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## Fact Sheet

# Using the Native Vegetation Regulation 2013 Self-Assessable Codes

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## How to obtain other approvals

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Clearing undertaken in accordance with the native vegetation self-assessable codes does not require approval under the *Native Vegetation Act 2003*; however clearing could require other approvals.

Legislation, including the Acts listed in this fact sheet, may affect clearing activities.

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

*This fact sheet describes other approvals you may need to acquire, and outlines how to obtain more information.*

## NSW State Government approvals

### ***Environmental Planning and Assessment Act 1979***

Most clearing under the *Native Vegetation Act 2003* (such as property vegetation plans, routine agricultural management activities, and clearing under the self-assessable codes) will not require approval from councils; however, some local environmental plans (LEPs) contain a sub-clause for the preservation of trees or vegetation where the land is zoned as follows:

- Zone R5 Large Lot Residential
- Zone E2 Environmental Conservation
- Zone E3 Environmental Management, or
- Zone E4 Environmental Living.

If your land is in one of these zones you should contact your council to determine whether you require their approval prior to clearing.

The map viewer accessible from any of the information tools at [www.environment.nsw.gov.au/vegetation/onlinetools.htm](http://www.environment.nsw.gov.au/vegetation/onlinetools.htm) can be used to check the zoning of your land.

## Threatened Species Conservation Act 1995

Approval is not needed for clearing live vegetation as long as it is completed in accordance with the conditions in a self-assessable code; however, clearing activities that affect habitat features such as large dead trees may require approval under s.91 of the *Threatened Species Conservation Act 1995*. Further information is available at

[www.environment.nsw.gov.au/threatenedspecies/licences.htm](http://www.environment.nsw.gov.au/threatenedspecies/licences.htm) or contact the Office of Environment and Heritage (OEH) on 131 555.

## National Parks and Wildlife Act 1974

This Act may apply if there are Aboriginal objects in the area you wish to clear. 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. Due diligence obliges people whose actions may affect Aboriginal cultural heritage to take reasonable steps (precautions) to consider if Aboriginal objects may be present and avoid harm to that heritage. If harm cannot be avoided you are required to apply for an Aboriginal Heritage Impact Permit (AHIP). OEH staff 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/WhatInformationCanYouObtainFromAHIMS.htm](http://www.environment.nsw.gov.au/licences/WhatInformationCanYouObtainFromAHIMS.htm).

If you are unable to modify your proposed activity to avoid an impact on Aboriginal objects, you will need to apply for an AHIP. Further information is available online at

[www.environment.nsw.gov.au/licences/ahipforms.htm](http://www.environment.nsw.gov.au/licences/ahipforms.htm) or contact OEH on 131 555.

## Water Management Act 2000

A 'controlled activity approval' may be required from the NSW Office of Water 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.water.nsw.gov.au/Water-licensing/Approvals/Controlled-activities](http://www.water.nsw.gov.au/Water-licensing/Approvals/Controlled-activities) or by calling 1800 353 104.

## Crown Lands Act 1989

If your property includes Crown land (for example a Crown road subject to an enclosure permit) then any proposed clearing is subject to the conditions of the Crown land lease, licence or permit. You cannot clear vegetation, including using the self-assessable codes, on Crown land without approval from Crown Lands. Check the conditions or consult Trade and Investment (Crown Lands) on 1300 886 235 before you start work.

## 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 the Survey Services section of Land and Property Information on 1300 052 637.

## Forestry Act 2012

As the *Native Vegetation Act 2003* does not apply to Timber Reserves declared under the *Forestry Act 2012*, the codes cannot be used in Timber Reserves. Further information is available online at [www.forestrycorporation.com.au](http://www.forestrycorporation.com.au) or contact the Forestry Corporation on 02 9872 0111.

## Western Lands Act 1901

Landholders clearing on a Western Lands Lease in the Western Division of NSW who are planning to use clearing type e) of the invasive native scrub (INS) self-assessable code (involving cultivation) may need a cultivation permit or approval under the Western Lands Act. A copy of the land degradation assessment completed under the INS code may need to accompany the application for the cultivation permit.

Similarly, landholders on leasehold land in the Western Division may also require approval from Crown Lands when clearing INS using clearing type d) (and to sow non-persistent annual non-native species as part of clearing operations), e.g. a seeder in conjunction with bladeploughing or crocodiling.

Application forms for permits are available from Crown Lands offices. To find the nearest Crown Lands office, call 1300 886 235.

## Rural Fires Act 1997

The *Rural Fires Act 1997* regulates management burns. Landholders proposing to use clearing type a) of the INS code (involving management burning) should consult with the local Fire Brigade Captain or Fire Control Officer before burning. The landholder may need to obtain a permit or undertake burning at a certain time.

## Offsets and conservation covenants

Please note that you cannot use self-assessable codes to undertake clearing if the land is subject to an offset under a property vegetation plan (PVP), or a remediation direction under the *Native Vegetation Act 2003*. Use of the codes is also excluded where the land is secured by a conservation covenant under other legislation. 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 are held by OEH (phone 131 555). Information about other conservation covenants that are recorded on title can be obtained from Land and Property Information on 1300 052 637.

# Commonwealth Government approvals

## Environment Protection and Biodiversity Conservation Act 1999 (Commonwealth)

The Commonwealth Act identifies matters of National Environmental Significance (NES) that include threatened species and ecological communities. New farm activities including those involving clearing that could have a significant impact on an NES matter, may require approval from the federal environment minister. Further information about the EPBC Act is available online at [www.environment.gov.au/epbc](http://www.environment.gov.au/epbc).

If you are unsure you can call the Australian Department of the Environment on 1800 110 395.

Please note this list of additional approvals is not exhaustive. Staff at your Local Land Services office can help you understand what other approvals may be required for your proposed activities under the native vegetation self-assessable codes.

### More information

For more information, visit the Office of Environment and Heritage website at: [www.environment.nsw.gov.au/vegetation/](http://www.environment.nsw.gov.au/vegetation/)

On this website, you can download the Regulation and further information that explains the changes to the Regulation.

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