

Native Vegetation

What is the Planning and Design Code?

The Code is the cornerstone of South Australia's new planning system and will become the state's single source of all planning zones and rules for assessing development applications. It will replace all 72 Development Plans by 1 July 2020. The Code aims to make the development application process quicker, simpler and more equitable, giving people greater access to planning information that is consistent and clear, and available online 24/7.

South Australia's living natural heritage

Our state's natural landscapes are diverse, ranging from the arid pastoral areas in the north to the higher rainfall ranges and agricultural landscapes of the south. The native vegetation of these landscapes includes grass and shrublands, woodlands and forests, wetlands and the underwater seagrass in our gulfs and coastal waters.

South Australia's native vegetation is highly valued because:

- it provides critical habitat for South Australia's unique native biodiversity,
- it helps protect our land, coastlines and waterways from erosion, salinity and climatic extremes, mitigating the effects of a changing climate,
- it supports agricultural production through the provision of windbreaks, shelter for stock, and habitat for natural pest predators and crop pollinators,
- it improves our health and well-being by providing us with a connection to nature, and
- it is an important element of our state's natural identity.

Due to extensive land clearance, just 26 per cent of native vegetation remains across the agricultural districts of South Australia. It is therefore vitally important that remaining areas of native vegetation are protected to support the health of the environment and the wellbeing of our communities.

State Planning Policy 4.1 in particular references the ongoing importance of protecting these areas in the context of maintaining and improving South Australia's biodiversity. The planning system plays an important role in the achievement of this outcome.

SPP Ref.	SPP
SPP 4.1	Minimise impacts of development on areas with recognized natural character and values, such as native vegetation and critical habitat so that critical life-supporting functions to our state can be maintained.

The planning system and native vegetation

Any proposed development involving the clearance of native vegetation requires separate approvals:

- (1) a development approval under the *Development Act 1993* (current for regional and metropolitan areas) or the *Planning, Development and Infrastructure Act 2016* (current for Outback and Coastal Waters), and
- (2) a native vegetation clearance approval under the *Native Vegetation Act 1991*.

At present, the native vegetation assessment process usually only commences once a planning (development) approval has been granted (or late in the development application process), with the sequential nature of these processes at times resulting in delayed decisions, inconsistent information requirements, confusion and uncertainty of process for applicants.

Improving the integration of Native Vegetation and Development Approvals under the new planning system

As part of the phased implementation of the new planning system under the *Planning, Development and Infrastructure Act 2016*, the State Planning Commission has recommended the adoption of a more integrated approach to better align the assessment processes for approvals under both acts (Fig. 1). This policy response was contained in the [Natural Resources and Environment Policy Discussion Paper](#), released in August 2018.

Figure 1: Recommendation from the Natural Resources and Environment Policy Discussion Paper

Key Opportunities and Challenges	Policy Response in the Code
Development assessment and native vegetation approval processes need to be integrated to achieve more efficient and better outcomes	To provide a clearer and more streamlined assessment process, Native Vegetation Overlays will ensure development avoids and minimizes the clearance of native vegetation and, in certain circumstances, will trigger a referral to the Native Vegetation Council.

Under the new planning system, two approvals will still be required (Fig. 2) but native vegetation considerations will also now be 'up-front' in the development application process. This change will better align the two approval processes, use the same information reports and ensure that design and siting to avoid and minimise the clearance of native vegetation is a fundamental part of the planning process.

Figure 2: Approvals required for development involving the clearance of Native Vegetation



Overlays

To achieve better alignment, the Planning and Design Code introduces two new Overlays for native vegetation. The Overlays map out locations where the clearance of native vegetation should be avoided or minimised. A formal agency referral to the Native Vegetation Council may also be triggered in certain circumstances (see Fig. 3 and Fig. 4 for process flowcharts).

The two new Overlays are:

- **State Significant Native Vegetation Areas Overlay** – to apply to Wilderness Protection Areas, National Parks, Conservation Parks and areas subject to heritage agreements (plus a 50m buffer).
- **Native Vegetation Overlay** – to apply to areas of the state where the Native Vegetation Act applies (apart from where the State Significant Native Vegetation Overlay applies).

The SA Planning Portal features an [online mapping tool](#) where these Overlays can be viewed during the Code consultation period.

What is an Overlay?

Overlays, which are the primary mechanism to spatially express State Planning Policies, pick up planning issues of state interest and locationally specific issues. Overlays can span multiple zones and subzones and more than one overlay can apply to the same area. Their policies take precedence over other Code policies.

Overlays may have procedural effects in relation to assessment pathways and referrals:

- Referrals can largely be expected to be contained in overlays where specialised assessment expertise is required to protect a matter of state interest
- Assessment Pathways: Overlays can add or remove envisaged development types (including altering the assessment pathway) as well as the policies and rules which apply.

Information requirements for development in areas covered by one of the Overlays

As part of the application process, an applicant must determine if their proposal involves the clearance of native vegetation. If *no clearance* is proposed, the applicant is required to provide a written declaration to that effect, which is to be provided at the lodgement of the development application.

If the applicant proposes *any form of native vegetation clearance*, an Accredited Consultant must be engaged to prepare a Data Report, which is to be provided upon lodgement of the development application. The Report must contain a risk-based assessment determining the level of clearance proposed based on assessment criteria prescribed by the Native Vegetation Council. The Report will also assign a level of clearance to the proposal and this information can be used by the relevant planning authority to determine whether or not a referral to the Native Vegetation Council is required (see process flowcharts at Fig. 3 and Fig. 4). The Data Report is also used as part of the native vegetation assessment process under the Native Vegetation Act. It includes details of the calculations of size and location of any proposed offset and if the offset is provided on ground, it would be used to inform the Offset Management Plan.

For further information on the role of an Accredited Consultant and what is typically contained in a Data Report, see the [Draft Planning and Design Code – Frequently Asked Questions](#) document available on the SA Planning Portal.

For more information about the assessment criteria and how levels of clearance are determined, see the [Guide for applications to clear native vegetation under the Native Vegetation Act 1991 and Native Vegetation Regulations 2017](#).



Benefits of the new processes in the Code

- ✓ Clarifying and aligning assessment processes
- ✓ Enacting the intent of the current referral and associated native vegetation legislation
- ✓ Providing greater certainty for applicants
- ✓ Enabling consistent assessment of native vegetation impacts under both planning and native vegetation legislation using the same information
- ✓ Ensuring that any costs or constraints relating to native vegetation are considered early in the development application process
- ✓ Standardising requirements

Want to know more?

For details of Native Vegetation policies in the Planning and Design Code, see the following draft Overlays:

- State Significant Native Vegetation Areas Overlay
- Native Vegetation Overlay

For further information on the Code and to have your say, you can visit the SA Planning Portal at:

www.saplanningportal.sa.gov.au/en/have_your_say



Process flowcharts

The following flowcharts describe the interactions between the PDI Act and Native Vegetation Act in relation to the two Overlays. In particular, they demonstrate which approval processes apply in relation to the relevant Overlay and the extent of any proposed impacts on native vegetation. The flowcharts also demonstrate how the same information relating to native vegetation is used for both the development application and native vegetation application.

Figure 3: Simplified assessment processes for development in areas where the Native Vegetation Overlay applies

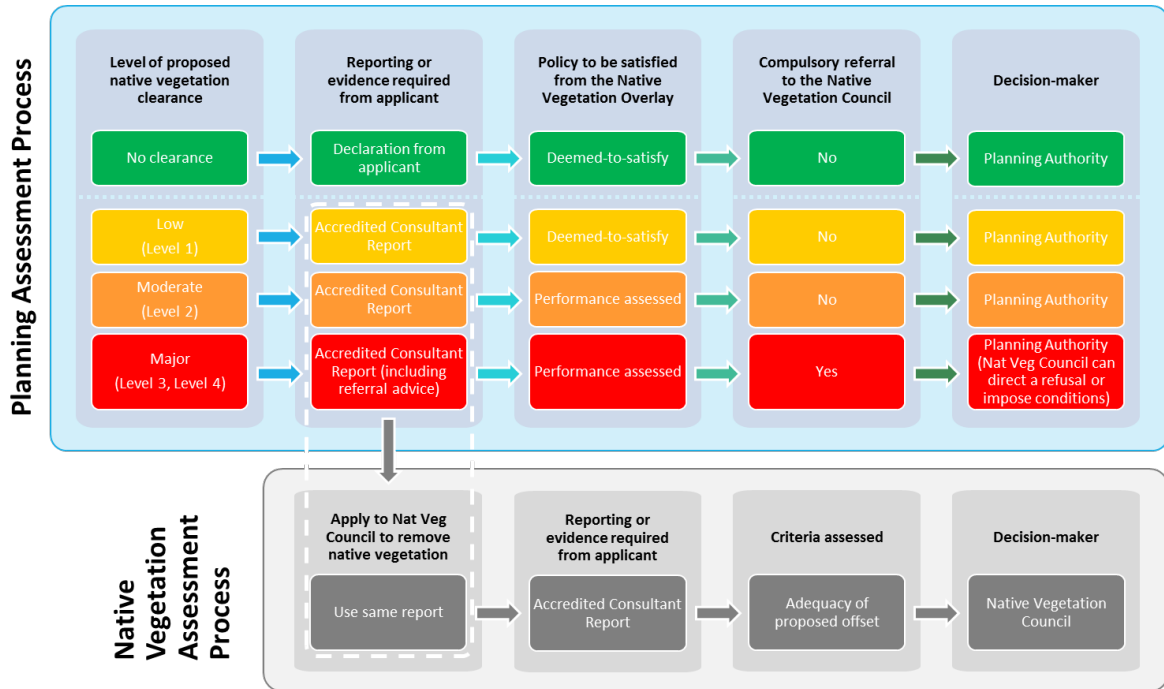
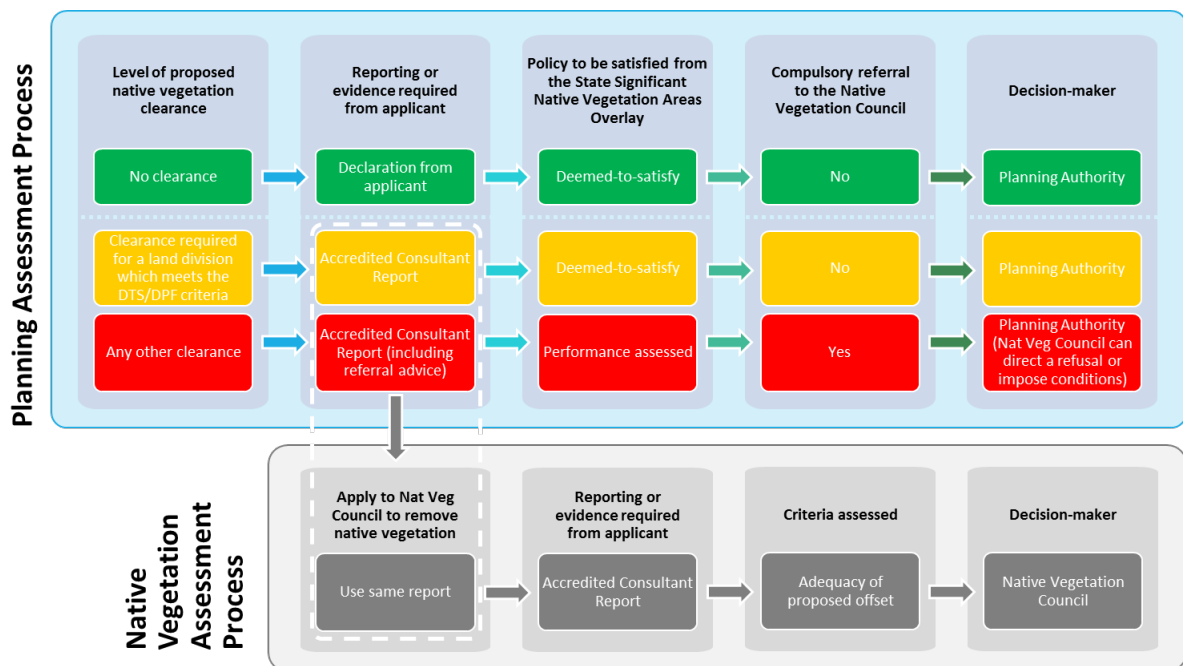


Figure 4: Simplified assessment processes for development in areas where the State Significant Native Vegetation Areas Overlay applies



What is an offset?

Referred to as a Significant Environmental Benefit (SEB) under the *Native Vegetation Act 1991*, an offset is a requirement to revegetate, to manage, to protect or to establish a new area of native vegetation in order to mitigate the impacts of an approved native vegetation clearance.

When achieving an offset, an applicant can either choose to establish the offset themselves on their own land or they can engage someone to do it on their behalf. An offset can also be achieved by making a payment into the Native Vegetation Fund, with the Native Vegetation Council accepting the obligation to establish the offset area.

An offset must be of a size and vegetation type to adequately mitigate the impact from a proposed clearance. The Native Vegetation Council has approved vegetation assessment methods which calculate the loss of biodiversity at the clearance site and the gains to biodiversity to be achieved at the offset site. In order for an offset to be approved. The gains at the offset site must be greater than the losses from the clearance. Additionally, an offset is generally required to be of the same vegetation type as that being cleared, in order to ensure that the values that are lost are replaced elsewhere.

An offset must be managed in accordance with an Offset Management Plan that has been approved by the Native Vegetation Council. The management plan describes the actions that will be taken to improve the condition of the vegetation. This generally involves weed and pest control, fencing and stock exclusion, revegetation, managing public access and retaining fallen timber. The Native Vegetation Council may also require that an offset be protected through a Heritage Agreement or Management Agreement under the Native Vegetation Act.

For further information relating to offsetting, please see the following website;

www.environment.sa.gov.au/topics/native-vegetation/offsetting



Example Scenario 1: Proposed shed site (No clearance)



Planning, Development and Infrastructure Act 2016

- A landholder is applying to build a large hay and implement shed on their allotment.
- The site selected for the shed is cleared of native vegetation and an access point to the site exists.
- The landholder provides a declaration with the lodgement of the Development Application stating that no clearance of native vegetation is required in relation to the construction of the shed, access or associated fire prevention measures.
- The development application is able to meet the Deemed-to-Satisfy (DTS) criteria in the Planning and Design Code in relation to native vegetation.
- No referral to the Native Vegetation Council is required and the Development Application is assessed against the relevant policies of the Code by the planning authority.

Native Vegetation Act 1991

- No application to the Native Vegetation Council is required. No offset is required



Example Scenario 2: New house site (Minor clearance)



*Blue circles indicate trees proposed to be removed for house site.

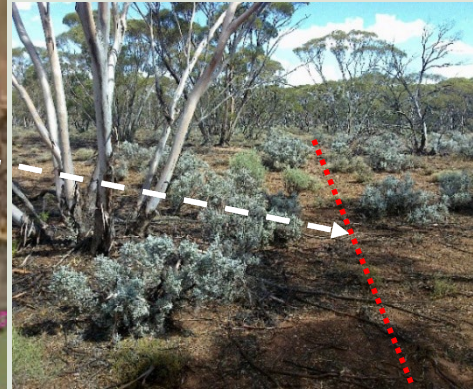
Planning, Development and Infrastructure Act 2016

- A landholder is seeking to construct a house on their allotment and they have identified a potential house site and access track.
- The proposed site contains eight large native trees, so the landholder engages an Accredited Consultant to develop a Data Report to accompany the development application.
- When preparing the Data Report, the Accredited Consultant advises the applicant that by relocating the house site to a different location and varying the design, clearance can be reduced to four small native trees.
- The applicant submits the development application accompanied with the Data Report from the Accredited Consultant for the alternate house site location.
- The Consultant determines that the clearance required for the house site (including access and bushfire prevention measures) is classified as Minor (reduced from Moderate for the originally proposed location), also stating that no further options exist to further reduce the clearance required.
- The Planning Authority determines that the application meets the Deemed to Satisfy (DTS) criteria in relation to native vegetation clearance. No referral to the Native Vegetation Council is required.

Native Vegetation Act 1991

- The applicant submits the Data Report prepared by the Accredited Consultant to the Native Vegetation Council for the clearance of the four small trees.
- The Native Vegetation Council determines that clearance has already been minimised as part of the development application and due to the Minor level of clearance proposed, that a standard offset payment of \$500 to the Native Vegetation Fund is required.

Example Scenario 3: Pipeline and pump house (Moderate clearance)



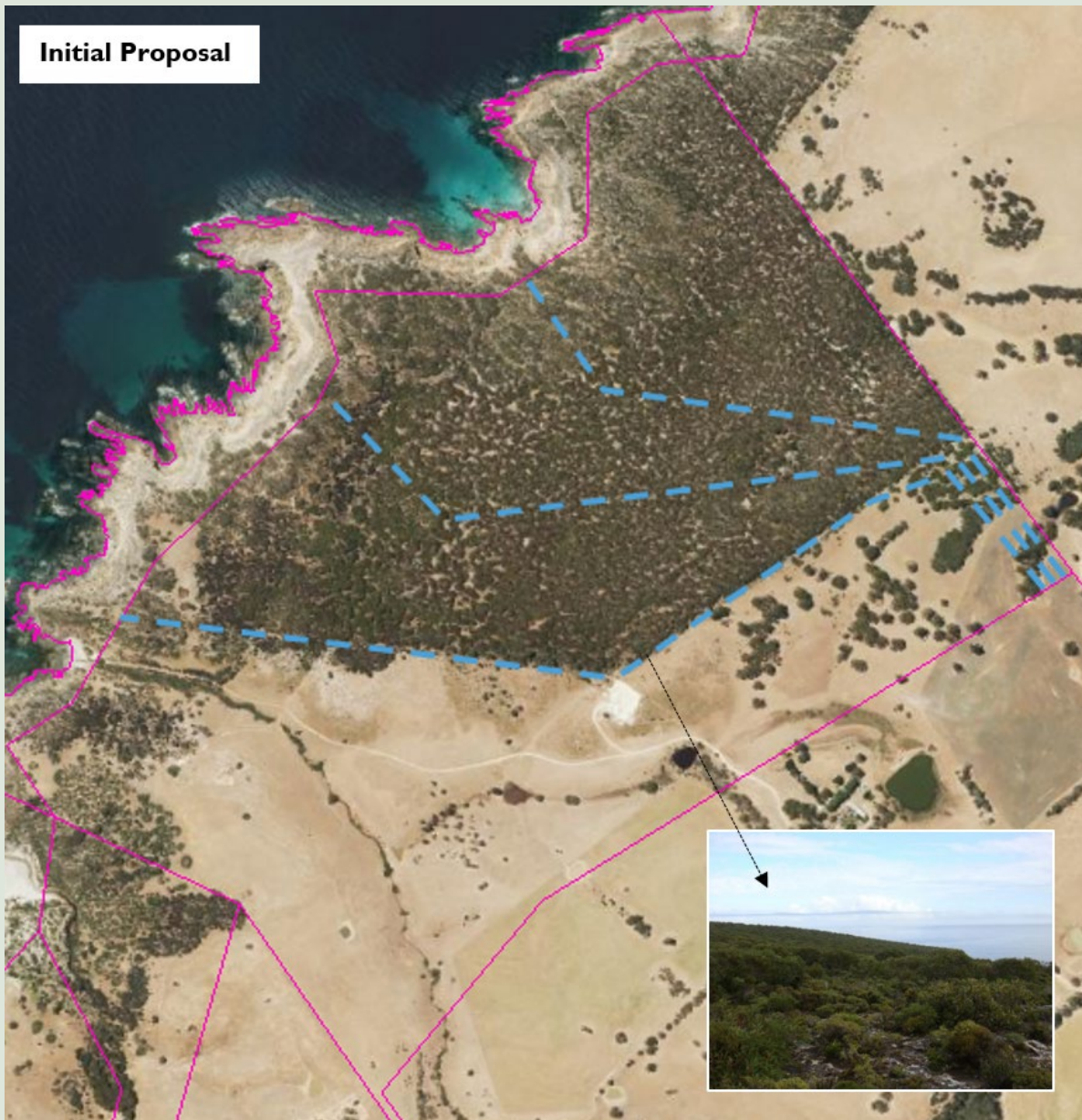
Planning, Development and Infrastructure Act 2016

- An applicant is seeking to establish a new pump house and pipeline to supply water to a proposed almond orchard.
- The development will require the clearance of native vegetation, therefore the development application must be accompanied by an Accredited Consultant's Data Report.
- Native Vegetation Clearance will be minimised by locating the pipeline along existing tracks where possible and using small machinery for construction in order to limit disturbance along the pipeline alignment.
- The Accredited Consultant determines that 0.4 hectares of Native Vegetation clearance will be required for the pipeline and pump house. This is determined to constitute a Moderate level of clearance.
- The development application is Performance Assessed by the planning authority. No referral to the Native Vegetation Council is required.

Native Vegetation Act 1991

- The applicant submits the Data Report to the Native Vegetation Council for the proposed clearance associated with the pipeline and pump house.
- The Native Vegetation Council determines that clearance has already been minimised through the assessment of both the Accredited Consultant and the planning authority, and therefore proceeds to assess the appropriateness of the proposed offset.
- In this instance, the applicant proposes to protect and manage four hectares of native vegetation on the property to mitigate the impacts of the proposed clearance. The applicant needs to submit an Offset Management Plan to accompany the Data Report.
- The Native Vegetation Council reviews the Data Report and Offset Management Plan and determines the offset is of sufficient size and quality and the management actions are appropriate. The proposed offset is approved.

Example Scenario 4: Proposed subdivision of land (Major clearance)



Planning, Development and Infrastructure Act 2016

- An applicant is seeking to subdivide their land into four new allotments to allow for the construction and sale of new house sites.
- The subdivision would require the clearance of native vegetation for tracks, fences, house sites and bushfire protection measures.
- The applicant obtains a report from an Accredited Consultant who determines that the subdivision would likely result in the clearance of 3.1 hectares of native vegetation (equivalent to two football ovals).
- This is determined to constitute a Major level of clearance.
- As a result, the development application is Performance Assessed by the planning authority and referred to the Native Vegetation Council.



- In this instance, the Native Vegetation Council requests the alteration of proposed allotment boundaries to ensure each allotment contains an suitably-sized area previously cleared of native vegetation in order to accommodate the establishment of a house in the future.
- The Native Vegetation Council may also require that the existing native vegetation is placed under a Heritage Agreement in order to prevent the clearance of the boundary of the new allotments for fences.

Native Vegetation Act 1991

- The applicant submits the Accredited Consultant's Data Report to the Native Vegetation Council for any clearance that is required to accommodate the resultant subdivision.
- The applicant decides to use the area of remaining vegetation on the property as the offset. Therefore, they need to submit an Offset Management Plan for the offset area along with the Data Report.
- The Native Vegetation Council assesses the offset area to determine if it is large enough and of an appropriate vegetation type and conservation value to account for the impacts from the proposed clearance. The Management Plan is also assessed to determine if the offset will provide an overall environmental benefit, typically through actions such as stock exclusion, weed and pest control and protection under a Heritage Agreement.

