



Obtaining other approvals - managing native vegetation

Certain types of native vegetation management, including clearing do not require approval under the *Local Land Services Act 2013*, however the proposed activity may require approval from other organisations. Other forms of native vegetation management, including clearing that are approved under the *Local Land Services Act 2013* may also require additional approval under other legislation.

This fact sheet provides guidance to landholders about the legislation that may affect native vegetation management, including clearing and where to obtain further information. Local Land Services staff can assist you in understanding what other approvals may be required for your proposed activities under the Land Management Framework.

It is the landholder's responsibility to obtain any other approvals that may be required prior to undertaking clearing.

What category of land do I have?

The category of land determines your options for native vegetation management, including clearing. Rural land in NSW is categorised into three main types. Find out more:

www.environment.nsw.gov.au/biodiversity/regulatorymap.htm

Approvals under NSW laws

Biodiversity Conservation Act 2016

You do not need approval under the *Biodiversity Conservation Act 2016* for clearing of native vegetation on *Category 1 – exempt land* except for:

- clearing by a person that harms an animal, where the person knew the clearing would be likely to harm the animal, and
- clearing by a person that damages the habitat of an animal that is a threatened species or part of a threatened ecological community where the person knew the clearing was likely to damage the habitat.

Approval under the *Biodiversity Conservation Act 2016* is not required for native vegetation management, including clearing on *Category 2 – regulated land* that is:

- an allowable activity under the *Local Land Services Act 2013*, or
- authorised by the *Land Management (Native Vegetation) Code 2018*, or
- authorised by an approval from the Native Vegetation Panel, under the *Local Land Services Act 2013*, or
- authorised or required in relation to a set aside under the

Local Land Services Act 2013.

- an authorised Private Native Forestry (PNF) plan

If an approval is required under the *Biodiversity Conservation Act 2016*, in most cases that approval will be a biodiversity conservation licence, which may be obtained from the Department of Planning, Industry and Environment. For further information: www.environment.nsw.gov.au/threatenedspecies/licences.htm

Crown Land Management Act 2016

If your property includes Crown land (for example a Crown road subject to an enclosure permit), any proposed clearing is subject to the conditions of the Crown land lease, licence or permit. You may require approval from NSW Crown Lands for clearing on nominated Crown land. Contact Crown Lands on 1300 886 235 before you start work.

If you are planning to clear native vegetation and carry out cultivation on a Western Lands Lease in the Western Division of NSW you may require a cultivation permit or approval under the *Western Lands Act 1901*. Application forms are available from Crown land offices. More information: www.industry.nsw.gov.au/lands

Want to know more?

We're here to help

Find us online: lls.nsw.gov.au. You'll find other land management resources including fact sheets

Call us: 1300 795 299 and ask for an officer to advise you on land management

Email us: slm.info@lls.nsw.gov.au

See us: drop into your nearest Local Land Services office



Local Land Services

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Environmental Planning and Assessment Act 1979

The Land Management Framework does not apply in urban zones, environmental conservation zones and R5 large lot residential zones of NSW. Instead, *State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017* (Urban vegetation SEPP) will apply in these areas.

However, certain native vegetation management, including clearing under the *Native Vegetation Act 2003*, including for Routine Agricultural Management Activities (RAMAs), which is currently permitted in environmental zones and R5 large lot residential zones will continue to be permitted under the Urban Vegetation SEPP. Such clearing may only be used on agricultural properties and only until 25 August 2020.

For more information about the Urban Vegetation SEPP, contact the Department of Planning, Industry and Environment on 1300 305 695 or at www.planning.nsw.gov.au/Policy-and-Legislation/Environment-and-Heritage/Vegetation-SEPP

For activities that require development consent under a Local Environmental Plan or a SEPP, or which require an approval under Part 5 of the *Environmental Planning and Assessment Act 1979*, the Land Management Framework does not apply. Any native vegetation management, including clearing which forms part of that activity will be considered as part of the development application. For information about what activities require development consent, contact your local council.

Forestry Act 2012

The Land Management Framework does not apply in State Forests or Timber Reserves declared under the *Forestry Act 2012*. Further information is available online at www.forestrycorporation.com.au or contact Forestry Corporation on 02 9872 0111.



National Parks and Wildlife Act 1974

The *National Parks and Wildlife Act 1974* may apply if there are Aboriginal objects in the area proposing to be cleared. Aboriginal objects include:

- physical objects, such as stone tools, Aboriginal-built fences and stockyards, scarred trees and the remains of fringe camps
- material deposited on the land, such as middens
- the ancestral remains of Aboriginal people.

You will need to exercise due diligence in accordance with the Due Diligence Code of Practice for the Protection of Aboriginal Objects in NSW in determining whether your actions will harm Aboriginal objects. The Department of Planning, Industry and Environment may be able to assist you to exercise due diligence in relation to Aboriginal objects.

Further information, including how to undertake a basic online search of the Aboriginal Heritage Information Management System (AHIMS) database to identify any known records on or near the proposed clearing site can be found at

www.environment.nsw.gov.au/licences/index.htm

If you are unable to modify your proposed activity to avoid an impact on Aboriginal objects, you must apply for an Aboriginal Heritage Impact Permit. Further information is available online at www.environment.nsw.gov.au/licences/ahips.htm

Offsets and conservation covenants

Clearing under the *Land Management (Native Vegetation) Code 2018* may not be carried out if the land is subject to an offset under a Property Vegetation Plan (PVP) or a set aside under a previous Code, or a remediation direction. You also cannot use the Land Management (Native Vegetation) Code 2018 where the land is secured by a conservation covenant under other legislation. These types of land are to be mapped as Category

2 - sensitive regulated land and so should be easily visible to landholders.

If you are unsure if there is a PVP on the land you should check with Local Land Services on 1300 795 299.

Records of remediation directions can be found at www.environment.nsw.gov.au/publicregister/index.htm

Information about other conservation covenants that are recorded on title can be obtained from NSW Land Registry Services on 1300 396 076.

Rural Fires Act 1997

The *Rural Fires Act 1997* regulates management burns. Before clearing native vegetation using management burning, you should consult the local Fire Brigade Captain or Fire Control Officer. You may need to obtain a permit or undertake burning at a certain time. Further information on permits can be found at www.rfs.nsw.gov.au/fire-information/BFDP

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Surveying and Spatial Information Act 2002

It is illegal to remove or otherwise damage any survey mark unless authorised by the Surveyor General. Survey marks include blazed trees. You can find out if there are survey marks on your property by contacting NSW Land Registry Services on 1300 396 076.

Water Management Act 2000

A 'controlled activity approval' may be required from the Natural Resources Access Regulator for activities within 40 metres from the bank of any river, lake or estuary. Approvals are needed where the activity will cause more than minimal impact. Further information is available at www.industry.nsw.gov.au/water/licensing-trade/approvals/controlled-activities or by calling 1800 633 362



Approvals under Commonwealth laws

Environment Protection and Biodiversity Conservation Act 1999

The *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act 1999) requires referral of activities that may impact on Matters of National Environmental Significance (MNES). Actions that have a significant impact on MNES may require approval from the Commonwealth Minister for the Environment.

This does not apply to agricultural activities that have been operating since before 2000.

Key MNS include:

- Nationally threatened and migratory species,
- Nationally threatened ecological communities, and
- Wetlands of international importance (Ramsar)
- World and national heritage properties.

Actions that are likely to trigger a referral are those that are new land clearing with a likely significant impact on one or more of the MNES. Allowable activities under the *Local Land Services Act 2013* are very unlikely to trigger the need for referral under the EPBC Act 1999.

For certain clearing under the Equity Part of the *Land Management (Native Vegetation) Code 2018*, Local Land Services must be reasonably satisfied by the landholder that EPBC Act 1999 approval is not required for the clearing.

For clearing under other parts of the Code, Local Land Services can help you but you should make your own enquiries about whether an *EPBC Act 1999* is required.

Further information about the *EPBC Act 1999* is available online at www.environment.gov.au/epbc.

If you are unsure you can call the Commonwealth Department of the Environment and Energy on 1800 110 395.

Local Land Services is working closely with the Commonwealth Department of Environment and Energy to ensure a streamlined process for landowners by reducing requirements for dual consent and dual compliance.

Want to know more?

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