

Native Vegetation

Policy and planning

The Victorian Government's policy for native vegetation is outlined in Victoria's *Native Vegetation Management - A Framework for Action* (DNRE 2002) (the framework). The framework is an incorporated document in all Victorian Planning Schemes. Planning and responsible authorities must consider the framework when assessing proposals to clear native vegetation.

Net Gain

The Framework's primary goal is 'a reversal across the entire landscape of the long term decline in the extent and quality of native vegetation, leading to a Net Gain' (the framework, page 14). Net Gain is the outcome for native vegetation and habitat where overall gains are greater than overall losses, and individual losses are avoided where possible. Net Gain takes account of:

- improvements in the quality and extent of native vegetation achieved through government investment and voluntary measures.
- no net loss of native vegetation for permitted clearing. The three-step approach of avoid, minimise and offset is key to achieving this aim.
- losses in the quality and extent of native vegetation arising from clearing that does not require a permit, and from other processes (for example, tree dieback) and practices (for example, permitted land uses).

The losses and gains are determined by a combined quality-quantity measure (Habitat Hectare), and over a specified area and period of time.

History of native vegetation regulation in Victoria

Clearance of native vegetation in Victoria is regulated through the planning system.

In 1989, the Native Vegetation Retention (NVR) controls were established under the provisions of the *Planning and Environment Act 1987* and introduced into the state section of all Victorian Planning Schemes. The NVR controls required a planning permit to remove, destroy or lop native

vegetation subject to a range of exemptions designed to facilitate normal domestic and rural practices. While local councils were the responsible authority for administering and enforcing the planning scheme, the then Department of Conservation and Environment was the referral authority for a range of applications, including those that involved more than 10 hectares of native vegetation clearance.

In 2002, the framework was released and it was given regulatory force in 2003, when changes were made to the Victoria Planning Provisions (VPP) to make the Framework an incorporated document.

In 2005, the Economic and Sustainable Development Committee of Cabinet endorsed the 'New Approach' to native vegetation management. In 2006, changes were made to Clauses 15.09, 52.17, 66.02 and 72 to provide for the New Approach in the VPP. One of the aims of the New Approach was to simplify the process for councils assessing permit applications involving the removal of native vegetation. Changes made to Clause 66, in particular, were designed to achieve this and resulted in an increase in the number of applications requiring referral to the Department of Sustainability and Environment (DSE).

Provisions in the Victoria Planning Provisions

State Planning Policy Framework

The State Planning Policy Framework (SPPF) within the VPP comprises general principles for land use and development in Victoria. It contains specific policies relating to issues such as the environment that planning and responsible authorities must take account of and give effect to. The SPPF is a component of every Victorian planning scheme.

Within the SPPF, Clause 15.09 *Conservation of native flora and fauna* requires planning and responsible authorities to follow the framework and the three-step approach if a permit is required to remove native vegetation, or if an amendment to the planning scheme, or an application for subdivision could result in the removal of native vegetation.

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The three-step approach is:

1. to avoid adverse impacts [on native vegetation], particularly through vegetation clearance
2. if impacts cannot be avoided, to minimise impacts through appropriate consideration in planning processes and expert input to project design or management
3. to identify appropriate offset options.

General provisions and referral requirements

The general provisions within the VPP are operational requirements that are consistent across the state. Within the general provisions, Clause 65 *Decision guidelines* requires responsible authorities to consider native vegetation before deciding on planning permit applications, approving plans or applications to subdivide land.

For some planning permit applications, responsible authorities must refer the application under s55 of the *Planning and Environment Act 1987*, or give notice of it under s52(1)(c) of the Act.

If an application is referred under s55, responsible authorities (typically local councils) are bound by the instruction provided by referral authorities, even if it would result in the refusal of the application or the application of particular permit conditions. Responsible authorities are not bound by the comments provided by an agency if notified under s52(1)(c).

Clause 66 *Referral and notice provisions* describes the kind of applications involving clearance of native vegetation that must be referred, or for which notice must be given, to DSE.

Particular provisions

The particular provisions within the VPP are specific planning requirements for a range of uses and developments, including for native vegetation. They apply consistently across the state. Unless specified otherwise, the particular provisions apply in addition to the requirements of a zone or overlay.

Within the particular provisions, Clause 52.17 deals with native vegetation. Under Clause 52.17 *Native Vegetation*, a permit is required to remove, destroy or lop native vegetation, including dead vegetation, but this does not apply:

- if the table of exemptions in Clause 52.17-6 specifically states that a permit is not required
- to the removal, destruction or lopping of native vegetation specified in a schedule to the clause
- or to an area specified in a schedule to the clause.

Clause 52.17 also specifies information requirements for permit applications and decision guidelines and provisions for property vegetation plans.

In some circumstances, there are other particular provisions relevant to native vegetation. These include Clauses 52.16 *Native vegetation precinct plan*, 52.18 *Timber production*, 52.43 *Interim measures for bushfire protection*, 52.40 *Government funded education facilities*, 52.41 *Government funded social housing* and 53 *Upper Yarra Valley and Dandenong Ranges region*.

Zones and overlays

The application of particular zones or overlays can generate additional controls over the modification of vegetation in particular areas. Several environment and land management overlays (Clauses 42.01 *Environmental Significance Overlay*, 42.02 *Vegetation Protection Overlay*, 42.03 *Significant Landscape Overlay*, 44.01 *Erosion Management Overlay* and 44.02 *Salinity Management Overlay*) include requirements to obtain a planning permit to remove, destroy or lop any vegetation that are separate to the permit requirements in Clause 52.17. The tables of exemptions within these overlays are also different.

Planning Practice Notes

A range of planning practice notes are available on the Department of Planning and Community Development (DPCD) website, which provide guidance to councils when dealing with permits to remove native vegetation. These are:

- new native vegetation provisions in the planning schemes
- assessing applications involving native vegetation removal
- managing native vegetation in the planning system
- native vegetation offsets
- preparing a native vegetation precinct plan.

Further information

For further information visit the planning section of the Department of Planning and Community Development website at: www.dpcd.vic.gov.au, or the DSE Permit applications or Local government sections on DSE's native vegetation webpage, at: www.dse.vic.gov.au/nativevegetation or call the DSE Customer Service Centre on 136 186 Monday to Friday.

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