

Native Vegetation Regulations Dealing with Housing & Development

Native Vegetation Information Sheet No.5

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TERMINOLOGY

Native Vegetation Regulations

In South Australia native vegetation is protected by the *Native Vegetation Act 1991* (the Act) and the associated *Native Vegetation Regulations 2003* (the Regulations). **Regulations are exemptions to the Act.** They provide a mechanism (if certain criteria are met) to clear native vegetation without a formal clearance application or associated fee.

The Act establishes the Native Vegetation Council (NVC) – an independent body appointed by the Governor of South Australia. The NVC is responsible for making decisions about a wide range of matters concerning native vegetation in South Australia, including whether to approve native vegetation clearance via some of the Regulations.

Significant Environmental Benefit (SEB) Offset and Management Plans

In some cases, in order to take advantage of an exemption under a regulation, the proponent/landholder must offset the clearance by providing an environmental gain, called a Significant Environmental Benefit (SEB). There is also a requirement for a Management Plan describing how the clearance will be conducted to minimise impacts and how the SEB offset will be managed into the future. The Management Plan must be endorsed by the NVC.

The landowner may achieve the SEB offset by works on the property, such as managing existing remnant native vegetation, restoring degraded native vegetation or revegetating cleared areas. Alternatively, the proponent may make a payment to the NVC through the Native Vegetation Fund, with the funds enabling similar works elsewhere within the same region of the State.

Intact Stratum and Trees of Prescribed Diameters

An **intact stratum** is a layer of local native plant community that has not been seriously degraded by human impact (for example through clearance, grazing or weed invasion) during the immediately preceding 20 years. Fire is not considered to be a cause of serious degradation.

Scattered trees over a substantially degraded understorey are not considered to comprise an intact stratum unless they are growing at original (pre-settlement) densities and they cover a substantial area, generally exceeding 1ha.

Trees of prescribed diameters are eucalypts with a stem diameter of 200mm or more at a point 300mm or more above the ground; or other trees with a stem diameter of 100mm or more at ground level.

HOUSING AND DEVELOPMENT REGULATIONS

5(1)(a) Dwellings & associated structures; 5(1)(b) Buildings and structures other than dwellings

Native vegetation may be cleared for the establishment of a building, including a dwelling or associated structure (such as an adjoining garage), provided that the site chosen minimises the loss of vegetation and that necessary development approval has been obtained under the *Development Act 1993*. However, if the native vegetation to be cleared comprises an intact stratum or trees with prescribed stem diameters (see above) the landowner is required to consult with the NVC. A SEB offset and Management Plan are required, as described above. (For further information refer to specific [information sheet](#) *Clearing Native Vegetation to Establish a House and/or Associated Structures*.)

5(1)(ab) Residential sub-division

This regulation allows for clearance for house sites (and associated structures) at the land division stage. It is intended to provide certainty for developers that such sites may be cleared once land division approval has been granted under the *Development Act 1993*. The NVC will negotiate placement of house sites to ensure that the loss of native vegetation is minimised. Developers are urged to contact the NVC at the earliest possible stage and may engage a consultant to prepare the detailed biological information that is required before a decision can be made. A SEB offset and Management Plan are required, as described above. (For further information refer to specific [information sheet](#) *Native Vegetation and Land Division for Housing*.)

5(1)(c) Development subject to Section 48 of the Development Act

Native vegetation may be cleared for a development that is given 'Major Project Status' under the *Development Act 1993*. The NVC is provided opportunity to make comment to the Minister administering the Development Act. A SEB offset and Management Plan are required, as described above.

5(1)(d) Building or provision of infrastructure including in the public interest

Native vegetation may be cleared for the construction or expansion of a building, for the provision of infrastructure or services or for the provision of infrastructure that the Minister for Sustainability, Environment and Conservation has declared to be in the public interest. Approval for the works must be obtained under the *Development Act 1993* and the proponent must utilise a site that minimises clearance and preferably does not contain an intact stratum. A SEB offset and Management plan are required, as described above.

5(1)(da) Clearance incidental to proposed development or other activity

This regulation allows for clearance incidental to any proposed development, where the native vegetation is not deemed to be significant. The proponent will need to obtain any approvals required under the *Development Act 1993* and must establish that the vegetation is not significant according to any guidelines developed by the NVC.

FURTHER INFORMATION

This information sheet provides general information about regulations associated with the clearance of native vegetation for housing and development. Further information about Native Vegetation Regulations is available in the publication [*A Guide to Exemptions within the Native Vegetation Regulations 2003*](#). Any specific advice or information should be sought from the NVC Secretariat at 8303 9777 or email nvc@sa.gov.au

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Native Vegetation Council



Government
of South Australia