Summary of proposed amendments to the Victoria Planning Provisions

Review of the native vegetation clearing regulations

November 2016
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Appendix A. Draft VPP Clauses 12
1. Introduction

1.1 Purpose of this document

As a result of a review of Victoria’s native vegetation clearing regulations (the review), changes are proposed to the Victorian planning system. This document outlines the proposed changes to the clauses and describes key changes included in the new incorporated document. Collectively these are called the ‘system changes’. The affected clauses contained in the Victoria Planning Provisions (VPP) and all planning schemes in Victoria are:

- Clause 12.01 Biodiversity
- Clause 52.16 Native vegetation precinct plan
- Clause 52.17 Native vegetation
- Clause 66.02-2 Use and development referrals – Native vegetation
- Clause 81.01 Table of documents incorporated in this scheme.

The incorporated document currently in the VPP is titled Permitted clearing of native vegetation – biodiversity assessment guidelines. As part of the proposed changes this document will be replaced with a new incorporated document titled Native vegetation clearing – assessment guidelines (Assessment guidelines).

1.2 Background to the review

In May 2015, the Victorian Government commenced the review to ensure the regulations sensibly protect sensitive vegetation. The review, led by the Department of Environment, Land, Water and Planning (DELWP) has focused on how the native vegetation clearing regulations have been functioning since the introduction of changes in 2013.

In March 2016, the government released Review of the native vegetation clearing regulations – consultation paper (Consultation paper) for public feedback. The Consultation paper sets out 29 proposed improvements in response to key issues raised by stakeholders and the community during the issues identification stage undertaken between June and December 2015. The Review of the native vegetation clearing regulations – consultation and submissions summary report describes the consultation process that has supported the review and feedback received on the Consultation paper.

The changes to the VPP will implement many of the proposed improvements, and were informed by:

- stakeholder feedback
- DELWP review of the VPP
- ongoing discussions with the stakeholder reference group
- analysis against the principles of good regulatory practice.

Some of the proposed improvements will not be implemented by changes to the VPP and further work is required to implement them. Refer to Review of the native vegetation clearing regulations – outcomes report for a complete list of the improvements and how they will be implemented.
1.3  Rationale for the proposed amendments

The rationale for the proposed amendments to the clauses and incorporated document include to:

- ensure that the regulations sensibly protect sensitive native vegetation
- reflect policy changes as a result of the review
- ensure content is current and consistent
- improve operability of the regulations (i.e. clear and easy to understand and apply)
- reduce unnecessary duplication within the clauses, and between the clauses and the incorporated document.

Changes that will result in new or different interpretations and/or processes are described in this document.

1.4  How to comment on the proposed amendments

The government has released the proposed amendments to the VPP for comment. This includes Clause 12.01, Clause 52.16, Clause 52.17 (including the schedule to Clause 52.17), Clause 66.02-2 and the new incorporated document Native vegetation clearing – assessment guidelines. All of these documents are available for review and comment at the website listed below.

Appendix A of this document contains a copy of the draft amended clauses. Please note that only the affected pages of each clause have been provided.

If you would like to review and comment on the amendments please go to the DELWP website at http://www.engage.vic.gov.au
This chapter outlines the key system changes proposed as a result of the review. The system changes are set out by clause, with reference to the Assessment guidelines where appropriate.

2. Outline of proposed amendments to the Victoria Planning Provisions

2.1 Clause 12.01 Biodiversity

Clause 12.01 is located in the State Planning Policy Framework (SPPF) and addresses two elements related to biodiversity: Clause 12.01-1 Protection of biodiversity and Clause 12.01-2 Native vegetation management.

2.1.1 Outline of proposed changes to Clause 12.01-1 Protection of biodiversity

Clause 12.01-1 sets the overall direction for how land use planning will assist in the protection and conservation of Victoria’s biodiversity. Key changes proposed to Clause 12.01-1 are described below.

Updating text under the sub-heading Strategies to:

• Separate the first strategy into two separate strategies, one to identify areas of high biodiversity value and one to consider impacts of land use and development that are proposed on areas of biodiversity value. The strategy regarding decision making has been deleted as it is addressed in changes made to the first strategy.

• Ensure the strategic planning strategy enables consideration of all impacts of land use and development on biodiversity. As strategic planning usually takes place at a larger scale than the site-based permit process, there is likely to be more opportunity to avoid and minimise impacts.

Updating text under the sub-heading Policy guidelines to include a reference to any relevant strategies addressing biodiversity, such as the relevant Regional Catchment Strategy.

Consequence of change

Strategic planning has been strengthened to highlight the importance of minimising impacts on listed species and communities, as well as considering biodiversity protection, management and opportunities to re-establish links between areas that contain biodiversity value. Strategic planning offers more opportunity to avoid and minimise impacts on biodiversity, particularly where larger sites are being considered.

2.1.2 Outline of proposed changes to Clause 12.01-2 Native vegetation management

Clause 12.01-2 relates specifically to native vegetation management. The key changes proposed to Clause 12.01-2 are outlined below.

Updating text under the sub-heading Objective so that impacts from removing native vegetation are considered.

• Add a new objective to enable appropriate consideration of impacts from the removal, destruction or lopping of native vegetation. This objective is included to address the assessment phase of an application. Guidance on how to assess impacts is included in the Assessment guidelines.

• Amend the existing objective to state that permitted clearing of native vegetation results in ‘no net loss to biodiversity’, rather than ‘no net loss in the contribution made by native vegetation to Victoria’s biodiversity’, to clarify that the objective applies to all impacts.

Updating text under the sub-heading Strategies so that it better addresses assessment of impacts.

• Add a new strategy to ensure decision making considers land use and development impacts for all application types, including planning scheme amendments and subdivisions. Some of the impacts to be considered when making an assessment are also included. This strategy clarifies when planning must consider the impacts from the removal, destruction or lopping of native vegetation. It provides for more strategic solutions to managing native vegetation for planning scheme amendments and subdivisions, as larger sites are usually being considered in these types of applications.

• Broaden the current strategy to cover the assessment of impacts from the removal, destruction or lopping of native vegetation as set out in the Assessment guidelines. This includes the three step approach (i.e. avoid, minimise and offset) as a key element to managing native
vegetation, but also requires consideration of all relevant matters covered in the Assessment guidelines. The change provides for a more holistic assessment of impacts.

Updating content under the sub-heading Policy guidelines to include a reference to the Assessment handbook – native vegetation clearing (Assessment handbook), which is an important tool for assessors of applications to remove, destroy or lop native vegetation. The requirement to refer to the Assessment handbook provides greater consistency in the assessment of applications.

Note – The Assessment handbook would replace the existing Biodiversity assessment handbook – Permitted clearing of native vegetation.

Consequence of change

The proposed changes focus on strengthening the strategies in the State policy to better support the policy’s Objectives of considering impacts on, and ensuring no net loss to, biodiversity.

2.2 Clause 52.16 Native vegetation precinct plan and Clause 52.17 Native vegetation

Clause 52.16 is located in the particular provisions section of a planning scheme and focuses on Native Vegetation Precinct Plans (NVPP). A NVPP manages native vegetation within a precinct, rather than on a site-by-site basis, and is an important strategic planning tool.

Clause 52.17 is also located in the particular provisions section of a planning scheme. It outlines the application requirements and decision guidelines to be used when assessing a permit to remove, destroy or lop native vegetation.

Most of the proposed changes outlined below apply to both clauses and these are described first. This is followed by changes that are specific to either clause.

2.2.1 Outline of proposed changes to Clauses 52.16 and 52.17 (excluding exemptions)

Updating text under the sub-heading Purpose, as follows:

- Clarify the native vegetation clearing policy, including the need to apply the three step approach of avoid, minimise and offset. Changes are proposed to the wording of the three step approach to support the objectives for native vegetation management outlined in Clause 12.01-2.
- In line with changes to the objectives in Clause 12.01-2, references in the three steps to ‘significant contribution’ and ‘Victoria’s biodiversity’ have been deleted. The avoid and minimise steps are to be considered for all native vegetation that is affected by the proposed land use and/or development. The Assessment guidelines clarify how the avoid and minimise steps are to be considered having regard to the biodiversity and other values of native vegetation. It also clarifies that the approach to achieving no net loss requires consideration of each of the three steps in order.

- Delete the last purpose that focuses on bushfire threat. Whilst management of native vegetation to address bushfire threat is a relevant consideration in some applications, it is not a primary purpose of the two clauses. There are other clauses within the VPP that focus on addressing bushfire matters as their primary concern, including Clause 52.47 Planning For Bushfire.

Updating Application requirements to reflect changes to the permit process and decision making.

- Re-order application requirements to reflect the modified assessment pathways (now referred to as Basic, Intermediate and Detailed).
- Update application requirements to ensure suitable information is provided with a planning permit application to enable assessment as per the updated decision guidelines. This includes an avoid and minimisation statement and an offset statement for all assessment pathways. The Assessment guidelines provides more details (such as what to consider in the avoid and minimisation statement).

Updating Decision guidelines to reflect changes to the permit process and decision making.

- Remove reference to ‘biodiversity considerations’ and ‘other matters’. The current separation of decision guidelines into biodiversity considerations and other matters has led to confusion about the status of the decision guidelines included in other matters and when they apply in decision making. The Assessment guidelines describes the value of native vegetation in terms of ‘biodiversity value’ and ‘other values’, and provides guidance for how the decision guidelines are applied in different assessment pathways.

Modifying Offset requirements to remove detail in the clauses as it is included in the Assessment guidelines.
Introducing Transitional arrangements for planning permit applications that have been lodged with Council but not decided before the introduction of new provisions. The inclusion of transitional arrangements in the clause will allow lodged applications to be assessed using the provisions in place immediately before the introduction of new provisions.

2.2.2 Outline of additional proposed change to Clause 52.16

A new sentence has been included in the Purpose of the clause to clarify that the clause is used to consider the removal, destruction or lopping of native vegetation not in accordance with an incorporated Native Vegetation Precinct Plan.

2.2.3 Outline of additional proposed change to Clause 52.17

The clause dealing with Property vegetation plans outlines a mandatory condition regarding permit expiry. A change has been made to the wording of the condition to clarify that a permit will expire if the development or any stage of it does not start within two years of the date of the permit, or is not completed within ten years of the permit issue date.

Consequence of change

The proposed changes to Clauses 52.16 and 52.17 strengthen the intent of the clauses regarding the assessment of impacts on the value of native vegetation from its removal, destruction or lopping. Native vegetation has many values that should be considered when assessing an application and these are outlined in the Assessment guidelines.

2.2.4 Outline of proposed changes to Clauses 52.16 and 52.17 Table of exemptions

Updating the Table of exemptions, primarily to improve clarity and intent and to streamline alternate approval processes for exemptions relating to Railways, Road safety and Utility installations. One new exemption for Conservation work is also proposed for Clauses 52.16 and 52.17.

Under specific circumstances a planning permit is not required to remove, destroy or lop native vegetation when undertaken in accordance with a relevant exemption. Clause 52.17 contains a list of 34 exemptions targeting specific activities, situations or industries, while Clause 52.16 contains approximately half of the exemptions listed in Clause 52.17. In most cases, minor edits have been made that do not change the scope and intention of the exemptions. The exemptions with more substantial changes are detailed below.

Outline of proposed changes to Clause 52.16 Table of exemptions:

- Removed Bracken from its own exemption and added it to the Regrowth exemption to align with the Regrowth exemption in Clause 52.17 Table of exemptions.

- Added a component to the Crown land exemption to exempt all works undertaken by DELWP and Parks Victoria when in compliance with the Crown land clearing procedure.

- Added an exemption for Utility installations. This exemption allows for the safe and efficient functioning of utilities in line with the exemptions for Road safety and Railways, currently in Clause 52.16 Table of exemptions.
• Emergency works – reword this exemption to remove ambiguity and potential misuse and to align with the Emergency works exemption in Clause 52.17 Table of exemptions.

• Fire protection – reword this exemption to align with Clause 52.17 Table of exemptions, which includes the removal of native vegetation that is “ground fuel within 30 metres of a building”. This part of the exemption is now redundant due to its inclusion in Clause 52.48 Bushfire Protection: Exemptions.

• Added a component to the Land management notices exemption to exempt works undertaken in accordance with a directions notice served under the Catchment and Land Protection Act 1994.

• Introduce a new ‘Conservation work’ exemption to enable conservation works, subject to approval by the DELWP Secretary. The exemption would mean that a permit to remove, destroy or lop native vegetation is not required for carrying out of conservation works that are outlined in a conservation management plan and demonstrate no net loss to biodiversity.

Consequence of change

The proposed changes to the exemptions within Clauses 52.17 and 52.16 improve their operability, remove ambiguity and reflect updates to other legislation. Where an exemption for a particular use/activity is included in both clauses and it is intended that the application of the exemption be the same, wording has been updated to ensure consistency.

The addition of the Conservation work exemption, along with the changes in application of the Crown land exemption and the Utility installations exemption will improve the practical application of the no net loss objective of the native vegetation clearing regulations.

Outline of proposed changes to Clause 52.17 Table of exemptions:

• Crown land – change the scope of the Crown land exemption to exempt all works undertaken by DELWP and Parks Victoria when in compliance with the Crown land clearing policy.

• Utility installations – change the exemption to make it consistent with the Road safety and Railways exemptions. The mechanism used to access this exemption will change from an approved Code of Practice incorporated into planning schemes and included in the schedule to Clause 52.17, to an agreement approved by the DELWP Secretary.

• Emergency works, Fences and Planted vegetation – reword these three exemptions to remove ambiguity and potential misuse.

• Added a component to the Land management notices exemption to exempt works undertaken in accordance with a directions notice served under the Catchment and Land Protection Act 1994.

2.3 Clause 66.02-2 Use and development referrals - Native vegetation

Clause 66.02-2 deals with referrals for native vegetation applications. The reference in the first referral trigger to ‘the area to be cleared’ is changed to ‘the extent to be cleared’. There has been some confusion around how to determine whether an application triggers a referral. This is because reports issued from DELWP systems refer to a total extent, rather than an area. The change aligns the wording in the clause with the policy, where extent is defined in the Assessment guidelines as ‘the area of land covered by a patch and/or a scattered tree, measured in hectares’.

2.4 Clause 81.01 Table of documents incorporated in this scheme

This clause sets out the documents that are incorporated in the planning scheme. The title of the incorporated document will be updated in the table to reflect the revised title.
2.5 Incorporated document

The following describes changes in the incorporated document that are not specifically referenced in the clauses outlined above.

Section 1 describes the value of native vegetation

The biodiversity value of native vegetation has been broadened to include large trees, endangered Ecological Vegetation Classes and sensitive wetlands and coastal areas. Large trees are often the oldest component in an ecological system and cannot be replaced. These are further described in section 3. Land and water protection, identified landscape values, and aboriginal cultural values of native vegetation are also recognised.

Section 3 describes how biodiversity value is measured

Scattered trees have been classed into two sizes – small and large. A small scattered tree has an area that is approximately half the area of a large scattered tree.

The components used to measure the biodiversity value of native vegetation have not changed, but the landscape scores have been weighted to ensure site-based information has greater influence within the formula used to calculate the biodiversity score.

Section 4 describes the assessment pathways

The location risk map has been replaced with a location map. The map relates to potential risk (caused by impacting on biodiversity values) from the removal, destruction or lopping of native vegetation but is based on a single clearing threshold of 0.5 hectares. The map includes locations where species would be impacted at this threshold, as well as where endangered Ecological Vegetation Classes and sensitive wetlands and coastal areas are mapped.

Removal of large trees has been included as a pathway determinant.

Section 6 provides alternative arrangements

This includes for:

- the submission of site-based information to supplement species habitat maps
- applying for alternative specific offset arrangements in limited and exceptional circumstances when offset requirements for major strategic projects with complex requirements cannot be secured
- accessing alternative offset arrangements for private native forest timber harvesting.

Consequence of change

The proposed changes reflect the updated policy and address proposed improvements outlined in the Consultation paper.

The changes provide for improved consideration of the biodiversity values, specifically large trees and endangered Ecological Vegetation Classes to ensure the regulations provide better protection for sensitive vegetation. They also ensure that other values of native vegetation are considered.
12 ENVIRONMENTAL AND LANDSCAPE VALUES

Planning should help to protect the health of ecological systems and the biodiversity they support (including ecosystems, habitats, species and genetic diversity) and conserve areas with identified environmental and landscape values.

Planning must implement environmental principles for ecologically sustainable development that have been established by international and national agreements. Foremost amongst the national agreements is the Intergovernmental Agreement on the Environment, which sets out key principles for environmental policy in Australia. Other agreements include the National Strategy for Ecologically Sustainable Development, National Greenhouse Strategy, the National Water Quality Management Strategy, the National Strategy for the Conservation of Australia’s Biological Diversity, the National Forest Policy Statement and National Environment Protection Measures.

Planning should protect sites for nature conservation and biodiversity, and geological or landscape features of value.

12.01 Biodiversity

12.01-1 Protection of biodiversity

Objective

To assist the protection and conservation of Victoria’s biodiversity, including important habitat for Victoria’s flora and fauna and other strategically valuable biodiversity sites.

Strategies

Use statewide biodiversity information to identify areas of high biodiversity value.

Consider the impacts (both on-site and on surrounding land) of land use and development on areas of biodiversity value.

Ensure strategic planning:

- Avoids and minimises impacts, including cumulative impacts, of land use and development on areas of high biodiversity value including the habitat of species and communities listed under federal or state legislation.
- Considers impacts of any change in land-use or development that may affect the biodiversity value of national parks and conservation reserves or nationally and internationally significant sites, including wetlands and wetland wildlife habitat designated under the Convention on Wetlands of International Importance (the Ramsar Convention), and sites utilised by species listed under the Japan-Australia Migratory Bird Agreement (JAMBA), the China-Australia Migratory Bird Agreement (CAMBA) or the Republic of Korea-Australia Migratory Bird Agreement (ROKAMBA).
- Assists in the identification, protection and management of areas of high biodiversity value.
- Assists in identifying opportunities to increase biodiversity value through the re-establishment of links between areas that contain biodiversity value.

Policy guidelines

Planning must consider as relevant:

- Statewide biodiversity information maintained by the Department of Environment, Land, Water and Planning.
Any applicable biodiversity strategies, including the relevant Regional Catchment Strategy (prepared under Part 4 of the Catchment and Land Protection Act 1994).

12.01-2 Native vegetation management

Objectives

To ensure appropriate consideration of impacts from the removal, destruction or lopping of native vegetation.

To ensure permitted clearing of native vegetation results in no net loss to biodiversity.

Strategies

When assessing an application to remove, destroy or lop native vegetation, an amendment to this planning scheme or an application for subdivision, ensure that decision making considers the impacts of land use and development, including actions that:

- Impact on the biodiversity value of national parks and conservation reserves or nationally and internationally significant sites.
- Fragment native vegetation.
- Lead to degradation of land and waterways.
- Encourage the spread of pest plants, animals and pathogens into natural ecosystems.

Assess impacts from the removal, destruction or lopping of native vegetation as set out in Native vegetation clearing – assessment guidelines (Department of Environment, Land, Water and Planning, 2017). This includes the three step approach to managing native vegetation (avoid, minimise and offset).

Policy guidelines

Planning must consider as relevant:

- Statewide biodiversity information maintained by the Department of Environment, Land, Water and Planning.

12.02 Coastal areas

Protection of coastal areas

Objective

To recognise and enhance the value of the coastal areas to the community and ensure sustainable use of natural coastal resources.

Strategies

Coordinated land use and planning with the requirements of the Coastal Management Act 1995 to:

- Provide clear direction for the future sustainable use of the coast, including the marine environment, for recreation, conservation, tourism, commerce and similar uses in appropriate areas.
- Protect and maintain areas of environmental significance.
- Identify suitable areas and opportunities for improved facilities.
52.16 NATIVE VEGETATION PRECINCT PLAN

Purpose

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

To consider the removal, destruction or lopping of native vegetation not in accordance with a native vegetation precinct plan incorporated into this scheme.

To ensure permitted clearing of native vegetation results in no net loss to biodiversity. This is achieved by applying the following three step approach in accordance with the "Native vegetation clearing – assessment guidelines", Department of Environment, Land, Water and Planning, 2017 (Assessment guidelines):

- Avoid the removal, destruction or lopping of native vegetation.
- Minimise impacts from the removal, destruction or lopping of native vegetation that cannot be avoided.
- Provide an offset if a permit is granted to remove, destroy or lop native vegetation.

To manage the clearing of native vegetation to minimise land and water degradation.

52.16-1 Scope

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 Permit requirement

A permit is required to remove, destroy or lop 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 at Clause 52.16-8, unless a native vegetation precinct plan specifies otherwise.

52.16-3 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.

A native vegetation precinct plan prepared for incorporation into this scheme must:

- Specify the purpose and objectives 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, if applicable.

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

52.16-4 Application requirements

For all applications

An application must be accompanied by the following information:

- The location category and assessment pathway of the application, determined in accordance with the Assessment guidelines.
- The site address where the native vegetation is to be removed, destroyed or lopped.
- Maps or plans containing information set out in the Assessment guidelines.
- Topographic information, highlighting ridges, crests and hilltops, wetlands and waterways, slopes of more than 20 percent, drainage lines, low lying areas, saline discharge areas, and areas of existing erosion, as appropriate.
- A description of the native vegetation to be removed, destroyed or lopped, as set out in the Assessment guidelines.
- Recent photographs of the native vegetation to be removed, destroyed or lopped and the date the photographs were taken.
- Details of any other native vegetation that was permitted to be removed, destroyed or lopped on the same property with the same ownership in the five year period before the application for a permit to remove, destroy or lop native vegetation is lodged.
- An avoid and minimisation statement explaining why the native vegetation removal, destruction or lopping cannot be avoided and how impacts on biodiversity and other values of native vegetation have been minimised, as set out in the Assessment guidelines.
- A copy of any property vegetation plan that applies to the site.
- Where the removal, destruction or lopping of native vegetation is to create defendable space, a statement explaining why the removal, destruction or lopping of native vegetation is necessary. This statement must have regard to other available bushfire risk mitigation measures. This requirement does not apply to the creation of defendable space in conjunction with an application under the Bushfire Management Overlay.
- A statement which explains how the proposal responds to the Native vegetation precinct plan considerations at Clause 52.16-5.
- The offset requirement, determined in accordance with the Assessment guidelines, that will apply if the native vegetation is permitted to be removed, destroyed or lopped.
- An offset statement, in accordance with the Assessment guidelines, that explains how the offset will be secured.
For an application in the Detailed Assessment Pathway

An application included in the Detailed Assessment Pathway must also be accompanied by the following information:

- A site assessment report, as set out in the Assessment guidelines.
- Information about impacts on rare or threatened species habitat, as set out in the Assessment guidelines.

52.16-5 Decision guidelines

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

For all applications

- Native vegetation precinct plan considerations, including:
  - 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.
- Impacts on other values of the native vegetation to be removed, destroyed or lopped, including land and water protection, landscape values and native vegetation protected under the Aboriginal Heritage Act 2006, as set out in the Assessment guidelines.
- Whether reasonable steps have been taken to avoid and minimise impacts from the removal, destruction or lopping of native vegetation, as set out in the Assessment guidelines.
- Whether other bushfire risk mitigation measures have been used to minimise the removal, destruction or lopping of native vegetation, if the native vegetation is to be removed, destroyed or lopped to create defendable space to reduce the risk of bushfire to life and property.
- Whether the proposed removal, destruction or lopping of native vegetation is in accordance with any property vegetation plan that applies to the site.
- Whether an offset that meets the offset requirements for the native vegetation to be removed, destroyed or lopped has been identified and can be secured, in accordance with the Assessment guidelines.

For an application in the Intermediate Assessment Pathway or Detailed Assessment Pathway

- Impacts on the biodiversity value of the native vegetation to be removed, destroyed or lopped, as set out in the Assessment guidelines.
### 52.16-6 Offset requirements

The biodiversity impacts from the removal, destruction or lopping of native vegetation are required to be offset, in accordance with the Assessment guidelines. The conditions on the permit for the removal, destruction or lopping of native vegetation must specify the offset requirement.

### 52.16-7 Transitional arrangements

The requirements of Clause 52.16 of this scheme in force immediately before [INSERT GAZETTAL DATE] continue to apply to an application lodged before this date.

### 52.16-8 Table of exemptions

The requirement to obtain a permit to remove, destroy or lop native vegetation does not apply to:

<table>
<thead>
<tr>
<th>Conservation work</th>
<th>Native vegetation removed, destroyed or lopped to the minimum extent necessary to enable the carrying out of conservation work in accordance with a conservation management plan which:</th>
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<td>· demonstrates a no net loss to biodiversity; and</td>
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<td></td>
<td>· is approved by the Secretary to the Department of Environment, Land, Water and Planning (as constituted under Part 2 of the Conservation, Forests and Lands Act 1987).</td>
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<table>
<thead>
<tr>
<th>Crown land</th>
<th>Native vegetation removed, destroyed or lopped to the minimum extent necessary to manage Crown land:</th>
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<td>· by or on behalf of the Secretary to the Department of Environment, Land, Water and Planning (as constituted under Part 2 of the Conservation, Forests and Lands Act 1987), and in accordance with the Crown land clearing procedure; or</td>
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<td>· in accordance with an authorisation order made under sections 82 or 84 of the Traditional Owner Settlement Act 2010.</td>
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<th>Emergency works</th>
<th>Native vegetation removed, destroyed or lopped:</th>
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<td></td>
<td>· by or on behalf of a public authority or municipal council to create an emergency access or to enable emergency works; or</td>
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<td>· 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.</td>
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<tr>
<th>Fire protection</th>
<th>Native vegetation removed, destroyed or lopped to the minimum extent necessary to carry out any of the following fire protection activities:</th>
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<td>· fire fighting;</td>
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<td>· planned burning;</td>
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<td></td>
<td>· the making or maintenance of a fuelbreak, fire fighting access track or fire control line (or any combination thereof) that does not exceed a combined width of 6 metres;</td>
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<td></td>
<td>· 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</td>
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The requirement to obtain a permit to remove, destroy or lop native vegetation does not apply to:

<table>
<thead>
<tr>
<th>Geothermal energy exploration and extraction</th>
<th>Native vegetation removed, destroyed or lopped to the minimum extent necessary in accordance with an operation plan approved under the Geothermal Energy Resources Act 2005.</th>
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<tr>
<td>Greenhouse gas sequestration (including exploration)</td>
<td>Native vegetation removed, destroyed or lopped to the minimum extent necessary in accordance with an operation plan approved under the Greenhouse Gas Geological Sequestration Act 2008.</td>
</tr>
<tr>
<td>Land management or directions notice</td>
<td>Native vegetation removed, destroyed or lopped to the minimum extent necessary to comply with a land management or directions notice served under the Catchment and Land Protection Act 1994.</td>
</tr>
<tr>
<td>Land use conditions</td>
<td>Native vegetation removed, destroyed or lopped to the minimum extent necessary to comply with a land use condition served under the Catchment and Land Protection Act 1994.</td>
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| Mineral exploration and extraction | Native vegetation removed, destroyed or lopped to the minimum extent necessary by the holder of an exploration, mining, or prospecting license issued under the Mineral Resources (Sustainable Development) Act 1990, in accordance with:
  - low impact exploration as defined under Schedule 4A of the Mineral Resources (Sustainable Development) Act 1990; or
  - a work plan approved under Part 3 of the Mineral Resources (Sustainable Development) Act 1990. |
| **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. |
| Pest animal burrows | Native vegetation 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 |
The requirement to obtain a permit to remove, destroy or lop native vegetation does not apply to:

**Flora and Fauna Guarantee Act 1998.**

**Planted vegetation**
- Native vegetation removed, destroyed or lopped that was either planted or grown as a result of direct seeding for crop raising or extensive animal husbandry.
  - in accordance with a permit condition or enforcement order issued under the Planning and Environment Act 1987; or
  - 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 the written permission of the public body (or its successor) that provided the funding.

**Railways**
- Native vegetation 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 the written agreement of the Secretary to the Department of Environment, Land, Water and Planning (as constituted under Part 2 of the Conservation, Forests and Lands Act 1987).

**Regrowth**
- Native vegetation removed, destroyed or lopped that has naturally established or regenerated on land lawfully cleared of naturally established vegetation and is:
  - bracken (*Pteridium esculentum*); 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 where native vegetation has been destroyed or otherwise damaged as a result of flood, fire or other natural disaster.

**Road safety**
- Native vegetation is to be removed, destroyed or lopped to the minimum extent necessary by 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 Conservation, Forests and Lands Act 1987).

**Stone exploration**
- Native vegetation removed, destroyed or lopped to the minimum extent necessary to enable the carrying out of stone exploration.
  - 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:
    - 1 hectare of native vegetation which does not include a tree;
    - 15 native trees with a trunk diameter of less than 40 centimetres at a height of 1.3 metres above ground level;
    - 5 native trees with a trunk diameter of 40 centimetres or more at a height of 1.3 metres above ground level.
  - This exemption does not apply to costeasing and bulk sampling activities.
The requirement to obtain a permit to remove, destroy or lop native vegetation does not apply to:

| Stone extraction | Native vegetation removed, destroyed or lopped to the minimum extent necessary in accordance with a work plan approved under the Mineral Resources (Sustainable Development) Act 1990 and authorised by a work authority under that Act. |
| Surveying        | Native vegetation removed, destroyed or lopped to the minimum extent necessary by a licensed surveyor (within the meaning of section 3 of the Surveying Act 2004) using hand-held tools to establish a sightline for the measurement of land. |
| Utility installations | Native vegetation removed, destroyed or lopped by, or on behalf of a utility service provider to the minimum extent necessary to:  
  - maintain the safe and efficient function of a Minor utility installation; or  
  - 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 Conservation, Forests and Lands Act 1987). |
52.17  NATIVE VEGETATION

Purpose

To ensure permitted clearing of native vegetation results in no net loss to biodiversity. This is achieved by applying the following three step approach in accordance with the Native vegetation clearing – assessment guidelines, Department of Environment, Land, Water and Planning, 2017 (Assessment guidelines):

- Avoid the removal, destruction or lopping of native vegetation.
- Minimise impacts from the removal, destruction or lopping of native vegetation that cannot be avoided.
- Provide an offset if a permit is granted to remove, destroy or lop native vegetation.

To manage the clearing of native vegetation to minimise land and water degradation.

52.17-1 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.
- If a native vegetation precinct plan corresponding to the land is incorporated into this scheme and listed in the schedule to Clause 52.16.
- To the removal, destruction or lopping of native vegetation specified in the schedule to this clause.

52.17-2 Application requirements

For all applications

An application must be accompanied by the following information:

- The location category and assessment pathway of the application, determined in accordance with the Assessment guidelines.
- The site address where the native vegetation is to be removed, destroyed or lopped.
- Maps or plans containing information set out in the Assessment guidelines.
- Topographic and land information, showing ridges, crests and hilltops, wetlands and waterways, slopes of more than 20 percent, drainage lines, low lying areas, saline discharge areas, and areas of existing erosion, as appropriate.
- A description of the native vegetation to be removed, destroyed or lopped, as set out in the Assessment guidelines.
- Recent photographs of the native vegetation to be removed, destroyed or lopped and the date the photographs were taken.
- Details of any other native vegetation that was permitted to be removed, destroyed or lopped on the same property with the same ownership in the five year period before the application for a permit to remove, destroy or lop native vegetation is lodged.
- An avoid and minimisation statement explaining why the native vegetation removal, destruction or lopping cannot be avoided and how impacts on biodiversity and other
values of native vegetation have been minimised, as set out in the Assessment guidelines.

- A copy of any property vegetation plan that applies to the site.
- Where the removal, destruction or lopping of native vegetation is to create defendable space, a statement explaining why the removal, destruction or lopping of native vegetation is necessary. This statement must have regard to other available bushfire risk mitigation measures. This requirement does not apply to the creation of defendable space in conjunction with an application under the Bushfire Management Overlay.
- The offset requirement, determined in accordance with the Assessment guidelines, that will apply if the native vegetation is permitted to be removed, destroyed or lopped.
- An offset statement, in accordance with the Assessment guidelines, that explains how the offset will be secured.

For an application in the Detailed Assessment Pathway

An application in the Detailed Assessment Pathway must also be accompanied by the following information:

- A site assessment report, as set out in the Assessment guidelines.
- Information about impacts on rare or threatened species habitat, as set out in the Assessment guidelines.

52.17-3 Property vegetation plans

Any permit granted to remove, destroy or lop native vegetation in accordance with a property vegetation plan must include the following condition:

“This permit will expire if one of the following circumstances applies:

- the removal, destruction or lopping of native vegetation does not start within two years of the date of this permit.
- the removal, destruction or lopping of native vegetation is not completed within ten years of the date of this permit.”

52.17-4 Decision guidelines

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

For all applications

- Impacts on other values of the native vegetation to be removed, destroyed or lopped, including land and water protection, landscape values and native vegetation protected under the Aboriginal Heritage Act 2006, as set out in the Assessment guidelines.
- Whether reasonable steps have been taken to avoid and minimise impacts from the removal, destruction or lopping of native vegetation, as set out in the Assessment guidelines.
- Whether other bushfire risk mitigation measures have been used to minimise the removal, destruction or lopping of native vegetation, if the native vegetation is to be removed, destroyed or lopped to create defendable space to reduce the risk of bushfire to life and property.
PARTICULAR PROVISIONS - CLAUSE 52.17  PAGE 3 OF 10

- Whether the proposed removal, destruction or lopping of native vegetation is in accordance with any property vegetation plan that applies to the site.
- Whether an offset that meets the offset requirements for the native vegetation to be removed, destroyed or lopped has been identified and can be secured, in accordance with the Assessment guidelines.

For an application in the Intermediate Assessment Pathway or Detailed Assessment Pathway

- Impacts on the biodiversity value of the native vegetation to be removed, destroyed or lopped, as set out in the Assessment guidelines.

52.17-5 Offset requirements

The biodiversity impacts from the removal, destruction or lopping of native vegetation are required to be offset, in accordance with the Assessment guidelines. The conditions on the permit for the removal, destruction or lopping of native vegetation must specify the offset requirement.

52.17-6 Transitional arrangements

The requirements of Clause 52.17 of this scheme in force immediately before [INSERT GAZETTAL DATE] continue to apply to an application lodged before this date.

52.17-7 Table of exemptions

The requirement to obtain a permit to remove, destroy or lop native vegetation does not apply to:

<table>
<thead>
<tr>
<th>Conservation work</th>
<th>Native vegetation removed, destroyed or lopped to the minimum extent necessary to enable the carrying out of conservation work in accordance with a conservation management plan which:</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>• demonstrates a no net loss to biodiversity; and</td>
</tr>
<tr>
<td></td>
<td>• is approved by the Secretary to the Department of Environment, Land, Water and Planning (as constituted under Part 2 of the Conservation, Forests and Lands Act 1987).</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Crown land</th>
<th>Native vegetation removed, destroyed or lopped to the minimum extent necessary to manage Crown land:</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>• by or on behalf of the Secretary to the Department of Environment, Land, Water and Planning (as constituted under Part 2 of the Conservation, Forests and Lands Act 1987), and in accordance with the Crown land clearing procedure; or</td>
</tr>
<tr>
<td></td>
<td>• with written permission by the Secretary to the Department of Environment, Land, Water and Planning (as constituted under Part 2 of the Conservation, Forests and Lands Act 1987); or</td>
</tr>
<tr>
<td></td>
<td>• in accordance with an authorisation order made under sections 82 or 84 of the Traditional Owner Settlement Act 2010.</td>
</tr>
<tr>
<td>PARTICULAR PROVISIONS - CLAUSE 52.17</td>
<td>PAGE 4 OF 10</td>
</tr>
<tr>
<td>--------------------------------------</td>
<td>--------------</td>
</tr>
<tr>
<td>The requirement to obtain a permit to remove, destroy or lop native vegetation does not apply to:</td>
<td></td>
</tr>
<tr>
<td><strong>Dead vegetation</strong></td>
<td>Dead native vegetation. This exemption does not apply to:</td>
</tr>
<tr>
<td></td>
<td>• a standing dead tree with a trunk diameter of 40 centimetres or more at a height of 1.3 metres above ground level; or</td>
</tr>
<tr>
<td></td>
<td>• native vegetation which has been deliberately destroyed as a result of unlawful activity.</td>
</tr>
<tr>
<td><strong>Emergency works</strong></td>
<td>Native vegetation removed, destroyed or lopped:</td>
</tr>
<tr>
<td></td>
<td>• by or on behalf of a public authority or municipal council to create an emergency access or to enable emergency works; or</td>
</tr>
<tr>
<td></td>
<td>• 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.</td>
</tr>
<tr>
<td><strong>Existing buildings</strong></td>
<td>Native vegetation removed, destroyed or lopped to the minimum extent necessary to enable the use or maintenance of a building constructed in accordance with a planning permit or building permit issued before 15 September 2008. This exemption does not apply to:</td>
</tr>
<tr>
<td></td>
<td>• the operation or maintenance of a fence; or</td>
</tr>
<tr>
<td></td>
<td>• native vegetation located more than 10 metres from the outermost point of the building.</td>
</tr>
<tr>
<td><strong>Existing buildings and works in the Farming Zone and Rural Activity Zone</strong></td>
<td>Native vegetation removed, destroyed or lopped to the minimum extent necessary to enable the use or maintenance of an existing 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:</td>
</tr>
<tr>
<td></td>
<td>• the use or maintenance of a dwelling; or</td>
</tr>
<tr>
<td></td>
<td>• the operation or maintenance of a fence; or</td>
</tr>
<tr>
<td></td>
<td>• native vegetation located more than 10 metres from the outermost point of the building or works.</td>
</tr>
<tr>
<td><strong>Fences</strong></td>
<td>Native vegetation removed, destroyed or lopped to the minimum extent necessary to enable the operation or maintenance of an existing fence within a property. The total width of clearing must not exceed 4 metres.</td>
</tr>
<tr>
<td></td>
<td>Native vegetation removed, destroyed or lopped to the minimum extent necessary to enable the construction or maintenance of a boundary fence between properties in different ownership provided that:</td>
</tr>
<tr>
<td></td>
<td>• the total width of clearing between two properties does not exceed 4 metres; and</td>
</tr>
<tr>
<td></td>
<td>• if the clearing is between private and public land, the private landowner can clear up to 1 metre on public land, provided the public land manager has given consent.</td>
</tr>
</tbody>
</table>
The requirement to obtain a permit to remove, destroy or lop native vegetation does not apply to:

| Fire protection | Native vegetation removed, destroyed or lopped to the minimum extent necessary to carry out any of the following fire protection activities:
|                 | - fire fighting;
|                 | - planned burning;
|                 | - the making or maintenance of a fuelbreak, fire fighting access track or fire control line (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 Part 2 of the Conservation, Forests and Lands Act 1987);
|                 | - in accordance with a fire prevention notice issued under either:
|                 |   - Section 65 of the Forests Act 1958; or
|                 |   - Section 41 of the Country Fire Authority Act 1958;
|                 | - 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 Electricity Safety Act 1998;
|                 | - minimising the risk to life and property from bushfire on a roadside of a public road managed by the relevant responsible road authority 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, Forests and Lands Act 1987). In this exemption, roadside, public road and responsible road authority have the same meanings as in section 3 of the Road Management Act 2004.
|                 | Note: Additional permit exemptions for bushfire protection are provided at Clause 52.48.

| Geothermal energy exploration and extraction | Native vegetation removed, destroyed or lopped to the minimum extent necessary in accordance with an operation plan approved under the Geothermal Energy Resources Act 2005.

| Grasses | Native grass mowed or slashed for maintenance only, provided that the grass is:
|         | - located within a lawn, garden or other landscaped area; or
|         | - maintained at a height of at least 10 centimetres above ground level.

| Grazing | Grazing by domestic stock on:
|         | - freehold land; or
|         | - Crown land in accordance with a licence or lease granted under applicable legislation.

| Greenhouse gas sequestration (including exploration) | Native vegetation removed, destroyed or lopped to the minimum extent necessary in accordance with an operation plan approved under the Greenhouse Gas Geological Sequestration Act 2008.
The requirement to obtain a permit to remove, destroy or lop native vegetation does not apply to:

<table>
<thead>
<tr>
<th>Provision</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Harvesting for timber production – naturally established native vegetation</strong></td>
</tr>
<tr>
<td>- Native vegetation removed, destroyed or lopped in accordance with the Code of Practice for Timber Production 2014:</td>
</tr>
<tr>
<td>- on public land under a licence or permit issued under section 52 of the Forests Act 1958; or</td>
</tr>
<tr>
<td>- under a plan prepared under Part 5 of the Sustainable Forests (Timber) Act 2004.</td>
</tr>
<tr>
<td><strong>Land management or directions notice</strong></td>
</tr>
<tr>
<td>- Native vegetation removed, destroyed or lopped to the minimum extent necessary to comply with a land management or directions notice served under the Catchment and Land Protection Act 1994.</td>
</tr>
<tr>
<td><strong>Land use conditions</strong></td>
</tr>
<tr>
<td>- Native vegetation removed, destroyed or lopped to the minimum extent necessary to comply with a land use condition served under the Catchment and Land Protection Act 1994.</td>
</tr>
<tr>
<td><strong>Lopping and pruning for maintenance</strong></td>
</tr>
<tr>
<td>- Lopping or pruning native vegetation, provided no more than 1/3 of the foliage of each individual plant is lopped or pruned.</td>
</tr>
<tr>
<td>This exemption does not apply to:</td>
</tr>
<tr>
<td>- the pruning or lopping of the trunk of a native tree; or</td>
</tr>
<tr>
<td>- native vegetation on a roadside or railway reservation.</td>
</tr>
<tr>
<td><strong>Mineral exploration and extraction</strong></td>
</tr>
<tr>
<td>- Native vegetation removed, destroyed or lopped to the minimum extent necessary by the holder of an exploration, mining, or prospecting license issued under the Mineral Resources (Sustainable Development) Act 1990 in accordance with:</td>
</tr>
<tr>
<td>- low impact exploration as defined under Schedule 4A of the Mineral Resources (Sustainable Development) Act 1990; or</td>
</tr>
<tr>
<td>- a work plan approved under Part 3 of the Mineral Resources (Sustainable Development) Act 1990.</td>
</tr>
<tr>
<td>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.</td>
</tr>
<tr>
<td><strong>New buildings and works in the Farming Zone and Rural Activity Zone</strong></td>
</tr>
<tr>
<td>- Native vegetation removed, destroyed or lopped to the minimum extent necessary 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.</td>
</tr>
<tr>
<td>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:</td>
</tr>
<tr>
<td>- 1 hectare of native vegetation which does not include a tree;</td>
</tr>
<tr>
<td>- 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;</td>
</tr>
<tr>
<td>- 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.</td>
</tr>
<tr>
<td>This exemption does not apply to the construction or operation of a pivot irrigation system or horticultural trellising.</td>
</tr>
</tbody>
</table>
### The requirement to obtain a permit to remove, destroy or lop native vegetation does not apply to:

<table>
<thead>
<tr>
<th><strong>New dwellings in the Farming Zone and Rural Activity Zone</strong></th>
<th><strong>Personal use</strong></th>
<th><strong>Pest animal burrows</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td>Native vegetation removed, destroyed or lopped to the <strong>minimum extent necessary</strong> 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 must not exceed any of the following:</td>
<td>Native vegetation removed, destroyed or lopped to the <strong>minimum extent necessary</strong> to obtain reasonable amounts of wood for personal use by the owner or occupier of the land. For the purpose of this exemption, personal use means uses such as heating and cooking, building and fence construction on the land, and hobbies such as arts and craft. This exemption does not apply to:</td>
<td>Native vegetation removed, destroyed or lopped to the <strong>minimum extent necessary</strong> to enable the removal of pest animal burrows in the Farming Zone or the Rural Activity Zone:</td>
</tr>
<tr>
<td>• 300 square metres of native vegetation which does not include a tree;</td>
<td>• living native vegetation, which together with all contiguous land in one ownership has an area of less than 10 hectares; or</td>
<td>• in accordance with the written agreement of an officer of the department responsible for administering the <strong>Flora and Fauna Guarantee Act 1998</strong>; or</td>
</tr>
<tr>
<td>• 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;</td>
<td>• the removal, destruction or lopping of native vegetation by means other than cutting or chopping; or</td>
<td>• provided the maximum extent of native vegetation removed, destroyed or lopped on contiguous land in the same ownership in a five year period does not exceed any of the following:</td>
</tr>
<tr>
<td>• 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.</td>
<td>• a standing native tree (including a dead tree) with a trunk diameter of 40 centimetres or more at a height of 1.3 metres above ground level.</td>
<td>• 1 hectare of native vegetation which does not include a tree;</td>
</tr>
<tr>
<td>This exemption does not apply to native vegetation removed, destroyed or lopped to enable the construction of a swimming pool, tennis court, or horse ménage.</td>
<td>This exemption does not apply to:</td>
<td>• 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.</td>
</tr>
</tbody>
</table>
The requirement to obtain a permit to remove, destroy or lop native vegetation does not apply to:

**Planted vegetation**
- Native vegetation removed, destroyed or lopped that was either planted or grown as a result of direct seeding.
  - This exemption does not apply to native vegetation planted or managed:
    - in accordance with a permit condition or enforcement order issued under the Planning and Environment Act 1987; or
    - 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 the written permission of the public body (or its successor) that provided the funding.

**Railways**
- Native vegetation 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 the written agreement of the Secretary to the Department of Environment, Land, Water and Planning (as constituted under Part 2 of the Conservation, Forests and Lands Act 1987).

**Regrowth**
- Native vegetation removed, destroyed or lopped that 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 to the Department of Environment, Land, Water and Planning (as constituted under Part 2 of the Conservation, Forests and Lands Act 1987), and is:
    - shown on that Plan as being ‘certified regrowth’; and
    - 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 where native vegetation has been destroyed or otherwise damaged as a result of flood, fire or other natural disaster.

**Road safety**
- Native vegetation removed, destroyed or lopped to the minimum extent necessary by 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 Conservation, Forests and Lands Act 1987).
The requirement to obtain a permit to remove, destroy or lop native vegetation does not apply to:

| Stone exploration | Native vegetation removed, destroyed or lopped to the minimum extent necessary to enable the carrying out of stone exploration.  
|                   | 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:  
|                   | • 1 hectare of native vegetation which does not include a tree;  
|                   | • 15 native trees with a trunk diameter of less than 40 centimetres at a height of 1.3 metres above ground level;  
|                   | • 5 native trees with a trunk diameter of 40 centimetres or more at a height of 1.3 metres above ground level.  
|                   | This exemption does not apply to costeasing and bulk sampling activities.  
| Stone extraction  | Native vegetation removed, destroyed or lopped to the minimum extent necessary in accordance with a work plan approved under the Mineral Resources (Sustainable Development) Act 1990 and authorised by a work authority under that Act.  
| Site area         | Native vegetation removed, destroyed or lopped to the minimum extent necessary on land, which together with all contiguous land in one ownership, has an area of less than 0.4 hectares.  
|                   | This exemption does not apply to native vegetation on a roadside or rail reservation.  
| Stock movements on roads | Native vegetation removed or destroyed by stock being moved 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         | Native vegetation removed, destroyed or lopped to the minimum extent necessary by a licensed surveyor (within the meaning of section 3 of the Surveying Act 2004) using hand-held tools to establish a sightline for the measurement of land.  
| Utility installations | Native vegetation removed, destroyed or lopped by, or on behalf of a utility service provider to the minimum extent necessary to:  
|                   | • maintain the safe and efficient function of a Minor utility installation; or  
|                   | • 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 Conservation, Forests and Lands Act 1987).  

**The requirement to obtain a permit to remove, destroy or lop native vegetation does not apply to:**

### Vehicle access from public roads
- Native vegetation removed, destroyed or lopped to the **minimum extent necessary** to enable the construction or maintenance of a vehicle access across a road reserve from a property boundary to a public road.

  - Under this exemption the total width of clearing must not exceed 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.
  - In this exemption, *roadside* and *public road* have the same meanings as in section 3 of the *Road Management Act 2004*.

  **Note:** Under the *Road Management Act 2004* the written consent of the coordinating road authority is required to conduct any works, including removing a tree or other vegetation, in, on, under or over a road.

### Weeds
- Native vegetation removed, destroyed or lopped to the **minimum extent necessary** to enable the removal or destruction of a weed listed in the schedule to Clause 52.17.

  - 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:
    - 1 hectare of native vegetation which does not include a tree;
    - 15 native trees with a trunk diameter of less than 20 centimetres at a height of 1.3 metres above ground level.
**SCHEDULE TO CLAUSE 52.17**

1.0 **Native vegetation that does not require a permit to be removed, destroyed or lopped**

<table>
<thead>
<tr>
<th>Land</th>
<th>Description of native vegetation</th>
</tr>
</thead>
<tbody>
<tr>
<td>None specified</td>
<td></td>
</tr>
</tbody>
</table>

2.0 **Weed**

<table>
<thead>
<tr>
<th>Land</th>
<th>Description of weed</th>
</tr>
</thead>
<tbody>
<tr>
<td>None specified</td>
<td></td>
</tr>
</tbody>
</table>
### Kind of application

<table>
<thead>
<tr>
<th>Kind of application</th>
<th>Referral authority</th>
</tr>
</thead>
<tbody>
<tr>
<td>Native vegetation</td>
<td>Secretary to the Department of Environment, Land, Water and Planning (as constituted under Part 2 of the Conservation, Forests and Lands Act 1987)</td>
</tr>
</tbody>
</table>

#### 66.02-2

- To remove, destroy or lop native vegetation if the extent to be cleared is 0.5 hectare or more.
- To remove, destroy or lop native vegetation in the Detailed Assessment Pathway as defined in the Native vegetation clearing – assessment guidelines (Department of Environment, Land, Water and Planning, 2017).
- To remove, destroy or lop native vegetation if a property vegetation plan applies to the site.
- To remove, destroy or lop native vegetation on Crown land which is occupied or managed by the responsible authority.

#### 66.02-3

To use or develop land for a cattle feedlot.

Minister for Agriculture

If the site is located within a special water supply catchment area under the Catchment and Land Protection Act 1994, the relevant water authority under the Water Act 1989 and the Secretary to the Department administering the Catchment and Land Protection Act 1994

#### 66.02-4

To construct a building or construct or carry out works on land within 60 metres of a major electricity transmission line (220 Kilovolts or more) or an electricity transmission easement.

The relevant electricity transmission authority

#### 66.02-5

To use, subdivide or consolidate land, to construct a building or construct or carry out works, or to demolish a building or works that are within a Special Water Supply Catchment Area listed in Schedule 5 of the Catchment and Land Protection Act 1994 and which provides water to a

The relevant water board or water supply authority