

52.17 NATIVE VEGETATION

Purpose

To protect and conserve native vegetation to reduce the impact of land and water degradation and provide habitat for plants and animals.

Permit requirement

A permit is required to remove, destroy or lop native vegetation.

This does not apply:

Scheduled area

- To an area specified in the schedule to this clause.

Site area

- On land which, together with all contiguous land in one ownership, has an area of less than 0.4 hectare.

Dead vegetation

- If the native vegetation is dead.

Emergency works

- If the native vegetation presents an immediate risk of personal injury or damage to property.
- If the removal, destruction or lopping of native vegetation is necessary for emergency access or emergency works by a public authority or municipal council.

Fire

- If the removal, destruction or lopping of native vegetation is necessary for fire fighting measures, periodic fuel reduction burning, or the making of fire breaks up to 6 metres wide.
- To the removal of ground fuel within 30 metres of a building.
- If the removal, destruction or lopping of native vegetation is in accordance with a fire prevention notice under:
 - Section 65 of the Forests Act 1958.
 - Section 41 of the Country Fire Authority Act 1958.
 - Section 8 of the Local Government Act 1989.
- To any action which is necessary to keep the whole or any part of a tree clear of an electric line provided the action is carried out in accordance with a code of practice prepared under Section 65 of the State Electricity Commission Act 1958.

Planted vegetation or harvesting

- If the native vegetation has been planted for timber production, agroforestry (the simultaneous and substantial production of forest and other agricultural products from the same land unit), shelter belts, woodlots, street trees, gardens, horticultural purposes or the like.
- To timber harvesting carried out under licence from the Secretary to the Department of Natural Resources and Environment.

Extractive industry

- To the removal, destruction or lopping of native vegetation necessary for carrying on an extractive industry, including an extractive industry authorised by a licence or a lease under the Extractive Industries Act 1966. This does not apply to an extractive industry exempted under Section 5 of the Extractive Industries Development Act 1995.

Surveying

- To the removal, destruction or lopping of the minimum extent of native vegetation necessary for establishing sight-lines for the measurement of land by surveyors in the exercise of their profession, and if using hand held tools.

Rural activities

- To the removal, destruction or lopping of the minimum extent of native vegetation necessary for the construction, operation or maintenance of a farm structure, including a dam (other than on a stream), tracks, bores, windmills, tankstands, fences, stockyards, loading ramps, sheds and the like.
- If the native vegetation is seedlings or regrowth less than 10 years old and if the land is being re-established or maintained for cultivation or pasture.
- If the removal, destruction or lopping of native vegetation is in accordance with a land use condition or land management notice under the Catchment and Land Protection Act 1994.
- To the cutting of reasonable amounts of wood for personal use by the owner or occupier of the land.
- To the removal, destruction or lopping of native vegetation as a result of grazing by domestic stock. This includes unused roads specified under Section 400 of the Land Act 1958.

Stock movements on roads

- To the removal, destruction or lopping of native vegetation as a result of moving stock along a road. This does not include the removal, destruction or lopping of native vegetation as a result of holding the stock in a temporary fence (including an electric fence) on a roadside for the purpose of feeding.

Weeds and vermin

- If the native vegetation is proclaimed as a noxious weed or is bracken (*Pteridium esculentum*).
- If the removal, destruction or lopping of native vegetation is in accordance with a notice under the Catchment and Land Protection Act 1994.
- If the native vegetation is burgan (*Kunzea ericoides* (previously *Leptospermum phylloides*)) or manuka (*Leptospermum scoparium*) and is on land which meets each of the following conditions:
 - It is outside the Metropolitan Region.
 - It is more than 30 metres from a water course.
 - It is being re-established or maintained for cultivation or pasture.
 - Ground slopes are less than 30 percent.
- To the removal, destruction or lopping of the minimum extent of native vegetation necessary to remove burrows for vermin control. The total area in one ownership to be destroyed must not exceed 10 hectares.

Buildings

- To the removal, destruction or lopping of the minimum extent of native vegetation necessary for the construction, use and maintenance of:

- A dwelling.
- Any building or works which are ancillary to a dwelling including tennis courts, barbecues, swimming pools, utility services or vehicle accessways.
- Any building, including utility services or vehicle accessways which are ancillary to the building.
- To the removal, destruction or lopping of native vegetation within 10 metres of a building.

Utility services

- To the removal, destruction or lopping of the minimum extent of native vegetation necessary to maintain public utility services for the transmission of water, sewage, gas, electricity, electronic communications or the like.
- To the removal, destruction or lopping of the minimum extent of native vegetation necessary to continue the activity on land which has previously been cleared where seedlings or regrowth are less than 10 years old and the land is:
 - Within the formation of a road or railway line.
 - On or adjacent to a helipad, airfield or the like.
 - In an existing gravel pit.
 - On crown land or land owned by a public authority or municipal council.

Mineral exploration and mining

- To the removal, destruction or lopping of native vegetation necessary for mineral exploration or mining authorised by an approved work plan and in accordance with an authority to commence work issued under the Mineral Resources Development Act 1990.

Decision guidelines

Before deciding on an application, in addition to the decision guidelines in Clause 65, the responsible authority must consider, as appropriate:

- The policy on retention and re-establishment of native vegetation.
- The conservation and enhancement of the area.
- The preservation of and impact on the natural environment or landscape values.
- The role of the native vegetation in:
 - Conserving fauna and flora.
 - Protecting water quality.
 - Providing shade and shelter.
- The role of the native vegetation in preventing:
 - Land degradation, including soil erosion, salinisation, acidity and water logging.
 - Adverse effects on groundwater recharge.
- The need to retain native vegetation:
 - Where ground slopes are more than 20 percent.
 - Within 30 metres of a wetland or waterway.
 - Where groundwater recharge occurs.
 - On land subject to or which may contribute to soil erosion, slippage or salinisation.
 - On land where the soil or sub-soil may become unstable if cleared.
 - In a proclaimed water supply catchment.
 - In areas where removal, destruction or lopping could jeopardise the integrity or long term preservation of any identified site of scientific, nature conservation or cultural significance.
 - If it is rare or supports rare species of fauna or flora.
 - That forms part of a wildlife corridor.
- The conservation of native vegetation protected under the Archaeological and Aboriginal Relics Preservation Act 1972 or the Aboriginal and Torres Strait Islander Heritage Protection Act 1984.
- Any relevant permit to remove destroy or lop native vegetation in accordance with a land management plan or works program.

- Whether the application includes a land management plan or works program.
- Whether provision is made or is to be made to establish and maintain native vegetation elsewhere on the land.
- The benefit of a condition requiring:
 - Planting, replanting or other treatment of any part of the land.
 - The retention of a buffer strip of native vegetation within specified distances of wetlands, waterways, roads and property boundaries.
 - The fencing off of areas of native vegetation, in particular to exclude stock or vermin.
 - The identification of native vegetation that is to be retained, including the methods to be used to protect and manage the native vegetation.
- The approved Regional Vegetation Plan (where prepared).
- In the case of timber production, the benefit of including a condition requiring operations to be carried out in accordance with any relevant code of practice under Section 55 of the Conservation, Forests and Lands Act 1987.

Land management plan or works program

A permit may be granted to remove, destroy or lop native vegetation in accordance with a land management plan or a works program.