

# A Guide to the Exemptions under the *Native Vegetation Act 1991*



Native Vegetation Council



**Government of South Australia**

Department of Water, Land and  
Biodiversity Conservation

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## Purpose of these guidelines

The Regulations under the *Native Vegetation Act 1991* include a number of exemptions.

These set out circumstances in which native vegetation may be cleared without the need for specific consent from the Native Vegetation Council, or clearance subject to certain conditions. In general, the exemptions allow for the clearance of vegetation considered to be reasonable for property management.

This information sheet has been prepared to provide guidance regarding the exemptions.

In some cases, even though clearance may be exempt under the Native Vegetation Act, there may be constraints under other legislation which need to be complied with, such as the *River Murray Act 2003*, *Water Resources Act 1997*, *Natural Resources Management Act 2004*, *Development Act 1993*, *Adelaide Dolphin Sanctuary Act 2005* and the *Commonwealth Environment Protection and Biodiversity Conservation Act 1999*.

In the following table, the first column indicates the reference number of each exemption as it appears in the Native Vegetation Regulations. The second column indicates the actual wording of the exemption, while the third provides comment to assist in the interpretation of each exemption.

**Dead trees** are covered under these Regulations if they provide or have the potential to provide a habitat for animals of a listed threatened species under the *Environment Protection and Biodiversity Conservation Act 1999* of the Commonwealth. (see page 33 for more details).

**Note – Exemptions do not apply to Heritage Agreements except where explicitly stated. (see Regulation 4 of the Act)**

Further Information Additional information about the exemptions can be obtained from the Native Vegetation Council Secretariat as follows:

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## **Definitions**

In these regulations, unless the contrary intention appears—

“**Act**” means the *Native Vegetation Act 1991*;

“**building**” means a building or structure that is permanently fixed to land so that it cannot be moved without dismantling or destroying it and—

(a) includes a transportable building if the building is connected to a sewage system or a septic tank and then is not moved after it is first connected to that sewage system or septic tank; but

(b) does not include a building or structure erected or placed on land in contravention of the *Development Act 1993* or a corresponding previous enactment;

“**business day**” means any day except Saturday, Sunday or a public holiday;

“**clearance**”, in relation to native vegetation, means—

(a) the killing or destruction of native vegetation;

(b) the removal of native vegetation;

(c) the severing of branches, limbs, stems or trunks of native vegetation;

(d) the burning of native vegetation;

(e) any other substantial damage to native vegetation,

and includes the draining or flooding of land, or any other act or activity, that causes the killing or destruction of native vegetation, the severing of branches, limbs, stems or trunks of native vegetation or any other substantial damage to native vegetation;

“**C.F.S.**” means the Country Fire Service;

“**country**” has the same meaning as in the *Country Fires Act 1989*;

“**Development Plan**” means a Development Plan under the *Development Act 1993*;

“**dwelling**” means a building or part of a building used as a self-contained residence;

“**fence**” means a fence consisting of posts and wire fixed permanently to land and designed for the purpose of controlling access by people or the movement of animals;

“**fire-control purposes**”—these are purposes associated with preventing or controlling the spread of fires or potential fires;

“**infrastructure**” means—

(a) the infrastructure, equipment, structures, works and other facilities used in or in connection with the supply of water or electricity, gas or other forms of energy, the provision of telecommunications, or the drainage, removal or treatment of waste water or sewage; or

(b) roads and their supporting structures or works; or

(c) ports, wharfs, jetties, railways, trams and busways;

## **Definitions (continued)**

"**native vegetation**" means a plant or plants of a species indigenous to South Australia including a plant or plants growing in or under waters of the sea but does not include—

(a) a plant or part of a plant that is dead unless the plant, or part of the plant, is of a class declared by regulation to be included in this definition; or

(b) a plant intentionally sown or planted by a person unless the person was acting—

(i) in compliance with a condition imposed by the Council under this Act or by the Native Vegetation Authority under the repealed Act, or with the order of a court under this Act or the repealed Act; or

(ii) in pursuance of a proposal approved by the Council under Part 4 Division 2; or

(iii) in compliance with a condition imposed by a Minister, statutory authority or prescribed person or body under—

(A) the *River Murray Act 2003*; or

(B) the *Water Resources Act 1997*; or

(C) any other Act prescribed by the regulations for the purposes of this paragraph;

"**private mine**" means land declared under the *Mining Act 1971* to be a private mine;

"**River Murray Floodplain Area**" means the River Murray Protection Area so designated under regulation 4 of the *River Murray Regulations 2003*;

"**township of Robe**" means the area shown as the township of Robe in the Development Plan that applies to that area of the State.

<p><b>Exemption</b></p> <p><b>5(1)(a)</b></p> <p><b>Dwellings &amp; Associated Structures</b></p> <p><b>[See Restrictions on Clearance of Vegetation 6(2)]</b></p>	<p><b>Pursuant to Section 27(1)(b) of the Act, native vegetation may, subject to any other Act or law to the contrary, be cleared -</b></p> <p>if it is proposed to erect a building that is a dwelling or a structure or other facility that is ancillary to a dwelling and—</p> <p>(i) any development authorisation for the erection of the dwelling or structure or other facility required by or under the <i>Development Act 1993</i> has been obtained; and</p> <p>(ii) either—</p> <p>(A) the vegetation—</p> <ul style="list-style-type: none"> <li>• does not comprise or form part of a stratum of native vegetation that is substantially intact; and</li> <li>• except where the dwelling is within a residential or township zone under the relevant Development Plan, does not include vegetation of the genus <i>Eucalyptus</i> with a stem diameter at 300 millimetres above the ground of 200 millimetres or more, or other vegetation with a stem diameter at the lowest point of the stem above ground level of 100 millimetres or more; or</li> </ul> <p>(B) •the Council is satisfied that, after taking into account the need to preserve biological diversity and taking into account the needs of the owner of the land, the proposed site for the building is the most suitable that is available; and</p> <ul style="list-style-type: none"> <li>• there is no other practicable alternative that would involve no clearance or the clearance of less vegetation or the clearance of vegetation that is less significant or (if relevant) the clearance of vegetation that has been degraded to a greater extent than the vegetation proposed to be cleared; and</li> <li>• the clearance is undertaken in accordance with a management plan that has been approved by the Council and that results in a significant environmental benefit on the property where the building is to be situated, or the owner of the land (or a person acting on his or her behalf) has, on application to the Council to proceed with clearing the vegetation in accordance with this provision, made a payment into the Fund of an amount considered by the Council to be sufficient to achieve a significant environmental benefit in the manner contemplated by section 21(6) of the Act.</li> </ul> <p><b>Definition of intact stratum</b></p> <p>A substantially intact stratum of native vegetation is defined by sn 3A of the Native Vegetation Act 1991 as an area that, in the opinion of the Native Vegetation Council, has not been seriously degraded by human activity (but not degradation that has been caused by fire) during the immediately preceding period of 20 years.</p> <p>A 'stratum' of native vegetation means a layer of a plant community consisting of plants that comprise native vegetation that have a similar growth habit. An area may be considered to have an intact stratum, even if another stratum is degraded.</p>	<p>This exemption covers the clearance of native vegetation for the establishment of a <b>dwelling</b>, or <b>structure associated with a dwelling</b> (such as an adjoining garage). Both Development approval and Native Vegetation Council approval is required as described below.</p> <p>The aim of the exemption is to allow for the establishment of an approved dwelling (where relevant authorisation has been obtained as required by the <i>Development Act 1993</i>), but in such a location so as to avoid or to minimise the impact on significant native vegetation. Accordingly, a proponent may not obtain approval to clear native vegetation if a suitable, already cleared site is available on the block. If no such site exists, the proponent should look for an area containing the least significant native vegetation, and one resulting in the least amount of clearance.</p> <p>The suitability of the site may also take into account, if applicable, bushfire and watershed protection needs.</p> <p>The approval of the Native Vegetation Council is required for the clearance of native vegetation comprising part of an intact stratum of native vegetation (see definition below) in all areas of the State covered by the Act (regardless of zone). Unless the proposed dwelling is located within a residential or township zone, the approval of the Native Vegetation Council is also required for clearance of native trees (see size range to left).</p> <p>Approval of vegetation clearance (as for other developments and clearing on farmland) will be conditional on the achievement of a significant environmental benefit elsewhere on the property to compensate for the vegetation to be cleared. A management plan must be prepared that describes the works that will result in the environmental benefit, which may include providing on the property for the management of other native vegetation, the restoration of native vegetation, or the replanting of a cleared area. If this is not achievable on the property, the applicant may apply (to the Native Vegetation Council) to make a payment that will be used by the Native Vegetation Council to achieve an environmental benefit elsewhere in the region.</p>
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<p><b>Exemption</b></p> <p><b>5(1)(b)</b></p> <p><b>Buildings &amp; Structures other than Dwellings</b></p> <p><b>[See Restrictions on Clearance of Vegetation 6(2)]</b></p>	<p><b>Pursuant to Section 27(1)(b) of the Act, native vegetation may, subject to any other Act or law to the contrary, be cleared -</b></p> <p>if it is proposed to erect a building or a structure or other facility that is ancillary to a building, other than a dwelling or a structure or other facility that is ancillary to a dwelling, and—</p> <p>(i) any development authorisation for the erection of the building or structure or other facility required by or under the <i>Development Act 1993</i> has been obtained; and</p> <p>(ii) the vegetation—</p> <p>(A) does not comprise or form part of a stratum of native vegetation that is substantially intact; and</p> <p>(B) except where the building is within a tourist accommodation, business, centre, commerce, commercial, industrial, industry or office zone under the Relevant Development Plan, does not include vegetation of the genus <i>Eucalyptus</i> with a stem diameter at 300 millimetres above the ground of 200 millimetres or more, or other vegetation with a stem diameter at the lowest point of the stem above ground level of 100 millimetres or more.</p> <p><b>Definition of intact stratum</b></p> <p>A substantially intact stratum of native vegetation is defined by sn 3A of the <i>Native Vegetation Act 1991</i> as an area that, in the opinion of the Native Vegetation Council, has not been seriously degraded by human activity (but not degradation that has been caused by fire) during the immediately preceding period of 20 years.</p> <p>A 'stratum' of native vegetation means a layer of a plant community consisting of plants that comprise native vegetation that have a similar growth habit. An area may be considered to have an intact stratum, even if another stratum is degraded.</p>	<p>This exemption covers the clearance of native vegetation for the <b>establishment of a building or structure</b>, other than a dwelling [exemption 5(1)(a)], or a proposed development subject to Sn 48 of the <i>Development Act 1993</i> [exemption 5(1)(c)].</p> <p>The aim of the exemption is to ensure that the building or structure is located so as to avoid or minimise the impact on significant native vegetation.</p> <p>Both Development authorisation (subject to the <i>Development Act 1993</i>) and Native Vegetation Council approval, as described below, is required .</p> <p>The Native Vegetation Council may not (subject to Sn 27 (2) of the <i>Native Vegetation Act 1991</i>) approve the clearance of part of an intact stratum of native vegetation (definition below), in all areas of the state covered by the Act (regardless of zone), unless the development is regarded by the Council to be in the public interest [see exemption 5(1)(d)].</p> <p>Unless the proposed building is located within a tourist accommodation, business centre, commerce, commercial, industrial, industry or office zone, the approval of the Native Vegetation Council is also required for clearance of native trees (see size range to left).</p>
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<p><b>Exemption</b></p> <p><b>5(1)(c)</b></p> <p><b>Development subject to Section 48 – Development Act 1993.</b></p>	<p><b>Pursuant to Section 27(1)(b) of the Act, native vegetation may, subject to any other Act or law to the contrary, be cleared -</b></p> <p>if—</p> <ul style="list-style-type: none"> <li>(i) the clearance is incidental to a proposed development to which section 48 of the <i>Development Act 1993</i> applies; and</li> <li>(ii) an environmental impact statement, public environmental report or development report, and an Assessment Report, relating to the development have been prepared under that Act; and</li> <li>(iii) the Minister responsible for the administration of the <i>Development Act 1993</i> referred the environmental impact statement, public environmental report or development report to the Native Vegetation Council for comment and report and—             <ul style="list-style-type: none"> <li>(A) the Council provided comments which were included (wholly or substantially) in the relevant Assessment Report; or</li> <li>(B) the Council failed to provide comments within 8 weeks after receiving the Minister’s invitation for comment and report; and</li> </ul> </li> <li>(iv) the Governor has granted his or her consent to the proposed development under section 48 of the <i>Development Act 1993</i>; and</li> <li>(v) the clearance is undertaken in accordance with that consent; and</li> <li>(vi) the clearance is undertaken in accordance with a management plan that has been approved by the Council that results in a significant environmental benefit on the property where the development is being undertaken, or the owner of the land (or a person acting on his or her behalf) has, on application to the Council to proceed with clearing the vegetation in accordance with this provision, made a payment into the Fund of an amount considered by the Council to be sufficient to achieve a significant environmental benefit in the manner contemplated by section 21(6) of the Act.</li> </ul>	<p>This exemption applies where a proposed <b>development is considered to be of such social, economic or environmental importance</b> that an environmental impact statement, public environment report or development report is declared to be necessary under the <i>Development Act 1993</i>.</p> <p>Where this is the case, Native Vegetation Council approval is not required for the clearance of any native vegetation. Instead, the Council is provided the opportunity to make comment on the proposed development, which is then taken into account by the Minister administering the Development Act.</p> <p>However, where such a development has been approved and it involves the clearance of native vegetation, a significant environmental benefit must be achieved to compensate for the vegetation to be cleared. A significant environmental benefit may include providing on the property for the management or restoration of other native vegetation, or the replanting of a cleared area. If this is not achievable on the property, the applicant may apply (to the Native Vegetation Council) to make a payment that will be used by the Native Vegetation Council to achieve an environmental benefit elsewhere in the region.</p>
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<p><b>Exemption</b></p> <p><b>5(1)(d)</b></p> <p><b>Building or Infrastructure in the Public Interest or the Provision of Infrastructure or Services</b></p>	<p><b>Pursuant to Section 27(1)(b) of the Act, native vegetation may, subject to any other Act or law to the contrary, be cleared -</b></p> <p>if—</p> <p>(i) —</p> <p>(A) the clearance is incidental to the construction of a building or infrastructure and the Council is satisfied that the clearance is in the public interest; or</p> <p>(B) the clearance is required in connection with the provision of infrastructure or services to a building or proposed building, or to any place; and</p> <p>(ii) any development authorisation required by or under the <i>Development Act 1993</i> has been obtained; and</p> <p>(iii) the Council is satisfied that, after taking into account the need to preserve biological diversity and the nature and purposes of any proposed building or infrastructure that is yet to be constructed, the proposed site of the building or infrastructure is the most suitable that is available; and</p> <p>(iv) there is no other practicable alternative that would involve no clearance or the clearance of less vegetation or the clearance of vegetation that is less significant or (if relevant) the clearance of vegetation that has been degraded to a greater extent than the vegetation proposed to be cleared; and</p> <p>(v) the clearance is undertaken in accordance with a standard operating procedure determined or approved by the Council for the purposes of this provision or a management plan that has been approved by the Council, and either there will be a significant environmental benefit on the property where the clearance is being undertaken or within the same region of the State, or the owner of the land (or a person acting on his or her behalf) has, on application to the Council to proceed with clearing the vegetation in accordance with this provision, made a payment into the Fund of an amount considered by the Council to be sufficient to achieve a significant environmental benefit in the manner contemplated by section 21(6) of the Act.</p> <p><b>Definition of intact stratum</b></p> <p>A substantially intact stratum of native vegetation is defined by sn 3A of the <i>Native Vegetation Act 1991</i> as an area that, in the opinion of the Native Vegetation Council, has not been seriously degraded by human activity (but not degradation that has been caused by fire) during the immediately preceding period of 20 years.</p> <p>A 'stratum' of native vegetation means a layer of a plant community consisting of plants that comprise native vegetation that have a similar growth habit. An area may be considered to have an intact stratum, even if another stratum is degraded.</p>	<p>This exemption permits clearance of vegetation for the construction of a <b>building or infrastructure</b> that the Native Vegetation Council considers to be <b>in the public interest</b>, or provision of infrastructure or services to an existing or approved building or site that may not be located in native vegetation. Relevant authorisation must <b>also</b> be obtained as required by the <i>Development Act 1993</i>. Alternatively, if a proposed development is considered to be of such social, economic or environmental importance that an environmental impact statement, public environment report or development report is declared to be necessary under the <i>Development Act 1993</i> - exemption 5(1)(c) applies.</p> <p>The aim of the exemption is to allow for the establishment of a building or infrastructure (considered to be in the public interest, or provision of infrastructure to an existing or approved building or site that may not be located in native vegetation) but in such a location so as to avoid or minimise the impact on significant native vegetation.</p> <p>A submission to the Native Vegetation Council will need to establish that:</p> <ul style="list-style-type: none"> <li>• the building or structure cannot be established without the need to clear some vegetation, <b>and</b></li> <li>• the site chosen contains the least significant native vegetation, provided that construction is practicable on that site.</li> </ul> <p>In particular, a proponent should seek to avoid areas containing an intact stratum of native vegetation (see definition below).</p> <p>Approval for vegetation clearance for such developments is conditional on the achievement of a significant environmental benefit elsewhere on the property to compensate for the vegetation to be cleared. A management plan must be prepared that describes the works that will result in the environmental benefit, which may include providing for the management of other native vegetation, the restoration of native vegetation, or the replanting of a cleared area. If this is not achievable on the property, the applicant may apply (to the Native Vegetation Council) to make a payment that will be used by the Native Vegetation Council to achieve an environmental benefit elsewhere in the region.</p>
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**Exemption**

**5(1)(e)**

**Repair or maintenance of works of the Crown**

**Pursuant to Section 27(1)(b) of the Act, native vegetation may, subject to any other Act or law to the contrary, be cleared -**

if—

- (i) the clearance is incidental to the repair or maintenance work of the Crown; and
- (ii) the person undertaking the clearance—
  - (A) has given at least 10 business days notice in writing outlining the proposed clearance to a person who has the care, control or management of the land before commencing the clearance (unless the land is under the care, control or management of the Crown); or
  - (B) is acting in accordance with a standard operating procedure determined or approved by the Council for the purposes of this provision; or
  - (C) is acting in a situation of urgency that requires action without delay; and
- (iii) the person undertaking the clearance complies with any guidelines relating to the protection of native vegetation from the spread of plant diseases or noxious weeds, or from unnecessary damage during the performance of any work, prepared by the Council in accordance with section 25 of the Act,

(and the operation of this paragraph extends to vegetation on land that is subject to a heritage agreement)

This exemption permits clearance of vegetation associated with the **repair or maintenance of works** of the Crown.

A condition of the exemption, requires the landholder (if not the Crown) to be notified of the proposed works, unless the proponent is following standard operating procedures agreed to by the Native Vegetation Council. The person undertaking the clearance must also follow any guidelines issued by the Native Vegetation Council in relation to protecting native vegetation from the spread of plant pathogens or noxious weeds, or from causing unnecessary damage during the maintenance work.

Notification to the owner is required on the basis that the landholder is likely to be aware of the latest information regarding plant pathogens or noxious weeds on the property.

The notification is not required in emergency situations.

<p><b>Exemption</b></p> <p><b>5(1)(f)</b></p> <p><b>Maintenance works associated with electricity supply</b></p>	<p><b>Pursuant to Section 27(1)(b) of the Act, native vegetation may, subject to any other Act or law to the contrary, be cleared -</b></p> <p>if—</p> <p>(i) —</p> <p>(A) the clearance is being undertaken as part of the duty of an electricity entity under Part 5 of the <i>Electricity Act 1996</i>; or</p> <p>(B) the clearance is incidental to any repair or maintenance work of an electricity entity within the meaning of the <i>Electricity Act 1996</i>; and</p> <p>(ii) the person undertaking the clearance—</p> <p>(A) is acting in accordance with the principles of vegetation clearance under the <i>Electricity Act 1996</i>; or</p> <p>(B) has given at least 10 business days notice in writing outlining the proposed clearance to a person who has the care, control or management of the land before commencing the clearance (unless the land is under the care, control or management of the electricity entity); or</p> <p>(C) is acting in accordance with a standard operating procedure determined or approved by the Council for the purposes of this provision; or</p> <p>(D) is acting in a situation of urgency that requires action without delay; and</p> <p>(iii) the person undertaking the clearance complies with any guidelines relating to the protection of native vegetation from the spread of plant diseases or noxious weeds, or from unnecessary damage during the performance of any work, prepared by the Council in accordance with section 25 of the Act.</p> <p>(and the operation of this paragraph extends to vegetation on land that is subject to a heritage agreement)</p>	<p>This exemption permits clearance of vegetation associated with the <b>repair or maintenance of</b> works associated with <b>electricity supply</b> by an electricity entity within the meaning of the <i>Electricity Act 1996</i>.</p> <p>A condition of the exemption, requires the landholder to be notified of the proposed works, unless the proponent is following standard operating procedures agreed to by the Native Vegetation Council, or in accordance with the principles of vegetation clearance under the <i>Electricity Act 1996</i>.</p> <p>The person undertaking the clearance must also follow any guidelines issued by the Native Vegetation Council in relation to protecting native vegetation from the spread of plant pathogens or noxious weeds, or from causing unnecessary damage during the maintenance work.</p> <p>Notification to the owner is required on the basis that the landholder is likely to be aware of the latest information regarding plant pathogens or noxious weeds on the property.</p> <p>The notification is not required in emergency situations, such as the need to restore power following an outage.</p>
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<p><b>Exemption</b></p> <p><b>5(1)(g)</b></p> <p><b>Repair or Maintenance of Infrastructure</b></p>	<p><b>Pursuant to Section 27(1)(b) of the Act, native vegetation may, subject to any other Act or law to the contrary, be cleared -</b></p> <p>if—</p> <ul style="list-style-type: none"> <li>(i) the clearance is incidental to the repair or maintenance of any infrastructure; and</li> <li>(ii) the person undertaking the clearance— <ul style="list-style-type: none"> <li>(A) has given at least 10 business days notice in writing outlining the proposed clearance to a person who has the care, control or management of the land before commencing the clearance (unless the land is under the care, control or management of the person who is responsible for the infrastructure); or</li> <li>(B) in acting in accordance with a standard operating procedure determined or approved by the Council for the purposes of this provision; or</li> <li>(C) is acting in a situation of urgency that requires action without delay; and</li> </ul> </li> <li>(iii) the person undertaking the clearance complies with any guidelines relating to the protection of native vegetation from the spread of plant diseases or noxious weeds, or from unnecessary damage during the performance of any work, prepared by the Council in accordance with section 25 of the Act,</li> </ul> <p>(and the operation of this paragraph extends to vegetation on land that is subject to a heritage agreement)</p>	<p>This exemption permits clearance of vegetation associated with the <b>repair or maintenance of infrastructure</b> not covered by exemptions 5(1)e) &amp; (f).</p> <p>A condition of the exemption, requires the landholder to be notified of the proposed works, unless the proponent is following standard operating procedures agreed to by the Native Vegetation Council, or in accordance with the principles of vegetation clearance under the <i>Electricity Act 1996</i>.</p> <p>The person undertaking the clearance must also follow any guidelines issued by the Native Vegetation Council in relation to protecting native vegetation from the spread of plant pathogens or noxious weeds, or from causing unnecessary damage during the maintenance work.</p> <p>Notification to the owner is required on the basis that the landholder is likely to be aware of the latest information regarding plant pathogens or noxious weeds on the property.</p> <p>The notification is not required in emergency situations, such as the need to restore power following an outage.</p>
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**Exemption**

**5(1)(h)**

**Works on behalf of the Commissioner of Highways**

**Pursuant to Section 27(1)(b) of the Act, native vegetation may, subject to any other Act or law to the contrary, be cleared -**

if—

- (i) The clearance is incidental to work being undertaken by or on behalf of the Commissioner of Highways; and
- (ii) except where the clearance is incidental to repair or maintenance work, there is no other practicable alternative that would involve no clearance or the clearance of less vegetation or the clearance of vegetation that is less significant or (if relevant) the clearance of vegetation that has been degraded to a greater extent than the vegetation proposed to be cleared; and
- (iii) either—
  - (A) the clearance is undertaken in accordance with a standard operating procedure determined or approved by the Council for the purposes of this provision or a management plan that has been approved by the Council, and either there will be a significant environmental benefit at the site of the relevant work or within the same region of the State, or the Commissioner of Highways or another person undertaking the work has, on application to the Council to proceed with clearing the vegetation in accordance with this provision, made a payment into the Fund of an amount considered by the Council to be sufficient to achieve a significant environmental benefit in the manner contemplated by section 21(6) of the Act; or
  - (B) the clearance is incidental to repair or maintenance work and the person undertaking the clearance—
    - has given at least 10 business days notice in writing outlining the proposed clearance to a person who has the care, control or management of the land before commencing the clearance (unless the land is under the care, control or management of the Commissioner of Highways); or
    - is acting in accordance with a standard operating procedure determined or approved by the Council for the purposes of this provision; or
    - is acting in a situation of urgency that requires action without delay; and
- (iv) the person undertaking the clearance complies with any guidelines relating to the protection of native vegetation from the spread of plant diseases or noxious weeds, or from unnecessary damage during the performance of any work, prepared by the Council in accordance with section 25 of the Act.

This exemption applies to vegetation clearance undertaken by or on behalf of the **Commissioner of Highways**, including new and maintenance works.

The aim of the exemption is to ensure that works are undertaken in such a location and in such a manner so as to avoid or minimise the impact on significant native vegetation.

Approval for vegetation clearance for such developments is conditional on the achievement of a significant environmental benefit elsewhere on the site of the work or within the region to compensate for the vegetation to be cleared. Alternatively, the proponent may apply (to the Native Vegetation Council) to make a payment that will be used by the Native Vegetation Council to achieve an environmental benefit elsewhere in the region.

A condition of the exemption, requires the landholder (if not the Crown) to be notified of the proposed works, unless the proponent is following standard operating procedures agreed to by the Native Vegetation Council. The person undertaking the clearance must also follow any guidelines issued by the Native Vegetation Council in relation to protecting native vegetation from the spread of plant pathogens or noxious weeds, or from causing unnecessary damage during the maintenance work.

Notification to the owner is required on the basis that the landholder is likely to be aware of the latest information regarding plant pathogens or noxious weeds on the property.

The notification is not required in emergency situations.

<p><b>Exemption 5(1)(i)</b> <b>Existing dams</b></p>	<p><b>Pursuant to Section 27(1)(b) of the Act, native vegetation may, subject to any other Act or law to the contrary, be cleared -</b></p> <p>if the clearance is incidental to the repair or maintenance of an existing dam</p>	<p>This exemption permits the clearance of native vegetation to <b>maintain</b> the structure, but not expansion of an <b>existing dam</b>.</p>
<p><b>Exemption 5(1)(j)</b> <b>New dams</b></p> <p>[See Restrictions on Clearance of Vegetation 6(2)]</p>	<p>if—</p> <ul style="list-style-type: none"> <li>(i) the clearance is incidental to the lawful construction of a new dam that will cover less than 200 square metres in surface area when full; and</li> <li>(ii) the vegetation to be cleared comprises trees with a stem diameter at the lowest point on the stem above ground level of 150 millimetres or more; and</li> <li>(iii) the land on which the vegetation is situated has been cleared of all other native vegetation and has been maintained during the immediately preceding 5 years for cultivation or pasture; and</li> <li>(iv) the vegetation is not of a class specified in Schedule 1.</li> </ul> <p>(Schedule 1 – River Red Gum, <i>Eucalyptus camaldulensis</i>)</p>	<p>This exemption permits the establishment of a <b>new dam</b> with a surface area, when full, that is smaller than 200 square metres in size. In the case of a new dam, Vegetation to be cleared must not include River Red Gums and must have a stem diameter at the lowest point above ground level of 150mm or more. The land where the vegetation is to be cleared must have been cleared and maintained for cultivation or pasture for the previous 5 years. (all parts (1) to (iv) must apply)</p> <p>The aim of the exemption is to ensure that a new dam does not result in the clearance of an intact stratum of native vegetation. The approval of the Native Vegetation Council is required for the clearance of native vegetation associated with the construction of a dam over 200 square metres in size.</p>
<p><b>Exemption 5(1)(k)</b> <b>Clearance around dwellings</b></p> <p>[See Restrictions on Clearance of Vegetation 6(1)]</p>	<p>if—</p> <ul style="list-style-type: none"> <li>(i) the vegetation is growing or is situated within 20 metres of a dwelling (including a dwelling in the course of construction if the foundations, concrete slab or other footings have been completed); and</li> <li>(ii) the clearance of the vegetation is to be undertaken— <ul style="list-style-type: none"> <li>(A) on land that is owned by the person or persons who own the land on which the dwelling is situated; or</li> <li>(B) on other land and with the agreement in writing of the person or persons who own the land on which the clearance is to be undertaken; and</li> </ul> </li> <li>(iii) in a case involving the proposed clearance of vegetation of the genus <i>Eucalyptus</i> with a stem diameter at 300 millimetres above the ground of 200 millimetres or more situated in the country—the C.F.S. has given its approval to the clearance of the vegetation.</li> </ul>	<p>This exemption allows for the clearance of native vegetation within <b>20 metres around a dwelling</b>. Only vegetation on land owned by the owner of the dwelling may be cleared subject to this exemption.</p> <p>If vegetation within 20 metres of a dwelling is located on land owned by a neighbour, written permission from the owner of the land where the clearance is to occur is necessary.</p> <p>If the proposed clearance is situated in the country*, the approval of the CFS is required for the removal of Eucalyptus trees with a stem diameter of 200mm or more at 300mm above the ground. The CFS believe that the retention of such trees may facilitate fire safety by taking a fire over a building.</p> <p>Guidelines prepared by the Native Vegetation Council provide for circumstances where the 20 metre zone may be extended to 50 metres for bushfire safety purposes (see exemption 5(1)(n).</p> <p>* 'Country' is defined as those parts of the state that lie outside the metropolitan fire service district.</p>



<p><b>Exemption</b></p> <p><b>5(1)(I)</b></p> <p><b>Clearance for Safety</b></p>	<p><b>Pursuant to Section 27(1)(b) of the Act, native vegetation may, subject to any other Act or law to the contrary, be cleared -</b></p> <p>if—</p> <ul style="list-style-type: none"> <li>(i) a plant comprising native vegetation exceeds 2 metres in height; and</li> <li>(ii) there is a danger that the plant will fall over or a limb or some other part of the plant will fall from it because of disease, wind damage or any other cause; and</li> <li>(iii) there is a real risk of personal injury or damage to property if that occurs; and</li> <li>(iv) it is not reasonably practicable to avoid the risk by avoiding the vicinity in which the plant is growing or is situated; and</li> <li>(v) the state of the plant has been assessed by a person with expertise in the area of plant health, or by any other person acting in an emergency situation or in any other situation that gives rise to an immediate risk of personal injury or damage to property; and</li> <li>(vi) the clearance is confined to removing the limb or other part of the plant causing the danger and only extends to destroying the plant if that is necessary to remove the existing danger.</li> </ul> <p>(and the operation of this paragraph extends to vegetation on land that is subject to a heritage agreement)</p>	<p>The aim of this exemption is to permit <b>reasonable clearance for safety</b> reasons.</p> <p>This exemption covers vegetation greater than 2 metres in height and is essentially designed to protect people or property from trees or tree branches which are likely to fall. For example, trimming of branches or possibly removal of the tree would be exempt if the tree is close to a house or other building and has branches which are weak and appear likely to fall on the building. Removal of the whole tree would be considered to be 'reasonable' where the whole tree was unsafe or where the trimming of unsafe branches would be so severe as to destroy the amenity value of the tree.</p> <p>The exemption would also apply where the tree or tree branches were considered to be unsafe, and the tree was located in an area regularly used by people (eg. a children's playground). However, the exemption would not be applicable if it was reasonably practicable for a person to avoid being within the vicinity of the tree. For example, it would not be reasonable for a tree to be removed if it was located in the middle of a paddock, and people chose to take advantage of the tree's shade.</p> <p>Where there is any doubt about the health of a tree, or where large and significant trees are involved, it is advisable to get professional advice from a suitably qualified expert. If the situation was considered to be an emergency, it is suggested that a photographic record be taken of the situation.</p> <p>This exemption applies to land covered under a heritage agreement.</p>
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<p><b>Exemption</b></p> <p><b>5(1)(m)</b></p> <p><b>Fire Prevention and Protection</b></p> <p>[See also 5(1)(n), 5(1)(v), 5(1)(w) and Exemption 5(2)]</p>	<p>Pursuant to Section 27(1)(b) of the Act, native vegetation may, subject to any other Act or law to the contrary, be cleared -</p> <p>if—</p> <ul style="list-style-type: none"> <li>(i) the purpose of the clearance is to reduce combustible material on land; and</li> <li>(ii) the owner of the land or the district bushfire prevention committee under the <i>Country Fires Act 1989</i> for the area in which the land is situated has prepared a management plan that applies to the clearance of the vegetation and the Council has given its approval to the management plan after taking into account the operation of subregulation (2); and</li> <li>(iii) the person who carries out the clearance complies with the requirements of the management plan.</li> </ul>	<p>The aim of this exemption is to allow for clearance to <b>reduce combustible material</b> on land as long as the person/s who carries out the clearance does so within the requirements of a management plan prepared by the bushfire prevention committee under the <i>Country Fires Act 1989</i>, and approved by the Native Vegetation Council.</p> <p>A fuel reduction management plan does not have to relate to a single property. A group of adjoining landholders can submit a single plan setting out a coordinated burning program across their properties. Alternatively, the local bushfire prevention committee can prepare a plan encompassing one or more properties for approval by the Native Vegetation Council.</p>
<p><b>Exemption</b></p> <p><b>5(1)(n)</b></p> <p><b>Fire Protection, Dwellings and Buildings</b></p>	<p>if—</p> <ul style="list-style-type: none"> <li>(i) the only purpose of the clearance is to protect a dwelling or other building from the threat of fire; and</li> <li>(ii) the person undertaking the clearance complies with any guidelines relating to the clearance of vegetation near buildings to protect the buildings from fire prepared by the Council in accordance with section 25 of the Act.</li> </ul>	<p>The aim of this exemption is to provide for clearance of native vegetation around <b>dwellings or other buildings</b> for the purpose of <b>fire protection</b>.</p> <p>However, in some instances clearance more than 20m from dwellings or more than 5m from other buildings may be necessary. The Native Vegetation Council has prepared guidelines for clearance for fire protection beyond the 20m or 5m zone so that necessary clearance can be undertaken without the need for clearance applications. Any clearance undertaken must comply with the guidelines.</p>
<p><b>Exemption</b></p> <p><b>5(1)(o)</b></p> <p><b>Bushfire Emergency</b></p>	<p>by a C.F.S. officer or any other member of the C.F.S. acting under section 54 of the <i>Country Fires Act 1989</i>, or by any other person acting with the authority of a C.F.S. officer or other member of the C.F.S. under that section</p> <p>(and the operation of this paragraph extends to vegetation on land that is subject to a heritage agreement)</p>	<p>This exemption allows for clearance of native vegetation by a C.F.S. officer or any person acting with the authority of the C.F.S. as long as they are acting within guidelines set out in section 54 of the <i>Country Fires Act 1989</i>.</p> <p>This exemption applies to land covered under a heritage agreement</p>

<p><b>Exemption</b> <b>5(1)(p)</b> <b>State Disaster</b></p>	<p><b>Pursuant to Section 27(1)(b) of the Act, native vegetation may, subject to any other Act or law to the contrary, be cleared -</b> by the State Co-ordinator or an authorised officer acting under section 15 of the <i>State Disaster Act 1980</i></p> <p>(and the operation of this paragraph extends to vegetation on land that is subject to a heritage agreement)</p>	<p>This exemption allows for clearance of native vegetation by person or persons acting under section 15 of the <i>State Disaster Act 1980</i>. The exemption applies to land covered under a heritage agreement.</p>
<p><b>Exemption</b> <b>5(1)(q)</b> <b>Clearance for Firewood</b>  <b>[See Restrictions on Clearance of Vegetation 6(2)]</b></p>	<p>if—</p> <ul style="list-style-type: none"> <li>(i) the clearance is solely for the purpose of providing firewood for use by the owner of the land on which the vegetation was growing or was situated for the purpose of domestic heating or cooking; and</li> <li>(ii) the quantity of firewood provided by the clearance when aggregated with the quantity of firewood (if any) previously provided by clearance under this paragraph (or a previous corresponding paragraph) and not yet burnt does not exceed 6 cubic metres when calculated over the immediately preceding period of 2 years; and</li> <li>(iii) the vegetation has a stem diameter at 300 millimetres from the base of the plant of 200 millimetres or less; and</li> <li>(iv) in the case of living vegetation—the clearance does not kill the vegetation, does not prevent regrowth, and is undertaken at least 300 millimetres above the base of the plant; and</li> <li>(v) either—             <ul style="list-style-type: none"> <li>(A) the vegetation is not of a class specified in Schedule 1; or</li> <li>(B) the clearance complies with guidelines prepared by the Council for the purposes of this provision.</li> </ul> </li> </ul> <p>(Schedule 1- River Red Gum, <i>Eucalyptus camadulensis</i>)</p>	<p>This exemption provides for the harvesting of native vegetation for <b>firewood</b> for personal use by the owner of the land. This exemption allows a landholder to continue with traditional practices of gathering firewood from vegetation on his or her property, while placing some limits on those practices to ensure that the exemption is not used as a means of clearing the land on which the vegetation is growing.</p> <p>All five parts of this exemption must be satisfied before it applies. It allows the owner of the land to clear native vegetation for firewood for the purpose of domestic heating and cooking, but only for the owner's personal use. Vegetation cleared under this exemption cannot be sold or given away.</p> <p>Over a continuous two-year period the amount of firewood cleared must not collectively exceed 6 cubic metres. The size of harvestable trees is restricted to those with a stem of 200mm or less at 300mm above ground level.</p> <p>Living vegetation must be cut at least 300mm above the ground so as not to kill it or prevent regrowth, and the vegetation must be allowed to regrow.</p> <p>River Red Gums (of any size) are not to be cleared for this purpose.</p> <p>To provide for circumstances particular to a region of the State, the Native Vegetation Council may prepare guidelines that vary this exemption.</p>

<p><b>Exemption</b></p> <p><b>5(1)(r)</b></p> <p><b>Clearance for Fenceposts</b></p> <p><b>[See Restrictions on Clearance of Vegetation 6(2)]</b></p>	<p><b>Pursuant to Section 27(1)(b) of the Act, native vegetation may, subject to any other Act or law to the contrary, be cleared -</b></p> <p>if—</p> <p>(i) the clearance is solely for the purpose of—</p> <p>(A) providing fence posts for the construction of permanent fencing on the land on which the vegetation was growing or was situated (or on other land owned by the owner of the land on which the vegetation was growing or was situated) for the purpose of controlling access by people or the movement of animals and is consistent with practices undertaken on the land over the immediately preceding period of 25 years; or</p> <p>(B) repairing an existing fence on the land on which the vegetation was growing or was situated (or on the other land owned by the owner of the land on which the vegetation was growing or was situated) for the purpose of controlling access by people or the movement of animals; and</p> <p>(ii) the quantity of fence posts provided by the clearance when aggregated with the quantity of fence posts (if any) previously provided by clearance under this paragraph (or a previous corresponding paragraph) and not yet used does not exceed the quantity required by the plans the owner has when the clearance occurs for the construction of fencing on his or her land in the period of 2 years from the time of clearance; and</p> <p>(iii) the vegetation has a stem diameter at 300 millimetres from the base of the plant of 200 millimetres or less; and</p> <p>(iv) in the case of living vegetation—</p> <p>(A) the vegetation was growing on land subject to a pastoral lease under the <i>Pastoral Land Management and Conservation Act 1989</i> the terms of which explicitly provide that vegetation on the land may be cleared for the sole purpose of providing fence posts; or</p> <p>(B) the clearance does not kill the vegetation, does not prevent regrowth and is undertaken at least 300 millimetres above the base of the plant; and</p> <p>(v) the clearance has been undertaken in accordance with a management plan that has been approved by the Council; and</p> <p>(vi) either—</p> <p>(A) the vegetation is not of a class specified in Schedule 1; or</p> <p>(B) the clearance complies with guidelines prepared by the Council for the purposes of this provision.</p> <p>(Schedule 1 – Rive Red Gum, <i>Eucalyptus camaldulensis</i>)</p>	<p>This exemption provides for the harvesting of native vegetation for fenceposts.</p> <p>All six parts of this exemption must be satisfied before the exemption applies. It allows the owner of the land to harvest native vegetation for use as fenceposts for the construction of permanent fencing (but only if this has been the practice on the land in question over the preceding period of 25 years) or repairs to an existing fence, only on the owner's property and for the owner's personal use. Vegetation harvested under this exemption cannot be sold or given away.</p> <p>The fence must be for the purpose of controlling access by people or the movement of animals.</p> <p>At any one time, the amount cleared should be sufficient for the owner's requirements/plans for a period not exceeding two years from the time of clearance. Any trees with a stem diameter more than 200mm at 300mm above ground level may not to be cleared.</p> <p>Living vegetation must be allowed to regrow, or the area from where the vegetation has been harvested must be allowed to regenerate. The aim is to not permit the exemption to be used to clear land for any other purpose.</p> <p>River Red Gums (of any size) are not to be cleared for this purpose.</p> <p>To provide for circumstances particular to a region of the State, the Native Vegetation Council may prepare guidelines that vary this exemption.</p>
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<p><b>Exemption</b></p> <p><b>5(1)(s)</b></p> <p><b>Clearance for Fencelines</b></p> <p><b>[See Restrictions on Clearance of Vegetation 6(2)]</b></p>	<p><b>Pursuant to Section 27(1)(b) of the Act, native vegetation may, subject to any other Act or law to the contrary, be cleared -</b></p> <p>if the clearance is for the purpose of providing a strip of cleared land of not more than 5 metres in width on either side or both sides of an existing fence or of a fence in the course of construction to provide access for the purpose of maintaining or establishing the fence and—</p> <p>(i) the fence is reasonably required to control access by people or the movement of animals; and</p> <p>(ii) the clearance is required to give reasonable access to the fence and is limited to the extent reasonably required to achieve that access; and</p> <p>(iii) there is no other practicable alternative (including, in the case of a new fence, to the position of the fence) that would involve no clearance or the clearance of less vegetation or the clearance of vegetation that is less significant or (if relevant) the clearance of vegetation that has been degraded to a greater extent than the vegetation proposed to be cleared,</p> <p>(and the operation of this paragraph extends to vegetation on land that is subject to a heritage agreement but does not apply to vegetation on a road reserve)</p>	<p>The aim of this exemption is to allow landholders to clear a strip of native vegetation up to five metres wide to provide <b>access for fence maintenance or construction</b>. The purpose of the fence must be for controlling access by people or the movement of animals, and only if there is no practical alternative to siting the fence that would involve no clearance. The exemption does not provide an automatic right to clear a five-metre strip along a fence. If vegetation is within five metres but does not impede reasonable access to the fence, the exemption cannot be used to clear the vegetation.</p> <p>This exemption does not apply to native vegetation growing on road reserves. A separate exemption (see 5(1)(x) or 5(1)(y) below) applies to that situation.</p> <p>This exemption applies to land covered under a heritage agreement</p>
<p><b>Exemption</b></p> <p><b>5(1)(t)</b></p> <p><b>Clearance for Vehicle Track</b></p> <p><b>[See Restrictions on Clearance of Vegetation 6(2)]</b></p>	<p>if the clearance is for the purpose of establishing or maintaining an existing track that is not more than 5 metres in width for use by vehicles having at least 4 wheels and—</p> <p>(i) the track is reasonably required to provide access; and</p> <p>(ii) the clearance is limited to the extent reasonably required to achieve the relevant purpose; and</p> <p>(iii) there is no other practicable alternative (including, in the case of a new track, to the position of the track) that would involve no clearance or the clearance of less vegetation or the clearance of vegetation that is less significant or (if relevant) the clearance of vegetation that has been degraded to a greater extent than the vegetation proposed to be cleared.</p> <p>(but this paragraph does not apply to vegetation on a road reserve)</p>	<p>The aim of the exemption is to provide the establishment or maintenance of a <b>track</b> reasonably required <b>for vehicle access</b>, and there is no practical alternative to siting the track that would involve no clearance. For example, the track might be reasonably sited in a fuel break or otherwise previously cleared land, or land that where the native vegetation is more degraded.</p> <p>The track may be for general access to a property or for fire access purposes. However, the exemption is restricted to access tracks for use by vehicles with four or more wheels. Thus it does not allow for clearance of tracks for motor bikes, bicycles or walkers.</p> <p>This exemption does not apply to native vegetation growing on road reserves. A separate exemption (see 5(1)(x) or 5(1)(y) below) applies to that situation.</p>

<p><b>Exemption</b></p> <p><b>5(1)(u)</b></p> <p><b>Clearance for Walking Track</b></p> <p><b>[See Restrictions on Clearance of Vegetation 6(2)]</b></p>	<p><b>Pursuant to Section 27(1)(b) of the Act, native vegetation may, subject to any other Act or law to the contrary, be cleared -</b></p> <p>if the clearance is for the purpose of establishing or maintaining a walking track that is not more than 1 metre in width and—</p> <ul style="list-style-type: none"><li>(i) the track is used, or is genuinely expected to be used, by pedestrians; and</li><li>(ii) there is no other practicable alternative (including, in the case of a new track, to the position of the track) that would involve no clearance or the clearance of less vegetation or the clearance of vegetation that is less significant or (if relevant) the clearance of vegetation that has been degraded to a greater extent than the vegetation proposed to be cleared,</li></ul> <p>(but this paragraph does not apply to vegetation on a road reserve)</p>	<p>The aim of this exemption is to allow for the clearance of a strip of vegetation no wider than 1 metre for the purpose of establishing or maintaining a <b>walking track</b>, and only if there is no practical alternative to siting the walking track that would involve no clearance. The track must be for the sole purpose of pedestrians.</p> <p>This exemption does not apply to native vegetation growing on road reserves. A separate exemption (see 5(1)(x) or 5(1)(y) below) applies to that situation.</p>
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<p><b>Exemption</b></p> <p><b>5(1)(v)</b></p> <p><b>Fuel Breaks, Fire Control</b></p> <p>[See Also 5(1)(w) &amp; See Restrictions on Clearance of Vegetation 6(2)]</p>	<p><b>Pursuant to Section 27(1)(b) of the Act, native vegetation may, subject to any other Act or law to the contrary, be cleared -</b></p> <p>if the clearance is for a fuel break for fire-control purposes and—</p> <p>(i) the fuel break is not more than 5 metres in width or such lesser width that when added to the width of adjacent land that is cleared (or sufficiently cleared) for fuel break purposes or is the subject of consent granted by the Council for clearance to an extent that is sufficient for fuel break purposes is not more than 5 metres in width and the fuel break is along an existing fence-line (and within 5 metres of the fence); or</p> <p>(ii) the fuel break is not more than 7.5 metres in width or such lesser width that when added to the width of adjacent land that is cleared (or sufficiently cleared) for fuel break purposes is not more than 7.5 metres in width and—</p> <p>(A) the fuel break is on the boundary between land owned by different persons; and</p> <p>(B) all, or a substantial part, of the vegetation to be cleared is part of an area of a mallee scrub community that is the subject of a declaration by the Council under sub-regulation (7) that is in force; and</p> <p>(C) where the full width of the fuel break or of any part of it is within the area referred to in subparagraph (B), the distance of all points on the lateral boundaries of the fuel break, or that part of it that is within the area, is at least 100 metres from every point on the boundaries of the area; or</p> <p>(iii) the fuel break is not more than 15 metres in width or such lesser width that when added to the width of adjacent land that is cleared (or sufficiently cleared for fuel break purposes) is not more than 15 metres in width and—</p> <p>(A) the fuel break is situated on a property the sole use, or one of the principal uses, of which is primary production; and</p> <p>(B) the purpose of the fuel break is to protect that property; and</p> <p>(C) the fuel break is situated within the area of a rural council as defined in the <i>Country Fires Act 1989</i> and the district bushfire prevention committee established under the <i>Country Fires Act 1989</i> for that area has given its consent to the clearance after taking into account the operation of sub-regulations (3), (4) and (5); and</p> <p>(D) the clearance is at least 200 metres from another fuel break cleared under this paragraph (other than a fuel break that runs at right-angles, or approximately at right-angles, to the fuel break that is being cleared), and the clearance complies with any guidelines prepared by the Council for the purposes of this subparagraph,</p> <p>(but this paragraph does not apply to vegetation on a road reserve).</p>	<p>The aim of this exemption is to provide for the establishment of <b>fuel breaks for fire control purposes</b>. The exemption only applies if adjacent land is not already cleared (eg. for a track, or an area approved for clearance).</p> <p>A 5 metre fuel break may be established anywhere in the state.</p> <p>A 7.5 metres fuel break is permitted in certain circumstances, but only in regions of the state approved by the Native Vegetation Council. The wider fuel break is considered reasonable in areas where there is extensive native vegetation either side of the fuel break, such as mallee vegetation.</p> <p>A 7.5 metre fuel break is not exempt where the adjacent land is cleared, and multiple fuel breaks running in a similar direction must be at least 100m apart.</p> <p>To cover circumstances where a wider fuel break is considered necessary for fire prevention purposes, a fuel break up to 15 metres in width is permitted if it is to protect property solely used for primary production and the relevant district bushfire prevention committee has given its consent to the clearance. Clearance of a 15 metres wide fuel break on such a property must also incorporate any adjacent land that has already been cleared for other purposes.</p> <p>In determining whether to approve such clearance, the district bushfire prevention committee must have regard to guidelines prepared by the Native Vegetation Council, and the fuel breaks must be at least 200 metres from another fuel break.</p> <p>This exemption does not apply to native vegetation growing on road reserves. A separate exemption (see 5(1)(x) or 5(1)(y) below) applies to that situation.</p>
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<p><b>Exemption</b></p> <p><b>5(1)(w)</b></p> <p><b>Extensive Fuel Breaks for Fire Control</b></p>	<p><b>Pursuant to Section 27(1)(b) of the Act, native vegetation may, subject to any other Act or law to the contrary, be cleared -</b></p> <p>if the clearance is for a fuel break for fire-control purposes and—</p> <p>(i) the owner of the land on which the vegetation is growing or the district bushfire prevention committee under the <i>Country Fires Act 1989</i> for the area in which the land is situated has prepared a management plan that applies to the clearance of the vegetation and the Council has given its approval to the management plan; and</p> <p>(ii) the person undertaking the clearance does so in accordance with the management plan,</p> <p>(but this paragraph does not apply to vegetation on a road reserve);</p>	<p>The aim of this exemption is to provide for the establishment of more <b>extensive fuel breaks</b> than contemplated by exemption 5(1)(v).</p> <p>In such circumstances a management plan justifying the need for the fuel break must be prepared by the landowner or district bushfire prevention committee and approved by the Native Vegetation Council.</p> <p>A management plan need not relate to a single property. A group of adjoining landholders can submit a single plan setting out a coordinated program across their properties. Alternatively, the local bushfire prevention advisory committee can prepare a plan encompassing one or more properties.</p> <p>This exemption does not apply to native vegetation growing on road reserves. A separate exemption (see 5(1)(x) or 5(1)(y) below) applies to that situation.</p>
<p><b>Exemption</b></p> <p><b>5(1)(x)</b></p> <p><b>Roadside Vegetation Country Fires Act 1989</b></p>	<p>by, or on behalf of, a district bushfire prevention committee under the <i>Country Fires Act 1989</i> if—</p> <p>(i) the vegetation is growing on a road reserve; and</p> <p>(ii) the local council for the area (if any) has consented to the clearance; and</p> <p>(iii) the person undertaking the clearance complies with a management plan approved by the Council or, if no such plan has been approved, with any guidelines prepared by the Council in accordance with section 25 of the Act relating to the clearance.</p>	<p>The aim of this exemption is to provide for fire management in roadsides.</p> <p>A road reserve is defined here as the whole area of land surveyed and defined as public land for the purpose of establishing a road. It includes the made road itself and the strip of land on either side of the made road extending to the boundary of the adjoining land. That boundary is usually fenced but this is not always the case.</p> <p>Person/s carrying out clearance must be acting on behalf of a local bushfire prevention advisory committee under the <i>Country Fires Act 1989</i> with consent from the local council in accordance with advice or guidelines from the Native Vegetation Council.</p>



<p><b>Exemption</b></p> <p><b>5(1)(y)</b></p> <p><b>Roadside Vegetation</b></p>	<p><b>Pursuant to Section 27(1)(b) of the Act, native vegetation may, subject to any other Act or law to the contrary, be cleared -</b></p> <p>by, or on behalf of, a local council if—</p> <ul style="list-style-type: none"><li>(i) the vegetation is growing on a road reserve in the area of the council; and</li><li>(ii) the person undertaking the clearance complies with a management plan relating to the clearance prepared by the local council and approved by the Council or, if no such plan has been prepared and approved, with any guidelines prepared by the Council in accordance with section 25 of the Act relating to the clearance.</li></ul>	<p>A road reserve is defined here as the whole area of land surveyed and defined as public land for the purpose of establishing a road. It includes the made road itself and the strip of land on either side of the made road extending to the boundary of the adjoining land. That boundary is usually fenced but this is not always the case.</p> <p>The strip of public land alongside the made road is known as the roadside and often has a cover of native vegetation described as roadside vegetation. With few exceptions, roadside vegetation is the responsibility of the relevant local government administration, described in the exemption as the 'local council'. Even on main roads managed by Transport SA (except for the South Eastern Freeway), the roadside vegetation is mainly the responsibility of the local council.</p> <p>The clearance of native vegetation from roadsides is controlled under the Native Vegetation Act. However, this exemption allows for clearance by a local council, or someone acting on behalf of the local council, where the clearance complies with a roadside management plan that has been approved by the Native Vegetation Council. If no such plan has been prepared and approved, the exemption allows clearance where this complies with guidelines issued by the Native Vegetation Council - 'Guidelines for the Management of Roadside Vegetation', which is available from the Native Vegetation Council Secretariat.</p> <p>There is no compulsion for local councils to produce roadside vegetation management plans, but many have done so and have found the plans to be beneficial.</p>
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<p><b>Exemption</b></p> <p><b>5(1)(z)</b></p> <p><b>Local Council Reserves, Fire Control</b></p> <p><b>[See Restrictions on Clearance of Vegetation 6(2)]</b></p>	<p><b>Pursuant to Section 27(1)(b) of the Act, native vegetation may, subject to any other Act or law to the contrary, be cleared -</b></p> <p>by, or on behalf of, a rural council as defined in the <i>Country Fires Act 1989</i> for a fuel break for fire-control purposes if—</p> <p>(i) the fuel break is not more than 5 metres in width or such lesser width that when added to the width of adjacent land that is cleared (or is sufficiently cleared for fuel break purposes) is not more than 5 metres in width and—</p> <p>(A) the vegetation is on a reserve (other than a road reserve) vested in the council or the care, control and management of which is vested in the council; and</p> <p>(B) the purpose of the fuel break is to protect the reserve; and</p> <p>(C) the fuel break will be bounded on one side by a boundary of the reserve or will be situated on both sides of a boundary of the reserve; and</p> <p>(D) the person undertaking the clearance complies with a management plan relating to the clearance prepared by the rural council and approved by the Council; or</p> <p>(ii) the fuel break is not more than 15 metres in width or such lesser width that when added to the width of adjacent land that is cleared (or is sufficiently cleared for fuel break purposes) is not more than 15 metres in width and—</p> <p>(A) the district bushfire prevention committee established under the <i>Country Fires Act 1989</i> for that area has given its consent to the clearance after taking into account the operation of subregulations (3), (4) and (5); and</p> <p>(B) the person undertaking the clearance complies with guidelines prepared by the Council for the purposes of this subparagraph.</p>	<p>Each local council in South Australia has responsibility for a number of usually small areas of public land which can be broadly defined as council reserves. These include Cemetery Reserves, Recreation Reserves, Stone Reserves and others. Many of these council reserves contain native vegetation, the clearance of which is controlled under the Native Vegetation Act.</p> <p>Person/s carrying out clearance must be acting on behalf of a rural council, as defined by the <i>Country Fires Act 1989</i>. The clearance can be no more than 5 metres in total in width when added to adjacent land already cleared, must be located on the reserve boundary and must comply with guidelines prepared by the local council and approved by the Native Vegetation Council.</p> <p>Clearance of up to a total width of 15 metres is permitted if a local bushfire prevention advisory committee established under the <i>Country Fires Act 1989</i> has given consent. Person/s carrying out clearance must comply with any guidelines relating to fire control on local council reserves prepared by the Native Vegetation Council.</p>
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<p><b>Exemption</b></p> <p><b>5(1)(za)</b></p> <p><b>Fire Prevention - NPW Act 1972 or Wilderness Protection Act 1992</b></p>	<p>Pursuant to Section 27(1)(b) of the Act, native vegetation may, subject to any other Act or law to the contrary, be cleared -</p> <p>if—</p> <p>(i) the clearance is for fire prevention or fire protection purposes in a reserve constituted under the <i>National Parks and Wildlife Act 1972</i> or in a wilderness protection zone or area constituted under the <i>Wilderness Protection Act 1992</i>; and</p> <p>(ii) the clearance is undertaken in accordance with a standard operating procedure determined or approved by the Council for the purposes of this provision.</p>	<p>The aim of this exemption is to permit a person/s acting in accordance with a standard operating procedure endorsed by the Native Vegetation Council to undertake fuel management for fire safety purposes within a reserve or a wilderness protection zone established under the <i>National Parks and Wildlife Act 1972</i> or the <i>Wilderness Protection Act 1992</i>.</p>
<p><b>Exemption</b></p> <p><b>5(1)(zb)</b></p> <p><b>Taking of Seeds and Specimens</b></p>	<p>if the clearance comprises the taking of—</p> <p>(i) a specimen; or</p> <p>(ii) a cutting for propagation; or</p> <p>(iii) such part of a plant as is required in order to obtain the seeds of the plant, and does not cause substantial damage to the plant.</p>	<p>The collection of seeds, cuttings or other specimens from native plants does not require consent from the Native Vegetation Council provided that damage to the plant is not substantial. As a guide, cutting a substantial branch off a tree or bush to collect seed would not be regarded as exempt; nor would the removal of virtually all harvestable seed from a single plant.</p> <p>The collection of seeds, cuttings and specimens from native vegetation on private land requires the consent of the landholder. For collection from roadsides, the consent of the local council and National Parks and Wildlife SA is needed. A National Parks permit is also needed for any such collection from Crown land.</p>
<p><b>Exemption</b></p> <p><b>5(1)(zc)</b></p> <p><b>Mining Activities (Exploration)</b></p>	<p>if—</p> <p>(i) the clearance is incidental to exploratory operations authorised under the <i>Mining Act 1971</i> or the <i>Petroleum Act 2000</i>; and</p> <p>(ii) the clearance is undertaken in accordance with accepted industry environmental management practices for facilitating the regrowth of native vegetation, recognised by the Council for the purposes of this subparagraph; and</p> <p>(iii) there is no other practicable alternative that would involve no clearance or the clearance of less vegetation or the clearance of vegetation that is less significant or (if relevant) the clearance of vegetation that has been degraded to a greater extent than the vegetation proposed to be cleared.</p> <p>(and the operation of this paragraph extends to vegetation on land that is subject to a heritage agreement)</p>	<p>This exemption permits clearance incidental to exploration for minerals or fuels, provided that it complies with environmental practices facilitating regrowth of native vegetation that are accepted by the mining industry and recognised by the Native Vegetation Council.</p>

<p><b>Exemption</b></p> <p><b>5(1)(zd)</b></p> <p><b>Mining Activities (Operations)</b></p>	<p><b>Pursuant to Section 27(1)(b) of the Act, native vegetation may, subject to any other Act or law to the contrary, be cleared -</b></p> <p>if—</p> <p>(i) the clearance is incidental to operations authorised under the <i>Mining Act 1971</i> or the <i>Petroleum Act 2000</i>; and</p> <p>(ii) —</p> <p>(A) in the case of operations authorised under the <i>Mining Act 1971</i>, the clearance is undertaken in accordance with a management plan under that Act and the Council has signified that, as a result of work undertaken in accordance with that plan, there will be a significant environmental benefit on the site of the operations or within the same region of the State, or the person undertaking the operations has, on application to the Council to proceed with clearing the vegetation in accordance with this provision, made a payment into the Fund of an amount considered by the Council to be sufficient to achieve a significant environmental benefit in the manner contemplated by section 21(6) of the Act; and</p> <p>(B) in the case of operations authorised under the <i>Petroleum Act 2000</i>, the clearance is undertaken in accordance with a statement of environmental objectives under that Act and the Council has signified that, as a result of work undertaken in accordance with that statement, there will be a significant environmental benefit at the site of the operations or within the same region of the State, or the person undertaking the operations has, on application to the Council to proceed with clearing the vegetation in accordance with this provision, made a payment into the Fund of an amount considered by the Council to be sufficient to achieve a significant environmental benefit in the manner contemplated by section 21(6) of the Act.</p>	<p>The aim of this exemption is to ensure that mining or petroleum operations that involve the clearance of native vegetation are to include works that will result in a significant environmental gain within the same region of the state.</p> <p>If this is not achievable the proponent may apply (to the Native Vegetation Council) to make a payment that will be used by the Native Vegetation Council to achieve an environmental benefit elsewhere in the region.</p>
<p><b>Exemption</b></p> <p><b>5(1)(ze)</b></p> <p><b>Mining Operations Private Mine</b></p>	<p>if the clearance is incidental to mining operations at a private mine at which mining operations have not been discontinued for a period exceeding 12 months at any time after 21 November 1984.</p> <p><b>“private mine”</b> - means land declared under the <i>Mining Act 1971</i> to be a private mine.</p>	<p>This is a more specific exemption than 5(1)(zd) relating to native vegetation clearance associated with private mining operations. The exemption applies at a given site provided that there has not been a break in the operations for more than a 12 month period since 21/11/84.</p>

<p><b>Exemption</b></p> <p><b>5(1)(zf)</b></p> <p><b>Clearance to Maintain Land for Cultivation, Pasture or Forestry</b></p>	<p><b>Pursuant to Section 27(1)(b) of the Act, native vegetation may, subject to any other Act or law to the contrary, be cleared -</b></p> <p>if—</p> <ul style="list-style-type: none"> <li>(i) the land on which the vegetation is situated was used for cultivation, pasture or forestry within 5 years immediately before the proposed clearance occurs; and</li> <li>(ii) the clearance is necessary to maintain the land so that it can continue to be used for cultivation, pasture or forestry to the extent to which it had been used for that purpose within the immediately preceding 5 years; and</li> <li>(iii) the vegetation to be cleared consists only of plants or parts of plants that have grown or have regrown in the immediately preceding 5 years; and</li> <li>(iv) either— <ul style="list-style-type: none"> <li>(A) the vegetation has a stem diameter at the lowest point on the stem above ground level of 150 millimetres or less; or</li> <li>(B) the vegetation is of the genus <i>Xanthorrhoea</i>.</li> </ul> </li> </ul>	<p>The aim of this exemption is to permit the <b>clearance of regrowth</b> of native vegetation on land that has been used for cultivation, pasture or forestry over the previous five years. All four parts ((i) – (iv)) of the exemption need to be satisfied.</p> <p>Only vegetation that has grown or regrown in the immediately preceding 5 years can be cleared, provided that it has a stem diameter at the lowest point on the stem above ground level of 150mm or less. Only clearance to allow the same level of use for cultivation, pasture or forestry as has applied within the last five years is exempt. Any clearance to achieve a greater area of cleared land than has existed within the previous five years would require a clearance application to the Native Vegetation Council.</p> <p>Reference to <i>Xanthorrhoea</i> (yacca or grass tree) in (B) means that, provided the other conditions apply, plants of this genus can be cleared even if the stem diameter is <b>greater than 150mm</b>.</p> <p>Landholders wishing to clear regrowth older than 5 years old should apply to the Native Vegetation Council for authorisation.</p> <p><b>If a landholder does not believe he or she will be able to complete the clearance operation within five years, he or she may apply to the Native Vegetation Council to seek consent to the proposed works.</b></p> <p>See also exemption 5(1)(zg) for provisions relating to maintaining native vegetation for grazing purposes.</p>
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<p><b>Exemption</b></p> <p><b>5(1)(zg)</b> <b>Clearance for Grazing</b></p> <p>[See also 5(1)(zf &amp; zh)]</p>	<p><b>Pursuant to Section 27(1)(b) of the Act, native vegetation may, subject to any other Act or law to the contrary, be cleared -</b></p> <p>if—</p> <ul style="list-style-type: none"> <li>(i) the native vegetation to be cleared comprises plants that are used, or are to be used, for grazing by domestic animals; and</li> <li>(ii) the purpose of the clearance is to maintain the value of the native vegetation for the purpose of pasture; and</li> <li>(iii) the clearance is in accordance with practices used during the previous 10 years on the land on which the vegetation is growing for the purpose of maintaining pasture; and</li> <li>(iv) the clearance is undertaken in accordance with a management plan that has been prepared by, or on behalf of, the owner of the land on which the vegetation is growing or by the soil conservation board for the soil conservation district in which the land is situated and has been approved by the Council.</li> </ul>	<p>The aim of this exemption is to provide for the <b>management of native vegetation for grazing purposes</b>. Management practices include burning of tussocks such as cutting grass in the South East and porcupine grass in the upper north district to promote new growth.</p> <p>This exemption allows continuation of these practices provided that they have been used on the land during the previous 10 years and are described in a management plan approved by the Native Vegetation Council.</p>
<p><b>Exemption</b></p> <p><b>5(1)(zh)</b> <b>Grazing</b></p>	<p>by grazing domestic stock on land in a manner and at a rate that will not cause permanent degradation of the native vegetation on the land but only if—</p> <ul style="list-style-type: none"> <li>(i) the manner and rate of grazing is consistent with the manner in which, and the rate at which, the land has been grazed by domestic stock of the same species during the previous 10 years; or</li> <li>(ii) — <ul style="list-style-type: none"> <li>(A) the owner of the land has prepared a management plan that applies to grazing of vegetation on the land by the relevant species of animal; and</li> <li>(B) the owner of the land has satisfied the Council that the management plan complies with guidelines that have been prepared by the Council in accordance with section 25 of the Act; and</li> <li>(C) the Council has given its approval to the management plan and, where the land on which the vegetation is growing is pastoral land, the Pastoral Board has also given its approval to the management plan; and</li> <li>(D) the grazing occurs in accordance with the management plan.</li> </ul> </li> </ul>	<p>Grazing of native vegetation by domestic stock can cause substantial damage and is therefore regarded as clearance in some situations. For example, introduction of stock into previously ungrazed native vegetation would require clearance consent from the Native Vegetation Council.</p> <p>This exemption allows landholders to continue <b>grazing in areas containing native vegetation</b> provided that the type and rate of grazing is the same as has applied over the previous 10 years. A change from one type of stock to another (eg. sheep to cattle) would require clearance consent.</p> <p>Clearance by grazing must be managed in a manner outlined in a management plan that has been endorsed by the Pastoral Board and the Native Vegetation Council.</p>

<p><b>Exemption</b></p> <p><b>5(1)(zi)</b></p> <p><b>Clearance for Preserving, Enhancing Biological Diversity</b></p>	<p><b>Pursuant to Section 27(1)(b) of the Act, native vegetation may, subject to any other Act or law to the contrary, be cleared -</b></p> <p>if the purposes of the clearance is to preserve or enhance biological diversity and—</p> <p>(i) —</p> <p>(A) the owner of the land has prepared a management plan that provides for monitoring the effects of the clearance; and</p> <p>(B) the owner of the land has satisfied the Council that the management plan complies with guidelines that have been prepared by the Council in accordance with section 25 of the Act; and</p> <p>(C) the Council has given its approval to the management plan; and</p> <p>(D) the clearance is undertaken in accordance with the management plan; or</p> <p>(ii) the clearance is undertaken in accordance with guidelines that apply to the clearance that have been prepared by the Council in accordance with section 25 of the Act</p>	<p>This exemption covers situations where management of native vegetation to preserve or enhance biological diversity involves clearance. Examples include burning to regenerate old stands of vegetation or maintain habitat for threatened species.</p> <p>This exemption allows landowners to establish and work in accordance with management plans that describe actions involving clearance and programs to monitor the effects of clearance as a means of enhancing or preserving biological diversity.</p> <p>The person/s responsible for the clearing of the vegetation must do so under the guidelines of the management plan approved by the Native Vegetation Council.</p>
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<p><b>Exemption</b></p> <p><b>5(1)(zj)</b></p> <p><b>Native Vegetation Associated with Management Problems</b></p>	<p><b>Pursuant to Section 27(1)(b) of the Act, native vegetation may, subject to any other Act or law to the contrary, be cleared -</b></p> <p>if the vegetation is causing land management problems because it is detrimentally affecting other native vegetation, or is growing on land previously cleared of native vegetation, and—</p> <p>(i) —</p> <p>(A) the owner of the land has prepared a management plan relating to the proposed clearance; and</p> <p>(B) the owner of the land has satisfied the Council that the management plan complies with guidelines that have been prepared by the Council in accordance with section 25 of the Act; and</p> <p>(C) the Council has given its approval to the management plan; and</p> <p>(D) the clearance is undertaken in accordance with the management plan; or</p> <p>(ii) the clearance is undertaken in accordance with guidelines that have been prepared by the Council in accordance with section 25 of the Act.</p>	<p>The aim of this exemption is to facilitate the clearance of native vegetation that is causing <b>land management problems</b>. Parts (i) or (ii) of this exemption need to be satisfied. It applies to native vegetation which is affecting the health of other native species. An example of this is mistletoe, a group of semi-parasitic native plants that can stress native trees in some situations.</p> <p>The exemption also applies to other native plants which are regrowing on previously cleared land and causing management problems for landholders – problems which are not dealt with by exemption 5(1)(zf) (see above). An example of this is certain acacias regrowing on previously cleared lands in northern agricultural regions. Because of the large size of the properties and the slow growth of the acacias, exemption 5(1)(zf) may not be sufficiently flexible to enable effective management of these plants. Another example is reeds regrowing at boat ramps or pumping sites.</p> <p>Native plants in these situations can be cleared if a plan dealing with their management has been approved by the Native Vegetation Council and the clearance is then in line with that plan.</p> <p>The person/s responsible for the clearing of the vegetation must comply with the management plan approved by the Native Vegetation Council.</p>
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<p><b>Exemption</b></p> <p><b>5(1)(zk)</b></p> <p><b>Pest Control [APPCC]</b></p>	<p><b>Pursuant to Section 27(1)(b) of the Act, native vegetation may, subject to any other Act or law to the contrary, be cleared -</b></p> <p>if—</p> <p>(i) it is not reasonably practicable to comply with an obligation under the <i>Natural Resources Management Act 2004</i> to destroy or control animals or plants without at the same time destroying, damaging or otherwise clearing native vegetation; and</p> <p>(ii) the person undertaking the clearance complies with guidelines relating to the clearance prepared by the Council in accordance with section 25 of the Act,</p> <p>(and the operation of this paragraph extends to vegetation on land that is subject to a heritage agreement but does not apply to vegetation on a road reserve)</p>	<p>The aim of this exemption is to facilitate pest animal or plant control in such a way that the impact on native vegetation is minimised. Both parts (i) and (ii) of this exemption need to be satisfied. It provides an exemption for clearance of native vegetation where this is essential for the control of pest plants or animals, but only applies where that clearance is in line with guidelines issued by the Native Vegetation Council. In preparing the guidelines, the Native Vegetation Council is required to consult the Animal and Plant Control Commission and several other community groups.</p> <p>This exemption recognises that there will be some situations where the control of scheduled pests will not be possible without some damage to associated native vegetation. As long as the guidelines are applicable, no clearance consent will be required from the Native Vegetation Council.</p> <p>This exemption applies to land covered under a heritage agreement.</p>
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<p><b>Exemption</b></p> <p><b>5(1)(zl)</b></p> <p><b>Upper South East Drains</b></p>	<p><b>Pursuant to Section 27(1)(b) of the Act, native vegetation may, subject to any other Act or law to the contrary, be cleared -</b></p> <p>if—</p> <p>(i) the land on which the vegetation is situated is in the County of Cardwell or within the hundreds of Stirling, Willalooka, Duffield, Landseer, Peacock, Marcollat, Minecrow, Woolumbool, Townsend, Lochaber, Murrabinna, Spence or Joyce; and</p> <p>(ii) the clearance is to provide cleared land—</p> <p>(A) for the purposes of the construction or maintenance of water management works within the meaning of the <i>South Eastern Water Conservation and Drainage Act 1992</i> by, or on behalf of, the South Eastern Water Conservation and Drainage Board pursuant to section 34 of that Act; or</p> <p>(B) for the purposes of the implementation of the Project under the <i>Upper South East Dryland Salinity and Flood Management Act 2002</i> by, or on behalf of, the relevant Minister under that Act; and</p> <p>(iii) the Board, the relevant Minister or a person acting on behalf of the Board or that Minister has prepared a management plan in relation to the clearance of the vegetation and the Native Vegetation Council has given its approval to the plan; and</p> <p>(iv) the clearance is undertaken in accordance with the management plan.</p>	<p>(v) The aim of this exemption is to provide for clearance of native vegetation for the <b>construction of drains</b> by or on behalf of the South Eastern Water Conservation and Drainage Board within certain parts of the south east (County of Cardwell) of the state.</p> <p>All parts of this exemption need to be satisfied.</p> <p>That clearance must be undertaken in accordance with a management plan prepared by the Board and approved by the Native Vegetation Council. Any clearance must comply with the approved management plan.</p>
<p><b>Exemption</b></p> <p><b>5(1)(zm)</b></p> <p><b>Streaky Bay/ Port Lincoln Water Catchment</b></p>	<p>if—</p> <p>(i) the land on which the vegetation is situated is in the County of Flinders or Robinson; and</p> <p>(ii) the clearance is necessary to preserve or augment an underground water supply of a city or town; and</p> <p>(iii) the clearance has been requested by the local council; and</p> <p>(iv) the owner of the land or the person who has care, control and management of the land has prepared a management plan in relation to the clearance of the vegetation and the Native Vegetation Council has given its approval to the plan; and</p> <p>(iv) the clearance is undertaken in accordance with the management plan.</p>	<p>The aim of this exemption is to provide for the clearance of native vegetation as requested by a local Council within established water reserves near Streaky Bay and Pt Lincoln. Clearance requires the development of a management plan that must be approved by the Native Vegetation Council. Any clearance must comply with the approved management plan.</p> <p><b>All parts of this exemption need to be satisfied.</b></p>

<b>Additional Clarifying Regulations</b>	
<p><b>Regulation</b></p> <p><b>5(2)</b></p>	<p>For the purposes of paragraph (m) of subregulation (1), the Council must, when considering a management plan under that paragraph, have regard to the following:</p> <ul style="list-style-type: none"> <li>(a) the need to protect people and property; and</li> <li>(b) the need to preserve vegetation for such of the reasons set out in paragraphs (a) to (l) (inclusive) of Schedule 1 of the Act as are applicable; and</li> <li>(c) if the Council is of the opinion that there is more than one effective method of clearing native vegetation in the relevant circumstances, the need for the person undertaking the clearance to use the method of clearance that will cause the least environmental damage.</li> </ul>
<p><b>Regulation</b></p> <p><b>5(2a)</b></p>	<p>The Council must, before deciding on whether to approve a management plan under subregulation (1)(m) or (w) that relates to native vegetation within the River Murray Floodplain Area—</p> <ul style="list-style-type: none"> <li>(a) consult the Minister to whom the administration of the <i>River Murray Act 2003</i> is committed; and</li> <li>(b) comply with the Minister's directions (if any) in relation to the matter (including a direction that an approval not be given, or that if it is to be given, then it be subject to conditions specified by the Minister).</li> </ul>
<p><b>Regulation</b></p> <p><b>5(3)</b></p>	<p>The decision of a district bushfire prevention committee to consent to the proposed clearance of land under subregulation (1)(v)(iii)(C) or (z)(ii)(A) must be made in accordance with guidelines relating to the clearance of native vegetation for fire-control purposes in the committee's area adopted by the Council under section 25 of the Act.</p>
<p><b>Regulation</b></p> <p><b>5(4)</b></p>	<p>If relevant guidelines have not been adopted by the Council, the district bushfire prevention committee must, when making its decision, have regard to the following:</p> <ul style="list-style-type: none"> <li>(a) the need to protect land used for primary production; and</li> <li>(b) the need to preserve the vegetation for such of the reasons set out in paragraphs (a) to (k) (inclusive) of Schedule 1 of the Act as are applicable.</li> </ul> <p>(Schedule 1- River Red Gum, <i>Eucalyptus camadulensis</i>)</p>

This relates to management plans prepared pursuant to exemption 5(1)(m) - the reduction of combustible material on land for fire prevention and protection.

When a district bushfire prevention committee resolves to grant consent to the clearance of fuel breaks greater than 15 metres, that consent must be in accordance with guidelines developed by the Native Vegetation Council.

Where Native Vegetation Council guidelines have not been prepared the district bushfire prevention committee must give consideration to both the need to protect farming land and the significance of the vegetation under consideration.

When making a decision for the clearance of a firebreak greater than 5 metres, the district bushfire prevention committee must assess the significance of any vegetation proposed for clearance against the Principles of Clearance (Schedule 1, Native Vegetation Act) in the same manner as required by the Native Vegetation Council. This may involve consultation with the Native Vegetation Group of Department of Water, Land and Biodiversity Conservation.

<b>Additional Clarifying Regulation</b>		
<p><b>Regulation</b></p> <p><b>5(5)</b></p>	<p>If a district bushfire prevention committee is of the opinion that there is more than one effective method of clearing native vegetation in the circumstances of an application for its consent under subregulation (1)(v)(iii)(C) or (z)(ii)(A), it must, if it gives its consent to the clearance and subject to any relevant guidelines adopted by the Native Vegetation Council, direct the applicant to use the method of clearance that will cause the least environmental damage</p>	<p>Where a district bushfire prevention committee requires a wider fuel break the committee is required to give consideration to alternative methods of establishing an effective fuel break, eg. rolling, slashing or burning, rather than use of heavy machinery to create a mineral earth break.</p> <p>That process should include consideration of ongoing impact of the clearance, eg. weed establishment, growth of introduced grasses which may not reduce the fire threat an</p>
<p><b>Regulation</b></p> <p><b>5(6)</b></p>	<p>A committee’s consent to clearance under sub-regulation (1)(v)(iii)(C) or (z)(ii)(A) is subject to—</p> <p>(a) a condition that the applicant comply with a direction (if any) given to the applicant under sub-regulation (5); and</p> <p>(b) such other conditions at the committee imposes.</p>	<p>Directs the district bushfire prevention committee to attach conditions to a decision for a fuel break of up to 15 metres, including a condition that the applicant complies with any direction to employ the least damaging method of clearance.</p> <p>A failure to comply with a condition is considered to be a breach of the Native Vegetation Act.</p>
<p><b>Regulation</b></p> <p><b>5(7)</b></p>	<p>The Council may, by notice in the Gazette, declare that subparagraph (ii) of paragraph (v) of sub-regulation (1) applies in relation to an area of a mallee scrub community identified in the notice and may, by subsequent notice in the Gazette, vary or revoke such a declaration.</p>	

<b>Regulation</b>	<b>Restrictions on clearance of vegetation</b>	
<b>6(1)</b>	<p>Native vegetation may not be cleared pursuant to regulation 5(1)(k) if—</p> <ul style="list-style-type: none"> <li>(a) the vegetation is situated within any of the following areas: <ul style="list-style-type: none"> <li>(i) sections 13, 135, 136, 224, 225, 227, 228, 229, 230, 285, 368, 492, 512, 530 and D in the Hundred of Waterhouse;</li> <li>(ii) part sections 13, 30, 223 and 225 that are in the Hundred of Waterhouse;</li> <li>(iii) that part of section 214 that is within the township of Robe;</li> <li>(iv) that part of part section 369, Hundred of Waterhouse, that is east of Christine Drive and Lake Road; or</li> </ul> </li> <li>(b) the vegetation— <ul style="list-style-type: none"> <li>(i) consists of a tree (including a dead tree) where the diameter of the trunk of the tree at 300 millimetres from the base of the tree is 600 millimetres or more; and</li> <li>(ii) is situated within the 1956 flood plain of the River Murray, other than where the vegetation is within the area of a city or township.</li> </ul> </li> </ul>	
<b>Regulation</b>	Native vegetation may not be cleared pursuant to regulation 5(1)(a), (b), (j), (q), (r), (s), (t), (u), (v) or (z) if—	
<b>6(2)</b>	<ul style="list-style-type: none"> <li>(a) the clearance would be contrary to the requirements of a condition attached to a consent to clearance granted by the Council under the Act or by the Native Vegetation Authority under the repealed Act or of an order of a court under the Act or the repealed Act; or</li> <li>(b) the vegetation was sown or planted in compliance with a condition attached to a consent to clearance granted by the Council under the Act or by the Native Vegetation Authority under the repealed Act or in compliance with an order of a court under the Act or the repealed Act.</li> </ul>	
<b>Regulation</b>	Native vegetation may not be cleared pursuant to regulation 5(1)(t) or (u) if the vegetation is situated within the River Murray Floodplain Area.	
<b>6(2a)</b>		
<b>Regulation</b>	In this regulation—	
<b>6(3)</b>	“ <b>township</b> ” has the same meaning as in the <i>Local Government Act 1999</i> .	<p>Township means any government township and land laid out as a township where plans of the township have been deposited in the Lands Titles Registration Office, the General Registry Office or the Surveyor’s-General Office; or</p> <p>any part of the area of a council that contains at least 20 residences and that is defined as a township by the council by notice in the “Gazette”.</p>

<p><b>Regulation</b></p> <p><b>7</b></p> <p><b>Compliance with Management Plans</b></p>	<p>A person must not-</p> <ul style="list-style-type: none"> <li>(a) clear native vegetation in contravention of a management plan under regulation 5; or</li> <li>(b) fail to comply with the terms or requirements of regulation 5.</li> </ul>	
<p><b>Regulation</b></p> <p><b>8</b></p> <p><b>Application for consent</b></p>	<ul style="list-style-type: none"> <li>(1) For the purposes of section 28(3)(b)(ia) of the Act, the prescribed number of copies is 1.</li> <li>(2) For the purposes of section 28(3)(b)(iii) of the Act, the prescribed fee is \$415 plus the fee referred to in subregulation (3).</li> <li>(3) The fee payable by an applicant for consent to clear native vegetation for the preparation of the report referred to in section 28(3)(b)(ia) of the Act is the Minister's estimate of the reasonable cost of preparing a report of that kind determined after consultation with the Council.</li> <li>(4) The Council may remit payment of, or refund, the whole, or part, of a fee payable or paid in relation to an application (including a fee for a report under section 28(3)(b)(ia) of the Act).</li> <li>(5) For the purposes of section 28(5) of the Act, any agency, instrumentality, person or body approved by the Council as an entity that may prepare a report of the relevant kind is specified.</li> </ul>	

**Regulation**

**9**

**Dead trees covered by the Native Vegetation Act**

For the purposes of the Act and these regulations—  
 “native vegetation” **includes a dead tree of a species indigenous to South Australia if—**  
 (a) the diameter of the trunk of the tree at 300 millimetres from the base of the tree is 600 millimetres or more; and  
 (b) the tree provides or has the potential to provide, or is a part of a group of trees or other plants (whether alive or dead) that provides, or has the potential to provide, a habitat for animals of a listed threatened species under the *Environment Protection and Biodiversity Conservation Act 1999* of the Commonwealth.

This definition only applies to dead trees of species indigenous to South Australia, and then only those trees (size restrictions as above) that provide habitat for threatened species listed under the *Environment Protection and Biodiversity Conservation Act 1999* of the Commonwealth.

Hollows in dead trees can provide important nesting and roosting sites for native fauna. Hollows are formed mainly by termites, which enter via the trunk. Consequently, any dead tree with a rotten butt has the potential to form hollows once smaller branches have dropped.

Fauna species that use or potentially use large dead trees as habitat in South Australia, that are also listed as threatened under the Commonwealth Act, include four bird and one mammal species, viz:

1. Red-tailed Black-Cockatoo (SE form) *Calyptorhynchus banksii graptogyne*
2. Glossy Black Cockatoo (SE form) *Calyptorhynchus lathami halmaturinus*
3. Regent Parrot (SE form) *Polytelis anthopeplus anthopeplus*
4. Princess Parrot *Polytelis alexandrae*
5. Eastern Long-eared Bat *Nyctophilus timoriensis* (SE form)

These species are restricted to parts of the state as described below. Landholders looking to remove dead trees outside these areas should have confidence that they are not breaching the legislation. However, landholders are encouraged to leave trees wherever possible, particularly trees with hollows as these provide valuable habitat for other native fauna species.

**Red-tailed Black-Cockatoo (SE form) *Calyptorhynchus banksii graptogyne***

This cockatoo breeds in eucalypt hollows in south-eastern South Australia and south-western Victoria. Most nests have been found in dead trees, especially Red gums *E. camaldulensis* but also South Australian Blue gums *E. leucoxylon* and stringybarks *E. baxteri/arenacea*. Its potential breeding habitat in South Australia includes dead trees with large (>15cm) hollows in the area south of Bordertown and east of Lucindale.

Any dead eucalypt south of Bordertown and east of Lucindale with a trunk diameter of 600 millimetres or more with hollows or a rotten butt is included as native vegetation under the definitions of the NV Act.

**Glossy Black Cockatoo (SE form) *Calyptorhynchus lathami halmaturinus***

This cockatoo breeds in eucalypt hollows on Kangaroo Island. It often nests in dead trees, especially Sugar Gums *E. cladocalyx*, but possibly also SA Blue gums *E. leucoxylon* and Red gums *E. camaldulensis*.

**Definition of native vegetation (cont)**

Any dead eucalypt on Kangaroo Island with a trunk diameter of 600millimetres or more, plus hollows or a rotten butt is included as native vegetation under the definitions of the NV Act.

**Regent Parrot (SE form) *Polytelis anthopeplus anthopeplus***

This parrot breeds in eucalypt hollows on the River Murray floodplain in South Australia and Victoria/New South Wales, upstream of Swan Reach. Most nests have been found in dead trees, especially Red gums *E. camaldulensis* but also River box *E. largiflorens*.

*Any dead eucalypt on the River Murray floodplain upstream of Swan Reach with a trunk diameter of 600 millimetres or more, plus hollows or a rotten butt is included as native vegetation under the definitions of the NV Act.*

**Princess Parrot *Polytelis alexandrae***

This parrot occurs in central-western Australia, primarily in sandy deserts. In South Australia it has been recorded in the Great Victoria Desert west of Coober Pedy and north of Tarcoola. *Any dead tree west of Coober Pedy and north of Tarcoola with a trunk diameter of 600 millimetres or more, plus hollows or a rotten butt is included as native vegetation under the definitions of the NV Act.*

**Eastern Long-eared Bat *Nyctophilus timoriensis* (SE form)**

This bat (probably a species) roosts and breeds in eucalypt hollows or under bark in the semi-arid mallee woodlands of south-eastern Australia. In South Australia it has been found in large mallees (mostly *E. gracilis* and *E. oleosa*), north of the River Murray south and east of Yunta. It could also occur in similar habitats south of the river.

*Any dead tree south and east of Yunta and north of Swan Reach with a trunk diameter of 600 millimetres or more, plus hollows or a rotten butt is included as native vegetation under the definitions of the NV Act.*



## Notes