

Land clearing investigation

What to expect when contacted about clearing of native vegetation



Clearing native vegetation on rural land in New South Wales is regulated by Part 5A of the *Local Land Services Act 2013* and the *Biodiversity Conservation Act 2016*. The Department of Planning, Industry and Environment (the Department) assures compliance with native vegetation laws on behalf of the community and government.

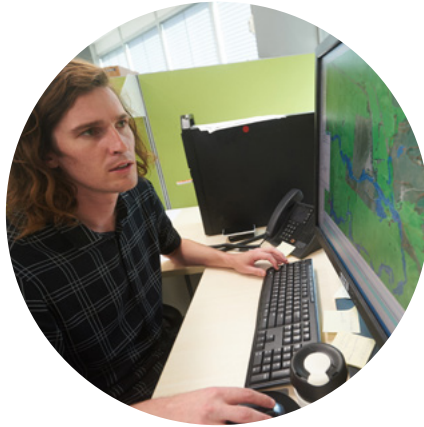
Why am I being contacted?

Where the Department becomes aware of vegetation clearing that is not readily explained by an approval or notification, an authorised Department officer may contact anyone who might have information about this clearing.

The Department officer may ask questions by email or telephone or in person. In each case, Department officers will identify themselves and, if requested, will produce their authorised officer identification card.

What is the Department of Planning, Industry and Environment's responsibility?

The Department takes a risk-based, outcomes focused approach to compliance activities, as described in the [Office of Environment and Heritage Compliance Policy](#) on the Department's [Environment, Energy and Science \(EES\) website](#).



The Department strives to help people comply with these laws, but will take firm, fair enforcement action for serious and deliberate offences.

The Department applies the NSW Public Sector core values of service, integrity, trust and accountability to all aspects of the Department compliance and enforcement activities. The [Department's Code of Ethics and Conduct](#) sets out the standards that guide workplace decisions, actions and behaviour for all Department officers. Officers undertake compliance activities in a respectful, reasonable and fair manner and will consider and appreciate people's circumstances.

Note: The *Native Vegetation Act 2003* and *Native Vegetation Regulation 2013* were repealed on 25 August 2017, but the Department is still responsible for investigating clearing offences that occurred prior to the repeal date.

Do I have to answer questions?

With approval from Department management, Department authorised officers can require you to answer questions if the officer suspects you may know about matters relating to an alleged offence against the legislation.

An authorised officer can:

- require you to answer these questions at a specified time and place, working with you to agree upon a reasonable time and place
- require you to state your name and address
- issue a notice in writing requiring you to answer questions or produce documents. The notice will specify the information or documents required and the time by which you must provide them. You will be given reasonable time to respond.

It is an offence to neglect or fail to comply with any of these requirements to provide information or to provide false or misleading information in response to such requests.

Any **information** provided in response to these requirements is not admissible as evidence against you, as a natural person, in any criminal proceedings if the information might incriminate you. This does not apply to companies and does not apply to documents.

Any **documents** provided by you in response to these requirements are admissible as evidence against you in criminal proceedings.

How does the Department of Planning, Industry and Environment find out about unlawful clearing of native vegetation?

The Department detects potential unlawful native vegetation clearing through public reporting to Environment Line, through its own investigations and audits and from remote surveillance, including aerial surveys and satellite imagery.

What does an investigation of native vegetation clearing involve?

When investigating reported or detected vegetation clearing, an authorised Department officer gathers evidence to establish whether a breach of the law has occurred. If so, the officer will gather evidence to determine the seriousness of the offence and who might be responsible.

Evidence gathering may involve a site visit to collect samples, photos, videos, witness statements and records of interview.

Site visits: What you need to know

Authorised officers cannot enter your house without your permission

If you are a landholder or property manager, Department officers cannot enter residential premises (i.e. your house) without either the occupier's permission or a search warrant.

Authorised officers can enter your land

With the approval of the Department management, an authorised officer may enter any non-residential premises at any reasonable time, aided by anyone they consider necessary. Generally, the authorised officer will make arrangements with a landholder prior to entering premises. The authorised officer may use reasonable force to enter the premises if necessary.

What to expect during a site visit

In most cases the Department officer will:

- show you identification and authorisation
- explain what the possible contravention of the Act might be
- explain the investigation process
- ask you questions, including your name and address
- answer, to the best of their ability, any questions about the process or possible outcomes.

You must co-operate with authorised officers

It is an offence to hinder, obstruct, delay or threaten an authorised officer, or to fail or refuse to comply with certain requirements made by the officer.

The Department is committed to a credible, fair and balanced compliance approach, including helping people to comply where possible.

Remember that an authorised officer is undertaking a duty on behalf of, and using legal powers provided by, government to investigate a matter. Decisions to take any enforcement action are made by Department management, not the authorised officer.

The authorised officer is collecting information to determine the facts of the matter. Department authorised officers are trained to undertake this role and exercise their powers in a professional and lawful manner that is fair, objective and impartial. In undertaking their investigation, they will comply with the Department's code of ethical conduct and endeavour to be respectful and polite.

What the authorised officer will do during a site visit

Upon lawfully entering the premises, an authorised officer may do anything necessary to investigate, including:

- examine and inspect animals, plants, works, vehicles, aircraft or other articles
- gather and remove samples
- take photos, films, audio and video
- take GPS readings
- require records to be produced and examine and copy records
- seize anything connected with an offence
- record statements and interviews (with your permission)
- talk to other people
- bring other people to assist them.

Authorised officers also have a right to ask a person to provide reasonable assistance, although every effort is made to ensure such requests are not necessary.

Department of Planning, Industry and Environment response

If there is enough evidence to prove an offence, Department management will determine an appropriate compliance response that considers:

- the seriousness of the offence
- the culpability of the offender and their compliance history
- the need for general or specific deterrence
- any other mitigating and aggravating circumstances.



Compliance options available to the Department include:

- taking no further action
- warning letters or official cautions
- stop work orders
- penalty notices
- remediation orders
- enforceable undertakings
- prosecution.

Who to talk to about an investigation

If you have questions about an investigation, in the first instance, contact the authorised officer who made initial contact with you.

If you require further information, or want to provide feedback regarding the investigation, please email your query or comments to info@environment.nsw.gov.au. The most appropriate Department staff member will then contact you as soon as possible to respond to your concerns.

More information on managing native vegetation on your property

Contact details for all Local Land Services offices can be found on the [Local Land Services website](#), along with information about sustainable land management.

Contact details for all NSW councils can be found on the [Office of Local Government website](#).

Information on biodiversity conservation and native vegetation can be found under the [Animal and Plants topic](#) on the EES website.

Contact the Environment Line on 131 555 or email info@environment.nsw.gov.au to report possible illegal clearing.

Further information about managing native vegetation on your property is available on the Land management website.

How to make a complaint

If you wish to make a complaint with the Department, you should:

- directly speak or write to a Department staff member from the team associated with your concerns
- include your name and contact details so we can get back to you.

You can also:

- phone our head office on 02 9995 5555
- write to our head office at info@environment.nsw.gov.au.

The NSW Ombudsman manages complaints to NSW Government and more information is available at the [Ombudsman New South Wales website](#).

Note: This information does not constitute legal advice. You may wish to seek independent legal advice. You should seek specific technical advice from your Local Land Services office before undertaking any clearing.

Cover photo: Farmland, cleared land ready for crop sowing, Rosie Nicolai/DPIE.

Page 2 left to right: Rural farming, Simone Cottrell/DPIE; native vegetation mapping study, Peter Robey/DPIE; Wind erosion in the grazing lands, Simone Cottrell/DPIE. Above left to right: Tree clearing, Simone Cottrell/DPIE; Rural life, Michael Van Ewijk/DPIE; Rural farming, Simone Cottrell/DPIE.

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