52.16 NATIVE VEGETATION PRECINCT PLAN

02/04/2015
VC124

Purpose

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

To ensure permitted clearing of native vegetation results in no net loss in the contribution made by native vegetation to Victoria's biodiversity. This is achieved through the following approach:

- Avoid the removal of native vegetation that makes a significant contribution to Victoria's biodiversity.
- Minimise impacts on Victoria's biodiversity from the removal of native vegetation.
- Where native vegetation is permitted to be removed, ensure that an offset is provided in a manner that makes a contribution to Victoria's biodiversity that is equivalent to the contribution made by the native vegetation to be removed.

To manage native vegetation to minimise land and water degradation.

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

52.16-1 Application

15/09/2008
VC49

This clause applies to land if a native vegetation precinct plan corresponding to that land is incorporated into this scheme.

52.16-2 Native vegetation precinct plans

20/12/2013
VC105

A native vegetation precinct plan is a plan relating to native vegetation within a defined area which is incorporated into this scheme and listed in the schedule to this clause.

A native vegetation precinct plan may form part of a more general strategic or precinct structure plan.

A native vegetation precinct plan may require specified works to be provided or specified payments to be made to offset the removal, destruction or lopping of native vegetation.

The native vegetation precinct plan must:

- Specify the purpose of the plan.
- Specify the area to which the plan applies.
- Specify the native vegetation which can be removed, destroyed or lopped.
- Specify the native vegetation to be protected.
- Set out the works, payments or other actions necessary to offset the removal, destruction or lopping of native vegetation.
- Relate the need for the works, payments or other actions to the proposed removal, destruction or lopping of native vegetation in the area.
- Provide for the procedures for the collection of any payments.

A native vegetation precinct plan may include any other information necessary to achieve the purpose and effective implementation of the plan.

52.16-3 Permit requirement

20/12/2013
VC105

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

- If the removal, destruction or lopping of native vegetation is in accordance with a native vegetation precinct plan incorporated into this scheme. Any conditions or requirements specified in the plan must be met.
- To the removal, destruction or lopping of native vegetation specified in the table to Clause 52.16-4, unless a native vegetation precinct plan specifies otherwise.

Class of application

An application to remove, destroy or lop native vegetation must be classified as one of the following risk-based pathways: low, moderate or high, as defined in the *Permitted clearing of native vegetation – Biodiversity assessment guidelines* (Department of Environment and Primary Industries, September 2013). The application requirements and decision guidelines included in this clause must be applied in accordance with the classified pathway.

52.16-4 Table of exemptions

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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:	
Bracken	▪ The native vegetation is bracken (*Pteridium esculentum*) which has naturally established or regenerated on land lawfully cleared of naturally established vegetation. 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.
Crown land	▪ The vegetation is to be removed, destroyed or lopped on Crown land and by a person acting under and in accordance with an authorisation order made under sections 82 or 84 of the *Traditional Owner Settlement Act 2010*.
Emergency works	▪ 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.

No permit is required to remove, destroy or lop native vegetation to the minimum extent necessary if any of the following apply:	
Fire protection	▪ 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 Environment, Land, Water and Planning (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 to be removed, destroyed or lopped for fire fighting measures, fuel reduction burning, or the making of a fuel break up to 6 metres wide. ▪ The native vegetation is ground fuel within 30 metres of a building. ▪ The native vegetation is to be removed, destroyed or lopped 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*. ▪ The native vegetation is to be removed, destroyed or lopped to keep the whole or any part of any 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 Environment, Land, Water and Planning (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.*
Geothermal energy exploration and extraction	▪ 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	▪ 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	▪ 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*.
Land management notices	▪ 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*.
Land use conditions	▪ 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*.

No permit is required to remove, destroy or lop native vegetation to the minimum extent necessary if any of the following apply:	
Mineral Exploration	▪ The native vegetation is to be removed, destroyed or lopped to enable the carrying out of Mineral exploration.
Mineral extraction	▪ The vegetation is to be removed, destroyed or lopped to enable the carrying out of Mineral extraction 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.
Pest animal burrows	▪ The native vegetation is to be removed, destroyed or lopped to enable the removal of pest animal burrows in accordance with the written agreement of an officer of the Department responsible for administering the *Flora and Fauna Guarantee Act 1998*.
Planted vegetation	▪ The native vegetation has been planted or grown as a result of direct seeding for Crop raising or Extensive animal husbandry.
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 Environment, Land, Water and Planning (as constituted under Part 2 of the *Conservation, Forest and Lands Act 1987*).
Regrowth	▪ The native vegetation is regrowth which has naturally established or regenerated on land lawfully cleared of naturally established vegetation and is 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.
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 Environment, Land, Water and Planning (as constituted under Part 2 of the *Conservation, Forest and Lands Act 1987*).
Stone exploration	▪ The native vegetation is to be removed, destroyed or lopped to enable the carrying out of the Stone exploration. ▪ 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 vegetation which does not include a tree. · 15 trees if each tree has a trunk diameter of less than 40 centimetres at a height of 1.3 metres above ground level. · 5 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.

No permit is required to remove, destroy or lop native vegetation to the minimum extent necessary if any of the following apply:	
Stone extraction	▪ The native vegetation is to be removed, destroyed or lopped to enable the carrying out of Stone extraction 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.
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.

52.16-5 Application requirements

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All applications to remove, destroy or lop native vegetation must comply with the General application requirements.

An application in the moderate or high risk-based pathway must also comply with the moderate and high risk-based pathway application requirements.

General application requirements

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

- The location of the native vegetation to be removed.
- A description of the native vegetation to be removed, including the area of the patch of native vegetation and/or the number of any scattered trees to be removed.
- Maps or plans containing information set out in the *Permitted clearing of native vegetation – Biodiversity assessment guidelines* (Department of Environment and Primary Industries, September 2013).
- Recent dated photographs of the native vegetation to be removed.
- 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 copy of any property vegetation plan that applies to the site.
- Where the removal, destruction or lopping of vegetation is to create defendable space, a statement explaining why removal, destruction or lopping of native vegetation is required having regard to other available bushfire risk mitigation measures. This does not apply to the creation of defendable space in conjunction with an application under the Bushfire Management Overlay.
- Details of any other native vegetation that was permitted to be removed on the same property with the same ownership in the five year period before the application for a permit to remove native vegetation is lodged.
- The strategic biodiversity score of the native vegetation to be removed.
- The offset requirement if the native vegetation is permitted to be removed.
- A written statement which explains how the proposal responds to the Precinct plan consideration in Clause 52.16-6.

Moderate and high risk-based pathway application requirements

An application included in the moderate and high risk-based pathway must also be accompanied by the following information, as appropriate:

- A habitat hectare assessment of the native vegetation to be removed.
- A statement outlining what steps have been taken to minimise the impacts of the removal of native vegetation on biodiversity.
- An assessment of whether the proposed removal of native vegetation will have a significant impact on Victoria's biodiversity, with specific regard to the proportional impact on habitat for any rare or threatened species.
- An offset strategy that details how a compliant offset will be secured to offset the biodiversity impacts of the removal of native vegetation.

52.16-6 Decision guidelines

20/12/2013
VC105

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

Biodiversity considerations

For all applications

- The contribution that native vegetation to be removed makes to Victoria's biodiversity. This is determined by:
  - The extent and condition of the native vegetation.
  - The biodiversity value of the native vegetation, including whether the native vegetation is important habitat for rare or threatened species.
- Whether the removal of native vegetation is defined as being in the low, moderate or high risk-based pathway, as defined in the *Permitted clearing of native vegetation – Biodiversity assessment guidelines* (Department of Environment and Primary Industries, September 2013) and apply the decision guidelines accordingly.

For an application considered under the moderate risk-based pathway

- Whether reasonable steps have been taken to minimise the impacts of the removal of native vegetation on biodiversity.
- That an offset that meets the offset requirements for the native vegetation that is to be removed as defined in the *Permitted clearing of native vegetation – Biodiversity assessment guidelines, September 2013* has been identified.

For an application considered under the high risk-based pathway

- Whether reasonable steps have been taken to minimise the impacts of the removal of native vegetation on biodiversity.
- Whether the native vegetation to be removed makes a significant contribution to Victoria's biodiversity.
- That an offset that meets the offset requirements for the native vegetation that is to be removed as defined in the *Permitted clearing of native vegetation – Biodiversity assessment guidelines* (Department of Environment and Primary Industries, September 2013) has been identified.

Precinct plan considerations

- The purpose and objectives of the native vegetation precinct plan.
- The effect on native vegetation identified for protection in the native vegetation precinct plan.
- The potential for the effectiveness of the native vegetation precinct plan to be undermined.
- The potential for the proposed development to lead to the loss or fragmentation of native vegetation identified for protection in the native vegetation precinct plan.
- Offset requirements in the native vegetation precinct plan.

Other matters

The responsible authority must also consider the following issues, as appropriate:

- The need to remove, destroy or lop native vegetation to create defendable space to reduce the risk of bushfire to life and property, having regard to the other available bushfire risk mitigation measures.
- The role of 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, salination, 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 area.
  - Preventing adverse effects on groundwater quality on land:
    - Where groundwater recharge to saline waterbodies occurs.
    - That is in proximity to a discharge area.
    - Which is a known recharge area.
- In the case of timber production, the benefits 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 Land Act 1987*.
- Managing native vegetation to preserve identified landscape values.
- The conservation of native vegetation protected under the *Aboriginal Heritage Act 2006*.

52.16-7 Offset requirements

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The biodiversity impacts of the removal of native vegetation are required to be offset, in accordance with the *Permitted clearing of native vegetation – Biodiversity assessment guidelines* (Department of Environment and Primary Industries, September 2013). The conditions on the permit for the removal of native vegetation must specify this offset requirement. The offset requirements must take account of:

- The location of the native vegetation to be removed.
- The condition and extent of native vegetation to be removed.

- The strategic biodiversity score of the native vegetation to be removed.
- Whether the native vegetation to be removed is important habitat for rare or threatened species, and the proportional impact of the removal on those species' habitat.