

Article Information

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Sector: Agriculture & Food

Native Vegetation Clearing Laws - Where are we at

Vegetation management requirements around Australia, particularly in respect of native vegetation clearing, are complicated and quite strict.

If land is cleared without the proper approvals or regard for the relevant laws it could mean severe consequences are imposed, which may include penalties, fines or in severe cases, imprisonment.

Due diligence when purchasing, leasing, agisting or otherwise dealing with land, so far as it may relate to clearing of any vegetation (but particularly native vegetation) is prudent. Similarly it is also essential to understand your rights and obligations in relation to vegetation (particularly native vegetation) for land currently owned.

Queensland (QLD)

- Clearing laws are predominantly regulated by the *Vegetation Management Act 1999* (QLD), the *Sustainable Planning Act 2009* (QLD) and associated policies and codes.
- Whether native vegetation can be cleared will depend on a number of factors including, the type of vegetation on the property; the tenure of the land (eg. leasehold or freehold); the location, extent and purpose of the proposed clearing; whether any native title restrictions apply to the property; whether any of the self-assessable codes apply; whether the property is exempt; and who is proposing to do the clearing.
- Clearing activities may occur with one or a combination of the following:
 - With an exemption or by simply notifying the Department of Natural Resources and Mines.
 - Undertaken in conjunction with self-assessable vegetation clearing codes. The codes apply to particular vegetation categories and regional ecosystems. Persons must notify the relevant Government Department before undertaking clearing activities under a self-assessable clearing code.
 - Conducted pursuant to an Area Management Plan (AMP). AMP's provide an alternative approval system for vegetation clearing. They list the purposes and clearing conditions that have been approved for the areas covered by the plan. To clear under an existing AMP, a person must notify the relevant Government Department before clearing starts and they must follow the conditions listed in the AMP. The relevant Government Department may audit a property to monitor compliance.
 - Conducted once an appropriate Development Approval is obtained.
- Particular Local Governments may also have requirements for certain protected species of trees or shrubs and this will need to be considered before any clearing occurs to land.
- Penalties and fines associated with clearing vegetation unlawfully in Queensland could include fines of up to \$2,250 per hectare for unlawfully cleared land.

More information on clearing vegetation in QLD can be found [here](#).

New South Wales (NSW)

- Clearing laws are regulated predominantly by the *Native Vegetation Act 2003* (NSW) and the *Native Vegetation Regulation 2013* (NSW).
- Clearing activities may occur with one or a combination of the following:
 - Without approval in certain instances such as where clearing of vegetation (that is not protected) regrowth,

certain groundcover, routine agricultural management, a continuation of an existing cultivation (with exceptions) or as is otherwise authorised or permitted under or excluded from operation of the relevant laws.

- With approval pursuant to a Property Vegetation Plan (PVP) from the relevant Government Department.
- The NSW Government has publicised that it is currently in the process of reforming native vegetation laws. As such these requirements may change.
- Clearing without approval in NSW may result in a fine of up to \$1,100,000.

More information on clearing vegetation in NSW can be found [here](#).

Australian Capital Territory (ACT)

- Clearing laws are regulated predominantly by the Nature Conservation Act 2014 (ACT).
- In general native vegetation must not be cleared if it is in a native vegetation area.
- Clearing without approval in NSW may result in a fine of up to \$375,000 for an individual and \$1,875,000 for a corporation and in certain cases up to 7 years imprisonment.

More information on clearing vegetation in NSW can be found [here](#).

Victoria (VIC)

- Clearing laws are regulated predominantly by the Victoria Planning Provisions (as required under the *Planning & Environment Act 1987* (VIC)), the *Environment Effects Act 1978* (VIC) and the *Mineral Resources (Sustainable Development) Act 1990* (VIC).
- A permit is required to remove, destroy or lop all native vegetation regulations unless there is an exemption stipulated in the relevant planning scheme or the removal of native vegetation is the result of the continuation of a lawful existing use. Lawful uses include clearing noxious weeds or pest animal burrows or the clearing of planted vegetation such as crops.
- The VIC Government has publicised that it is currently in the process of reviewing native vegetation laws. As such these requirements may change.
- Contravention of a scheme, permit or agreement can attract fines of up to \$136,104.

More information on clearing vegetation in VIC can be found [here](#).

South Australia (SA)

- Clearing laws are regulated predominantly by the *Native Vegetation Act 1991* (SA) and the *Native Vegetation Regulations 2003* (SA).
- You must apply for approval and meet certain requirements to carry out any other activity likely to cause damage to native vegetation.
- Approval to deal with native vegetation under the *Native Vegetation Act 1991* (SA) and the *Native Vegetation Regulations 2003* (SA) does not automatically provide consent to deal with native vegetation under other legislation.
- When applying to clear native vegetation, you may need to provide a significant environmental benefit offset.
- Unauthorised clearance of native vegetation in SA may result in a minimum fine of \$100,000 or a prescribed rate for each hectare of land affected by the offence.

More information on clearing vegetation in SA can be found [here](#).

Northern Territory (NT)

- Clearing laws are regulated predominantly by the *Planning Act 1999 (Planning Act)* (NT) or *Pastoral Land Act 1992* (NT) (PLA).
- Generally an approval will be required to clear all native vegetation. Some exemptions to apply in this regard. It

will depend on the tenure (freehold or leasehold) and zoning of the land as to the approval requirements of the relevant Government Department.

- Unauthorised clearing could include penalties of up to \$30,800 for natural persons and \$154,000 for bodies corporate.

More information on clearing vegetation in NT can be found [here](#).

Western Australia (WA)

- Clearing laws are predominantly regulated by the Environmental Protection Act 1986 (WA) and the Environmental Protection (Clearing of Native Vegetation) Regulations 2004 (WA) (EP Act).
- Native vegetation must be cleared under a permit unless it is exempt.
- The two types of clearing exemptions include:
 - clearing which is authorised by law or a statutory processes; and
 - prescribed low impact day-to-day activities (except in respect of environmentally sensitive areas declared by the Minister).
- Unlawful clearing can result in fine of up to \$250,000 for individuals, in severe cases imprisonment and non-compliance with existing clearing permits can result in fine of up to \$62,500.

More information on clearing vegetation in WA can be found [here](#)

The above overview merely scratches the surfaces of the complicated vegetation regimes which exist in each State or Territory around Australia.

A range of technologies already exist to monitor cleared vegetation in each State and Territory which is cross analysed with clearing permits and/or the relevant requirements of each State and Territory. It is inevitable that technology will advance and regulation of clearing will become more sophisticated. It is essential that before you clear any land that you seek professional advice as to the relevant clearing requirements and whether land can be cleared at all.