

State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017 – extension to clause 27 and deferred matter land

Extension of transitional clause 27 allowing clearing for routine agricultural management activities on some land

The application of Clause 27 of the *State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017* ([Vegetation SEPP](#)) has been extended until 25 August 2020.

Clause 27 is a transitional clause that allows clearing of non-protected native vegetation regrowth and clearing for Routine Agricultural Management Activities (RAMAs), as defined under the now-repealed *Native Vegetation Act 2003*, to occur on certain land without approval under the Vegetation SEPP.

Clause 27 only applies in around half of NSW's regional councils and allows RAMAs in areas that did not require a permit for these activities under the relevant Local Environmental Plan (LEP) at the time the Land Management and Biodiversity Conservation reforms commenced. It is a requirement that the land be predominantly used for agriculture (as defined by the Standard Instrument template) and that the agricultural activity has any necessary planning approvals. Clearing for Routine Agricultural Management Activities must be undertaken to the minimum extent necessary.

Clearing for Routine Agricultural Management Activities (RAMAs) includes activities such as the construction, operation and maintenance of rural infrastructure, such as permanent and temporary fence lines, tracks, firebreaks, shearing or machinery sheds, stock yards, pipelines, windmills and bores.

The extension is to allow time for the Department to develop an appropriate long-term approach to regulate these types of activities under the Vegetation SEPP in a way that allows land owners to manage their land effectively while protecting important environmental assets. Proposed alternative arrangements will be exhibited for feedback with the intention they be implemented within the next 12 months.

Even though clearing proposed under clause 27 will not require a permit or approval under the Vegetation SEPP, it will require a [biodiversity conservation licence](#) or other defence under the *Biodiversity Conservation Act 2016* if the clearing will impact on:

- a threatened species,
- a threatened ecological community,
- the habitat of a threatened species or ecological community, or
- a protected plant.

Clearing for a purpose that does not require development consent on land identified as ‘deferred matter’ land in local plans within metropolitan areas is regulated by the Vegetation SEPP

The Vegetation SEPP identifies thirty-four metropolitan local government areas to which it applies (refer to clause 5(1)(a)). This includes Sydney metropolitan local government areas and the Newcastle local government area.

In these areas, vegetation clearing on land deferred from the local plan and identified as a ‘deferred matter’ will be regulated by the Vegetation SEPP where a planning approval under the *Environmental Planning and Assessment Act 1979* (EP&A Act) is not required.

Deferred matter land is land that has not yet been zoned in accordance with the *Standard Instrument - Principle Local Environmental Plan*.

Deferred matter land will not be relevant to every local government area.

Clearing of native vegetation for a purpose that does not require development consent on land identified as ‘deferred matter’ land in local plans outside of metropolitan areas is regulated by Part 5A of the *Local Land Services Act 2013*

Outside of metropolitan areas, the Vegetation SEPP identifies a number of land use zones to which it applies (refer to clause 5(1)(b)) including R5 Large Lot Residential and Environment zoned land. These zones align with land use zone descriptions in the *Standard Instrument – Principle Local Environmental Plan*. Land deferred from the local plan and identified as a ‘deferred matter’ does not conform to land use zones described in the Vegetation SEPP.

Clearing of native vegetation on deferred matter land will be regulated by the *Local Land Services Act 2013* (LLS Act) where a planning approval under the EP&A Act is not required.

The LLS Act limits the ability of planning instruments to require consent for clearing on land to which Part 5A of the LLS Act applies

Under section 60P of the LLS Act, an environmental planning instrument (other than a State environmental planning policy or a mandatory provision of a standard instrument) cannot require development consent or other authorisation for the clearing of native vegetation in an area where Part 5A of the LLS Act applies. This includes non-standard local instruments that continue to regulate development on deferred matter land outside of metropolitan areas. Any such requirement in an environmental planning instrument has no effect.