

52.16

12/12/2017
VC138

NATIVE VEGETATION PRECINCT PLAN

Purpose

To provide for the protection, management and removal of native vegetation through the use of a native vegetation precinct plan incorporated into this scheme.

To ensure that there is no net loss to biodiversity as a result of the removal, destruction or lopping of native vegetation. This is achieved by applying the following three step approach in accordance with the *Guidelines for the removal, destruction or lopping of native vegetation* (Department of Environment, Land, Water and Planning, 2017) the *Guidelines*:

1. Avoid the removal, destruction or lopping of native vegetation.
2. Minimise impacts from the removal, destruction or lopping of native vegetation that cannot be avoided.
3. Provide an offset to compensate for the biodiversity impact if a permit is granted to remove, destroy or lop native vegetation.

To manage the removal, destruction or lopping of native vegetation to minimise land and water degradation.

52.16-1

12/12/2017
VC138

Application

This clause applies to land if a native vegetation precinct plan corresponding to that land is incorporated into this scheme and listed in the schedule to this clause.

52.16-2

12/12/2017
VC138

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 must include the information and provide for the matters set out in section 10.1 of the *Guidelines*.

52.16-3

12/12/2017
VC138

Permit requirement

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 52.16-8, unless a native vegetation precinct plan specifies otherwise.

52.16-4

12/12/2017
VC138

Application requirements

An application to remove, destroy or lop native vegetation must comply with the application requirements specified in the *Guidelines*.

52.16-5 Decision guidelines

12/12/2017
VC138

Before deciding on an application, in addition to the decision guidelines at Clause 65, the responsible authority must consider the decision guidelines specified in the *Guidelines* as appropriate.

52.16-6 Offset requirements

12/12/2017
VC138

If a permit is required to remove, destroy or lop native vegetation, the biodiversity impacts from the removal, destruction or lopping of native vegetation must be offset in accordance with the *Guidelines*. The conditions on the permit for the removal, destruction or lopping of native vegetation must specify the offset requirement and timing to secure the offset.

52.16-7 Transitional provisions

12/12/2017
VC138

The requirements of Clause 52.16 of this scheme in force immediately before the commencement of Amendment VC138 continue to apply to an application for:

- A permit lodged before that date.
- An amendment to a permit if:
 - the original permit application was lodged before that date; or
 - the original permit application was one that benefited from the following transitional provision.
- A permit lodged within 12 months after that date, if the Secretary to the Department of Environment, Land Water and Planning (as constituted under Part 2 of the *Conservation, Forests and Lands Act 1987*) has stated in writing that a report about the proposed removal, destruction or lopping of native vegetation has been generated by the Department of Environment, Land, Water and Planning's native vegetation information systems within 12 months before that date.

52.16-8 Table of exemptions

12/12/2017
VC138

The requirement to obtain a permit does not apply to:

Conservation work	Native vegetation that is to be removed, destroyed or lopped to the minimum extent necessary to enable the carrying out of conservation work: <ul style="list-style-type: none">▪ which provides an overall improvement for biodiversity; and▪ with written agreement of the Secretary to the Department of Environment, Land, Water and Planning (as constituted under Part 2 of the <i>Conservation, Forests and Lands Act 1987</i>).
Crown land	Native vegetation that is to be removed, destroyed or lopped to the minimum extent necessary to manage Crown land: <ul style="list-style-type: none">▪ by or on behalf of the Secretary to the Department of Environment, Land, Water and Planning (as constituted under Part 2 of the <i>Conservation, Forests and Lands Act 1987</i>), or Parks Victoria, and in accordance with the <i>Procedure for the removal, destruction or lopping of native vegetation on Crown land</i>; or▪ with written permission from the Secretary to the Department of Environment, Land, Water and Planning (as constituted under Part 2 of the <i>Conservation, Forests and Lands Act 1987</i>).

The requirement to obtain a permit does not apply to:

Emergency works	<p>Native vegetation that is to be removed, destroyed or lopped:</p> <ul style="list-style-type: none"> ▪ in an emergency by or on behalf of a public authority or municipal council to create an emergency access associated with emergency works; or ▪ where it presents an immediate risk of personal injury or damage to property. Only that part of the vegetation that presents the immediate risk may be removed, destroyed or lopped under this exemption.
Fire protection	<p>Native vegetation that is to be removed, destroyed or lopped to the minimum extent necessary to enable the carrying out any of the following fire protection activities:</p> <ul style="list-style-type: none"> ▪ fire fighting; ▪ planned burning; ▪ making or maintenance of a fuelbreak or fire fighting access track (or any combination thereof) that does not exceed a combined width of 6 metres; ▪ making a strategic fuelbreak up to 40 metres wide 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 <i>Part 2 of the Conservation, Forests and Lands Act 1987</i>); ▪ in accordance with a fire prevention notice issued under either: <ul style="list-style-type: none"> • section 65 of the <i>Forests Act 1958</i>; or • section 41 of the <i>Country Fire Authority Act 1958</i>. ▪ keeping native vegetation clear of, or minimising the risk of bushfire ignition from, an electric line in accordance with a code of practice prepared under Part 8 of the <i>Electricity Safety Act 1998</i>; ▪ minimising the risk to life and property from bushfire on a roadside of a public road managed by the relevant responsible road authority, and carried out by or on behalf of that authority, in accordance with 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). In this exemption, roadside, public road and responsible road authority have the same meanings as in section 3 of the <i>Road Management Act 2004</i>. <p><i>Note: Additional permit exemptions for bushfire protection are provided at Clause 52.48.</i></p>
Geothermal energy exploration and extraction	<p>Native vegetation that is to be removed, destroyed or lopped to the minimum extent necessary in accordance with an operation plan approved under the <i>Geothermal Energy Resources Act 2005</i>.</p>
Greenhouse gas sequestration and exploration	<p>Native vegetation that is to be removed, destroyed or lopped to the minimum extent necessary in accordance with an operation plan approved under the <i>Greenhouse Gas Geological Sequestration Act 2008</i>.</p>
Land management or directions notice	<p>Native vegetation that is to be removed, destroyed or lopped to the minimum extent necessary to comply with a land management notice or directions notice served under the <i>Catchment and Land Protection Act 1994</i>.</p>
Land use conditions	<p>Native vegetation that is to be removed, destroyed or lopped to the minimum extent necessary to comply with a land use condition served under the <i>Catchment and Land Protection Act 1994</i>.</p>

The requirement to obtain a permit does not apply to:

Mineral exploration and extraction	<p>Native vegetation that is to be removed, destroyed or lopped to the minimum extent necessary by the holder of an exploration mining, prospecting, or retention license issued under the <i>Mineral Resources (Sustainable Development) Act 1990</i>:</p> <ul style="list-style-type: none">▪ that is low impact exploration within the meaning of Schedule 4A of the <i>Mineral Resources (Sustainable Development) Act 1990</i>; or▪ in accordance with a work plan approved under Part 3 of the <i>Mineral Resources (Sustainable Development) Act 1990</i>. <p><i>Note: Schedule 4A of the Mineral Resources (Sustainable Development) Act 1990 specifies limits on the extent of native vegetation that may be removed as part of low impact exploration.</i></p>
Pest animal burrows	<p>Native vegetation that is to be removed, destroyed or lopped to the minimum extent necessary to enable the removal of pest animal burrows in accordance with the written agreement of an officer of the department responsible for administering the <i>Flora and Fauna Guarantee Act 1988</i>.</p>
Planted vegetation	<p>Native vegetation that is to be removed, destroyed or lopped that was either planted or grown as a result of direct seeding for Crop raising or Extensive animal husbandry.</p> <p>This exemption does not apply to native vegetation planted or managed with public funding for the purpose of land protection or enhancing biodiversity unless the removal, destruction or lopping of the native vegetation is in accordance with written permission of the agency (or its successor) that provided the funding.</p>
Railways	<p>Native vegetation that is to be removed, destroyed or lopped to the minimum extent necessary to maintain the safe and efficient function of an existing railway, or railway access road, in accordance with written agreement of the Secretary to the Department of Environment, Land, Water and Planning (as constituted under Part 2 of the <i>Conservation, Forests and Lands Act 1987</i>).</p>
Regrowth	<p>Native vegetation that is to be removed, destroyed or lopped that has naturally established or regenerated on land lawfully cleared of naturally established native vegetation, and is:</p> <ul style="list-style-type: none">▪ bracken (<i>Pteridium esculentum</i>); 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. <p>This exemption does not apply to land where native vegetation has been destroyed or otherwise damaged as a result of flood, fire or other natural disaster.</p>
Road safety	<p>Native vegetation that is to be removed, destroyed or lopped to the minimum extent necessary by or on behalf of a public authority or municipal council to maintain the safe and efficient function of an existing road 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 <i>Conservation, Forests and Lands Act 1987</i>).</p>

The requirement to obtain a permit does not apply to:

Stone exploration	<ul style="list-style-type: none">▪ Native vegetation that is to be removed, destroyed or lopped to the minimum extent necessary to enable the carrying out of Stone exploration. <p>The maximum extent of native vegetation that may be 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 with trunk diameter of less than 40 centimetres at a height of 1.3 metres above ground level.▪ 5 native trees with trunk diameter of 40 centimetres or more at a height of 1.3 metres above ground level. <p>This exemption does not apply to costeaning and bulk sampling activities.</p>
Stone extraction	Native vegetation that is to be removed, destroyed or lopped to the minimum extent necessary to enable the carrying out of Stone extraction in accordance with a work plan approved under the <i>Mineral Resources (Sustainable Development) Act 1990</i> and authorised by a work authority under that Act.
Surveying	Native vegetation that is to be removed, destroyed or lopped to the minimum extent necessary by, or on behalf of, a licensed surveyor (within the meaning of section 3 of the <i>Surveying Act 2004</i>) using hand-held tools to establish a sightline for the measurement of land.
Traditional owners	Native vegetation that is to be removed, destroyed or lopped by a person acting under, and in accordance with: <ul style="list-style-type: none">▪ a natural resource agreement under Part 6 of the <i>Traditional Owner Settlement Act 2010</i>; or▪ an authorisation order made under sections 82 or 84 of the <i>Traditional Owner Settlement Act 2010</i> as those sections were in force immediately before the commencement of section 24 of the <i>Traditional Owner Settlement Amendment Act in 2016</i> (1 May 2017).
Utility installations	Native vegetation that is to be removed, destroyed or lopped to the minimum extent necessary: <ul style="list-style-type: none">▪ to maintain the safe and efficient function of a Minor utility installation; or▪ by or on behalf of a utility service provider to maintain or construct a utility installation 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 <i>Conservation, Forests and Lands Act 1987</i>).