

# Clearance of Indigenous Vegetation Explanatory Document

## August 2018

**Note:** This document is applicable to activities commenced with on or after 08 December 2014. Any queries regarding specific scenarios can be forwarded to [iq@environment.gov.za](mailto:iq@environment.gov.za).

### Listed Activities of Relevance:

Activity 27 of LN 1	The clearance of an area of 1 hectares or more, but less than 20 hectares of indigenous vegetation, except where such clearance of indigenous vegetation is required for— (i) the undertaking of a linear activity; or (ii) maintenance purposes undertaken in accordance with a maintenance management plan.
Activity 15 of LN 2	The clearance of an area of 20 hectares or more of indigenous vegetation, excluding where such clearance of indigenous vegetation is required for— (i) the undertaking of a linear activity; or (ii) maintenance purposes undertaken in accordance with a maintenance management plan.
Activity 12 of LN3	The clearance of an area of 300 square metres or more of indigenous vegetation except where such clearance of indigenous vegetation is required for maintenance purposes undertaken in accordance with a maintenance management plan.

### Indigenous vegetation defined

Indigenous vegetation is defined as follows (LNs): *“Indigenous vegetation: refers to vegetation consisting of indigenous plant species occurring naturally in an area, regardless of the level of alien infestation[,] and where the topsoil has not been lawfully disturbed during the preceding 10 years.*

It is important to note that the inclusion of a specific definition for “indigenous vegetation” means that the legislature intended to depart from the terms ordinary meaning. In this regard, it is important to note that the definition refers to vegetation consisting of indigenous plant species regardless of the level of alien infestation.

### What is the trigger or act requiring authorisation?

1. The trigger for Activity 27 of LN 1 is the clearance of an area of 1 hectares (10 000m<sup>2</sup>) or more of indigenous vegetation (as defined), but less than 20 hectares.
2. The trigger for Activity 15 of LN 2 is the clearance of an area of 20 hectares or more of indigenous vegetation (as defined).
3. The trigger for Activity 12 of LN 3 is the clearance of an area of 300m<sup>2</sup> or more of indigenous vegetation (as defined), provided that this is within a specified geographical area based on environmental attributes (please note that the specified geographical areas have been amended on 07 April 2017, effective the same day).

### What is “Clearance”?

Ploughing of land, bulldozing of an area, eradication or removal of vegetation cover with chemicals, **amongst others**, constitutes clearance of vegetation, provided that this will result in the vegetation being eliminated, removed or eradicated.

Burning of vegetation (*e.g. fire-breaks*), mowing grass or pruning **does not constitute vegetation clearance**, unless such burning, mowing or pruning would result in the vegetation being permanently eliminated, removed or eradicated. Eradication of weeds or plant types not occurring naturally within the specific area by means of selective chemical application would not constitute clearance of indigenous vegetation. The pruning of shrubs under a power line would not constitute clearance, unless the pruning is done in such a way that the shrubs are permanently removed.

**Discretion and common sense must be applied in the determination of whether an act constitutes clearance. Any queries regarding specific scenarios can be forwarded to [ig@environment.gov.za](mailto:ig@environment.gov.za).**

### What is the relevance of geographical areas based on environmental attributes in relation to clearance of indigenous vegetation (Activity 12 of LN 3)?

Environmental authorisation for Activity 12 of LN 3 is only required in an event where clearance of indigenous vegetation of 300m<sup>2</sup> or more is proposed within an identified geographical area. Geographical areas are identified per province. In an event where such an activity falls outside an identified geographical area (as per LN 3), this activity cannot be triggered, irrespective of the sensitivity of the receiving environment or close proximity thereof to such an identified geographical area. As indicated above, these geographical areas have been amended on 07 April 2017 with effect from the same day (See GNR 324).

Geographical areas are irrelevant in the determination if activities 27 of LN 1 and 15 of LN 2 would be triggered.

### What is a linear activity?

The term ‘linear activity’ is defined in LN 1 and LN 2 and *‘means an activity that is arranged in or extending along one or more properties and which affects the environment or any aspect of the environment along the course of the activity, and includes railways, roads, canals, channels, funiculars, pipelines, conveyor belts, cableways, power lines, fences, runways, aircraft landing strips, firebreaks and telecommunication lines’*.

For the clearance of indigenous vegetation activities listed in activities 27 of LN 1 and 15 of LN 2, clearance for purposes of a linear activity does not require an environmental authorisation. It is imperative to note that **a similar exclusion has not been provided for the LN 3 clearance of indigenous vegetation activity.**

The definition of ‘linear’ clarifies that, **amongst other**, railways, roads, canals, channels, funiculars, pipelines, conveyor belts, cableways, power lines, fences, runways, aircraft landing strips, firebreaks and telecommunication lines are deemed to be linear activities. This also includes e.g. a fibre optic cables. **In the same regard e.g. a helipad (25m<sup>2</sup>), although constituting a runway, cannot be deemed to be a linear activity.**

## Looking at each listed activity

### Activity 27 of LN1:

The clearance of an area of 1 hectares or more, but less than 20 hectares of indigenous vegetation, except where such clearance of indigenous vegetation is required for—

- (i) the undertaking of a linear activity; or
- (ii) maintenance purposes undertaken in accordance with a maintenance management plan.

For this activity to be triggered:

- a. The area cleared of its vegetation must be 1 hectare or more; **AND**
- b. There must be at least 1 hectare of indigenous vegetation (as defined) that will be cleared; **AND**
- c. Neither of the exclusions provided for may be present.

### Activity 15 of LN 2:

The clearance of an area of 20 hectares or more of indigenous vegetation, excluding where such clearance of indigenous vegetation is required for—

- (i) the undertaking of a linear activity; or
- (ii) maintenance purposes undertaken in accordance with a maintenance management plan.

For this activity to be triggered:

- a. The area cleared of its vegetation must be 20 hectares or more; **AND**
- b. There must be at least 20 hectares of indigenous vegetation (as defined) that will be cleared; **AND**
- c. Neither of the exclusions provided for may be present.

### Activity 12 of LN 3:


The clearance of an area of 300 square metres or more of indigenous vegetation except where such clearance of indigenous vegetation is required for maintenance purposes undertaken in accordance with a maintenance management plan.

For this activity to be triggered:

- a. The area cleared of its vegetation must be 300m<sup>2</sup> or more; **AND**
- b. There must be at least 300m<sup>2</sup> of indigenous vegetation (as defined) that will be cleared; **AND**
- c. The exclusion provided for may NOT be present; **AND**
- d. This must take place / must have taken place within an identified geographical area as per:
  - GNR 985 if between December 08 December 2014 and end of day 06 April 2017; **OR**
  - GNR 324 if on or after 07 April 2017.

## Simple Calculators

hectares		m <sup>2</sup> (square meters)
0.01 hectare	=	
0.03 hectare	=	
0.1 hectare	=	
0.5 hectare	=	
1 hectare	=	
5 hectares	=	
10 hectares	=	
15 hectares	=	
20 hectares	=	
100 hectares	=	





Acres		m <sup>2</sup>		Hectares
1 acre	=	4 046.86m <sup>2</sup>	=	0.404686 hectare
0.0741316 acres	=	300m <sup>2</sup>	=	0.03 hectare
2.471054 acres	=	10 000m <sup>2</sup>	=	1 hectare
10 acres	=	40 468.6m <sup>2</sup>	=	4. 04686 hectare
12.355269 acres	=	50 000m <sup>2</sup>	=	5 hectares
49.4210763 acres	=	200 000m <sup>2</sup>	=	20 hectares

## Explanation

For purposes of undertaking the listed activity, the following 'Keys' need to be applied for **examples 1 – 4 below**:

### KEYS:

-  Indigenous vegetation as per NEMA EIA Regulations definition.
-  Not Indigenous vegetation as per NEMA EIA Regulations definition.

### Example 1



SANRAL intends to clear an area of vegetation of 11 000 square meters for the development of an off-ramp. The entire area to be cleared meets the definition of indigenous vegetation (*although VERY heavily infested with exotics*). This is within one of the geographical areas specified in activity 12 of LN3 (e.g. Renosterveld is critically endangered).

Activity 12 of LN 3	Activity 27 of LN 1	Activity 15 of LN 2
Will an area of 300m <sup>2</sup> or more be cleared?	Will an area of 10 000m <sup>2</sup> ( 1 hectare) or more be cleared?	Will an area of 200 000m <sup>2</sup> (20 hectares) or more be cleared?
Yes	Yes	No – accordingly this activity cannot be triggered.
Is the development for maintenance purposes undertaken in accordance with a maintenance management plan?	Is the development for maintenance purposes undertaken in accordance with a maintenance management plan?	Is the development for maintenance purposes undertaken in accordance with a maintenance management plan?
No	No	Exclusion question irrelevant as activity cannot be listed as it does not meet the 200 000m <sup>2</sup> threshold
Will this activity take place within an identified geographical area?	Is the clearance of vegetation required for the undertaking of a linear activity?	Is the clearance of vegetation required for the undertaking of a linear activity?
Yes	Yes - accordingly this activity cannot be triggered because it falls within the exclusion provided in the activity.	Exclusion question irrelevant as activity cannot be listed as it does not meet the 200 000m <sup>2</sup> threshold
Activity 12 of LN 3 triggered	Activity 27 of LN 1 NOT triggered	Activity 15 of LN 2 NOT triggered

### Example 2



Farmer intends to clear an area of vegetation of 9 800m<sup>2</sup>. The entire area to be cleared meets the definition of indigenous vegetation. This is not within one of the geographical areas specified in activity 12 of LN 3.


Activity 12 of LN 3	Activity 27 of LN 1	Activity 15 of LN 2
Will an area of 300m <sup>2</sup> or more be cleared?	Will an area of 10 000m <sup>2</sup> ( 1 hectare) or more be cleared?	Will an area of 200 000m <sup>2</sup> (20 hectares) or more be cleared?
Yes	No - accordingly this activity cannot be triggered.	No – accordingly this activity cannot be triggered.
Is the development for maintenance purposes undertaken in accordance with a maintenance management plan?	Is the development for maintenance purposes undertaken in accordance with a maintenance management plan?	Is the development for maintenance purposes undertaken in accordance with a maintenance management plan?
No	Exclusion question irrelevant as activity cannot be listed as it does not meet the 10 000m <sup>2</sup> threshold	Exclusion question irrelevant as activity cannot be listed as it does not meet the 200 000m <sup>2</sup> threshold
Will this activity take place within an identified geographical area?	Is the clearance of vegetation required for the undertaking of a linear activity?	Is the clearance of vegetation required for the undertaking of a linear activity?
No - accordingly this activity cannot be triggered.	Exclusion question irrelevant as activity cannot be listed as it does not meet the 10 000m <sup>2</sup> threshold	Exclusion question irrelevant as activity cannot be listed as it does not meet the 200 000m <sup>2</sup> threshold
Activity 12 of LN 3 NOT triggered	Activity 27 of LN 1 NOT triggered	Activity 15 of LN 2 NOT triggered


### Example 3





Farmer intends to clear an area of vegetation of 220 000m<sup>2</sup>. This entire 220 000 m<sup>2</sup> site is within one of the specified geographical areas (as per LN3). The area is known to be an area of suitable habitat for many critically endangered fauna and flora.

Admissible evidence exists that 210 200 m<sup>2</sup> of the 220 000 m<sup>2</sup> was ploughed and under lawful crop production in 2011. This 210 200 m<sup>2</sup> area is now overgrown by many indigenous plants, indigenous grass, indigenous shrubs and even indigenous trees.

These plants, trees, shrubs and grasses is found naturally in surrounding area. There are very few alien shrubs, trees and grass on this 210 200 m<sup>2</sup> area. 

The topsoil of the remaining 9 800 m<sup>2</sup> have never been disturbed (*lawfully or unlawfully*). It is very heavily infested with exotics but indigenous plant shrubs, trees and grass is found all over this infested area. 

The 210 200 m<sup>2</sup> area NOT meeting the definition of indigenous vegetation [  ] is deemed by *i.e. experts, your Bio-diversity colleagues and SANBI* as far more valuable and conservation - worthy than the 9 800 m<sup>2</sup> area meeting the definition of indigenous vegetation [  ].

The 210 200m<sup>2</sup> area may have a number of red data plant species and or critically endangered species that have re-established itself since 2011.

Activity 12 of LN 3	Activity 27 of LN 1	Activity 15 of LN 2
Will an area of 300m <sup>2</sup> or more be cleared?	Will an area of 10 000m <sup>2</sup> ( 1 hectare) or more be cleared?	Will an area of 200 000m <sup>2</sup> (20 hectares) or more be cleared?
Yes	No	No
Only the 9 800m <sup>2</sup> area meets the definition of indigenous vegetation. The 210 200m <sup>2</sup> area does not meet the definition and cannot form part of your calculation, irrespective the sensitivity and to what extend this is deemed to be conservation- worthy.		
Is the development for maintenance purposes undertaken in accordance with a maintenance management plan?	Is the development for maintenance purposes undertaken in accordance with a maintenance management plan?	Is the development for maintenance purposes undertaken in accordance with a maintenance management plan?
No	Exclusion Question irrelevant as activity cannot be listed as it does not meet the 10 000m <sup>2</sup> threshold	Exclusion Question irrelevant as activity cannot be listed as it does not meet the 200 000m <sup>2</sup> threshold
Will this activity take place within an identified geographical area?	Is the clearance of vegetation required for the undertaking of a linear activity?	Is the clearance of vegetation required for the undertaking of a linear activity?
Yes	Exclusion Question irrelevant as activity cannot be listed as it does not meet the 10 000m <sup>2</sup> threshold	Exclusion Question irrelevant as activity cannot be listed as it does not meet the 200 000m <sup>2</sup> threshold
Activity 12 of LN 3 triggered- BA required for the 9 800m <sup>2</sup> clearance only.	Activity 27 of LN 1 NOT triggered	Activity 15 of LN 2 NOT triggered

Notwithstanding the above, section 28 of the NEMA remains applicable and may require, inter alia and in certain circumstances, the search, rescue and transplantation of red data plant species in order to prevent significant harm to the environment and comply with the requirement to minimise such harm.

#### Example 4



Farmer intends to clear an area of vegetation of 50 000m<sup>2</sup>. Admissible evidence exists that 41 000 m<sup>2</sup> does not meet the definition of indigenous vegetation. Three (3) x 3000 m<sup>2</sup> areas indeed meets the definition of indigenous vegetation (*as within each of the 3 000 m<sup>2</sup> areas a few indigenous shrubs and grasses are found – but each of the areas are predominantly infested by exotics*). This entire 50 000 m<sup>2</sup> site is within one of the specified geographical areas (as per LN3).

Activity 12 of LN 3	Activity 27 of LN 1	Activity 15 of LN 2
Will an area of 300m <sup>2</sup> or more be cleared?	Will an area of 10 000m <sup>2</sup> (1 hectare) or more be cleared?	Will an area of 200 000m <sup>2</sup> (20 hectares) or more be cleared?
Yes	No	No
Only the 3 x 3 000m <sup>2</sup> area meet the definition of indigenous. The 41 000m <sup>2</sup> area does not meet the definition and cannot form part of your calculation.		
Is the development for maintenance purposes undertaken in accordance with a maintenance management plan?	Is the development for maintenance purposes undertaken in accordance with a maintenance management plan?	Is the development for maintenance purposes undertaken in accordance with a maintenance management plan?
No	Exclusion question irrelevant as activity cannot be listed as it does not meet the 10 000m <sup>2</sup> threshold	Exclusion question irrelevant as activity cannot be listed as it does not meet the 200 000m <sup>2</sup> threshold
Will this activity take place within an identified geographical area?	Is the clearance of vegetation required for the undertaking of a linear activity?	Is the clearance of vegetation required for the undertaking of a linear activity?
No - accordingly this activity cannot be triggered.	Exclusion question irrelevant as activity cannot be listed as it does not meet the 10 000m <sup>2</sup> threshold	Exclusion question irrelevant as activity cannot be listed as it does not meet the 200 000m <sup>2</sup> threshold
Activity 12 of LN 3 Not triggered	Activity 27 of LN 1 NOT triggered	Activity 15 of LN 2 NOT triggered

#### Interpretation Queries and previous response

Any queries regarding specific scenarios can be forwarded to [iq@environment.gov.za](mailto:iq@environment.gov.za).

The IQ Help-desk has in the past responded as follows on queries related to indigenous vegetation clearance:

Scenario / question posed:	Interpretation Response
1. Where vegetation on a site is indigenous to South Africa and the topsoil has not been disturbed during the preceding 10 years, but such vegetation was planted on a site and there is no evidence that it occurs or has occurred naturally on the site.	Such vegetation does not occur naturally on the site and therefore does not constitute indigenous vegetation as per the LN 1 and LN 2 definition.
2. A property is 1.4 hectares (14 000m <sup>2</sup> ) in size. Most of the vegetation would be cleared but +- 6 000m <sup>2</sup> of shrubs and trees would remain intact scattered all over the property. Would activity 27 of LN 1 be triggered?	The determining factor is the size of the land to be cleared, not the size of the property. For this scenario 9 000m <sup>2</sup> (0.9 ha) of indigenous vegetation would be cleared and the 1 ha threshold of LN 1 would not be met. Activity 27 of LN 1 cannot be triggered and an EA for such is not required.
3. Is a footpath / mountain bike track / mountain trail regarded as a linear activity for purposes of the EIA Regulations Listing Notices?	Yes.

4.	The definition refers to lawful disturbance. What is that?	<p>If the topsoil has been disturbed during the preceding 10 years the question to be answered is whether the disturbance was done:</p> <p>a. lawfully; or b. unlawfully.</p> <p>‘Lawfully disturbed’ means no prohibition existed and/or authorisation/permit, if required, was obtained in terms of legislation to disturb the vegetation (e.g. Conservation of Agricultural Resources Act, 1983, ECA, NEMA, land use planning legislation).</p> <p>If the topsoil was lawfully disturbed during the preceding 10 years then the listed/ specified activities relating to clearance of vegetation will not be triggered.</p> <p>However, if the topsoil was unlawfully disturbed during the preceding 10 years then the relevant listed/ specified Activities relating to clearance of vegetation might be triggered if all the variables are met.</p>
5.	An EA (rather RoD) was issued for the change of land use from Agriculture to Offices in 2006. The authorised development was not yet commenced with. Is there a need for the holder to now apply for environmental authorisation for the clearance of indigenous vegetation?	<p>The clearance of vegetation activities (as per LN 1, LN 2 and LN 3) are deemed to be similarly listed to the change of land use activities of the ECA. No further environmental authorisation or amendment thereto would be required for the proposed vegetation clearance, provided that such clearance happens within the scope of the environmental authorisation and all conditions are complied with.</p> <p><b>Please make sure you get a copy of the Similar Listed Activity Document (Dated June 2017)</b></p>
6.	A farmer intends to burn 50 000m <sup>2</sup> of land in a very sensitive area. Would this constitute clearance of indigenous vegetation?	Activity excludes burning of vegetation unless the vegetation will be completely removed in the medium or long term as a result of such burning.
7.	A proponent intends to clear 3 hectares of indigenous vegetation on a 7 hectare site. He will also clear the remaining 4 hectares where the vegetation does not meet the definition of indigenous (it is clearly alien species). Is the entire 7 hectares subjected to the application for EA?	An application for EA is only required for the clearance of the 3 hectares of indigenous vegetation. The remaining 4 hectare clearance can proceed provided that no other listed or specified activity is triggered. The 4 hectares <b>will not form part of the assessment process</b> as such clearance, would not constitute a listed or specified activity.
8.	A proponent intends to develop a road within a corridor or servitude which has been approved more than 70 years ago. This is within a specified Geographical area (as per LN 3). Will the clearance of Indigenous vegetation trigger activity 12 of LN 3 taking into consideration that the corridor has been approved so long time ago?	An application for EA would be required. The relevant specified activity (Activity 12 of LN 3) neither excludes linear developments nor does it exclude clearance within servitudes or corridor's.