

What clearing **does not** require approval?

Clearing of native vegetation does not require approval under the *Native Vegetation Act 2003* (NV Act) if it is:

- > a permitted clearing under the Act (see below), or
- > on land that is excluded from the Act such as in Sydney metropolitan and Newcastle urban areas (see Info Sheet 4).

Nevertheless, approval may be required under other legislation including your Council's Local Environmental Plan.

It is therefore important that landholders proposing to clear seek advice from their local Catchment Management Authority (CMA) and/or local Council.

Excluded clearing

Clearing listed in section 25 of the NV Act does not require approval because it is authorised or permitted under other legislation. This means that once approval is given under that legislation, or if the clearing is permitted by that legislation, you will not require approval under the NV Act.

The exclusions in section 25 of the NV Act include for example certain clearing under:

- > the *Rural Fires Act 1997* when done in accordance with a bush fire management plan under that Act or in relation to emergency fire fighting
- > the *Roads Act 1993*
- > the *Surveying Act 2002* that is undertaken by or under the direction of a surveyor, and
- > a licence, permit, authority or approval under the *Water Management Act 2000*.

See full list over the page.

Permitted clearing

Permitted clearing requires no approval under either the NV Act or, except in the case of clearing certain groundcover (see below), the *Threatened Species Conservation Act 1995*.

There are six types of permitted clearing:

1. Construction of a single dwelling

Clearing is permitted of the minimum amount of native vegetation needed to comply with a current Development Consent for the construction of a single dwelling.

Other development consents: Clearing associated with other development consents other than for a single dwelling, will require approval from the CMA under the NV Act.

2. Routine agricultural management activities

Routine agricultural management activities (RAMAs) cover a wide range of day-to-day farming activities. Clearing of native vegetation associated with RAMAs is permitted without approval:

- > when undertaken to the minimum extent necessary and within specified distance limitations where they apply, and
- > so long as any other approvals necessary for the work, such as building approval, are first obtained.

More detail on clearing associated with RAMAs is available in Info Sheet 7.

3. Clearing of non-protected regrowth

Landholders can clear regrowth that is not protected regrowth, without approval. Regrowth is any vegetation that has regrown since 1 January 1990 (or 1 January 1983 in the Western Division) following lawful clearing. Under exceptional circumstances, these regrowth dates may be changed to an earlier date.

Info Sheet 4 explains the definition of regrowth.

4. Sustainable grazing

A landholder can carry out sustainable grazing without approval. Sustainable grazing is grazing that is not likely to result in the substantial long-term decline in the structure and composition of native vegetation.

5. Clearing of certain groundcover

Clearing native groundcover is permitted without approval where:

- > less than 50% of the groundcover comprises live indigenous species; and
- > 10% or more of the area has some form of vegetative cover whether dead or alive.

However, the clearing of such groundcover is subject to separate consideration under the *Threatened Species Conservation Act 1995*.

Calculations relating to the above assessments must be undertaken in an appropriate, scientific and objective manner and must be documented. See Info Sheet 12. Your CMA can provide further detail.

6. To continue existing farming activities

A landholder can clear, without approval, all regrowth vegetation (including protected regrowth) to continue existing cultivation, grazing or rotational farming practices except, in the Western Division, River Red Gum, Belah and White Cypress Pine when any of these is taller than 3 metres.

Records: Landholders are advised to keep appropriate documentation about any clearing that does not require approval in case they need to show that the clearing did not require that approval.

SECTION 25 EXCLUSIONS

The *Native Vegetation Act 2003* does not apply to the following types of clearing of native vegetation:

- (a) any clearing authorised under the *State Emergency and Rescue Management Act 1989* in relation to an emergency within the meaning of that Act,
- (b) any clearing authorised under the *Rural Fires Act 1997* in relation to any emergency fire fighting act within the meaning of that Act,
- (c) any clearing carried out in accordance with a bush fire management plan under the *Rural Fires Act 1997*,
- (d) any clearing carried out in accordance with a property management plan approved by the *Director-General of the Department of Environment and Conservation for the purposes of the Threatened Species Conservation Act 1995*
- (e) any clearing authorised under a licence issued under Division 1 of Part 6 of the *Threatened Species Conservation Act 1995*,
- (f) any clearing that is, or that is part of, designated development within the meaning of the *Environmental Planning & Assessment Act 1979* and for which development consent has been granted under that Act,
- (g) any clearing that is, or is part of, an activity carried out by a determining authority within the meaning of Part 5 of the *Environmental Planning & Assessment Act 1979* if the determining authority has complied with that Part,
- (h) any clearing that is, or is part of, an activity carried out in accordance with an approval of a determining authority within the meaning of Part 5 of the *Environmental Planning & Assessment Act 1979* if the determining authority has complied with that Part,
- (i) any clearing authorised to be carried out under Division 3 or 4 of Part 7 of the *Fisheries Management Act 1994*,
- (j) any clearing authorised under a licence issued under Division 6 of Part 7A of the *Fisheries Management Act 1994*
- (k) any clearing carried out in accordance with a licence issued under section 131 of the *National Parks and Wildlife Act 1974*,
- (l) any clearing authorised under the *Mining Act 1992*,
- (m) any clearing authorised under the *Petroleum (Onshore) Act 1991*,
- (n) any clearing that consists of plantation operations within the meaning of the *Plantations and Reafforestation Act 1999* on an authorised plantation in accordance with any conditions of the authorisation and with the *Plantations and Reafforestation Code* under that Act,
- (o) any clearing that involves the removal or lopping of any tree or other vegetation in accordance with section 88 of the *Roads Act 1993*,
- (p) any clearing carried out in accordance with a consent under Division 3 of Part 9 of the *Roads Act 1993*,
- (q) any clearing carried out in accordance with a permit under Part 3A of the *Rivers and Foreshores Improvement Act 1948*,
- (r) any clearing for the purpose of a survey under the *Surveying Act 2002* that is undertaken by or under the direction of a surveyor,
- (s) any clearing carried out in accordance with a licence, permit, authority or approval under the *Water Act 1912* or the *Water Management Act 2000*.

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.