

Rural Lands Protection Boards

The purpose of this information sheet is to provide Rural Lands Protection Boards (RLPBs) in NSW with information about how the *Native Vegetation Act 2003* (NV Act) and the *Native Vegetation Regulation 2005* (NV Reg) apply to Travelling Stock Reserves (TSRs).

RLPBs manage TSRs for a range of uses and there are a number of instances where management may involve clearing native vegetation. Your local Catchment Management Authority (CMA) can provide complete information on the approvals needed for clearing of native vegetation.

What type of clearing requires approval?

Clearing remnant native vegetation or protected regrowth requires approval under the NV Act, unless it is a permitted clearing activity or is excluded under the Act. Explanations of the terms clearing, remnant vegetation, regrowth and protected regrowth are included in Native Vegetation Info Sheet 4: *Details about the new Native Vegetation Act 2003*.

Approval to clear native vegetation can be obtained from your CMA, through either an approved Property Vegetation Plan (PVP) or by Development Consent. More information on clearing that requires approval is included in Info Sheet 5: *What clearing requires approval?*

Further information on obtaining a PVP or Development Consent is set out below.

What clearing does not require approval?

Clearing of native vegetation on a TSR does not require approval under the NV Act if it is:

- permitted clearing under the Act (see below),
- excluded clearing listed in section 25 of the Act, or
- on land that is excluded from the Act, such as Sydney metropolitan and Newcastle local government areas.

Further information on clearing that does not require approval is contained in Info Sheet 6: *What clearing does not require approval?*

It is important to note that clearing that does not require approval, or clearing approved in a PVP or Development Consent under the NV Act, may still require approval under other legislation such as the Commonwealth *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act). For more information, contact your CMA or refer to Info Sheet 13: *How does the Native Vegetation Act 2003 interact with other legislation?*

When is clearing on a TSR permitted without approval?

There are five types of clearing that may be undertaken on a TSR that do not require approval under either the NV Act or (except in the

case of clearing certain groundcover) the *Threatened Species Conservation Act 1995* (TSC Act).

These are:

1. Clearing for Routine Agricultural Management Activities (RAMAs)

RAMAs are a specific list of routine activities that occur in rural areas. Any clearing of native vegetation necessary to carry out a RAMA does not require approval under the NV Act. Any clearing associated with RAMAs may only be undertaken to the minimum extent necessary. More information on RAMAs and how they can be utilised by RLPBs is provided below.

2. Clearing of regrowth that is not protected

RLPBs do not require approval to clear unprotected regrowth. Under the NV Act, regrowth is defined as any native vegetation that has regrown since 1 January 1990 (or 1 January 1983 in the Western Division) following lawful clearing. In exceptional circumstances a RLPB can also apply to change the date of regrowth through an approved PVP. The agreement of the Minister for Lands would also be required for the PVP. Contact your CMA for more information.

3. Sustainable grazing

Sustainable grazing is grazing that is not likely to result in the substantial long-term decline in the structure and composition of native vegetation. Approval is not required for sustainable grazing.

4. Clearing associated with the continuation of existing farming practices

Clearing regrowth, including protected regrowth, to continue existing cultivation, grazing or rotational farming practices is permitted without approval. Remnant vegetation may not be cleared under this provision. In the Western Division, the provisions also exclude River Red Gum, Belah and White Cypress when any of these species is taller than three metres.

5. Clearing of native groundcover

Clearing of certain native groundcover is permitted without approval where:

- a) less than 50 per cent of the groundcover comprises live indigenous species, and
- b) at least 10 per cent of the area has some form of vegetative cover, whether dead or alive.

Refer to Info Sheet 12: *Suggested methods for assessing groundcover*, for recommended methods to determine if groundcover meets these requirements.

While clearing of native groundcover that meets this provision is permitted without approval under the NV Act, it may still require approval under the TSC Act, and/or the Commonwealth EPBC Act. Further information may be obtained from the NSW Department of Environment and Conservation, or Info Sheet 13: *How does the Native Vegetation Act 2003 interact with other legislation?*

The use and limitation of RAMAs on Travelling Stock Reserves

The list of RAMAs and the conditions associated with their use vary across the state. This will affect what RLPBs can do on TSRs in different areas and on different types of land. For example, the size of buffer distances for clearing to maintain rural infrastructure vary between coastal, central and western CMAs.

There are no specific RAMAs for RLPBs to use on TSRs. All RAMAs may be utilised by a RLPB, apart from the Crown Land Management Infrastructure RAMA (see below). More information on RAMAs is contained in Info Sheet 7a: *Western Division*, Info Sheet 7b: *Coastal CMAs* and Info Sheet 7c: *Central NSW CMAs*.

Limitation of RAMAs on Protected Riparian Land

The range of RAMAs that can be utilised on Protected Riparian Land is limited because of its environmental sensitivity. Protected Riparian Land is land within, or within 20 metres of, the bed or bank of a prescribed stream. Further information on Protected Riparian Land and the RAMAs that may

be used on such land is available from your CMA, or Info Sheet 11: *Clearing on Vulnerable Land*.

Crown Land Management Infrastructure RAMA (CI 14 (1) of the NV Reg)

This RAMA relates to clearing for certain infrastructure, such as roads and viewing platforms, on Crown land by certain agencies. However, the ability to use this RAMA does not extend to RLPBs. Subsequently, RLPBs may not utilise this RAMA for works on TSRs that are under their control.

How are TSRs less than 10ha affected by the NV Act?

The “rural infrastructure” RAMA permits clearing within buffer distances for the construction, maintenance and operation of rural infrastructure. As well as setting different buffer distances for different parts of the state, clause 20 of the NV Reg also specifies buffer distances for small holdings. A small holding is defined as a “contiguous piece of land that is less than 40 hectares in the Western Division or less than ten hectares in other parts of the State”. Therefore, different buffer distances will apply to clearing on TSRs that are less than 10 hectares. See Info Sheets 7a, 7b and 7c for more information.

Using the Construction Timber RAMA on TSRs

The Construction Timber RAMA allows clearing to obtain timber for use in the construction or maintenance of rural infrastructure (see clause 16 (1) of the NV Reg). However, this RAMA only allows for clearing to occur on the same land on which the construction or maintenance of the rural infrastructure will take place.

If the RLPB wishes to clear using the Construction Timber RAMA, the infrastructure must be built on the same reserve (ie land) from which the timber was obtained, that is, where the clearing took place.

Approval is required under the TSC Act if clearing under this RAMA impacts on threatened species or communities. The Construction Timber RAMA may not be used on Protected Riparian Land.

State Protected Land

Some areas of NSW are vulnerable to soil erosion, sedimentation and landslip if appropriate techniques are not used to clear vegetation. Previously, such areas have been identified as State Protected Land (SPL).

Under the NV Act, clearing of dead native trees or exotic trees on SPL, and of live native vegetation in Sydney metropolitan and Newcastle local government areas, will continue to be regulated by the *Native Vegetation Conservation Act 1997*.

Clearing dead trees and exotic trees, such as Willows or Privet, on SPL will not require approval if the clearing is carried out in accordance with the *Guideline for the Clearing of Exotic Trees and Dead Native Trees on State Protected Land*. In addition to the Guideline, some exemptions under the *Native Vegetation Conservation Act 1997* for clearing on SPL also continue to operate. Contact your local CMA for details on the Guideline and exemptions, or refer to Info Sheet 15: *Clearing on State Protected Land* for further information.

Private Native Forestry on TSRs

The NV Reg allows clearing for the purpose of private native forestry operations to continue without approval under the NV Act for a transitional period until 30 June 2007, when a code of practice will be put into place. This exemption permits clearing of native vegetation in a native forest in the course of its being selectively logged on a sustainable basis, or managed for forestry purposes (timber production).

Although there is no restriction on a RLPB making use of this exemption, it should be noted that this exemption applies only to logging operations and does not apply to the removal of a small number of trees to obtain construction timber.

How to obtain a PVP or Development Consent

If a RLPB is proposing to clear remnant native vegetation or protected regrowth, and that clearing is not permitted or excluded from the NV Act, then the RLPB must contact their CMA to negotiate a PVP or apply for Development Consent.

Proposals to clear native vegetation are assessed under the NV Act to determine whether the proposal will improve or maintain environmental outcomes. In some circumstances offsets may need to be included as part of the clearing proposal so that it can pass the “improve or maintain” test. For example, an offset could involve revegetation to establish a corridor between two existing areas of native vegetation, or the removal of weeds and pest animals to enhance the biodiversity of the site. Offsets are not allowable under development consent and are only available as part of an approved PVP. Your local CMA can provide further information on what is involved in developing a PVP.

Can a TSR be used as an offset?

It is possible for land on a TSR to be used by RLPBs as an offset under a PVP. However, the agreement of the Minister for Lands is necessary before the CMA can approve a PVP that involves land on a TSR. It may also be necessary for the Minister for Lands to be a party to the PVP, together with the RLPB and the CMA. The conditions in the PVP in relation to management of the offset would need to be consistent with legislation regulating TSRs (in particular, Part 8 of the *Rural Lands Protection Act 1998*) and with the use and management of the particular TSR.

Offsets on TSRs against clearing on adjoining private land are not appropriate as they may generate private benefit while transferring ongoing costs and responsibility to the State.

It is important to note that once a PVP is approved, the ability of the Department of Lands or a RLPB to manage a TSR will be restricted by the conditions of the PVP. Those conditions may exclude or limit the use of RAMAs (as permitted clearing) in offset areas.

PVPs seeking incentive funding for environmental enhancement will generally be supported as TSRs can form ecologically important wildlife corridors. This would also require the agreement of both the Minister for Lands and the relevant RLPB.

For more information:

Contact your local CMA, or you may also:

Visit: www.nativevegetation.nsw.gov.au

Email: info@nativevegetation.nsw.gov.au

Freecall: 1800 237 012

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

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