

Vegetation SEPP – Native vegetation regulation under different DCP scenarios

Council has a DCP that requires a permit for clearing threatened species, threatened ecological communities and protected plants not associated with development consent

Clearing of native vegetation that exceeds the biodiversity offset scheme threshold will require approval from the Native Vegetation Panel or delegate.

For clearing that does not exceed the biodiversity offset scheme threshold, Council can continue to regulate the clearing of native vegetation that is not authorised by a development consent through using their existing DCP and permits issued under the Vegetation SEPP.

Council has a DCP that requires development consent for clearing threatened species, threatened ecological communities and protected plants that are not associated with another activity requiring development consent

Clearing of native vegetation that exceeds the biodiversity offset scheme thresholds will require approval from the Native Vegetation Panel or delegate.

For clearing that does not exceed the biodiversity offset scheme threshold, if Council has a DCP that requires development consent for clearing of native vegetation, these activities may be regulated by the issue of a permit instead. Any relevant reference in the DCP to a development consent should be read as a reference to a permit. No immediate update to the DCP is required to enable Council to regulate these activities, however an update in the near future is recommended to reflect the new regulatory regime.

Council can no longer require development consent for clearing of native vegetation that is not associated with another activity requiring development consent if it is making a new DCP.

Council has no DCP regulating clearing of threatened species, threatened ecological communities and protected plants

Clearing of native vegetation that exceeds the biodiversity offset scheme thresholds will require approval from the Native Vegetation Panel or delegate.

Clearing of threatened species, threatened ecological communities and protected plants that does not exceed the biodiversity offset scheme threshold cannot be regulated by Council.

For clearing of threatened species, threatened ecological communities or protected plants there will be no defence to the relevant offence of picking plants in the *Biodiversity Conservation Act 2016*. Persons desiring to gather, take, cut, remove from the ground, destroy, poison, crush or injure the plant or any part of a threatened species, ecological community or protected plant that does not require authorisation from Council will need to seek a biodiversity conservation licence or another defence in order to lawfully undertake these actions. Biodiversity conservation licences are issued by OEHS and further information is available at <http://www.environment.nsw.gov.au/threatenedspecies/S91TscLicenceForm.htm>

Council may amend their DCP to regulate the clearing of all threatened species, threatened ecological communities or protected plants that do not require approval of the Native Vegetation Panel if they choose to.

Council has a DCP that requires a permit or development consent for clearing of some but not all threatened species, threatened ecological communities or protected species

Clearing of native vegetation that exceeds the biodiversity offset scheme thresholds will require approval from the Native Vegetation Panel or delegate.

For clearing that does not exceed the biodiversity offset scheme threshold, Council can continue to regulate the clearing of native vegetation (that is not associated with a development consent) as prescribed by the DCP using their existing DCP and permits issued under the Vegetation SEPP.

For clearing of threatened species, threatened ecological communities or protected plants that are not regulated by the DCP, there will be no defence to the offence of picking plants in the *Biodiversity Conservation Act 2016*. Persons desiring to gather, take, cut, remove from the ground, destroy, poison, crush or injure the plant or any part of a threatened species, ecological community or protected plant that does not require authorisation from Council will need to seek a biodiversity conservation licence or another defence in order to lawfully undertake these actions. Biodiversity conservation licences are issued by OEH and further information is available at <http://www.environment.nsw.gov.au/threatenedspecies/S91TscalLicenceForm.htm>

Council may amend their DCP to regulate the clearing of all threatened species, threatened ecological communities or protected plants that do not require approval of the Native Vegetation Panel if they choose to.

Council has a DCP that requires a permit or development consent for vegetation clearing, but does not regulate native vegetation clearing in E zones and R5 zones due to reliance on the now repealed Native Vegetation Act 2003

Clearing of native vegetation in E zones or R5 zones that exceeds the biodiversity offset scheme thresholds will require approval from the Native Vegetation Panel or delegate.

Clearing of native vegetation that does not exceed the biodiversity offset scheme threshold cannot be regulated by Council.

For clearing of threatened species, threatened ecological communities or protected plants that are not regulated by the DCP, there will be no defence to the offence of picking plants in the *Biodiversity Conservation Act 2016*. Persons desiring to gather, take, cut, remove from the ground, destroy, poison, crush or injure the plant or any part of a threatened species, ecological community or protected plant that does not require authorisation from Council will need to seek a biodiversity conservation licence or another defence in order to lawfully undertake these actions. Biodiversity conservation licences are issued by OEH and further information is available at <http://www.environment.nsw.gov.au/threatenedspecies/S91TscalLicenceForm.htm>

Note this also applies to transitional allowable activities which do not require a permit under the Vegetation SEPP for the first 12 months. In E zones and R5 zones, desiring to gather, take, cut, remove from the ground, destroy, poison, crush or injure the plant or any part of a threatened species, ecological community or protected plant that does not require authorisation from Council

will need to seek a biodiversity conservation licence or another defence in order to lawfully undertake these actions.

Council may amend their DCP to regulate the clearing of all threatened species, threatened ecological communities or protected plants that do not require approval of the Native Vegetation Panel if they choose to.

Vegetation clearing, damage to habitat and harm to animals.

The Vegetation SEPP, and consequently the DCP, can only give authority to the clearing of native vegetation. Vegetation clearing that receives a permit or approval under the Vegetation SEPP will have a defence to the 'picking plants' offence in the Biodiversity Conservation Act 2016. As outlined above, there are some circumstances where a DCP cannot or does not give authority to vegetation clearing actions.

It is also an offence to damage the habitat of a threatened species or ecological community or cause harm to an animal that is a threatened species, part of a threatened ecological community or a protected animal without an authority. If damage to habitat and harm to animals is the direct result of vegetation clearing authorised under the Vegetation SEPP, there will be a defence to these offences.

If you cause harm to habitat or an animal beyond what is authorised under the Vegetation SEPP, there will be no defence to these offences. A biodiversity conservation licence or another defence will need to be obtained to lawfully undertake these actions. This includes scenarios where the DCP cannot or does not give authority to vegetation clearing actions.

Biodiversity conservation licences are issued by OEH and further information is available on our [Licence to harm a threatened species or ecological community webpage](#).