

52.17

18/11/2011
VC83

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.

To achieve the following objectives:

- To avoid the removal of native vegetation.
- If the removal of native vegetation cannot be avoided, to minimise the removal of native vegetation through appropriate planning and design.
- To appropriately offset the loss of native vegetation.

To provide for the management and removal of native vegetation in accordance with a property vegetation plan.

To manage vegetation near buildings to reduce the threat to life and property from bushfire.

52.17-1

15/09/2008
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Native vegetation precinct plans

This clause does not apply if a Native vegetation precinct plan corresponding to the land is incorporated into this scheme.

52.17-2

15/09/2008
VC49

Permit requirement

A permit is required to remove, destroy or lop native vegetation, including dead native vegetation. This does not apply:

- If the table to Clause 52.17-6 specifically states that a permit is not required.
- To the removal, destruction or lopping of native vegetation specified in the schedule to this clause.
- To an area specified in the schedule to this clause.

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Application requirements

An application to remove, destroy or lop native vegetation must be accompanied by the following information, as appropriate:

- A photograph or site plan (drawn to scale) showing the boundaries of the site, existing native vegetation and the native vegetation to be removed.
- A description of the native vegetation to be removed, including the extent and type of native vegetation, the number and size of any trees to be removed and, if possible, the Ecological Vegetation Class of the native vegetation.
- Topographic information, highlighting ridges, crests and hilltops, streams and waterways, slopes of more than 20 percent, drainage lines, low lying areas, saline discharge areas, and areas of existing erosion.
- A written explanation of the steps that have been taken to:
 - Avoid the removal of native vegetation, where possible.
 - Minimise the removal of native vegetation.
 - Appropriately offset the loss of native vegetation, if required.
- A copy of any property vegetation plan that applies to the site.
- Where the removal, destruction or lopping of vegetation is to create defensible space, a statement explaining why removal, destruction or lopping of vegetation is required having regard to other available bushfire risk mitigation measures. This does not apply to the creation of defensible space in conjunction with an application under the Bushfire Management Overlay.

52.17-4

Property vegetation plans

16/03/2006
VC38

Any permit granted to remove, destroy or lop native vegetation in accordance with a property vegetation plan:

- May include conditions which reflect relevant restrictions or obligations contained in that plan.
- Must include the following condition:
 - “This permit will expire if one of the following circumstances applies:
 - the development or any stage of it does not start within ten years of the date of this permit.
 - the development or any stage of it is not completed within ten years of the date of this permit.”

52.17-5

Decision guidelines

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

General issues

- Victoria’s Native Vegetation Management – A Framework for Action (Department of Natural Resources and Environment 2002).
- Whether the proposed development can be located and designed to avoid the removal of native vegetation.
- Whether the proposed development is located and designed to minimise the removal of native vegetation.
- The need to offset the loss of native vegetation having regard to the conservation significance of the vegetation.
- The conservation and enhancement of the area.
- The preservation of and impact on the natural environment or landscape values.
- The need to remove, destroy or lop native vegetation to create defensible space to reduce the risk of bushfire to life and property having regard to other available bushfire risk mitigation measures.
- Any relevant approved Regional Vegetation Plan.
- Whether the proposed development is in accordance with any property vegetation plan that applies to the site.
- The cumulative impact of native vegetation removal on biodiversity conservation and management.

Land protection

- The role of the native vegetation in:
 - Protecting water quality and waterway and riparian ecosystems, particularly within 30 metres of a wetland or waterway and in special water supply catchment areas listed in the Catchment and Land Protection Act 1994.
 - Preventing land degradation, including soil erosion, salinisation, acidity, instability and water logging, particularly:
 - Where ground slopes are more than 20 per cent.
 - On land which is subject to soil erosion or slippage.
 - In harsh environments, such as coastal or alpine areas.

- Preventing adverse effects on groundwater recharge, particularly on land where groundwater recharge to saline watertables occurs or which is in proximity to a discharge area.
- Whether the proposed works will adversely affect the land protection role of the native vegetation.
- The need to mitigate any adverse impacts of native vegetation removal.

Conservation significance

- The conservation status of the native vegetation.
- The quality and condition of the vegetation
- The strategic location of the native vegetation in the local landscape.
- Whether the native vegetation is a threatened community, or provides habitat for threatened fauna or flora, as listed in the Flora and Fauna Guarantee Act 1988.
- Whether the removal of the native vegetation could jeopardise the integrity or long term preservation of an identified site of scientific, nature conservation or cultural significance.

Offsets

- The conservation significance of the native vegetation.
- The offset criteria in Victoria's Native Vegetation Management – A Framework for Action (Department of Natural Resources and Environment 2002).
- Offset requirements in an approved Regional Vegetation Plan.
- The long term security of the offset.

Timber production

- 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 Part 5 of the Conservation, Forests and Lands Act 1987.

Aboriginal cultural heritage

- The conservation of native vegetation protected under the Aboriginal Heritage Act 2006.

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Table of exemptions

No permit is required to remove, destroy or lop native vegetation to the minimum extent necessary if any of the following apply:

Lopping and pruning for maintenance

- The native vegetation is to be pruned or lopped for maintenance only and no more than 1/3 of the foliage is removed from any individual plant.

This exemption does not apply to:

- Pruning or lopping of the trunk of a tree or shrub.
- Native vegetation within a road or railway reservation.

Grasses

- The native vegetation is a grass and is to be mown or slashed for maintenance only.

Under this exemption the grass must be:

- Located within a lawn, garden or other planted area; or
- Maintained at a height of at least 100 millimetres above

No permit is required to remove, destroy or lop native vegetation to the minimum extent necessary if any of the following apply:

ground level.

Regrowth

- The native vegetation is regrowth which has naturally established or regenerated on land lawfully cleared of naturally established native vegetation and is:
 - Less than 10 years old; or
 - Bracken (*Pteridium esculentum*); or
 - Less than ten years old at the time of a Property Vegetation Plan being signed by the Secretary of the Department of Sustainability and Environment (as constituted under Part 2 of the Conservation, Forest and Lands Act 1987), and is shown on that Plan as being 'certified regrowth', and is on land that is to be used or maintained for cultivation or pasture during the term of that Plan; or
 - Within the boundary of a timber production plantation, as indicated on a Plantation Development Notice or other documented record, and has established after the plantation.

This exemption does not apply to land on which native vegetation has been cleared or otherwise destroyed or damaged as a result of flood, fire or other natural disaster.

Dead vegetation

- The native vegetation is dead.

This exemption does not apply to standing dead trees with a trunk diameter of 40 centimetres or more at a height of 1.3 metres above ground level.

Site area

- The native vegetation is on land which, together with all contiguous land in one ownership, has an area of less than 0.4 hectare.

This exemption does not apply to native vegetation within a road reservation.

Weeds

- The native vegetation is to be removed, destroyed or lopped to enable the removal or destruction of a weed listed in the schedule to this clause.

The maximum extent of native vegetation removed, destroyed or lopped under this exemption on contiguous land in the same ownership in a five year period must not exceed any of the following:

- 1 hectare of native vegetation which does not include a tree.
- 15 native trees if each tree has a trunk diameter of less than 20 centimetres at a height of 1.3 metres above ground level.

Pest animal burrows

- The native vegetation is to be removed, destroyed or lopped to enable the removal of pest animal burrows in the Farming Zone or the Rural Activity Zone.

Unless in accordance with the written agreement of an officer of the Department responsible for administering the Flora and Fauna Guarantee Act 1998, the maximum extent of native

No permit is required to remove, destroy or lop native vegetation to the minimum extent necessary if any of the following apply:

vegetation removed, destroyed or lopped under this exemption on contiguous land in the same ownership in a five year period must not exceed any of the following:

- 1 hectare of native vegetation which does not include a tree.
- 15 native trees if each tree has a trunk diameter of less than 20 centimetres at a height of 1.3 metres above ground level.

Land use conditions	<ul style="list-style-type: none"> ▪ The native vegetation is to be removed, destroyed or lopped to comply with a land use condition served under the Catchment and Land Protection Act 1994.
Land management notices	<ul style="list-style-type: none"> ▪ The native vegetation is to be removed, destroyed or lopped to comply with land management notice issued under the Catchment and Land Protection Act 1994.
Planted vegetation	<ul style="list-style-type: none"> ▪ The native vegetation has been planted or grown as a result of direct seeding for Crop raising, Extensive animal husbandry, aesthetic or amenity purposes, including: agroforestry (the simultaneous and substantial production of forest and other agricultural products from the same land unit), shelter belts, woodlots, street trees, gardens or the like. <p>This exemption does not apply if public funding was provided to assist in planting or managing the native vegetation and the terms of the funding did not anticipate removal or harvesting of the vegetation.</p>
Emergency works	<ul style="list-style-type: none"> ▪ The native vegetation presents an immediate risk of personal injury or damage to property and only that part of vegetation which presents the immediate risk is removed, destroyed or lopped. ▪ The native vegetation is to be removed, destroyed or lopped by a public authority or municipal council to create an emergency access or to enable emergency works.
Fire protection	<ul style="list-style-type: none"> ▪ The native vegetation is to be removed, destroyed or lopped for fire fighting measures, fuel reduction burning, or the making of a fuel break or fire fighting access track up to 6 metres wide. ▪ The native vegetation is to be removed, destroyed or lopped for the making of a fuelbreak by or on behalf of a public authority in accordance with a strategic fuelbreak plan approved by the Secretary to the Department of Sustainability and Environment (as constituted under Part 2 of the Conservation, Forest and Lands Act 1987). The maximum width of a fuelbreak must not exceed 40 metres. ▪ The native vegetation is a tree overhanging the roof of a building used for Accommodation. This exemption only allows the removal, destruction or lopping of that part of the tree which is overhanging the building and which is necessary for fire protection. ▪ The native vegetation is to be removed, destroyed or lopped in accordance with a fire prevention notice under: <ul style="list-style-type: none"> • Section 65 of the Forests Act 1958.

No permit is required to remove, destroy or lop native vegetation to the minimum extent necessary if any of the following apply:

- Section 41 of the Country Fire Authority Act 1958.
- Section 8 of the Local Government Act 1989.
- The native vegetation is to be removed, destroyed or lopped to keep the whole or any part of any native vegetation clear of an electric line in accordance with a code of practice prepared under Part 8 of the Electricity Safety Act 1998.
- The native vegetation is to be removed, destroyed or lopped in accordance with any code of practice prepared in accordance with Part 8 of the Electricity Safety Act 1998 in order to minimise the risk of bushfire ignition in the proximity of electricity lines.
- The vegetation is to be removed, destroyed or lopped to reduce fuel loads on roadsides to minimise the risk to life and property from bushfire of an existing public road managed by the relevant responsible road authority (as defined by the Road Management Act 2004) in accordance with the written agreement of the Secretary to the Department of Sustainability and Environment (as constituted under Part 2 of the Conservation, Forest and Lands Act 1987).

Note: Further permit exemptions for bushfire protection can be found at Clause 52.48.

Surveying

- The native vegetation is to be removed, destroyed or lopped for establishing sight-lines for the measurement of land by surveyors in the exercise of their profession, and if using hand-held tools.

Utility installations

- The native vegetation is to be removed, destroyed or lopped to maintain a Minor utility installation.
- The native vegetation is to be removed, destroyed or lopped to maintain a Utility installation in accordance with a code(s) of practice approved by Secretary of the Department of Sustainability and Environment (as constituted under Part 2 of the Conservation, Forest and Lands Act 1987), incorporated into this scheme and listed in the Schedule to this Clause.
- The native vegetation is to be removed, destroyed or lopped to enable the construction of a Utility installation in accordance with a code(s) of practice approved by Secretary of the Department of Sustainability and Environment (as constituted under Part 2 of the Conservation, Forest and Lands Act 1987), incorporated into this scheme and listed in the Schedule to this Clause.

Road safety

- The native vegetation is to be removed, destroyed or lopped to maintain the safe and efficient function of an existing road managed by a public authority or municipal council in accordance with the written agreement of the Secretary of the Department of Sustainability and Environment (as constituted under Part 2 of the Conservation, Forest and Lands Act 1987).

Railways

- The native vegetation is to be removed, destroyed or lopped to maintain the safe and efficient function of an existing railway or railway access road, in accordance with the written agreement of the Secretary of the Department of Sustainability and
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No permit is required to remove, destroy or lop native vegetation to the minimum extent necessary if any of the following apply:

Environment (as constituted under Part 2 of the Conservation, Forest and Lands Act 1987).

Existing and approved buildings

- The native vegetation is to be removed, destroyed or lopped to enable the:
 - Construction of a building approved by a planning permit granted under this planning scheme or by building permit granted under Building Act 1993, before 15 September 2008.
 - Use and maintenance of a building constructed or approved by a planning permit granted under this planning scheme or by building permit granted under Building Act 1993, before 15 September 2008.

This exemption does not apply to:

- Native vegetation to be removed, destroyed or lopped to enable the operation or maintenance of a fence.
- Native vegetation located more than 10 metres from a building.

Existing buildings and works in the Farming Zone and Rural Activity Zone

- The native vegetation is to be removed, destroyed or lopped to enable the use or maintenance of a building or works used for Agricultural production, including a dam, utility service, bore, horticultural trellising and accessway, in the Farming Zone or the Rural Activity Zone.

This exemption does not apply to:

- Native vegetation to be removed, destroyed or lopped to enable the use or maintenance of a Dwelling.
- Native vegetation to be removed, destroyed or lopped to enable the operation or maintenance of a fence.
- Native vegetation located more than 10 metres from a building or works.

New buildings and works in the Farming Zone and Rural Activity Zone

- The native vegetation is to be removed, destroyed or lopped to enable the construction of a building or works used for Agricultural production, including a dam, utility service, bore and accessway, in the Farming Zone or the Rural Activity Zone.

The maximum extent of native vegetation removed, destroyed or lopped under this exemption on contiguous land in the same ownership in a five year period must not exceed any of the following:

- 1 hectare of native vegetation which does not include a tree.
- 15 native trees if each tree has a trunk diameter of less than 40 centimetres at a height of 1.3 metres above ground level.
- 5 native trees if each tree has a trunk diameter of 40 centimetres or more at a height of 1.3 metres above ground level.

This exemption does not apply:

- To native vegetation to be removed, destroyed or lopped
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No permit is required to remove, destroy or lop native vegetation to the minimum extent necessary if any of the following apply:

to enable the construction or operation of a pivot irrigation system or horticultural trellising.

- Where there is a practical opportunity to site the building or works to avoid the removal, destruction or lopping of native vegetation.

New dwellings in the Farming Zone and Rural Activity Zone

- The native vegetation is to be removed, destroyed or lopped to enable the construction of a Dwelling, in the Farming Zone or the Rural Activity Zone.

The maximum extent of native vegetation removed, destroyed or lopped under this exemption on contiguous land in the same ownership in a five year period is must not exceed any of the following:

- 300 square metres of native vegetation which does not include a tree.
- 5 native trees if each tree has a trunk diameter of less than 40 centimetres at a height of 1.3 metres above ground level.
- 1 native tree if the tree has a trunk diameter of 40 centimetres or more at a height of 1.3 metres above ground level.

This exemption does not apply:

- To native vegetation to be removed, destroyed or lopped to enable the construction of a tennis court, horse ménage or swimming pool.
- Where there is a practical opportunity to site the dwelling to avoid the removal, destruction or lopping of native vegetation.

Fences

- The native vegetation is to be removed, destroyed or lopped to enable the:
 - Construction of a fence on a boundary between properties in different ownership; or
 - Operation or maintenance of an existing fence.

The combined maximum width of clearing permitted either side of the fence under this exemption is 4 metres.

Vehicle access from public roads

- The native vegetation is to be removed, destroyed or lopped to enable the construction or maintenance of a vehicle access across a road reserve from a property boundary to a public road, subject to authorisation from the relevant public land manager.

This exemption only applies to properties which share a common boundary with the road reserve.

The maximum total width of native vegetation permitted to be removed, destroyed or lopped under this exemption is 6 metres.

This exemption does not apply where there is a practical opportunity to site the accessway to avoid the removal, destruction or lopping of native vegetation.

No permit is required to remove, destroy or lop native vegetation to the minimum extent necessary if any of the following apply:

Personal use	<ul style="list-style-type: none">▪ The native vegetation is to be removed, destroyed or lopped by cutting only to obtain reasonable amounts of wood for personal use by the owner or occupier of the land. Personal use includes wood used for firewood, the construction of fences and buildings on the same land, and hobbies such as craft. <p>This exemption does not apply to:</p> <ul style="list-style-type: none">• Standing living and dead trees with a trunk diameter of 40 centimetres or more at a height of 1.3 metres above ground level.• Living native vegetation on contiguous land in the same ownership with an area less than 10 hectares.
Grazing	<ul style="list-style-type: none">▪ The native vegetation is removed, destroyed or lopped as a result of grazing by domestic stock. <p>This exemption allows the removal, destruction and lopping of native vegetation on unused roads specified under Section 400 of the Land Act 1958.</p>
Stock movements on roads	<ul style="list-style-type: none">▪ The native vegetation is removed, destroyed or lopped as a result of moving stock along a road. <p>This exemption does not apply to the removal, destruction or lopping of native vegetation as a result of holding stock in a temporary fence (including an electric fence) on a roadside for the purpose of feeding.</p>
Harvesting for timber production – naturally established native vegetation	<ul style="list-style-type: none">▪ The native vegetation is to be removed, destroyed or lopped to enable the carrying out of timber harvesting operations and associated activities which are:<ul style="list-style-type: none">• Undertaken on public land under a licence issued by the Secretary to the Department of Sustainability and Environment (as constituted under Part 2 of the Conservation, Forest and Lands Act 1987) under section 52 of the Forests Act 1958; or• Authorised in accordance with Part 5 of the Sustainable Forests (Timber) Act 2004.
Extractive industry	<ul style="list-style-type: none">▪ The native vegetation is to be removed, destroyed or lopped to enable the carrying out of Extractive industry in accordance with a work plan approved under the Mineral Resources (Sustainable Development) Act 1990 and authorised by a work authority granted under that Act.
Search for stone	<ul style="list-style-type: none">▪ The native vegetation is to be removed, destroyed or lopped to enable the carrying out of the Search for stone. <p>The maximum extent of native vegetation removed, destroyed or lopped under this exemption on contiguous land in the same ownership in a five year period must not exceed any of the following:</p> <ul style="list-style-type: none">• 1 hectare of native vegetation which does not include a tree.• 15 native trees if each tree has a trunk diameter of less than 40 centimetres at a height of 1.3 metres above

No permit is required to remove, destroy or lop native vegetation to the minimum extent necessary if any of the following apply:

ground level.

- 5 native trees if each tree has a trunk diameter of 40 centimetres or more at a height of 1.3 metres above ground level.

This exemption does not apply to native vegetation to be removed, destroyed or lopped to enable costeaning and bulk sampling activities.

Mining	<ul style="list-style-type: none">▪ The native vegetation is to be removed, destroyed or lopped to enable the carrying out of Mining in accordance with a work plan approved under the Mineral Resources (Sustainable Development) Act 1990 and authorised by a work authority granted under that Act.
Mineral exploration	<ul style="list-style-type: none">▪ The native vegetation is to be removed, destroyed or lopped to enable the carrying out of Mineral exploration.
Geothermal energy exploration and extraction	<ul style="list-style-type: none">▪ The native vegetation is to be removed, destroyed or lopped to enable the carrying out of geothermal energy exploration or extraction in accordance with the Geothermal Energy Resources Act 2005.
Greenhouse gas sequestration exploration	<ul style="list-style-type: none">▪ The native vegetation is being removed, destroyed or lopped to enable the carrying out of greenhouse gas sequestration exploration in accordance with the Greenhouse Gas Geological Sequestration Act 2008.
Greenhouse gas sequestration	<ul style="list-style-type: none">▪ The native vegetation is being removed, destroyed or lopped to enable the carrying out of greenhouse gas sequestration in accordance with the Greenhouse Gas Geological Sequestration Act 2008.
