

Amendments to the *Native Vegetation Act 1991*

Discussion Paper



Government
of South Australia

Department for
Environment and Water

This page is intentionally left blank

Message from the Minister



I am pleased to release the draft *Native Vegetation (Miscellaneous) Amendment Bill 2024* (Bill) for community and stakeholder consultation.

Native vegetation plays a vital role in the health and prosperity of South Australia's ecosystems, communities and economy. It provides a link to the traditional way of life for the First Nations people. The *Native Vegetation Act 1991* (Act) protects native vegetation in our State: it provides controls on its clearance; offers incentives and assistance to landowners to preserve and enhance native vegetation; and helps ensure broader protection of nature and biodiversity outcomes are achieved.

Given the age of the legislation and the history of amendments, parts of the Act have become outdated, confusing and at times administratively burdensome to implement. Amendments to the Act reflected in the Bill aim to improve and refine the current operation of the Act. They respond to issues encountered by the Native Vegetation Council (Council) and the Department for Environment and Water (DEW) in the administration of the functions under the Act and issues raised by stakeholders. Amendments will enable the Council and DEW to continue to implement the Act effectively and efficiently.

The **amendments to the Act are intended to improve and refine the administration of the Act** and are considered to be policy neutral.

Importantly, there is **no intention to reduce or weaken any protections for native vegetation**. Equally, it is **not proposed that the amendments will impose any new or increased barriers to obtaining clearance approval**.

The Bill proposes several administrative improvements. It will enable the Council to operate as an expert-based statutory board. Existing limitations on the use of the Native Vegetation Fund will be changed so that funds can support a greater range of conservation-related activities. Additional compliance options and higher maximum penalties will aid efficient and effective compliance and enforcement of the Act. A new long-term mechanism for protection of native vegetation will introduce more flexibility and compliment the current heritage agreement mechanism. Other changes will clarify and streamline assessment processes while maintaining native vegetation conservation outcomes, and rationalise legislative provisions to aid efficient decision making.

To understand any potential unintended consequences of the proposed amendments, DEW engaged with key stakeholders in August and September 2023. The proposed amendments were broadly supported and suggestions for improvement have helped to refine drafting of the Bill.

Thank you for taking time to engage in the consultation on the proposed amendments to improve protection of native vegetation in our State.

A handwritten signature in black ink, appearing to read 'Susan Close'.

The Hon Susan Close MP

Deputy Premier
Minister for Climate, Environment and Water
Minister for Industry, Innovation and Science
Minister for Defence and Space Industries

Contents

Message from the Minister	3
Background.....	5
How to have your say	5
Overview of proposed amendments	6
Discussion.....	9
Meaning of substantially intact native vegetation	9
Mitigation hierarchy	9
Significant environmental benefit (SEB).....	9
Expert based Council.....	10
Expanded use of the Native Vegetation Fund	10
Conservation agreements.....	11
Assistance to landowners.....	11
Increase in fees and penalty provisions	12
Clearance of intact stratum	12
Consistent application process for clearance applications	13
Clearing when seriously at variance with the principles of clearance	13
Consistent SEB Offset requirements.....	14
Aligned assessment provisions for PDI Act referrals	14
Expanded compliance actions and range of options	15
Next steps	15
Appendix 1 Common terms.....	16

Background

The *Native Vegetation Act 1991* (Act) and *Native Vegetation Regulations 2017* (Regulations) are the legislative basis for the management and protection of native vegetation on private and public land in South Australia.

The Act applies to the whole of the State, excluding most of metropolitan Adelaide.

The Act:

- establishes the Native Vegetation Council (Council) as an independent statutory body
- establishes the Native Vegetation Fund (Fund), administered by the Council
- controls clearance of native vegetation
- provides incentives and assistance to landowners to preserve and enhance native vegetation
- enables protection of native vegetation through landholders entering into Heritage Agreements
- provides enforcement avenues for unauthorised clearance of native vegetation.

The Act is a foundational piece of legislation for the State for the protection of the environment. Whilst it is specifically aimed at protecting native vegetation, it also considers the habitat for native fauna and, therefore, effectively provides for broader protection of nature and biodiversity.

The Act remains relevant and important for the protection of the State's native vegetation. Its introduction has been very effective in largely halting any further substantial decline in the extent of vegetation in South Australia.

Previous legislative amendments have been successful in addressing a range of matters such as limiting the extent of clearance approved under the Act through the introduction of intact stratum provisions, consolidation of fire prevention and control regulations and associated delegations; and establishing additional options for achieving significant environmental benefit (SEB) offsets. The most recent substantial amendments to the requirements for clearing native vegetation occurred in 2017. These related to remaking the Regulations with the aim of simplifying and streamlining assessment pathways, and providing a risk-based approach for matters requiring an application.

How to have your say

Comments can be provided in the following ways:

- **Online survey**
Complete the survey via YourSAy (please note that the questions posed in this discussion paper are repeated in the YourSAy survey)
- **Written submission**
Send a written submission in response to the questions posed in this discussion paper:
Email: DEW.NVActAmendments@sa.gov.au or
Post: Native Vegetation Branch
Department for Environment and Water
GPO Box 1047 Adelaide SA 5001

The consultation period commences on 17 April 2024 and closes on 29 May 2024.

If you have any questions about making a submission, or need assistance, please contact the Native Vegetation Branch on email DEW.NVActAmendments@sa.gov.au.

All contributions, regardless of how they are submitted, will be considered in the same way. Your submission or its contents may be made publicly available. If you would like your submission to remain confidential, please clearly state this on the submission. Any responses that are made on a confidential basis may still be subject to access under Freedom of Information laws.

Overview of proposed amendments

The following table gives an overview of the proposed amendments. Primary amendments are discussed in more detail in the next section, however, there is a number of changes that are very minor in nature such as linguistic, or consequential amendments.

Table 1 Act amendments overview

Bill section	Amendment summary	Relevant Act section	Section Title
3	Includes new and amended interpretation.	3	Interpretation
4	Meaning of substantially intact native vegetation (3A), mitigation hierarchy (3B), Significant environmental benefit (3C).	3A, 3B, 3C	[as per column 2]
5	Change Council membership to be expert based.	8	Membership of Council
6	Minor change.	11	Procedures at meetings of the Council
7	Expanded use of the Fund.	21	The Fund
8	Moved from current section 23B(3) and consequential to introduction of conservation agreements.	23	Heritage agreements
9	Minor changes.	23A	Effect of heritage agreements
10	Repeal section 23B – now in new section 23CA.	23B	Registration of heritage agreements
11	Introduction of conservation agreements. Consolidation and clarification of management plans.	23B 23C	Conservation agreements Native vegetation management plans
12	Minor change.	23I	Noting of Council's approval against the title to the land
13	Expanding financial and other assistance available to landowners.	24	Assistance to landowners
14	Adding a guideline for operation of section 3C(4)(d) and (e), relating to the achievement of an environmental benefit of a higher conservation value.	25	Guidelines for the application of assistance and the management of native vegetation
15	Inclusion of new section 29(11)(b) under Credit for environmental benefit.	25A	Credit for environmental benefits
16	The assignor must, in respect to the native vegetation that is the subject of the credit assigned, enter into a heritage agreement or conservation agreement.	25B	Assignment of credit
17	The accredited third party provider must enter into a heritage agreement or a conservation agreement.	25C	Achievement of environmental benefit by accredited third party provider
18	Repeal of section 25D – Management agreements.	25D	Management agreements
19	Consequential amendment – removal of the requirement to hold information about management agreements on the Register.	25E	Register

Bill section	Amendment summary	Relevant Act section	Section Title
20	Increase in fees and penalty provisions.	26	Offence of clearing native vegetation contrary to this Part
21	Consistent application process for all clearance applications.	27	Clearance of native vegetation
22	Consistent application process for all clearance applications.	28	Application for consent
23	Clarify when Council can grant consent to clear native vegetation that is seriously at variance with principles of clearance. Align referrals under the PDI Act with the assessment of clearance applications.	29	Provisions relating to consent
24	Minor changes.	29A	Avoidance of duplication of procedures etc
25	Clarification of conditions of consent.	30	Conditions of consent
26	Minor change.	Part 5 Division 2	Heading to Part 5 Division 2
27	Minor change.	31A	Application to ERD Court for enforcement
28	Minor change.	31B	Order where native vegetation has been cleared
29	Inclusion of conditions under section 29(11).	31D	Enforcement of orders
30	Adding contemporary compliance tools: compliance and reparation orders.	31E and 31EA New sections 31EB, 31EC, 31ED	Substitutions of sections 31E and 31EA
31	Consequential amendment.	31F	Miscellaneous provisions
32	Minor change.	32	Appeals
33	Minor change.	33A	Appointment of authorised officers
34	Minor changes.	33B	Powers of authorised officers
35	Minor changes.	33C	Issue of warrants
36	Minor change.	33E	Offence to hinder etc authorised officer
37	Consequential amendment.	33H	Interest
38	Minor changes.	33I	Sale of land for non-payment
39	Consequential amendment.	34	Evidentiary
40	Minor change.	35(5)	Proceedings for an offence

Bill section	Amendment summary	Relevant Act section	Section Title
41	Consequential amendment.	37	False and misleading information
42	An amount can be recovered from related bodies corporate.	39A	Recovery from related bodies corporate
43	Consequential amendment.	40A	Register of applications
44	Consequential amendment.	41	Regulations
45	Consequential amendment.	Schedule 1	Principles of native vegetation clearance
46	Moving certain activities from the Regulations to the Act to ensure the same assessment process for all applications for clearance. Definition of building.	New Schedule 1A	Specified activities (section 27(3)(c))

Discussion

Meaning of substantially intact native vegetation

Section 4 of draft Bill substituting section 3A of the Act

Currently the Act defines 'substantially intact' as being a stratum of vegetation that has not been seriously degraded by human activity during the preceding 20 year period (excluding degradation by fire). This definition is ambiguous, subjective, and difficult to apply. It also does not exclude intentional degradation.

The intact stratum provisions were introduced into the Act in 2002 to clearly signal an end to broad scale clearance of native vegetation in the State and in this sense it has been effective.

Proposed amendment

Amend the definition of substantially intact native vegetation in section 3A to provide that:

- It must be part of a contiguous area and the stratum must not have been seriously degraded in the past 20 years.
- It does not include degradation as a result of activities that would constitute a breach of the Act.
- Degradation includes a loss of vegetation cover; a reduction in diversity; and a reduction in the ability of the eco-system of which it forms a part to be self-sustaining.

NB: this amendment is related to amendment under section 21 of draft Bill to amend section 27(3) of the Act regarding clearance of intact stratum.

Question: Do you support the amended definition of substantially intact native vegetation?

Mitigation hierarchy

Section 4 of draft Bill inserting section 3B of the Act

Currently the mitigation hierarchy is defined in the Regulations, and only applies to applications for clearance under the Regulations (not the Act). Moving the definition to the Act will ensure a consistent approach to all applications for clearance of native vegetation.

Proposed amendment

Insert new section 3B to move the mitigation hierarchy and its application from the Regulations, with the following order of priority:

- avoidance
- minimisation
- rehabilitation or restoration
- offset.

NB: the proposal for the Council to apply the mitigation hierarchy to all applications for clearance is under section 23 of draft Bill, amending section 29 of the Act – Provisions relating to consent.

Question: Do you support the inclusion of the mitigation hierarchy in the Act?

Significant environmental benefit (SEB)

Section 4 of draft Bill inserting section 3C of the Act

Currently SEB is defined in the Regulations. Moving the definition to the Act and consolidating current SEB provisions of the Act and Regulations aim to achieve a consistent approach to the SEB processes.

Proposed amendment

Insert new section 3C to move the definition of significant environmental benefit from Regulations, consolidate current provisions of the Act and Regulations, and clarify how cumulative impacts are assessed when calculating a SEB.

NB: this amendment is related to proposed SEB amendments to sections 29 and 30.

Question: Do you support moving the definition of significant environmental benefit from the Regulations to the Act?

Expert based Council

Section 5 of draft Bill substituting section 8 of the Act

The Council consists of 7 members appointed by the Minister: 4 members with experience and knowledge in specific areas, and 3 members separately nominated by the Conservation Council of South Australia, Primary Producers SA Incorporated, and the Local Government Association of South Australia.

The proposed amendments aim to address the following issues:

1. There is currently no requirement for representation of First Nations people, or to have any knowledge or experience in relation to management of native vegetation by First Nations people. First Nations people have an enduring cultural and spiritual connection to the land, and long history of managing native vegetation. This knowledge and experience should be recognised and valued in decisions relating to native vegetation management.
2. The 3 nominating organisations can find it difficult to identify nominees who are suitable and willing to be a member of the Council. At times this has led to vacancies in Council membership.
3. Interpreting and applying the native vegetation legislation often requires a high degree of technical knowledge relating to multiple disciplines, particularly in relation to forming policies and determining applications.

Proposed amendments

Amend section 8 of the Act to provide for the Council to be an expert-based Council consisting of members with knowledge and experience in the following disciplines:

- native vegetation management and preservation
- primary production
- planning and development
- Aboriginal traditional land management
- environmental law
- biodiversity conservation
- civil or environmental engineering

Current nominating bodies will be provided notice and the opportunity to comment on prospective Council members for the Minister's consideration.

These amendments will:

- improve Council's knowledge base
- increase the diversity of members and
- improve the ability to fill positions.

All members will continue to need to have some knowledge of, and experience in, the preservation and management of native vegetation, and

- at least 1 member is or has carried on a business of primary production
- at least 1 member has practical experience with the management of native vegetation.

Question: Do you support the membership of the Council being changed to be expert based?

Expanded use of the Native Vegetation Fund

Section 7 of draft Bill amending section 21 of the Act

Section 21 of the Act establishes the Fund. The Fund currently comprises money from State appropriation, fees, interest and payments made in association with clearance of native vegetation (being payments arising from the achievement of SEB offsets and penalties for unauthorised clearance).

The Act states that the Fund is subject to the management and control of the Council and that Council may make payments from the Fund in accordance with the Act. Currently the use of the Fund is limited to the following:

1. incentive payments to land owners to enter into a heritage agreement
2. payments to land owners for management of land already subject to a heritage agreement
3. assistance in undertaking an approved revegetation proposal.

Therefore, the use of financial resources available to the Council is constrained and this presents a limitation to achieving the objects of the Act.

Proposed amendment

Amend section 21 to expand the use of the Fund to enable contemporary use:

1. Funds not associated with offsetting – allow money to be used to support the general administration of the Act.
2. Funds to offset clearance or penalties – allow money to be available for use for a greater range of conservation related activities.

NB: The existing requirements and mechanisms for transparency and integrity regarding the use of the money from the Fund including Council's annual report remain.

The proposed amendment is related to amendments under section 13 of draft Bill, amending section 24 of the Act – Assistance to landowners.

Question: Do you support the expanded use of the money from the Fund?

Conservation agreements

Section 11 of draft Bill inserting section 23B of the Act

Currently the Minister, with Council's approval, may enter into a heritage agreement with a land owner to preserve or enhance native vegetation on the land. These agreements are entered into in perpetuity. The Minister may also enter into a management agreement with an assignor of credit for environmental benefit, or an accredited third party provider of an environmental benefit.

Currently agreements cannot be entered into:

- to protect land held by the Minister (as the Minister is party to the agreement)
- for a set period of time (heritage agreements are in perpetuity).

Proposed amendment

Insert section 23B to provide that:

- The Council may enter into a conservation agreement with the owner of land. [This includes with the Minister for land held by the Minister.]
- The Council determines provisions of the conservation agreement.
- A conservation agreement may:
 - o restrict the use of land
 - o require specified work to be done
 - o restrict the nature of work
 - o provide for the management of land
 - o provide for the Council to make an incentive payment to the owner of land to enter into a conservation agreement
 - o provide for the period within which measures, actions, or requirements are to be undertaken.

NB: section 18 of draft Bill will repeal current section 25D of the Act - Management agreements as they will be replaced by conservation agreements.

Question: Do you support the introduction of conservation agreements?

Assistance to landowners

Section 13 of draft Bill amending section 24 of the Act

As previously stated, currently the Act limits how the Council can use the money from the Fund, and it cannot make payments to assist a wider range of conservation projects.

Proposed amendment

Amend section 24 of the Act to provide for the owner to apply for financial or other assistance for the following purposes:

- manage the land, native vegetation on the land or any animals on the land
- preserve or enhance native vegetation on the land
- establish native vegetation on the land
- undertake research relating to the conservation, preservation, enhancement or management of native vegetation on the land or of animals on the land
- purchase land to conserve, protect or enhance native vegetation; or establish native vegetation; or undertake research.

NB: this proposed amendment is related to amendments under section 7 of draft Bill amending section 21 of the Act – The Fund.

Question: Do you support the expanded purposes for which landowners can apply for financial or other assistance?

Increase in fees and penalty provisions

Section 20 of draft Bill amending section 26 of the Act

The current fees and penalty provisions are lower than compared to other legislation and jurisdictions.

Proposed amendment

Amend section 26 of the Act to increase penalty provisions and expiation fees:

- For clearance that is not authorised in accordance with the Act -
 - o Maximum penalty: A sum calculated at the prescribed rate for each hectare (or part of a hectare) of the land in relation to which the offence was committed or \$500,000, whichever is greater. [increase from \$100,000]
 - o Expiation fee: \$1500 [increase from \$750].
- For contravention or failure to comply with a condition attached to a consent granted under the Act -
 - o Maximum penalty: A sum calculated at the prescribed rate for each hectare (or part of a hectare) of the land in relation to which the offence was committed or \$500,000, whichever is greater. [increase from \$100,000]
 - o Expiation fee: \$1500 [increase from \$750].

NB: this proposed amendment is related to amendments under section 29 of draft Bill substituting sections 31E and 31 EA, and inserting section 31EB, 31EC and 31ED of the Act.

Question: Do you support the increase in expiation fees and penalty provisions?

Clearance of intact stratum

Section 21 of draft Bill amending section 27 of the Act

Currently the Act prohibits the Council from approving clearance if it determines that it contains a stratum of vegetation that is substantially intact. It has no regard to the purpose or scale of potential clearance. Therefore, it can prevent clearance that is minor and reasonable, for example, clearing branches for a track permitted to access land subject to a heritage agreement.

Proposed amendment

Amend sections 27(2) and (3) of the Act to provide that minor clearance of substantially intact vegetation may be permitted if the clearance is considered minor and will not impact the integrity of the vegetation.

NB: this amendment is related to amendment of definition of intact stratum under section 4 of draft Bill substituting section 3A of the Act.

Question: Do you support the introduction of provisions to allow minor clearance of intact stratum in limited circumstances?

Consistent application process for clearance applications

Section 21 of draft Bill amending section 27 of the Act

Currently applications for clearance of native vegetation under the Regulations outnumber applications made under the Act. These applications under Regulations include clearance for dwellings and buildings, infrastructure and residential subdivisions.

This has enabled the primary application process established under the Act to be bypassed, and significant differences have arisen within the assessment pathways (refer Table 2).

Table 2 Assessment considerations

Assessment requirement	Act application	Regulation application	PDI Referral
Public comments			
Fee			
Intact stratum			
Principles of clearance			
Mitigation hierarchy			
Cumulative impacts			
SEB requirement			

Proposed amendment

Substitute section 27(1) of the Act to make provision for clearance of native vegetation in circumstances specified in Schedule 1A. This will:

- relocate clearance activities that require Council approval and any additional assessment requirements (e.g. cumulative impacts) from the Regulations into the Act
- establish a single, standard and consistent application process for the majority of applications.

NB: The circumstances are prescribed in proposed new Schedule 1A. This proposal is related to amendment under section 23 of draft Bill amending section 29 of the Act that prescribes what Council needs to take into consideration when determining an application for clearance.

Question: Do you support the relocation of circumstances from Regulations to the Act to provide for a clearer and consistent application process?

Clearing when seriously at variance with the principles of clearance

Section 23 of draft Bill amending section 29 of the Act

When considering an application to clear native vegetation under section 28 of the Act, the Council must have regard to the principles of clearance and must not make a decision that is seriously at variance with those principles.

The principles of clearance relate to matters such as plant species diversity, threatened plant species and plant communities, remnancy, wildlife habitat, wetlands, amenity, and capacity of the land.

However, the Act currently provides for 3 circumstances in which clearance can be permitted, even if the clearance is deemed seriously at variance with the principles of clearance:

1. the clearance is of an isolated plant for primary production purposes
2. the clearance is in accordance with Council guidelines and a SEB offset has been proposed that outweighs the value of retaining the vegetation

3. a SEB will be achieved and the circumstances justify giving consent.

The above options have been gradually added to the Act and some are now redundant while others can be confusing and administratively difficult to apply.

Proposed amendment

Amend section 29(4) of the Act to consolidate the 3 options for obtaining consent to clear vegetation that is seriously at variance with the principles of clearance to:

- clearance in accordance with Council guidelines or
- clearance in circumstances specified in Schedule 1A and
- a significant environmental benefit will be achieved, and
- the circumstances justify giving the consent.

NB: Schedule 1A is introduced under the proposed amendment to section 27(3) of the Act to relocate the circumstances from the Regulations into the Act.

Question: Do you support consolidating the circumstances when the Council is able to consent to clearance which is seriously at variance with the principles of clearance?

Consistent SEB Offset requirements

Section 23 of draft Bill amending section 29 of the Act

The Act requires that, when consenting to the clearance of native vegetation, actions will be taken that will result in a SEB offset. There are currently several different options to achieve a SEB:

- the proponent providing a SEB
- purchasing credits from an existing SEB area
- a third-party provider achieving the SEB
- payment into the Fund, with funds to be used by the Council to achieve the SEB.

There is significant variation in the requirements for achieving a SEB depending on the pathway of the clearance application. There is also a lack of clarity and consistency in relation to the obligations and expectations for applicants. This can result in confusion and inconsistent outcomes.

Additionally, there is a lack of detail regarding how the Council should determine if a SEB has been achieved.

Proposed amendment

Amend section 29, together with amendments to sections 3C and 30, to standardise and clarify the process, expectations and obligations for achieving a SEB.

The Council's considerations in determining an offset have also been clarified.

All areas established as a SEB would need to be subject to long term management and protection under the Act through entering into a heritage agreement or conservation agreement.

NB: these amendments are related to amendments to sections 3C and 30 of the Act.

Question: Do you support the proposed standardised SEB process in terms of the expectations and obligations?

Question: Do you support long-term protections and management of SEB areas through entering into a conservation or heritage agreement?

Aligned assessment provisions for PDI Act referrals

Section 23 of draft Bill to amend section 29 of the Act

The introduction of the PDI Act in 2021 has established the Native Vegetation Overlay and the State Significant Native Vegetation Overlay. As a result, the Council now has an active referral mechanism that results in early consideration of native vegetation in the development application process.

Currently section 29(17) of the Act stipulates that when receiving a referral, the Council must consider it as if it were an application received under the Act. The Council is required to do this within the 20 business day statutory timeframe. There is also duplication of the tasks required for a PDI referral and an application to clear native vegetation under the Act.

Proposed amendment

Amend section 29(17) to clarify what provisions of the Act apply to the Council when considering referrals under the PDI Act.

This will streamline the PDI referral process to allow the Council to meet the statutory timeframes, and avoid duplication of tasks. Full consideration of all provisions will still be required when determining applications for clearance under the Act.

Question: Do you support the clarification of requirements for PDI Act referrals?

Expanded compliance actions and range of options

Section 30 of draft Bill substituting section 31E and 31EA of the Act

The Act provides limited mechanisms to address unauthorised clearance of native vegetation, and there are issues associated with the options:

- warning letters and expiation fees can only be used in relation to minor clearance and provide a low level of deterrence
- enforcement notices can only be served if clearance is considered minor and are limited in their application
- civil and criminal proceedings require significant investment to pursue, can take years to resolve, and the maximum penalties often do not fully account for the benefit derived by the

person who undertook the unauthorised clearance.

There are no suitable compliance options available for matters that are more significant than minor, but don't warrant civil or criminal proceedings. In addition, options to enforce an agreement to restore land impacted by unauthorised clearance are limited.

Proposed amendment

Amend section 31E and 31EA and insert sections 31EB, 31EC, 31ED to increase the effectiveness of compliance actions, by introducing contemporary compliance tools - compliance and reparation orders. This will improve the options available relating to mid-range offenses and introduce emergency orders that can be issued where urgent action is required.

NB: these amendments are related to the following amendments:

- under section 20 of draft Bill amending section 26 of the Act – Offence of clearing native vegetation contrary to this Part
- under section 26 amending section 31A of the Act – Application to ERD Court for enforcement
- under section 39 of draft Bill inserting section 39A – Recovery from related bodies corporate.

Question: Do you support the amendments to improve compliance and enforcement options?

Next steps

All comments related to the proposed amendments will be considered by the Department for Environment and Water.

An Engagement Report will be published on the Department's website and YourSAY portal.

Where relevant, the draft Bill will be revised prior to it being settled and introduced to Parliament.

More information

Native Vegetation Branch

Department for Environment and Water

E DEW.NVActAmendments@sa.gov.au

www.environment.sa.gov.au/nativevegetation

Appendix 1 Common terms

the Act means the *Native Vegetation Act 1991*

the Council means the Native Vegetation Council

clearance 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.

the Fund means the Native Vegetation Fund

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 plant was sown or planted—
 - 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
 - iiia. in circumstances involving the use of money paid into the Fund for the purpose of achieving a significant environmental benefit; 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

offset means an offset of any adverse impact on native vegetation or ecosystems that cannot be avoided or minimised accomplished by the achievement of a significant environmental benefit that outweighs that impact

the PDI Act means the *Planning, Development and Infrastructure Act 2016*

the Regulations means the *Native Vegetation Regulations 2017*

related body corporate has the same meaning as in the *Corporations Act 2001* (Commonwealth)

Significant Environmental Benefit (SEB) means an environmental benefit achieved by measures, actions or requirements undertaken, or to be undertaken, to establish, regenerate, enhance, manage or protect native vegetation on specified land, that the Council is satisfied is of significant value.

Published by the Department for Environment and Water.
Government of South Australia
April 2024

Report prepared by:
Department for Environment and Water
Native Vegetation Branch
Environment, Heritage and Sustainability Directorate

www.environment.sa.gov.au



With the exception of the Piping Shrike emblem, other material or devices protected by Aboriginal rights or a trademark, and subject to review by the Government of South Australia at all times, the content of this document is licensed under the Creative Commons Attribution 4.0 Licence. All other rights are reserved.

© Crown in right of the State of South Australia



**Government
of South Australia**

Department for
Environment and Water