

52.17

20/12/2013
VC105

NATIVE VEGETATION

Purpose

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.

52.17-1

15/09/2008
VC49

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

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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 52.17-7 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.

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.

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Application requirements

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.

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.

52.17-4

16/03/2006
VC38

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.”

52.17-5

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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:

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* (Department of Environment and Primary Industries, 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.

Other matters

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

- 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 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.

52.17-6

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Offset requirements

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.

52.17-7

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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:

Crown Land	<ul style="list-style-type: none"> ▪ To manage Crown land. The works must be: <ul style="list-style-type: none"> · by or on behalf of the Secretary of the Department of Environment and Primary Industries (as constituted under Part 2 of the Conservation, Forest and Lands Act 1987); and · on Crown land managed by or on behalf of the Secretary of the Department of Environment and Primary Industries (as constituted under Part 2 of the Conservation, Forest and Lands Act 1987).
Dead vegetation	<ul style="list-style-type: none"> ▪ The native vegetation is dead.

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

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.

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| 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.▪ By or on behalf of a public authority or municipal council to create an emergency access or to enable emergency works. |
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| Existing and approved buildings | <ul style="list-style-type: none">▪ To enable the:<ul style="list-style-type: none">• 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. |
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This exemption does not apply to:

- Enable the operation or maintenance of a fence.
- Native vegetation located more than 10 metres from a building.

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| Existing buildings and works in the Farming Zone and Rural Activity Zone | <ul style="list-style-type: none">▪ 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. |
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This exemption does not apply to:

- The use or maintenance of a Dwelling.
- The operation or maintenance of a fence.
- Native vegetation located more than 10 metres from a building or works.

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| Fences | <ul style="list-style-type: none">▪ To enable the:<ul style="list-style-type: none">• Construction of a fence on a boundary between properties in different ownership; or• Operation or maintenance of an existing fence. |
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The combined maximum width of clearing permitted either side of the fence under this exemption is 4 metres.

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| Fire protection | <ul style="list-style-type: none">▪ For fire fighting measures, periodic fuel reduction burning, or the making of a fuel break or fire fighting access track up to 6 metres wide.▪ 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 Department of Environment and Primary Industries (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. |
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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:

- 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 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.
- 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.
- 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 and Primary Industries (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	<ul style="list-style-type: none"> ▪ To enable the carrying out of geothermal energy exploration or extraction in accordance with the Geothermal Energy Resources Act 2005.
Grasses	<ul style="list-style-type: none"> ▪ For mowing or slashing of grass for maintenance only. Under this exemption the grass must be: <ul style="list-style-type: none"> • Located within a lawn, garden or other planted area; or • Maintained at a height of at least 100 millimetres above ground level.
Grazing	<ul style="list-style-type: none"> ▪ For grazing by domestic stock. This exemption allows grazing on unused roads specified under Section 400 of the Land Act 1958.
Greenhouse gas sequestration	<ul style="list-style-type: none"> ▪ To enable the carrying out of greenhouse gas sequestration in accordance with the Greenhouse Gas Geological Sequestration Act 2008.
Greenhouse gas sequestration exploration	<ul style="list-style-type: none"> ▪ To enable the carrying out of greenhouse gas sequestration exploration in accordance with the Greenhouse Gas Geological Sequestration Act 2008.
Harvesting for timber production – naturally established native vegetation	<ul style="list-style-type: none"> ▪ 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 Environment and Primary Industries (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.
Land management notices	<ul style="list-style-type: none"> ▪ To comply with land management notice issued 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:

Land use conditions	<ul style="list-style-type: none"> ▪ To comply with a land use condition served under the Catchment and Land Protection Act 1994.
Lopping and pruning for maintenance	<ul style="list-style-type: none"> ▪ Pruning or lopping for maintenance only and no more than 1/3 of the foliage is removed from any individual plant. <p>This exemption does not apply to:</p> <ul style="list-style-type: none"> • Pruning or lopping of the trunk of a tree or shrub. • Native vegetation within a road or railway reservation.
Mineral exploration	<ul style="list-style-type: none"> ▪ To enable the carrying out of Mineral exploration.
Mineral extraction	<ul style="list-style-type: none"> ▪ 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.
New buildings and works in the Farming Zone and Rural Activity Zone	<ul style="list-style-type: none"> ▪ 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. <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 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. <p>This exemption does not apply:</p> <ul style="list-style-type: none"> • To the construction or operation of a pivot irrigation system or horticultural trellising.
New dwellings in the Farming Zone and Rural Activity Zone	<ul style="list-style-type: none"> ▪ To enable the construction of a Dwelling, in the Farming Zone or the Rural Activity Zone. <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 is must not exceed any of the following:</p> <ul style="list-style-type: none"> • 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. <p>This exemption does not apply:</p> <ul style="list-style-type: none"> • To the construction of a tennis court, horse ménage or swimming pool.
Personal use	<ul style="list-style-type: none"> ▪ Native vegetation removal by cutting only to obtain reasonable amounts of wood for personal use by the owner or occupier of

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

the land. Personal use includes wood used for firewood, the construction of fences and buildings on the same land, and hobbies such as craft.

This exemption does not apply to:

- 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.

Pest animal burrows

- 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 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.

Planted vegetation

- 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.

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.

Railways

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

Regrowth

- For 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 Environment and Primary Industries (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

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

vegetation has been cleared or otherwise destroyed or damaged as a result of flood, fire or other natural disaster.

Road safety	<ul style="list-style-type: none">▪ 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 and Primary Industries (as constituted under Part 2 of the Conservation, Forest and Lands Act 1987).
Stone exploration	<ul style="list-style-type: none">▪ 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:<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 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 costeaning and bulk sampling activities.
Stone extraction	<ul style="list-style-type: none">▪ 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.
Site area	<ul style="list-style-type: none">▪ 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.
Stock movements on roads	<ul style="list-style-type: none">▪ As a result of moving stock along a road.▪ This exemption does not apply to grazing as a result of holding stock in a temporary fence (including an electric fence) on a roadside for the purpose of feeding.
Surveying	<ul style="list-style-type: none">▪ To establish sight-lines for the measurement of land by surveyors in the exercise of their profession, and if using hand-held tools.
Utility installations	<ul style="list-style-type: none">▪ To maintain a Minor utility installation.▪ To maintain a Utility installation in accordance with a code(s) of practice approved by Secretary of the Department of Environment and Primary Industries (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.▪ To enable the construction of a Utility installation in accordance with a code(s) of practice approved by Secretary of the Department of Environment and Primary Industries (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.
Vehicle access	<ul style="list-style-type: none">▪ To enable the construction or maintenance of a vehicle access

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

from public roads

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.

Weeds

- 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.
-