

Biodiversity certification: Information for landholders

What landholders need to know about land that is biodiversity certified under Part 8 of the Biodiversity Conservation Act 2016
Fact sheet #5

What is the purpose of biodiversity certification?

Biodiversity certification offers a streamlined biodiversity assessment process for land proposed for development.

Biodiversity certification supports landscape scale planning by identifying areas that can be developed after they are biodiversity certified and areas where development is to be avoided.

When land is biodiversity certified, development can occur without the need for site-by-site biodiversity assessment under the *Biodiversity Conservation Act 2016* (Biodiversity Conservation Act). The biodiversity certification process identifies conservation measures to offset the residual impacts to biodiversity that result from the land being certified.

How is biodiversity certification conferred?

Biodiversity certification is conferred by an order made by the Minister for the Environment and is published in the NSW Government Gazette.

The Department maintains a register of biodiversity certification orders.

How will I know if my land is biodiversity certified?

Check the Department's register of biodiversity certification orders.

Biodiversity certification orders identify the party or parties to the biodiversity certification and specify the conservation measures to be implemented to offset biodiversity impacts on the certified land. They may also specify measures to avoid or minimise impacts.

The Department publishes notices within 21 days of any orders made for conferral and also extension, suspension, modification or revocation of certification.

Visit the Department's [Register of orders](#).

Check the Section 10.7 planning certificate for your land.

If land is biodiversity certified, council is required to include a statement indicating this on the relevant planning certificate issued under section 10.7 of the *Environment Planning and Assessment Act 1979*.

How and when will I be notified of conferral of biodiversity certification?

If you are a party to an application for biodiversity certification, you will be notified within 21 days if certification has been conferred.

If you own land proposed to be biodiversity certified but **are not** a party to the application, there is no formal requirement for you to be notified under the Biodiversity Conservation Act. However, you can still find this information on the Department's register of orders.

Visit the Department's [Register of orders](#).

Do biodiversity certification proposals that include my land need my consent?

If your land is proposed for biodiversity certification, your written consent is needed, unless the applicant is a planning authority.

Planning authorities include local councils, Local Land Services and the Department of Planning and Environment.

Parties to a biodiversity certification are responsible for carrying out any obligations under the biodiversity certification order. If you are not a party to the certification you are not responsible for carrying out the obligations under the order.

What is a biodiversity certification agreement?

To provide security for the future implementation of conservation measures the Minister may seek to enter into a biodiversity certification agreement.

Unlike a biodiversity certification order, a biodiversity certification agreement can be made with any person or body even if they are not a party even if they are not a party to the certification.

When a landholder is a party to a biodiversity certification agreement and has agreed to undertake or refrain from undertaking certain actions, they will need to ensure they comply with these actions. Biodiversity certification agreements run with the land and bind any successive landowners.

The Department monitors compliance to ensure that conservation measures are being delivered and any actions under a biodiversity certification agreement are being met.

What is the effect of biodiversity certification?

Additional biodiversity assessment isn't required for a development application on biodiversity certified land.

If your land is biodiversity certified, biodiversity assessment under the Biodiversity Conservation Act has already been carried out and no further biodiversity assessment is required for your development site.

This only applies to biodiversity certified land included in your proposed development. If part of the proposed development is not on certified land, biodiversity impacts on that land will still need to be assessed under the Biodiversity Conservation Act.

On biodiversity certified non-rural lands, vegetation clearing not associated with a development application may need a permit from council.

If the *State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017* (Vegetation SEPP) applies to the land on which clearing is proposed, an applicant may need a permit from council to clear vegetation which is below the biodiversity offset scheme threshold.

Council's Development Control Plan will specify which vegetation requires a permit under Part 3 of the Vegetation SEPP.

To find out whether you need a permit, contact your local council or check your council's Development Control Plan. This Plan is published on their website.

For land that is biodiversity certified, clearing native vegetation that exceeds the biodiversity offsets scheme threshold doesn't require approval from the Native Vegetation Panel (clause 7(3) of the Vegetation SEPP).

Visit the Department's website for more information about the biodiversity offsets scheme threshold at [When does the Biodiversity Offsets Scheme apply?](#)

On biodiversity certified rural lands, vegetation clearing not associated with a development application doesn't need approval.

The *Local Land Services Act 2013* (LLS Act) provides a framework for clearing native vegetation that doesn't require development consent on rural land.

Land that is biodiversity certified is categorised as category 1-exempt land under part 5A of the LLS Act. Land that is categorised as category 1-exempt land isn't regulated and authorisation to clear the land isn't required under the LLS Act.

Land that is subject to an approved biodiversity certification conservation measure is categorised as Category 2 - regulated land under the LLS Act.

Contacts, more information and support

For more information and for additional resources and support visit the Department's [Biodiversity certification](#) webpage.

For information about a specific biodiversity certification proposal or about the biodiversity certification process generally, contact your relevant [Department regional office](#).