

What is the Vegetation SEPP?

The proposed *State Environmental Planning Policy (Vegetation) 2017* (Vegetation SEPP) is being prepared by the Department of Planning and Environment.

The Vegetation SEPP is part of the suite of Land Management and Biodiversity Conservation (LMBC) reforms that will help to deliver ecologically sustainable development in NSW. The centrepiece of the LMBC reforms is the new *Biodiversity Conservation Act 2016* and the *Local Land Services Amendment Act 2016*. This new legislation, its regulations, the Vegetation SEPP and other statutory products that make up the reform package take advantage of the best available science and data to deliver a modern approach to land management and biodiversity conservation. More information about the LMBC reforms can be found at www.landmanagement.nsw.gov.au

What is the Explanation of Intended Effect for the proposed Vegetation SEPP?

The Explanation of Intended Effect (EIE) provides an explanation of what the proposed Vegetation SEPP will do, the intended outcomes and the reasons for the proposed policy approach. The Department of Planning and Environment is now seeking submissions on the proposed policy approach explained in the EIE.

Where does the Vegetation SEPP apply?

The Vegetation SEPP applies to the Sydney metropolitan area, 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*. The Secretary of the Department of Planning and Environment may also declare that the Vegetation SEPP applies to land that is not yet zoned under the Standard Instrument if the land has an urban or environmental conservation purpose.

A full list of the Sydney metropolitan local government areas and urban and environmental conservation/management zones to which the SEPP applies is provided in the EIE.

Why has a new Vegetation SEPP been developed?

The Vegetation SEPP ensures that the new biodiversity offset scheme applies to clearing of native vegetation in urban areas and areas zoned for environmental conservation/management that exceed the biodiversity offset scheme thresholds if development consent is not required for the clearing under a relevant environmental planning instrument. The biodiversity offset scheme thresholds will be established under the new *Biodiversity Conservation Regulation*.

What will the new Vegetation SEPP do?

The Vegetation SEPP:

- provides assessment and approval pathways for the clearing of native vegetation on urban land and environmental conservation/management zones for which development consent is not required under a relevant environmental planning instrument.
- introduces a more robust scheme for issuing permits for the removal of trees or vegetation including the ability for permits to be issued subject to conditions.
- repeals clauses 5.9 & 5.9AA of the Standard Instrument—Principal Local Environmental Plan. These clauses require development consent or a permit from Council for the removal of trees or vegetation to which a development control plan applies. The effect of clauses 5.9 and 5.9AA has been substantially reproduced in the Vegetation SEPP for land to which the SEPP applies.

Frequently Asked Questions

May 2017

Who has been consulted on the Vegetation SEPP?

The Department of Planning and Environment has undertaken preliminary consultation with state agencies, councils, peak industry bodies and environmental groups to develop the Vegetation SEPP. The Department of Planning and Environment is now seeking submissions on the proposed policy approach explained in the EIE.

What are the biodiversity offset scheme thresholds?

The proposed biodiversity offset scheme thresholds are set out in the draft *Biodiversity Conservation Regulation*, also on exhibition as part of the suite of statutory products that make up the LMBC reforms.

These thresholds apply to clearing of native vegetation that requires development consent (either because the clearing is ancillary to a use that requires development consent, or because the clearing itself requires development consent under a relevant environmental planning instrument), and to the clearing of native vegetation that does not require development consent in urban areas and areas zoned for environmental conservation/management.

The biodiversity offset scheme also applies to clearing of native vegetation that does not require development consent on land zoned for rural uses (for example clearing associated with extensive agriculture in RU zones). This type of clearing is separately regulated under the *Local Land Services Amendment Act 2016*.

How will Councils regulate clearing below the biodiversity offset scheme thresholds?

The Vegetation SEPP will repeal clause 5.9 and 5.9AA of the Standard Instrument - Principal Local Environmental Plan, however the effect of these clauses will be substantially recreated in the Vegetation SEPP.

Councils will continue to regulate the clearing of vegetation (including native vegetation) below the biodiversity offset scheme thresholds through their Development Control Plans (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 Biodiversity Offset Scheme thresholds through the issue of permits for clearing, including the ability to charge application fees for permits and to issue permits subject to conditions.

The Vegetation SEPP will include savings and transitional provisions that will mean that existing DCPs will continue to have effect. There will be no need for Councils to change their DCPs, however existing provisions requiring development consent for clearing of non-heritage vegetation will no longer have effect. Existing requirements for development consent for clearing of non-heritage vegetation will be replaced with a permit requirement.

Some Councils have indicated that they would like to refocus their DCPs to provide better outcomes for urban heat management and biodiversity conservation. The Department of Planning and Environment would be interested to hear from Councils how it can best support the development of best practice vegetation management DCPs.

How will the Councils regulate heritage vegetation?

There is no change to the way that heritage vegetation is regulated. Heritage vegetation will continue to be regulated under clause 5.10 of the *Standard Instrument—Principal Local Environmental Plan*.

Does the Vegetation SEPP include Routine Agricultural Management Activity (RAMA) and 'non-protected regrowth' clearing exemptions in E zones?

The *Native Vegetation Act 2003* exempted from approval requirements clearing of 'non-protected regrowth' and clearing for 'Routine Agricultural Management Activities' (RAMA). Clause 5.9 of the *Standard Instrument – Principal Local Environmental Plan* presently allows Councils to apply these exemptions in R5 (large lot residential) and E2 (Environmental Conservation), E3 (Environmental Management) and E4 (Environmental Living) zones.

The RAMA and 'non-protected regrowth' exemptions will be repealed as a consequence of the repeal of the *Native Vegetation Act 2003* by the *Biodiversity Conservation Act 2016*. It is not intended to mandate the RAMA and 'non-protected' regrowth exemptions under the Vegetation SEPP, as these exemptions are considered to be inconsistent with the objectives of the R5 and E2, E3 and E4 zones.

What will be the process for finalising and making the proposed Vegetation SEPP?

Submissions received during exhibition of the EIE will be taken into consideration by the Department of Planning and Environment in finalising the Vegetation SEPP.

Where can I see and comment on the proposed changes?

The draft EIE, regulations and other key products to support the Government's new *Biodiversity Conservation Act 2016* and *Local Land Services Amendment Act 2016*, are on exhibition for six weeks from 10 May until 21 June 2017.

Have your say online at www.landmanagement.nsw.gov.au/haveyoursay

If you cannot lodge your submission online, you can write to:

Land Management and Biodiversity Conservation Reforms Office
PO Box A290, Sydney South, NSW 1232

We will publish your submission online. That's why it's important to read our privacy statement at www.planning.nsw.gov.au/privacy

Where can I find out more?

- Call us 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 us on 1300 305 695.
- Email information@planning.nsw.gov.au
- www.planning.nsw.gov.au/vegetationSEPP
- www.landmanagement.nsw.gov.au