

Bushfire hazard reduction and the *Native Vegetation Act 2003*

This information sheet will inform landholders when they need approval under the *Native Vegetation Act 2003* (NV Act) and the Native Vegetation Regulation 2005 (NV Regulation) to undertake bushfire hazard reduction on their property. It has been prepared by the Department of Environment and Climate Change (DECC) in consultation with the Rural Fire Service.

What is bushfire hazard reduction?

Bushfire hazard reduction involves reducing the amount of shrubby vegetation, leaf litter and twigs on the land to lower the intensity and spread of wildfires. This procedure increases human safety and protects homes, other property and the environment.

Bushfire hazard reduction activities commonly involve burning, which is a simple and economical method of removing unwanted litter and fire hazards from larger areas. Other effective methods include hand clearing, mowing, slashing, trittering (turbo mowing which mulches the vegetation), grading or tree lopping.

Is bushfire hazard reduction considered 'clearing' under the NV Act?

Yes. However, there are provisions in the NV Act to allow bushfire hazard reduction activities that involve the clearing of native vegetation to be carried out without the need for approval. Details of these provisions are provided in the next sections. Technically, any activity

that involves cutting down, felling, thinning, logging, removing, killing, destroying, poisoning, ringbarking, uprooting or burning native vegetation is considered 'clearing' under the NV Act.

Note that tree lopping is not considered 'clearing' under the NV Act unless it results in the death of the tree.

Clearing on certain types of land and clearing of dead and exotic vegetation are excluded from the NV Act, although consideration may still need to be given to activities carried out in these situations – see *Information Sheets 4 and 15*.

How can I ensure the bushfire hazard reduction activity is allowed under all NSW legislation?

Obtain a bushfire hazard reduction certificate. This is the simplest way to ensure you can carry out bushfire hazard reduction work. This certificate provides a streamlined approval for bushfire hazard reduction works that are not likely to have a significant impact on the environment. You do not need a separate approval under the NV Act for bushfire hazard reduction works if you have a bushfire hazard reduction certificate.

The certificates are issued by the Rural Fire Service, and are valid for 12 months from the date of issue. Application forms are available from local Rural Fire Service Fire Control Centres or at www.rfs.nsw.gov.au.

Under what circumstances is a bushfire hazard reduction certificate not issued?

There are areas for which a bushfire hazard reduction certificate cannot be issued, including, for example certain rainforests, some wetlands and areas identified as 'critical habitat' under the *Threatened Species Conservation Act 1995*. If a certificate cannot be issued for proposed works, you may need to consider provisions of other legislation such as the *Threatened Species Conservation Act 1995*.

Under what provisions of the NV Act are bushfire hazard reduction works permitted?

If you cannot obtain a bushfire hazard reduction certificate, there are provisions under the NV Act that allow you to clear for bushfire hazard reduction without approval. You are advised to keep appropriate documentation about any clearing that does not require approval in case you need to demonstrate that the clearing was permitted under the NV Act.

Please note that if a clearing proposal does not require approval under the NV Act, it may still require approval under other legislation, for example, legislation relating to threatened species, Aboriginal heritage or smoke pollution.

Following are provisions under the NV Act where clearing for bushfire hazard reduction may be permitted.

1. Bushfire risk management plans

No approval under the NV Act is needed for clearing that is in accordance with a bushfire risk management plan under the *Rural Fires Act 1997*. More details about hazard reduction work under these plans are outlined below.

2. Emergency firefighting

The NV Act does not constrain the capacity of fire authorities from undertaking emergency firefighting work as authorised under the *Rural Fires Act 1997*.

3. Non-protected regrowth

Non-protected regrowth may be cleared without approval under the NV Act. Regrowth is native vegetation that has regrown since 1990 (or 1983 in the Western Division) following lawful clearing.

Lawful clearing includes clearing undertaken after the above dates if it was permitted under the NV Act or any other legislation.

However, section 9(4) of the NV Act clarifies that regeneration of remnant native vegetation following bushfires does not constitute 'regrowth' for the purposes of the NV Act.

It is possible to have a mix of remnant and regrowth vegetation on the land or within the same layer (groundcover, shrub or canopy) depending on how the lawful clearing activity was carried out.

See *Information Sheet 4* for more information on regrowth (protected and non-protected).

4. Routine agricultural management activities

You may clear native vegetation associated with routine agricultural management activities (RAMAs) without approval when:

- > clearing is undertaken to the minimum extent necessary and within specified distance limitations where they apply
- > any other approvals necessary for the work have been obtained, such as building approvals.

The following list outlines RAMAs that may be used to implement bushfire hazard reduction works. Some other RAMAs may provide less obvious hazard reduction benefits. For a complete list of RAMAs that may be relevant, see *Information Sheets 7a, 7b and 7c*.

> **Rural infrastructure**

You may clear native vegetation around rural infrastructure such as buildings, fences, sheds and stockyards to construct, operate or maintain that infrastructure. The maximum buffer width that may be cleared varies according to the type of infrastructure and geographic location. The permitted width is generally wider in the central and western regions and narrower in coastal regions, rural residential zones and on smallholdings (properties less than 10 hectares or less than 40 hectares in the Western Division).

> **Imminent risk**

You do not need approval when clearing is undertaken to the minimum extent reasonably considered necessary to remove or reduce

an imminent risk of serious personal injury or damage to property.

This RAMA is intended for use in an emergency situation, such as where the risk is likely to occur at any moment, rather than where a risk may arise at some time in the future. For example, if a bushfire poses a risk of personal injury or damage to property, clearing of native vegetation to reduce this risk may not require approval if carried out in accordance with this RAMA. Generally, clearing for an asset protection zone would not fall within the scope of imminent risk.

Feral native plant species

If identified on the local catchment management authority list, you can remove these species without approval but in accordance with any requirements of that catchment management authority.

Noxious weeds

You do not need approval for clearing to the minimum extent necessary to remove noxious weeds under the *Noxious Weeds Act 1993*.

Gardens

You can clear native vegetation without approval when it has been planted as part of a garden.

Public utilities

You can undertake clearing to maintain public utilities (electricity, water, gas and electronic communication) without approval. Such clearing includes minimising fuel loads under powerlines to reduce the chance of smoke from a fire causing a line trip. Maximum distances for clearing depend on the nominal operating voltage of the powerline.

5. Development consent for a single dwelling

You do not need approval under the NV Act for clearing that is carried out to create an asset protection zone for the construction of a single dwelling in accordance with development consent under the *Environmental Planning and Assessment Act 1979*.

What are bushfire risk management plans?

Your local bushfire risk management plan is the relevant bushfire management plan that provides for exclusion of clearing from the NV Act. It identifies hazard levels and assets at risk,

establishes treatment options for those assets, and describes or maps bushfire management zones across the relevant area (usually one or more local government areas). These zones are:

- > asset protection zones
- > strategic fire advantage zones
- > land management zones
- > fire exclusion zones.

You can view your local bushfire risk management plan at your local council or district Rural Fire Service office.

Do I need approval under the NV Act for clearing native vegetation in asset protection zones?

No. You do not need approval under the NV Act if the asset protection zone is identified in a bushfire risk management plan and the works are in accordance with that plan.

Asset protection zones are established to protect human life, property and the environment. They are located around buildings, property and other assets where fuel has been reduced to provide direct protection. They generally contain highly modified vegetation to reduce the radiant heat impacts during a fire, and to enable the safe use of 'direct attack' suppression strategies in the zone.

Note that asset protection zones and treatments are only identified for assets listed under the plan. There are numerous dwellings across the landscape for which no asset protection zone is identified. Even if an asset protection zone is not identified in a bushfire risk management plan, you generally do not need approval under the NV Act where:

- > the asset protection zone is in accordance with development consent for the construction of a single dwelling under the ***Environmental Planning and Assessment Act 1979***, or
- > there is a bushfire hazard reduction certificate in force and clearing for the asset protection zone is undertaken in accordance with that certificate, or
- > the asset protection zone aligns with the RAMAs, for example, rural infrastructure.

Do I need approval for clearing native vegetation in strategic fire advantage zones?

No. You do not need approval under the NV Act if the strategic fire advantage zone is identified in a bushfire risk management plan and the works are in accordance with the proposed treatment (including such matters as thresholds).

Strategic fire advantage zones are immediately adjacent to asset protection zones. They are areas where fuel is reduced, usually by burning, to complement asset protection zones or in areas of high ignition potential, for example, along road sides, rail lines and power lines. Strategic fire advantage zones slow the development of fires, reduce their spread and provide for safer suppression of fires.

Do I need approval under the NV Act for clearing in land management zones?

If you are proposing to undertake hazard reduction in land management zones, it is advisable to seek approval from the Rural Fire Service through a bushfire hazard reduction certificate or obtain advice from your local catchment management authority regarding clearing in these zones. Bushfire hazard reduction treatment in these areas is not usually detailed in the bushfire risk management plan.

Land management zones are areas more removed from the urban interface, and hazard reduction carried out in these areas is designed to protect commercial or environmental assets. Fire protection activities in these zones may include mosaic burning to reduce the spread of fires.

Do I need approval under the NV Act for clearing in fire exclusion zones?

Yes. Burning in these areas is not in accordance with a bushfire risk management plan, and since vegetation communities in these areas are generally sensitive, you may need approval under the NV Act to clear native vegetation for hazard reduction or other purposes.

Fire exclusion zones are areas such as rainforests, fire intolerant vegetation communities, fire sensitive cultural/historical sites and pine plantations, or places where commercial crops are grown, where it is appropriate to exclude fire completely.

What happens if I think my proposal requires approval under the NV Act?

Contact your local catchment management authority office if you think you may require approval under the NV Act for bushfire hazard reduction works. Staff will be able to answer your questions in detail. Also contact your local Rural Fire Service office before carrying out any bushfire hazard reduction works.

For further information:

- > **contact** your local catchment management authority
- > **visit** www.environment.nsw.gov.au/vegetation/nvmanagement.htm
- > **email** info@environment.nsw.gov.au
- > **phone** 131 555.

Note: This information does not constitute legal advice. Please seek specific advice from your local catchment management authority before undertaking any clearing.

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