

52.17

04/02/2008
VC46

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 native vegetation precinct plan or property vegetation plan.

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

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Permit requirement

A permit is required to remove, destroy or lop 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.
- If the removal, destruction or lopping of native vegetation is in accordance with a native vegetation precinct plan 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.

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Native vegetation precinct plans

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 to be retained and the native vegetation to be removed, destroyed or lopped.
- 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.

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Property vegetation plans

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.”

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Decision guidelines

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.
- 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.

Table of exemptions

No permit is required to remove, destroy or lop native vegetation if any of the following apply:	
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.
Dead vegetation	The native vegetation is dead.
Emergency works	<ul style="list-style-type: none"> ▪ The native vegetation presents an immediate risk of personal injury or damage to property. ▪ The removal, destruction or lopping of native vegetation is necessary for emergency access or emergency works by a public authority or municipal council.
Buildings	<ul style="list-style-type: none"> ▪ To the removal, destruction or lopping of the minimum extent of native vegetation necessary for the construction, use and maintenance of: <ul style="list-style-type: none"> • 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.
Fire	<ul style="list-style-type: none"> ▪ The removal, destruction or lopping of native vegetation is necessary for fire fighting measures, periodic fuel reduction burning, or the making of firebreaks up to 6 metres wide. ▪ The removal, destruction or lopping of native vegetation is necessary 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 of the Department of Sustainability and Environment. The maximum width of a fuelbreak must not exceed 40 metres. ▪ The lopping of any part of a tree overhanging the roof of a building used for accommodation is necessary for fire protection. ▪ The removal, destruction or lopping of native vegetation (other than a tree) is within 30 metres of a building used for accommodation provided: <ul style="list-style-type: none"> • At least 50 percent of native shrubs are retained. • Native grasses are kept to at least a height of 100 millimetres. ▪ The removal, destruction or lopping of native vegetation (other than a tree) is within the distance of a building used for accommodation specified in the Table to Clause 52.17-7, provided: <ul style="list-style-type: none"> • Before the vegetation removal, destruction or lopping starts, a plan is prepared and submitted to the Department of Sustainability and Environment that shows, within 100 metres of the building: <ul style="list-style-type: none"> • The northwestern and eastern zones of the building

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

as shown in the Diagram to Clause 52.17-7.

- The slope of the land and the direction of the slope from the building in each zone.
- The vegetation type within each zone.
- The native vegetation is on land in the same ownership as the land on which the building is located.
- At least 50 percent of native shrubs are retained.
- Native grasses are kept to at least a height of 100 millimetres.
- 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.
- The action is necessary to keep the whole or any part of any native vegetation clear of an electric line provided the action is carried out in accordance with a code of practice prepared under Part 8 of the Electricity Safety Act 1998.
- The action is necessary to remove, destroy or lop vegetation situated within electricity supply easements 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.

Planted vegetation or harvesting

- 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 Sustainability and Environment.

Extractive industry

The removal, destruction or lopping of native vegetation is necessary for carrying on an extractive industry, including an extractive industry authorised by a work authority under the Extractive Industries Development Act 1995. 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. This does not include the removal, destruction or lopping of native vegetation required for the installation or operation of a central pivot irrigation system.
- The native vegetation is seedlings or regrowth less than 10

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

years old and if the land is being re-established or maintained for cultivation or pasture.

- 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

- The native vegetation is proclaimed as a noxious weed or is bracken (*Pteridium esculentum*).
- The removal, destruction or lopping of native vegetation is in accordance with a notice under the Catchment and Land Protection Act 1994.
- The native vegetation is burgan (*Kunzea ericoides*, previously *Leptospermum phyllicoides*) 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 vegetation necessary to remove burrows for vermin control subject to the written agreement of an officer of the Department responsible for administering the Flora and Fauna Guarantee Act 1988. The total area in one ownership to be destroyed must not exceed 10 hectares.

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.

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

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 (Sustainable Development) Act 1990.
Geothermal energy exploration and extraction	To the removal, destruction or lopping of native vegetation necessary for geothermal energy exploration or extraction carried out in accordance with the Geothermal Energy Resources Act 2005.

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14/11/2006
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Table

Maximum distance from a building used for accommodation within which native vegetation (other than trees) may be removed, destroyed or lopped without a permit:

Vegetation Categories	Upslope or flat ground	Upslope or flat ground	Down slope	Down slope
	Northwest zone	Eastern zone	Northwest zone	Eastern zone
Shrub and heath – Shrubs up to 6 metres in height above ground level. It may include some trees.	80 metres	40 metres	80 metres	45 metres
Medium forest – Forest between 10 metres and 30 metres in height above ground level, with a tree canopy cover of more than 30 percent. It may include shrubs and grassy understorey.	60 metres	30 metres	90 metres	50 metres
Tall forest – Forest more than 30 metres in height above ground level, with a tree canopy cover of more than 30 percent. It may include shrubs and grassy understorey.	80 metres	40 metres	95 metres	50 metres

Diagram

