



Vegetation Management (Protection and Removal) Guideline

DMS-SD-111

Supporting Document – Applicable to Infrastructure & Place

Divisional Management System

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3.0	28 Apr 16	3139046_11	Rebranded from TPO to I&S
4.0	20 June 2018	3139046_13	Updated Table 1 - The Native Vegetation Act 2003 was repealed on 25 August 2017. Current legislation governing the clearing of native vegetation is the Local Land Services Act 2013 and the Biodiversity Conservation Act 2016. Document rebranded to IP.
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6.0	12 July 2021		Reference to Environmental Incident Procedure updated.

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1. Purpose

The purpose of this document is to provide guidance to site personnel for protecting and managing vegetation on Infrastructure and Place (IP) project sites. Vegetation includes:

- native vegetation endemic to (i.e. naturally occurring in) the area
- other native vegetation
- exotic (non-native) vegetation.

Native vegetation is valuable because plant diversity sustains biodiversity and ecological processes, including providing habitat for wildlife. Native vegetation also maintains soil integrity and improves the visual amenity of an area.

Endemic native vegetation has evolved and adapted to the environmental conditions of a particular area. It is the highest valued type of vegetation suited to the soil types and climate and most resilient to adverse conditions.

In recognition of this value, in New South Wales there are strict laws to protect biodiversity and native vegetation with large penalties for mismanagement of vegetation. Furthermore, IP is committed to compensating the loss of native vegetation and biodiversity as a result of its projects.

Other native and exotic vegetation may also have heritage or aesthetic importance and play an important role in the ecological community.

Vegetation management measures must be implemented on IP project sites to minimise the risk of harm to vegetation and biodiversity, as well as the risk of penalties to individuals, IP and its contractors. To manage these risks, appropriate control measures to protect vegetation are required.

2. Scope

This guideline applies to the protection and management of vegetation on site, including all native vegetation and exotic vegetation identified as having ecological, aesthetic or historic importance as detailed in the environmental impact assessment (EIA) for the project. It does not apply to:

- management of weed species (refer to the [Weed Management and Disposal Guideline DMS-SD-110](#))
- biodiversity offsetting as may be required under the relevant planning approval and/or to meet IP sustainability target of 100% replacement of all native vegetation in accordance with the [Vegetation Offset Guide DMS-SD-087](#).

This guideline includes references to some of the relevant legislative and regulatory requirements but is not intended to replace them. It is not intended to replace any requirements for vegetation management identified as part of the EIA process.

3. Definitions

All terminology in this document is taken to mean the generally accepted or dictionary definition with the exception of the following terms which have a specifically defined meaning:

- EIA** Environmental impact assessment
- TfNSW** Transport for NSW
- TSR** TfNSW Standard Requirement

4. Accountabilities

The Director Planning, Environment & Sustainability is accountable for this document including authorising the document, monitoring its effectiveness and performing a formal document review.

Project directors are accountable for ensuring the requirements of this document are implemented within their area of responsibility.

Project directors who are accountable for specific projects/programs are accountable for ensuring associated contractors follow this document to the extent they are required under the TfNSW Standard Requirements (TSR).

Contractors are accountable for following this document, where this guideline forms a part of their contract.

5. Legislative requirements and due diligence

Table 1 lists some of the relevant legislation/regulations for the management of vegetation in NSW. It should be noted that significant penalties exist for breaches of the listed legislation as a result of unauthorised removal of vegetation. Further, it is noted that vegetation that has been identified and assessed in an environmental impact assessment, and will be removed as part of IP works, is exempt from these offences.

To avoid breaches of legislation, it is important that IP and its contractors are aware of their legislative obligations under relevant legislation and that the extent of vegetation impacts assessed as part of a IP project is clearly understood and appropriate management measures are in place prior to commencement of construction. Contractors/alliances will need to ensure that they undertake their own due diligence to identify any other legislative requirements that apply for a given project.

Table1: Legislation and due diligence for protection of vegetation in NSW

Relevant requirement	Objectives and offences
<i>Biodiversity Conservation Act 2016 (NSW)</i> (BC Act)	The BC Act sets out the framework and procedures for the listing of threatened species and ecological communities in NSW as well as a process for declaring and protecting areas of outstanding biodiversity value. Listings of all preliminary and final determinations under the BC Act can be found on the NSW Office of Environment & Heritage website. It is a criminal offence to harm any fauna or flora listed under the BC Act.

Relevant requirement	Objectives and offences
	<p>It is an offence to harm an animal or pick a plant that is of a threatened species, population or ecological community, or damage their habitat. Maximum penalties for a corporation can include \$1.65 million plus a daily fine of \$165,000 per day the offence continues.</p> <p>Part 7, Division 2 of the BC Act specifies the requirements for biodiversity assessment for:</p> <ul style="list-style-type: none"> • applications for development consent under Part 4, • environmental assessment of an activity under Part 5, or • approval of State significant infrastructure under Part 5.1 of the EP&A Act.
<p>Environmental Protection and Biodiversity Conservation Act 1999 (Commonwealth) (EPBC Act)</p>	<p>The EPBC Act provides a legal framework to protect and manage nationally and internationally important flora, fauna, ecological communities and heritage places, defined in the EPBC Act as matters of national environmental significance (MNES). It is applicable to any potential significant environmental impacts on or affecting Commonwealth land and also affecting impacts on matters of national significance being:</p> <ul style="list-style-type: none"> o World Heritage Properties; o National Heritage Places; o Ramsar Wetlands; o listed threatened species, or listed threatened ecological communities, listed migratory species; and o (of less relevance to TfNSW Projects Division) Commonwealth marine areas, the Great Barrier Reef Marine Park and nuclear actions; and a water resource, in relation to coal seam gas development and large coal mining development. <p>A person who proposes to take action that will have, or is likely to have; a significant impact on a MNES must refer that action to the Minister for a decision on whether assessment and approval is required under the EPBC Act.</p> <p>It is an offence to take such an action without approval against any listed threatened species or ecological community. Under certain circumstances, an executive officer of a body corporate can be liable for civil penalties and criminal offences (including up to two years' imprisonment) for a contravention of the EPBC Act committed by the body corporate.</p> <p>Taking an action that has a significant impact on an MNES without approval carries very significant penalties. Most offences carry a penalty of up to 7 years imprisonment and/or an \$88,200 fine (up to \$441,000 for bodies corporate). Actions with significant impact on listed threatened species or endangered communities taken without approval can have penalties of up to \$1,050,000 for individuals and up to \$10,500,000 for a company. Offences do not apply if the action has been assessed and approved under another Act.</p>
<p>Local Land Services Act 2013 (NSW) (LLS Act)</p>	<p>The LLS Act (as amended by the Local Land Services Amendment Act 2016) provides a regulatory framework for the management of native vegetation in NSW and has replaced the <i>Native Vegetation Act 2003</i>.</p> <p>A Native Vegetation Regulatory (NVR) Map has been developed and identifies rural land that is regulated under the land management framework. Landholders are able to review the categories of vegetation as depicted on the regulatory map for their property. The <i>State Environmental Planning Policy (Vegetation) 2017 (Vegetation SEPP)</i> regulates clearing of native</p>

Relevant requirement	Objectives and offences
	<p>vegetation in urban areas and all other land in NSW that is zoned for urban purposes or for environmental conservation/management.</p> <p>Section 600 of the LLS Act provides that clearing of native vegetation in a regulated rural area is authorised if the clearing was (among other things):</p> <ul style="list-style-type: none"> • authorised by a development consent, SSI approval or Part 3A approval • part of or ancillary to exempt development under the EP&A Act • an activity under Part 5 of the EP&A Act or authorised by an approval of a determining authority under Part 5.
<p><i>National Parks and Wildlife Act 1974 (NPW Act)</i></p>	<p>Seeks to conserve nature, including habitat, biological diversity and species. It is an offence to pick or have in the person's possession any protected native plant (as listed in Schedule 13 of the NPW Act). Maximum penalty for doing so is \$11,000 plus \$1,100 in respect of each whole plant affected by the action, and/or 6 month imprisonment.</p> <p>It is also an offence to pick any plant that is, or is part of, a threatened species, endangered population or ecological community. Depending on the type of species (i.e. presumed extinct, critically endangered species, endangered species or vulnerable species), the maximum penalty can be \$55,000 or \$220,000 plus an additional penalty in respect of each whole plant affected by the action.</p> <p>Penalties can include 2 years imprisonment and up to \$220,000.</p> <p>Offences do not apply if the action has been assessed and approved under another Act (e.g. licence granted under the <i>Threatened Species and Conservation Act 1995</i> (NSW)).</p>
<p><i>The Heritage Act 1977</i></p>	<p>Seeks to promote the understanding and encourage the conservation of the state's heritage. This can include trees, gardens, parks, landscapes, either individually or within the curtilage of a built heritage item. It is an offence to undertake works which damage a heritage item on the State Heritage Register without an approval under the Act.</p> <p>Penalties can include up to a maximum of \$1.1 million (for a corporation) and/or 6 months imprisonment.</p> <p>Local heritage is also protected by law under the <i>Environmental Planning and Assessment Act 1979</i>.</p>

6. Vegetation management

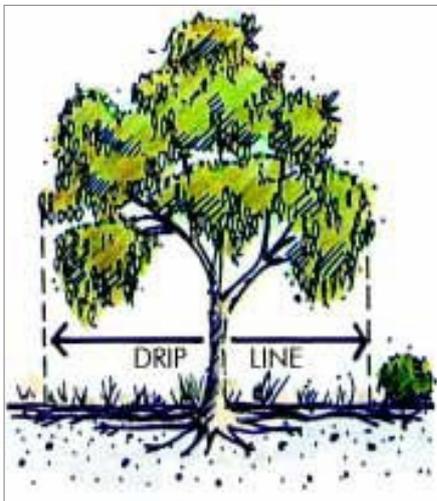
The inappropriate management of vegetation has the potential to result in impacts on native vegetation and biodiversity, and penalties to individuals and corporations involved in the works. The following provides guidance on vegetation management prior to, during and after construction.

6.1. Prior to construction

Prior to the commencement of construction the following vegetation management measures should be implemented:

- Review the EIA to identify the type and location of vegetation on the site.

- Incorporate specific vegetation management measures identified in the EIA into the site induction, toolbox talk and pre-start meetings.
- Incorporate specific vegetation management measures identified in the EIA into the Construction Environmental Management Plan and environmental control maps (refer to [Guide to Environmental Control Map DMS-SD-015](#)).
- Conduct a site inspection and mark vegetation to be removed and fence and mark vegetation to be protected as identified in the EIA.
- Install highly visible barriers around the perimeter of the construction site.
- Fence trees and vegetation to be retained, ensuring fencing is outside the tree protection zone (see Figures 1a and 1b).
- Install signs clearly identifying areas of protected native vegetation.
- Install branch and trunk protection where construction works are in very close proximity to trees (Figure 2).
- Locate construction parking, compounds, stockpiles and chemical storage away from vegetated areas (including tree protection zones) and in areas which do not necessitate anymore clearing of vegetation than necessary.
- Refer to the IP [Weed Management and Disposal Guideline DMS-SD-110](#) if weeds have been identified on the site and require specific management.
- Refer to the IP [Fauna Management Guideline DMS-SD-113](#) if tree hollows or other habitat values have been identified on the site and require specific management measures.



Figures 1a and 1b: Identifying and fencing a tree protection zone (1a: Transport SA 2001; 1b: Campbelltown City Council SA 2011)

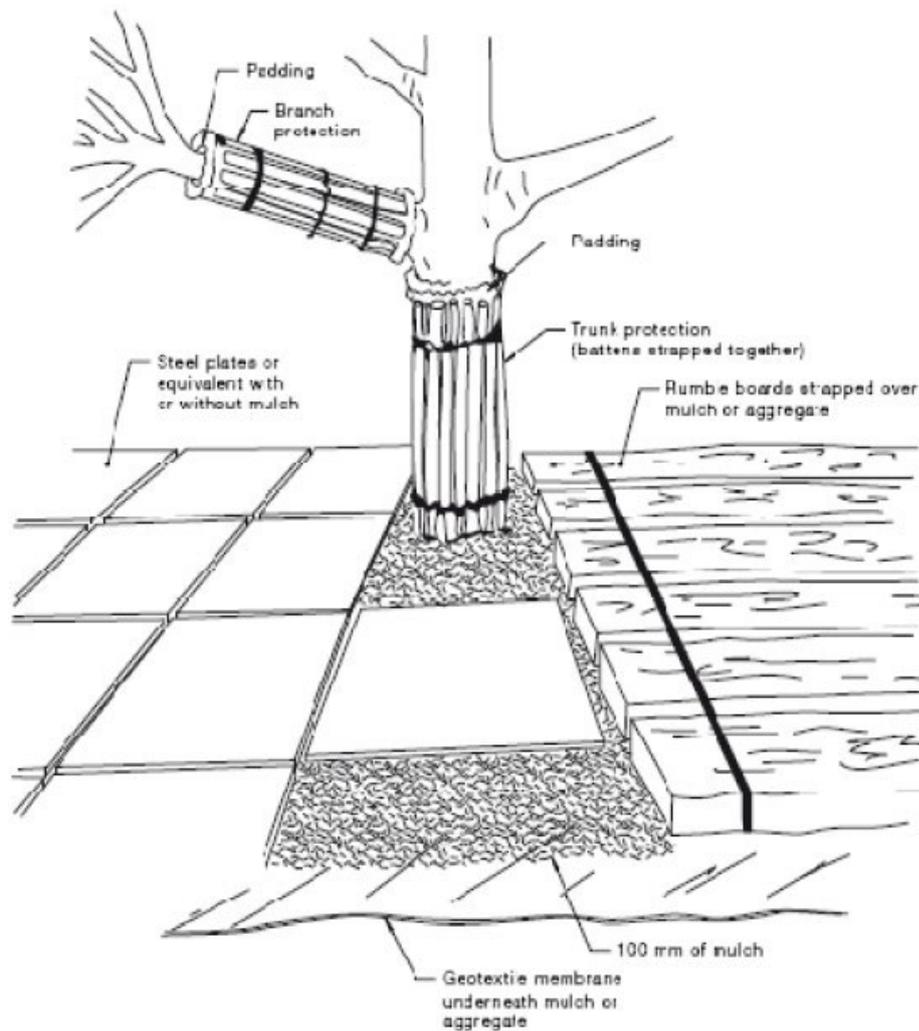


Figure 2: Examples of branch and trunk protection (Australian Standard AS4970-2009)

6.2. During construction

During construction, the following vegetation management measures should be implemented:

- Use only defined access tracks and entry/exit points for all vehicle movements.
- Use only designated areas for parking, stockpiles, materials and waste storage.
- Do not store materials or park equipment/vehicles within tree protection zones (Figures 1a and 1b).
- Revegetate or mulch disturbed areas, particularly batter slopes at the earliest opportunity.
- Mulch and reuse cleared vegetation on site for site stabilisation and/or landscaping where appropriate.
- Undertake regular inspections of vegetation management measures to ensure they are in place and effective.

- Monitor the health of retained vegetation and seek advice from an arborist if vegetation shows signs of stress (discolouration, die back).
- Submit for approval a [Removal or Trimming Vegetation Application DMS-FT-078](#) for any removal or trimming of vegetation that has not been identified in the EIA.

6.3. After construction

After construction, the following vegetation management measures should be implemented:

- Stabilise all disturbed areas, implement landscaping and remove vegetation protection measures.
- Ensure a maintenance program is in place for any landscaping or revegetation undertaken as part of the project.

7. Incident management

An environmental incident occurs when vegetation, which has not been approved for removal in the EIA or via a [Removal or Trimming Vegetation Application DMS-FT-078](#), is damaged or cleared. Refer to [Environment Incident Procedure EMF-13-PR-0001](#) for IP requirements for reporting and investigating environmental incidents.

8. Related documents and references

Related documents and references

[Environment Incident Procedure EMF-13-PR-0001](#)

[Guide to Environmental Control Map DMS-SD-015](#)

[Weed Management and Disposal Guideline DMS-SD-110](#)

[Fauna Management Guideline DMS-SD-113](#)

[Vegetation Offset Guide DMS-SD-087](#)

[Removal or Trimming Vegetation Application DMS-FT-078](#)