that plan; and
- ecological expertise of person/company planning and carrying out the works.

d. Monitoring program

A management plan will only be approved where it includes a monitoring component adequate to measure and/or report on changes to vegetation and ecological processes resulting from clearing native vegetation and associated activities, and allows for adaptive management (minimum of five years).

e. Risk management – ecological

The ecological risks need to be identified, assessed and managed. For example, risks could include weed infestation, adverse impacts to off-target species, risks to threatened species populations and vegetation communities, pests, soil pathogens *such as* Phytophthora, and impacts to soil and water. A risk matrix may be a useful tool. Refer to: [http://www.environment.sa.gov.au/Home/Search_Results?dlv_Site_Wide_Search_Results=\(keyword=risk management matrix\)](http://www.environment.sa.gov.au/Home/Search_Results?dlv_Site_Wide_Search_Results=(keyword=risk%20management%20matrix))

f. Check 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 approvals must be outlined in the management plan.

Other legislation may include:

- *National Parks and Wildlife Act 1972 (SA)*
- *Fire and Emergency Services Act 2005 (SA)*
- *Development Act 1993 (SA)*
- *Water Resources Act 1997 (SA)*
- *Environmental Protection and Biodiversity Conservation Act 1999 (Cwth)*
- *Natural Resources Management Act 2004 (SA)*
- *Local Government Act 1999 (SA)*
- *Aboriginal Heritage Act 1988 (SA)*
- *River Murray Act 2003 (SA)*

g. Natural Resource Management Board consultation

Liaise with the regional Natural Resources Management (NRM) Board where relevant for biodiversity and landscape context information. Note that the vegetation clearance may require formal separate approval from the NRM Board for some projects. Evidence of consultation with the NRM Board should be provided and signed by an appropriate NRM Board representative, together with any issues raised by that Board.

h. Protected areas and landscape description

If the proposed clearance area is in a protected area under State legislation (including Heritage Agreements under the *Native Vegetation Act 1991*) detail should be provided, together with the provision of the management plans for that protected area. The total area of any protected land should be outlined on a map with the clearance area identified. This can be done via mapping at www.naturemaps.sa.gov.au.

Additionally, the landscape description of the proposed area should be detailed in supporting information and addressed in the proposed management plan.

Note: If the preparation of the plan and carrying out of the works will be undertaken by a person other than the landowner, permission and a signature is required from the landowner(s) before lodging the plan with the NVC.

APPROVAL

Allow 3 months for approval of the clearance and management plan by the NVC under *regulation 5(1)(zi)*. No on ground works that involve the clearance of native vegetation can occur before approval is granted.

Any approval is for the purpose specified and in the area specified in the management plan. Clearance outside of the area(s) approved would be a breach of the *Native Vegetation Act 1991* and will be dealt with as such.

In granting approval under *regulation 5(1)(zi)* the NVC is approving compliance with the *Native Vegetation Act 1991* **only** and this approval is based on compliance with all other necessary approvals. The applicant is responsible for ensuring compliance with other legislation.

Ongoing requirements after approval

- annual written reports to the NVC for a minimum of five years including monitoring outcomes, and
- a post-clearance report to the NVC that details activity including the area(s) cleared with dates
- If reporting is required for another party, the NVC may consider its appropriateness for our reporting requirements.

Any loss or damage that occurs as a result of the clearance activities is at the risk and liability of the landowner.

This Guideline is not for bushfire protection works

If an ecological burn is to be carried out this regulation should be read in conjunction with **Native Vegetation Information Sheet No. 29** which provides extra detail needed before carrying out an ecological burn.

FOR FURTHER INFORMATION REFER TO:

Native Vegetation Information Sheet No. 29

www.environment.sa.gov.au/files/7f5d4d1f-a66f-4759-9aa6-a1ce00a3c642/native-vegetation-ecological-burning-guideline-fact.pdf

Native Vegetation Council

www.environment.sa.gov.au/nativevegetation

Natural Resources Management

www.nrm.sa.gov.au

Commonwealth Department of the Environment (for EPBC Act matters)

www.environment.gov.au/epbc/index.html

Department of Environment, Water and Natural Resources - Threatened Species and Ecological Communities and Wetlands pages

www.environment.sa.gov.au/managing-natural-resources/

LODGING A MANAGEMENT PLAN

For advice and information contact the Native Vegetation Management Unit, DEWNR: phone 8303 9777

The proposed management plan, together with supporting information, should:

be posted: Native Vegetation Council, GPO Box 1047, ADELAIDE SA 5001

or delivered: SWEC Building, Entry 4 Waite Road, URRBRAE SA 5064

or emailed: nvc@sa.gov.au **or faxed:** (08) 8303 9780

FURTHER INFORMATION

Guidelines issued in relation to the clearance or management of native vegetation are legally enforceable. The guidelines set out methodologies for dealing with native vegetation in certain circumstances. Adhering to all guidelines will ensure there is no breach of the *Native Vegetation Act 1991*

For further information or advice please contact the Native Vegetation Management Unit on (08) 8303 9777

www.environment.sa.gov.au/nativevegetation



Native Vegetation Council



Government
of South Australia