

# Native Vegetation clearance along Fencelines

## Frequently Asked Questions

### Information Sheet 40

Updated August 2015

#### BACKGROUND

In South Australia, native vegetation is protected by the *Native Vegetation Act 1991* and the associated *Native Vegetation Regulations 2003*. The Regulations provide a mechanism to obtain approval for vegetation clearance without needing to go through a full vegetation clearance process.

*This fact sheet describes the Regulation relating to clearance along fence lines on private land, or on property boundaries alongside roads. Unless covered by the Native Vegetation Regulations, the clearance of native vegetation requires the consent of the Native Vegetation Council (NVC).*

#### **Can I clear native vegetation along my fence lines?**

Yes you can, but subject to certain conditions. Native Vegetation Regulation 5(1)(s)<sup>1</sup> allows landholders to clear a strip of native vegetation **up to** 5m in width adjacent to the fence line to provide access for **fence maintenance and construction only**. The Regulation is limited to the following circumstance:

- The purpose of the fence must be for controlling access by people or the movement of animals.
- Where the clearance is for a **new** fence within the property boundary, the Regulation **only** applies if there is no practical alternative to siting the fence that would involve less or no clearance.
- The Regulation **does not** provide an **automatic right** to clear a 5m strip along a fence – whether within a property or on a property boundary. If there is native vegetation within 5m of the fence, and it does not impede reasonable access to the fence (for maintenance or construction), then the Regulation does not apply.
- The Regulation also applies to native vegetation protected under a Heritage Agreement, provided that the proposed fencing works are consistent with the terms of the Heritage Agreement.
- This Regulation does not extend to native vegetation growing on road reserves. Refer to the section addressing property boundaries below.

#### **My property boundary runs alongside a road – can I clear native vegetation along this roadside fence?**

Yes, but there are slightly different limitations in these circumstances. Regulation 5(1)(y)<sup>2</sup> allows for clearance of native vegetation along roadsides **provided** it is undertaken in accordance with a Roadside Vegetation Management Plan prepared by the local council and approved by the NVC, or in accordance with guidelines prepared and approved by the NVC.

A landholder who wishes to clear native vegetation on a road reserve, to enable construction or maintenance of a boundary fence, requires consent from the Local Council as the “owner” of the road reserve. In granting any consent, the Local Council must comply with the following:

- Where the roadside vegetation consists largely of trees, only branches protruding through or overhanging the boundary fence, or trees growing on the actual fence alignment, should be removed.

Where shrubs or bushes are growing through the fence line, those plants growing within **one metre** of the fence alignment can be removed.

<sup>1</sup> Go to South Australian Legislation website <http://www.legislation.sa.gov.au/index.aspx>, select the link “Regulations & Rules” and browse under “A-Z” to find the *Native Vegetation Regulations 2003*.

<sup>2</sup> Ibid.

These standards take into account that the adjoining landholder can usually clear up to a 5m width on the private land abutting the road and in doing so provide vehicular or other access to the fence.

### **Can I clear more than the standard width?**

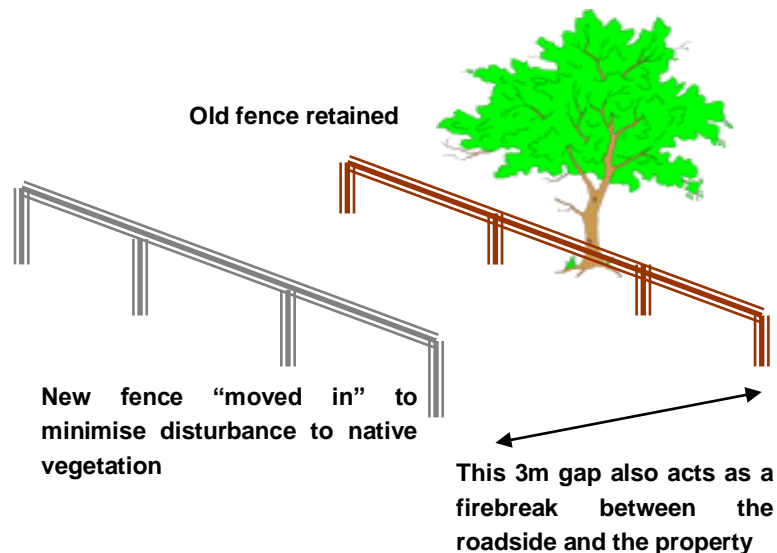
Yes, under special circumstances clearance of more than 5m can be approved. The consent of the NVC is required for any native vegetation clearance along fence lines, which **exceeds** the above standards. Landholders who wish to seek approval to clear beyond these standards should contact their local Natural Resources Office or the NVC Secretariat on 8303 9777. Landholders should also contact their Local Council where clearance of roadside vegetation is sought.

### **Are there voluntary options to minimise clearance in roadside?**

Yes – landholders needing to replace boundary fences are encouraged to consider the option of relocating the new fencing a few metres into their properties to minimise the potential impacts on roadside vegetation, while at the same time potentially reducing construction costs. Adopting this approach may have the following advantages:

- No need to remove the old fence (and thus avoid damaging any native vegetation that may be growing alongside or through it)
- No need to cut back existing stands of native vegetation
- Minimising disturbance to roadside vegetation, which is important habitat for many native bird and other species
- Some protection for the fence in the advent of a wildfire – if the intervening land is maintained as a fuel break
- Maintenance costs may be reduced (less damage to the new fence from protruding branches, etc)

In considering this option, a landholder needs to determine if the advantages of relocating the fence line offset the reduction in paddock area. The reduction in paddock area is likely to be quite small, for example moving one



kilometre of fencing in by 3m reduces the "fenced in" area by 0.3ha (or  $\frac{3}{4}$  of an acre). In many cases this narrow strip may be subject to competition from the root zones of adjacent vegetation. Retention of the old fence provides an ongoing marker of the property boundary, while the cleared strip between the old and the new fence can be maintained clear of any regrowth to minimise the impacts on the new fence.

### **There are trees in line with my property boundary – can I remove these under the Regulation to erect my fence?**

Yes, you can – the Regulation allows for the removal of trees that are directly within the alignment of a fence line. However, there are alternatives to removing the trees that may be worth considering.

See images below for one possible alternative approach.



A simple strut arrangement that allows a fence to deviate a short distance around a tree. Wires are not attached directly to the tree, thus minimising potential damage to the tree.



The same strut arrangement seen from the side. The strut holding the wires away from the tree is directly behind the trunk. The wires are in place, but cannot be seen due to the light at the time the photo was taken.

**Note:** this approach may not be appropriate for smaller trees, and an effort should be made to avoid structural roots when placing the post hold for the strut next to the tree.

**Regulation 5(1)(s) reads:****5—Exemptions**

- (1) Pursuant to section 27(1)(b) of the Act, native vegetation may, subject to any other Act or law to the contrary, be cleared—
- (s) if the clearance is for the purpose of providing a strip of cleared land of not more than 5 metres in width on either side or both sides of an existing fence or of a fence in the course of construction to provide access for the purpose of maintaining or establishing the fence and—
- (i) the fence is reasonably required to control access by people or the movement of animals; and
  - (ii) the clearance is required to give reasonable access to the fence and is limited to the extent reasonably required to achieve that access; and
  - (iii) there is no other practicable alternative (including, in the case of a new fence, to the position of the fence) that would involve no clearance or the clearance of less vegetation or the clearance of vegetation that is less significant or (if relevant) the clearance of vegetation that has been degraded to a greater extent than the vegetation proposed to be cleared,

(and the operation of this paragraph extends to vegetation on land that is subject to a heritage agreement but does not apply to vegetation on a road reserve);

**Regulation 5(1)(y) reads:**

- (1) Pursuant to section 27(1)(b) of the Act, native vegetation may, subject to any other Act or law to the contrary, be cleared—
- (y) by, or on behalf of, a local council if—
- (i) the vegetation is growing on a road reserve in the area of the council; and
  - (ii) the person undertaking the clearance complies with a management plan relating to the clearance prepared by the local council and approved by the Council or, if no such plan has been prepared and approved, with any guidelines prepared by the Council in accordance with section 25 of the Act relating to the clearance;

**FURTHER INFORMATION**

*Guidelines issued in relation to the clearance or management of native vegetation are legally enforceable. The guidelines set out methodologies for dealing with vegetation that is causing problems in certain circumstances.*

*Adhering to these guidelines will ensure that there is no breach of the Native Vegetation Act. Copies of this and other Guidelines can be downloaded from the DEWNR website [here](#).*

*For more detailed information, please contact your local NRM Office or the Native Vegetation Management Unit, Department of Environment, Water and Natural Resources on (08) 8303 9777*



Native Vegetation Council



Government  
of South Australia