

Clearing on state protected land

What is state protected land?

Some areas of NSW are vulnerable to soil erosion, sedimentation and landslip if appropriate techniques are not used to clear vegetation. Such areas have been managed as State Protected Land (SPL) since 1964 and are classified as follows:

- (i) Land sloped at over 18 degrees (Category A),
- (ii) Riparian Land (Category B) and
- (iii) Sensitive Land (Category C).

The areas of land that are SPL are marked on maps held by the Department of Natural Resources and Catchment Management Authorities. Note that not all land that is sloped at over 18 degrees or that is riparian land has been mapped as SPL.

Before 1 December 2005, the clearing of all live native vegetation, dead trees and exotic (non-native) trees on SPL was regulated under the *Native Vegetation Conservation Act 1997*.

As of 1 December 2005, the clearing of **live native vegetation** in these areas will be regulated by the *Native Vegetation Act 2003* **only**, except in local government areas in the Sydney metropolitan area and Newcastle local government area, as set out below. Clearing of dead trees and exotic trees is **not** regulated by the *Native Vegetation Act 2003*.

Does state protected land still exist?

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

On areas already mapped as SPL, the *Native Vegetation Conservation Act 1997* regulates the following clearing:

- Clearing exotic and dead trees, on all SPL throughout the State.
- Clearing native vegetation in local government areas on Schedule 1 of the NVC Act (but not Wollongong LGA) (See Schedule 1 of the *Native Vegetation Act 2003* for a complete list of these local government areas).
- Clearing for the purpose of private native forestry.

The existing SPL maps and definitions remain unchanged and have been made more easily accessible at Catchment Management Authority (CMA) and Department of Natural Resources (DNR) offices.

However, in areas where the Mid-Lachlan and Riverina Highlands Regional Vegetation Management Plans applied, SPL no longer exists.

No additional lands will be mapped as SPL in the future.

When doesn't clearing on state protected land require approval?

1. Clearing under Guideline for Exotic Trees and Dead Trees on State Protected Land

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* (the Guideline).

The Guideline outlines:

- General circumstances in which clearing of live and dead exotic trees may occur without consent,
- Additional requirements for clearing live and dead exotic trees without consent on Category A or Category B SPL, and
- Approved control techniques.

2. Use of Exemptions

The following exemptions under the previous *Native Vegetation Conservation Act 1997* for clearing on SPL continue to operate in addition to the Guideline. These exemptions may be particularly useful for clearing of dead vegetation on SPL in certain circumstances. Refer to part 5 of the Guideline for full descriptions of each exemption.

Category A Land:

a) Surveys: For use by a registered surveyor where such cutting down, felling, destruction, topping, lopping, injury or removal is necessary in order to carry out a survey as defined in the *Surveyors Act 1929*.

b) Works under the *Soil Conservation Act 1938*: including works under section 10 of the *Soil Conservation Act 1938*.

c) Various exemptions as carried over from *Soil Conservation Act 1938*: The *Soil Conservation Act 1938* exemptions still apply in the following circumstances with regards to dead and exotic trees:

- (i) minimal tree cutting (7 trees / ha / year),
- (ii) minimal clearing (2ha or less, which can be no more than 25% of each separate area of State Protected Land) for a purpose other the construction of a vehicular track or road, or the development of the land for a banana plantation, horticulture or growing of crops, and
- (iii) normal harvest or pruning associated with an orchard or banana plantation.

d) Powerlines: Topping or lopping by a local government or electricity supply authority for the purpose of maintaining necessary safety clearances under or within fifteen metres of an existing power line.

e) Noxious weeds: For removal of Noxious weeds under the *Noxious Weeds Act 1993*.

Category B Land:

a) Functions of the Department of Natural Resources (formerly Water Resources): applies within 20 metres of the bed or bank of the Tumut River from Blowering Dam to its junction with the Murrumbidgee River, the Murray River from Yarrawonga to Khancoban, or any

river or lake within the Hunter Valley Conservation Trust District as defined in the Schedule to the *Hunter Valley Conservation Trust Act 1950*.

b) Surveys: For use by a registered surveyor as described above.

c) Motor traffic Safety: For use by the Roads and Traffic Authority or a local government authority.

d) Powerlines: For use by a local government or electricity supply authority as described above.

e) Noxious Weeds: For removal of Noxious weeds under the *Noxious Weeds Act 1993*.

Category C Land:

a) Surveys: For use by a registered surveyor as described above.

b) Various exemptions that apply in Category C Land around Yass and other areas.

c) Clearing of lignum of protected land within Lowbidgee district: This exemption applies to Category C protected land as mapped on the protected land maps of Paika, Maude, Balranald and Toogimbie (in the Lowbidgee District).

d) Noxious Weeds For removal of noxious weeds under the *Noxious Weeds Act 1993*.

3. Land or clearing excluded from the *Native Vegetation Conservation Act 1997*

Certain land was excluded from the *Native Vegetation Conservation Act 1997*. This land was listed in section 9 of that Act and includes land within urban-type zonings, State forests, national parks and critical habitat. The excluded land is similar to, but not the same as, the land excluded from the *Native Vegetation Act 2003*. Approval is not required for any clearing on this land.

Certain types of clearing were also excluded from the *Native Vegetation Conservation Act 1997*. These were listed in section 12 of that Act, and included clearing in accordance with a bush fire management plan, clearing authorised by the *Mining Act 1992* and clearing in accordance with a Part 3A permit under the *Rivers and Foreshores Improvement Act 1948*. Again, this list is similar to, but not the same as, the list of excluded types of clearing in the *Native Vegetation Act 2003*. Approval is not required for any such clearing.

When does clearing on state protected land require approval?

If none of the above three circumstances apply, a Development Application under the *Native Vegetation Conservation Act 1997* will need to be lodged with your local DNR Office to clear exotic and dead trees on State Protected Land.

For more information:

Contact your local DNR office, 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 formal legal advice. Please seek specific advice from your local CMA before undertaking any clearing.