

FAQ 'Vegetation SEPP'

State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017 'Vegetation SEPP'

Updated August 2018

The State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017 (Vegetation SEPP) was one of a suite of Land Management and Biodiversity Conservation (LMBC) reforms that commenced in NSW on 25 August 2017.

The Vegetation SEPP works together with the Biodiversity Conservation Act 2016 and the Local Land Services Amendment Act 2016 to create a framework for the regulation of clearing of native vegetation in NSW. For more information on these land management and biodiversity conservation reforms please visit www.landmanagement.nsw.gov.au An additional set of frequently asked questions specific to councils can be found at www.planning.nsw.gov.au/vegetationSEPP

The Vegetation SEPP has been included as a layer to the planning portal.

What does the Vegetation SEPP do?

The Vegetation SEPP regulates clearing of native vegetation on urban land and land zoned for environmental conservation/management that does not require development consent.

Where does the Vegetation SEPP apply?

The Vegetation SEPP applies to the Sydney and Newcastle metropolitan areas, and to all other land in NSW that is zoned for urban purposes or for environmental conservation/ management under the Standard Instrument – Principal Environmental Plan. A list of the Sydney metropolitan local government areas and zones to which the SEPP applies can be found in clause 5 of the SEPP or at <http://www.planning.nsw.gov.au/vegetationsepp>

What if my zone is not identified in the Standard Instrument?

If your land is not listed as one of the relevant local government areas or the standard zones under the Standards Instrument LEP, then the land will be regulated by Part 5A of the Local Land Services Amendment Act 2016.

When does the Vegetation SEPP apply?

The Vegetation SEPP applies to clearing of:

1. native vegetation above the Biodiversity Offset Scheme (BOS) threshold where a proponent will require an approval from the Native Vegetation Panel established under the Local Land Services Amendment Act 2016; and
2. vegetation below the BOS threshold where a proponent will require a permit from Council if that vegetation is identified in the council's development control plan (DCP).

What is the Biodiversity Offset Scheme Threshold?

The BOS threshold is found in the Biodiversity Conservation Regulation 2017. It is a simple, risk-based test used to determine when the Biodiversity Assessment Method and the Biodiversity Offsets Scheme apply. It is relevant to local developments (Part 4, non-state significant development/state significant infrastructure under the EP&A Act), and clearing that does not require development consent in urban areas and in E2-E4 zones (under the Vegetation SEPP).

There are two triggers for the threshold test, each set out in the Biodiversity Conservation Regulation 2017. The first is an area threshold based on the amount of land cleared. The second is a [Sensitive Biodiversity Values Land Map](#) trigger. If clearing exceeds either of these triggers, the Biodiversity Offset Scheme will apply to the proposed clearing.

How do Councils regulate clearing below the Biodiversity Offset Scheme thresholds?

The Vegetation SEPP repeals clause 5.9 and 5.9AA of the Standard Instrument - Principal Local Environmental Plan and substantially reproduces the effect of these clauses in the Vegetation SEPP. Councils will continue to regulate the clearing of vegetation (including native vegetation) below the BOS thresholds through their DCPs.

However, Councils will no longer be able to require development consent for clearing of non-heritage vegetation under a provision in a DCP. Instead, Councils will be provided with a more robust scheme for regulating clearing of vegetation below the BOS thresholds through the issue of permits for clearing, including the ability to charge application fees for permits and to issue permits subject to conditions.

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How do Councils regulate heritage (non-native) vegetation?

The Biodiversity Offset Scheme does not apply to non-native trees or vegetation. There is no change to the way that heritage vegetation is regulated and will continue to be regulated under clause 5.10 of the Standard Instrument—Principal Local Environmental Plan. A council's Development Control Plans (DCPs) will set out whether a permit is required to remove non-native trees or vegetation. The proposed framework for regulating this vegetation under the new SEPP is similar to that already in place for tree preservation under Clause 5.9 of the Standard Instrument—Principal Local Environmental Plan.

What are the transitional arrangements for council DCPs?

Existing DCPs that prescribed vegetation for the purposes of Clause 5.9 will continue to have effect until new DCPs are developed for the purpose of the Vegetation SEPP. There will be no need for Councils to immediately change their DCPs. However, existing provisions requiring development consent for clearing of non-heritage vegetation no longer have effect and have been replaced with a permit requirement.

Can a council request other land in their LGA be covered by the Vegetation SEPP?

The Vegetation SEPP will apply to land in certain local government areas subject to particular zoning. If a council would like particular land to be subject to the SEPP, the appropriate pathway is to propose rezoning of the relevant land to a zone specified in the Vegetation SEPP.

How does the SEPP relate to other legislative instruments and activity?

Routine Agricultural Management Activity (RAMA) and 'non-protected regrowth' clearing exemptions in E zones

The Vegetation SEPP contains a transitional provision that allows clearing for RAMA in R5, E2, E3 and E4 zones where the predominant use of the land is for agriculture until 25 August 2019. This RAMA clearing provision will only apply if the relevant Council under clause 27(2) of the Vegetation SEPP had not previously adopted subclause 5.9(9) in its LEP.

State Environmental Planning Policy No 19—Bushland in Urban Areas (SEPP 19)

SEPP 19 applies to bushland within the urban areas identified in Schedule 1 of the SEPP. SEPP 19 will continue to operate separately to the Vegetation SEPP and will prevail over the Vegetation SEPP to the extent of any inconsistency: see clause 5(1) SEPP 19.

Areas mapped as Coastal Wetlands or Littoral Rainforests under the Coastal Management SEPP (2017)

Under the Coastal Management SEPP, vegetation clearing is designated development and requires assessment using the process set out in the Environment Planning and Assessment Act 1979 (NSW) (EP&A Act). The consent authority (usually a local council) must apply the process and matters for consideration set out in the EP&A Act, together with any applicable development controls in an environmental planning instrument (such as the Coastal Management SEPP). If the Native Vegetation Panel receives such a development application, it will refer the applicant to the local council (or other consent authority under the EP&A Act) as it is not the consent authority for this type of development.

Where can I find out more?

www.planning.nsw.gov.au/vegetationSEPP

www.landmanagement.nsw.gov.au

Call on 1300 305 695. If English isn't your first language, please call 131 450. Ask for an interpreter in your language and then request to be connected to our Information Centre on 1300 305 695.

Email [Click here to send an email to information@planning.nsw.gov.au](mailto:information@planning.nsw.gov.au)