



WEST WIMMERA SHIRE COUNCIL

Municipal Public Health and Wellbeing Plan **2018 Review Points**

Priority Action 1 – Healthy Living

Targets:

- Increase healthy eating and water consumption for children, youth, and adults
- Increase levels of physical activity for children, youth, and adults

Actions (current at August 2018):

- Recreational Trails Strategy - WWSC
- Goroque Nature Play space - WWSC
- Active Living Expo in conjunction with seniors week - WWSC
- Making a Difference @ Harrow and District Recreation Reserve – WWSC
- Home and Community Care – WWSC
- Workplace Achievement Program – EDMH
- Staff Gym available – EDMH
- Promotion of physical activity and healthy eating - WWHS
- Dietician run cooking lessons – WWHS
- Healthy choices labelling - WWHS
- Cooking classes and supported meals – HBNC
- Pursuing potable drinking water options – HBNC
- Offering many different physical activity programs – HBNC
- Men's and women's health events – HBNC
- Well Women's clinic – WWHS
- Supporting and encouraging community physical activity - HBNC

Priority Action 2 – Reducing Harm

Targets:

- Reduce domestic violence rates
- Improve awareness of gender inequality as the key precursor to domestic violence
- Decrease smoking rates for adolescents and adults
- Reduce alcohol consumption rates

Actions (current at August 2018):

- CoRE (Communities of Respect and Equality) Alliance – WWSC
- Act@Work – WWSC
- White Ribbon Day – WWSC
- Making a Difference @ Harrow and District Recreation Reserve – WWSC
- Supporting businesses to transition to smoke-free dining - WWSC
- Youth Mental Health First Aid Courses – WWSC
- Active Living Expo in conjunction with seniors week – WWSC
- Well Women's clinic - WWHS



WEST WIMMERA SHIRE COUNCIL

Priority Action 3 – Inclusive & Supportive Communities

Targets:

- Increase connection to culture and communities for adolescents and adults

Actions (current at August 2018):

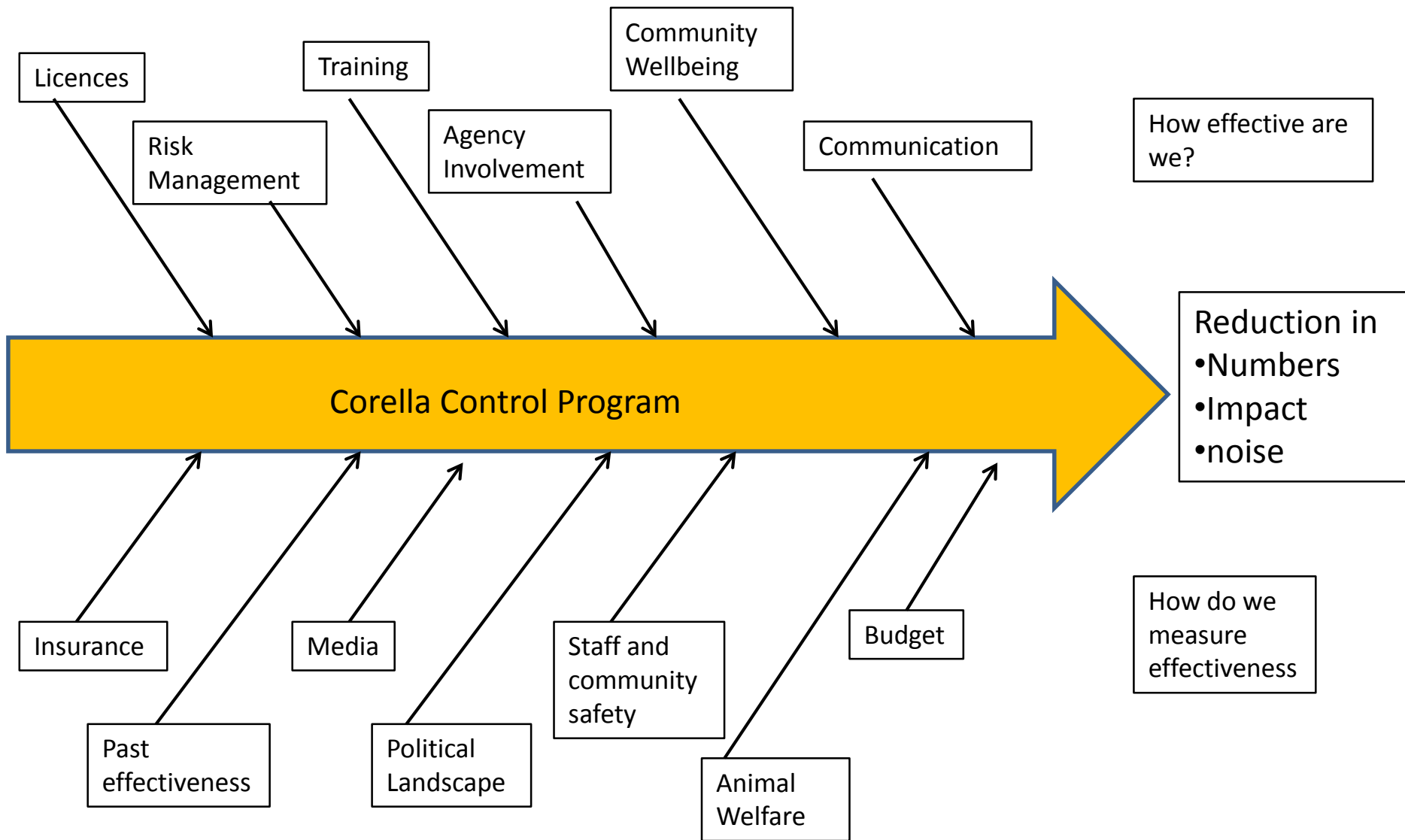
- Recreational Trails Strategy – WWSC
- Goroque Nature Play space – WWSC
- Youth Mental Health First Aid - WWSC
- Making a Difference @ Harrow Recreation Reserve – WWSC
- Men's Health Golf Day – HBNC
- Social Support Group – HBNC
- Goroque Youth Drop Zone – WWHS & WWSC
- School Holiday Programs – WWSC & HBNC
- Men's Health Evening – HBNC
- Well Women's clinic – WWHS
- Supported Playgroup facilitator engaged – WWSC

WWSC – West Wimmera Shire Council

EDMH – Edenhope & District Memorial Hospital

WWHS – West Wimmera Health Service

HBNC – Harrow Bush Nursing Centre



Corella Control List of Risks for assessment.

Risk	elements to assess
Staff safety	
Assault and abuse	at office, during normal duties, during control activities
wellbeing -mental health	include stress, bullying, verbal abuse, stress to community, media attention.
accident	includes sprains strains, car accidents, shooting accidents to staff or public
working in isolation	assault, accident, incident with no support or delayed response
Firearms	safety, competence, theft
sunburn, dehydration	
presence of protesters	Interfering with shooting, risk to themselves, media coverage, police presence, risks to staff.
Unsound permit/licence	
procedural errors	impacts from training, process and procedures
inadequate record keeping	Requirements for all parties
illegal actions	operating outside scope of delegations, law or regulations
failure in delegations	
uninsured	limited insurance or voided cover by not following plans
Prevention of cruelty to animals	
Poor project management	
lacking plans	Include details of when, where, how, traffic control, safety briefings, contingency planning, security etc
poor operational management on shoot days	
budget overrun	
staffing and resource requirements	Additional time for media, communications, supervision, traffic management.
un approved expenditure	
project management	
failure to deliver council priorities	
ineffective controls	
long term liability	
expensive program	
risks to staff	
damage to reputation	Social media, Edenhope, Tourism, Funding, for Conservation works

Corella Management Issues 2018/19 Season

Issue	Details
Effectiveness of shooting programs	Need to identify science and assessment of effectiveness of shooting and what and where any shooting should occur. Assessment of past programs and long term requirements. DELWP will want weekly returns of numbers shot.
Existing options	Identify all control options and their associated merits and limitations. No poison available on label, wildlife response to eagle poisoning in Gippsland and off target poisoning of owls after mouse poisoning and reduced any potential for poisoning programs.
Risks	Require detailed risk assessment against OHS, financial, legislative and reputational risks
Permissions and responsibilities.	Require all permits and permissions for insurance and for council to issue legal direction for staff to undertake control works
Landholder permission DELWP (public Lands)	DELWP require all parcels to be identified with zones and overlays where shooting may occur
	Also require the notification of all adjacent landholders prior to considering granting permission to undertake shooting program on land provided that insurance, licences and permits in place.
	DELWP public lands require detailed mapping of shooting areas, frequency and timing of shooting or scaring activity to occur on their land.
	Shooting locations and directions also need to be mapped and controlled during times of shooting.
Wildlife destruction permit	Permit would likely be granted provided confirmation from DELWP (Public Lands) that permission would be granted. Permits would be issued for low numbers with requirements for regular re application.
Shooting in a Populous Place.	6 Week or long, lead time on licence subject to permissions from landholder (DELWP) and Wildlife destruction permit. Any non-compliance would influence corporate firearms licence
	Also reliant on corporate firearms licence holder status
Council Authority	Will need a resolution from council to proceed with program as this is not a regulatory requirement.
Licences.	All shooters involved would need to be licenced. (A question has been raised if the recreational shooters licence is adequate for control programs where paid work is involved. Victoria Police Licencing control division confirm that the staff members listed and licence details provided through the shooting in a Populous Place permit process is all that is required) Applications forms require "Vermin Control" specified on licence

Training and competence	To satisfy insurers we need to demonstrate that the shooters involved have a minimum standard of training and competence. (SSAA course available for council)
Insurance	Council's Insurer LMI has had similar queries before and is of the opinion that "There are limited circumstances under which LMI allows the use of firearms by a Council officer,..... <i>You will note from the information provided that the use of firearms to eradicate these birds is not the correct method and seems to be quite useless and dangerous. Before LMI can make a decision on whether the policy will cover the use of firearms, we suggest it may be better to consider alternative methods</i> "
Notification	Adjacent landholders need to be notified to satisfy DELWP. Dog and horse owners will also need to be notified and management of customer queries planned for
Media and communication	A full communications plan needs to be developed to include opportunities for public meetings, submissions, stakeholder and landholder identification, media releases (joint with DELWP). High potential for social media and need for "outrage management"
	A response plan and media spokesperson needs to be identified for negative media and social media responses.
Stakeholders	Landholders, DELWP, Vicpol, WCMA, User groups Newspaper, School, angling club, Caravan Park, Tennis Club, Hospital, Nursing Home.
DELWP pest wildlife	Corella control is part of a bigger issue and goes beyond WWSC this issue needs to be managed on a State wide basis. Little support for ownership of this issue by DELWP
Budget	budget review of total costs, all staff times, communications management, permitting requirements, planning and operational management, customer queries and media management.



Department of Environment, Land, Water and Planning

ABN 90 719 052 204

APPLICATION TO USE CROWN LAND

Section A - APPLICANT DETAILS

FAMILY NAME	DEARDEN		
GIVEN NAME(s) in full	NATALIE JANE.		
COMPANY OR BUSINESS NAME			
RESIDENTIAL ADDRESS	787 BRINGALBERT SOUTH ROAD APSLEY VIC POSTCODE 3319		
POSTAL ADDRESS (If Different to Residential)			
	POSTCODE		
CONTACT DETAILS (Please supply a number where you can be reached during business hours)			
Phone:	Home	03 55865250	Business
	Mobile	04 27865250	Email Address
Fax:	Home		bigpond.com

The Department of Environment, Land, Water and Planning is committed to protecting information provided in accordance with the principles of the *Information Privacy Act 2000*. Information collected, including personal information, will be used for the purpose of issuing and administering the licence and for the management of Crown lands. DSE may disclose the information in this licence, including personal information, to the local municipality or other relevant government agencies or statutory authorities for these purposes or if required by law. DELWP also uses and discloses the information for the purpose of the resolution of applications for determination of native title and for meeting its obligations under the *Native Title Act 1993* (Cth). If you wish to access this information please contact the Manager, Privacy, PO Box 500, EAST MELBOURNE VIC 3002.

Section B - LAND DESCRIPTION

The Crown land I wish to licence is:

ALLOTMENT(S)	SECTION
TOWNSHIP	PARISH
STREET/ROAD	BRINGALBERT SOUTH ROAD
LOCALITY	BRINGALBERT SOUTH.

and/or

DESCRIPTION (include Street/Road name features approx area etc)

Unused Road east of CA 76 and west of CA 78 running into unused road south of CA 78. Ending halfway along CA 78.

Section C – Non Agricultural Purposes

For what term do you propose to use the land?

1 to 5yrs

5 to 10yrs

1

10+ years


L
L

Specific details of the proposal.

(Are any improvements proposed for the land? (eg buildings, fencing, earthworks) If yes, please describe the extent of these works (including plans where necessary) Please ensure all relevant information is supplied to assist in the processing of this application. Use separate pages if necessary)

This image shows a single sheet of white paper with horizontal blue or grey ruling lines. The lines are evenly spaced and run across the width of the page. There is no handwriting or other markings on the paper.

Do you propose to have exclusive use of the land? If so detail the reasons for this requirement



Does the proposal require a planning permit? *(please confirm with local Council if unsure)*

Yes

9

No

1

Section D - AGRICULTURAL PURPOSES (includes grazing, cultivation & agro-forestry purposes)

Status of land you propose to use (if known)

Water frontage

☐

Unused Road

☒

Reserve

☐

Other

☐

Are you a Primary Producer as defined in the Tax Act

yes ☒

no ☐

If Grazing please complete:

Is the Crown Land adjoining or near freehold property that you use for grazing? yes ☒

no ☐

Are the stock which will be grazing the Crown Land directly connected to the carrying on of primary production on your farm? yes ☒ no ☐

What type of stock do you graze on your farm?

CATTLE (BOVINE)
SHEEP (OVINE)

What type of stock do you intend to graze on the Crown Land?

SHEEP.

Estimated area of Land

Estimated carrying capacity (Dry Sheep Equivalent /ha) 10

If proposed use involves cultivation of the land, please specify

Type of crop

N/A.

Crop Rotation period

LAND DESCRIPTION (continued)

Are you the Owner or Occupier of the adjoining freehold land (tick as required)

OWNER



OCCUPIER



I do not own or occupy freehold land adjoining the land covered in this application



LAND DESCRIPTION OF ADJACENT FREEHOLD LAND

Crown allotment s 78 + 76 Section

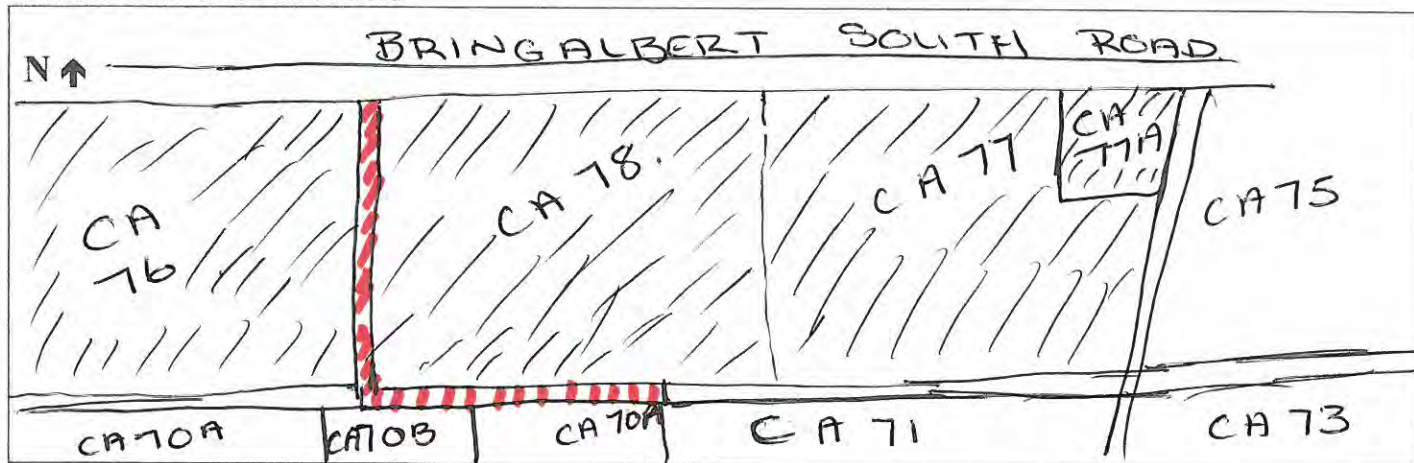
And/or

Lot Plan No

Parish BRINGALBERT

Vol Folio

Sketch Plan of Crown Land



IMPORTANT NOTE:-

Please complete either Section C or Section D.

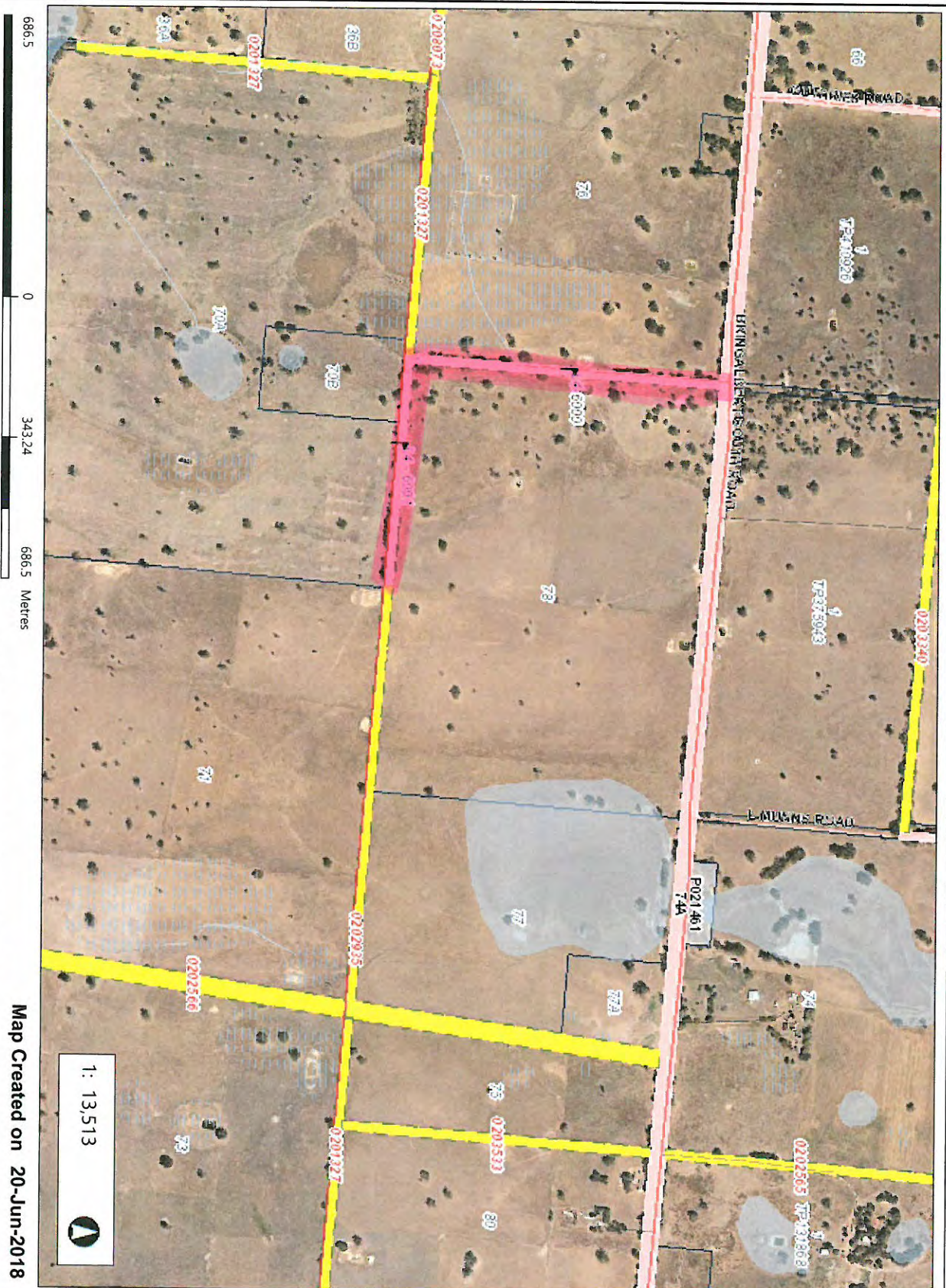
Please ensure all relevant information has been included. Provision of all relevant information will assist in the processing of this application.

Land owned by applicant.
 Unused Road

Signed	<u>Natalie Dearden</u>
Name	<u>NATALIE DEARDEN</u>
Dated	<u>10.5.2018</u>

Please ensure that your application fee of \$19.90 is enclosed.

Complete Section C only for Non Agricultural purposes
or
Section D only for Agricultural purposes.

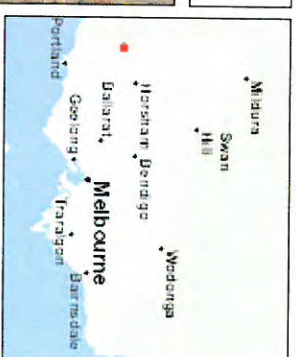


Map Created on 20-Jun-2018

1: 13,513



- Legend**
- EDIT - Crown Land Plan Notation
 - Township
 - Parish
 - Delegated Lease
 - Delegated Licence
 - Linear Tenure
 - Other Pipelines
 - Industrial Commercial licences
 - Recreation Amusement licences
 - Occupancy licences
 - Radio TV Telecom site licences
 - Emergency Services Use licences
 - Water Supply licences
 - Miscellaneous General licences
 - Easements
 - Pipe Consents
 - All Tenure Outline
 - Lease
 - General Licence
 - Grazing Licence
 - Riparian Management Licence
 - Water Frontage Licence
 - Unused Road Licence
 - Government Road
 - Government Road
 - Dual Status Government Road



Exemptions from requiring a planning permit to
remove, destroy or lop native vegetation

Guidance



December 2017

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ISBN 978-1-76047-788-2 (pdf)

Cover image: Grassy Woodland, Northwest Victoria, DELWP (Penny Croucamp)

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1 Introduction

1.1 Purpose

This document provides guidance for the interpretation and application of the exemptions from requiring a planning permit to remove, destroy or lop native vegetation in the Victoria's planning system. This document is designed for use by:

- responsible authorities
- referral authorities
- those relying on exemptions to remove, lop or destroy native vegetation.

This document will be updated from time to time to ensure it provides effective guidance and reflects any changes in policy or law relating to native vegetation removal.

1.2 Scope

All Victorian planning schemes contain state standard particular provisions that require a planning permit to remove, destroy or lop native vegetation. For the purposes of this document, the term 'remove native vegetation' includes to lop or destroy native vegetation.

These planning scheme provisions also include exemptions from requiring a planning permit to remove native vegetation for certain uses, activities or development. This document provides guidance on the exemptions contained in:

- Clause 52.16 (Native Vegetation Precinct Plan)
- Clause 52.17 (Native Vegetation)

This document does not address:

- the exemptions from requiring a permit to remove vegetation in Clause 52.48 (Bushfire Protection)
- specific sites and exclusions affected locally by Clause 52.03 (Specific Sites and Exclusions)
- exemptions incorporated in the schedule to Clause 52.17 in planning schemes.

More information about Clause 52.48 can be found in *Advisory Note 39 – Amendment VC83 – Bushfire protection: Vegetation exemptions*. Please seek information about exemptions in other parts of the planning scheme from your local council planning department.

The guidance set out in this document is general in nature. It is not determinative, and may not account for all circumstances.

This document does not form part of any planning scheme, and as a guidance document, does not alter the effect or application of the exemptions or the relevant planning scheme. The authority responsible for administering and enforcing the relevant planning scheme remains responsible for considering the application of the exemptions and their scope based on the specific circumstances of an individual matter.

Some environmental overlays also include a requirement for a permit to remove vegetation, and have corresponding or similar exemptions to those in Clauses 52.16 and 52.17. Many of these exemptions have the same purpose and wording as those in Clause 52.16 and Clause 52.17. This document does not provide specific guidance on the exemptions within the overlays, however it may be useful to help understand corresponding exemptions in the following overlays:

- Environmental Significance Overlay

- Vegetation Protection Overlay
- Significant Landscape Overlay
- Erosion Protection Overlay
- Salinity Protection Overlay.

1.3 General purpose of exemptions

The exemptions in Clauses 52.16 and 52.17 provide for the removal of native vegetation for a range of activities, uses and development without needing a planning permit. Exemptions ensure that the provisions that control the removal of native vegetation function well by:

- allowing for the maintenance of areas where native vegetation has previously been removed
- ensuring activities can occur for public safety
- clarifying certain rights to use land that involves the removal of native vegetation
- allowing access to an approval process outside the Victorian planning system that implements the objectives of Victoria's policy for the removal of native vegetation
- avoiding duplicative processes where the removal of native vegetation is approved under a separate Act or approval process
- ensuring activities for land management and biodiversity improvements can occur
- allowing removal of native vegetation where the costs of obtaining a planning permit would outweigh the cost to the environment of the native vegetation being removed.

1.4 Best practice when relying on exemptions

Where a landholder, landowner or land manager removes native vegetation by relying on an exemption in either Clause 52.16 or 52.17, they are responsible for complying with the relevant planning scheme requirements. Steps that those relying on exemptions should undertake include:

1. Determine the purpose, location and extent of the proposed native vegetation removal.
2. Check what planning controls apply to the land, including zones and overlays or local provisions that may require a permit for the proposed use, activity or development.
3. If unsure, check with the local council planning department to confirm if an exemption applies to the proposed removal of native vegetation under all relevant planning controls.
4. Use this guidance document to help understand the exemption purpose and where it might apply.
5. Comply with any other approval processes referenced in the exemption (e.g. in the road safety exemption).
6. Consider any property law requirements that may apply. This may include the need to get consent from an adjacent landholder or land manager to remove native vegetation on their land, where the exempt activity is not on your property.
7. Comply with any conditions or requirements of the relevant exemption, such as:
 - only removing native vegetation to the minimum extent necessary (see section 1.5 for more information)
 - removing native vegetation within the exemption limit.
8. Keep records of native vegetation removal to substantiate that an exemption has been relied upon.

9. Ensure compliance with any other regulatory requirements relating to the activity, use or development, such as:

- Flora and Fauna Guarantee Act 1988 (Victoria)
- Environment Protection and Biodiversity Conservation Act 1999 (Australia).

1.5 Minimising removing native vegetation when relying on exemptions

To ensure that exemptions from requiring a permit to remove native vegetation have minimal environment impacts most exemptions explicitly require that the native vegetation removal is to the minimum extent necessary. A condition of relying on these exemptions to remove native vegetation is that the removal is minimised. To achieve this, consider the following:

- exemptions must be relied upon sparingly. Consider using one exemption to meet multiple objectives. For example, an access track can also be a fuel break.
- any limits for native vegetation removal specified in an exemption are maximum amount, and it is not expected that native vegetation should necessarily be removed up to the limit. The onus is on those relying on the exemption to only remove that vegetation necessary to undertake the activity, use or development.
- only remove native vegetation for the purpose specified in the exemption. For example, native vegetation can only be removed along a fenceline for the construction or maintenance of that fence, within the limits specified in the exemption. Then within those limits only remove the native vegetation that will enable the actual maintenance or construction of the fence.

Practical approaches to minimising removing native vegetation

Before relying on an exemption, check if there are any ways to undertake the activity without removing any native vegetation. If native vegetation removal is still required, it must be minimised by considering:

- locate activities, use or development in areas with no or little native vegetation
- design the activity or development to minimise the impact footprint
- build upward instead of outward (i.e. multi-storey rather than single storey)
- place buildings close to the property entrance or close together to minimise the length of roads or pathways
- place infrastructure underground by boring instead of open trenching, or place it underneath driveways or pathways
- use a removal method that causes minimal impact on native vegetation. Generally using hand held tools rather than machinery or pesticides minimises impacts.

Focus of minimising

The term 'to the minimum extent necessary' relates to both the area of native vegetation removed, and minimising the impacts of the removal of native vegetation on biodiversity and the other values of the native vegetation. For example, a small area of native vegetation removal is proposed, but it is important habitat for a threatened species, or could cause erosion around a creek, so therefore this native vegetation removal should be minimised. When relying on exemptions focus minimising the impact of the removal of native vegetation on the following values. See <http://maps.biodiversity.vic.gov.au/viewer/?viewer=NatureKit> and <https://nvim.delwp.vic.gov.au/> for the maps referenced below:

- large, intact or high quality areas of native vegetation.
- native vegetation that has higher condition and strategic biodiversity value scores.
 - a condition score above 0.6 indicates the native vegetation is very good condition (See the *Native vegetation condition map*)

- a strategic biodiversity value score above 0.8 means the site is very important for Victoria’s biodiversity from a statewide perspective (See the *Strategic biodiversity values map*)
- large or hollow-bearing native trees, including areas within 15 metres of the tree trunk. Large trees with hollows usually have more biodiversity value than smaller trees without hollows.
- highly localised habitats for rare and threatened species, and important habitat for dispersed rare or threatened species, according to the *Habitat importance maps*.

In addition, minimise the removal of the native vegetation in the following locations:

- 30 metres from a waterway
- land with a slope greater than 20 per cent
- where salinity or erosion risk have been identified
- where the local council has identified important landscape values, such as areas providing visual amenity
- where Aboriginal cultural values have been identified. There may be requirements under the *Aboriginal Cultural Heritage Act 2006* that prevent or control the removal of native vegetation.

1.6 Common terms

This section describes terms commonly used in many exemptions. Where a term has been defined below, it will not be defined in the specific exemption guidance later in this document. See also Clauses 72 to 75 of your planning schemes for defined General terms and Land use terms.

Term	Definition
Agricultural production	Defined in Clause 72 of all planning schemes as: Any form of primary production of renewable commodities. It does not include Stone extraction, Mineral extraction, or timber production from native forest.
Agriculture	Defined in Clause 74 of all planning schemes as: Land used to: <ul style="list-style-type: none"> (a) propagate, cultivate or harvest plants, including cereals, flowers, fruit, seeds, trees, turf, and vegetables; (b) keep, breed, board, or train animals, including livestock, and birds; or (c) propagate, cultivate, rear, or harvest living resources of the sea or inland waters. Note that this includes timber production.
Building	Defined in section 3 of the <i>Planning and Environment Act 1987</i> as: Including: <ul style="list-style-type: none"> (a) a structure and part of a building or a structure; and (b) fences, walls, out-buildings, service installations and other appurtenances of a building; and (c) a boat or a pontoon which is permanently moored or fixed to land.
Contiguous land	Contiguous refers to land adjoining or having a common boundary.
Dwelling	Defined in Clause 74 of all planning schemes as: A building used as a self-contained residence which must include: <ul style="list-style-type: none"> (a) a kitchen sink; (b) food preparation facilities; (c) a bath or shower; and (d) a closet pan and wash basin. It includes out-buildings and works normal to a dwelling.
Five-year period	A five-year period is as any period of five consecutive years. For example, 2 June 1990 to 1 June 1995, or 15 September 2002 to 14 September 2007.

Term	Definition
	This concept appears in several exemptions to limit the amount of native vegetation that may be removed in any five-year period.
Lot	Defined in Clause 72 of all planning schemes as: A part (consisting of one or more pieces) of any land (except a road, a reserve, or common property) shown on a plan, which can be disposed of separately and includes a unit or accessory unit on a registered plan of strata subdivision and a lot or accessory lot on a registered cluster plan.
Maintenance	Maintenance is routine and on-going, prevents asset deterioration, and conserves the state of the asset as near as possible to its original condition. Maintenance does not include an expansion of an asset's footprint and should not involve the removal of large trees.
Owner (including Ownership)	Defined in the <i>Planning and Environment Act 1987</i> as: <ul style="list-style-type: none"> (a) in relation to land which has been alienated in fee by the Crown and is under the operation of the <i>Transfer of Land Act 1958</i> (other than land in an identified folio under that Act), means the person who is registered or entitled to be registered as proprietor, or the persons who are registered or entitled to be registered as proprietors, of an estate in fee simple in the land; and (b) in relation to land which has been alienated in fee by the Crown and is land in an identified folio under the <i>Transfer of Land Act 1958</i> or land not under the operation of the <i>Transfer of Land Act 1958</i>, means the person who is the owner, or the persons who are the owners, of the fee or equity of redemption; and (c) in relation to Crown land reserved under the <i>Crown Land (Reserves) Act 1978</i> and managed or controlled by a committee of management, means— <ul style="list-style-type: none"> (i) in Part 3, if the land is agreement land within the meaning of the <i>Traditional Owner Settlement Act 2010</i>, each of the following— <ul style="list-style-type: none"> a. the traditional owner group entity within the meaning of <i>Traditional Owner Settlement Act 2010</i> for the land; b. the Minister administering the <i>Crown Land (Reserves) Act 1978</i>; (ii) in any other case, the Minister administering the <i>Crown Land (Reserves) Act 1978</i>; and (d) in relation to any other Crown land, means— <ul style="list-style-type: none"> (i) in Part 3, if the land is agreement land within the meaning of the <i>Traditional Owner Settlement Act 2010</i>, each of the following— <ul style="list-style-type: none"> a. the traditional owner group entity within the meaning of <i>Traditional Owner Settlement Act 2010</i> for the land; b. the Minister or public authority that manages or controls the land; (ii) in any other case, the Minister or public authority that manages or controls the land.
Outermost point	The outermost point is the edge of a building and includes anything attached to the building, including eaves, verandas, pergolas, awnings and the like.
Public authority	Defined in section 3 of the <i>Planning and Environment Act 1987</i> as: A body established for a public purpose by or under any Act but does not include a municipal council.
Roadside	Defined in section 3 of the <i>Road Management Act 2004</i> as: Any land (estate, interest, easement, servitude, privilege or right) that is within the boundaries of a road (other than the shoulders of the road) which is not a roadway or a pathway and includes the land on which any vehicle crossing or pathway which connects from a roadway or pathway on a road to other land has been constructed. Any nature strip, forest, bushland, grassland or landscaped area within the road reserve can be considered to be roadside.
Secretary to DELWP	The Secretary to DELWP as constituted under Part 2 of the <i>Conservation, Forests and Lands Act 1987</i> is a body corporate. DELWP staff can be delegated to act as the Secretary to DELWP.
Trunk diameter	Trunk diameter means the diameter of the main trunk of a tree, measured over bark at 1.3 metres above ground level. In the case of multi-trunked trees, the diameter of the largest trunk is

Term	Definition
	measured.
Use	Defined in section 3 of the <i>Planning and Environment Act 1987</i> as: In relation to land includes use or proposed use for the purpose for which the land has been or is being or may be developed.
Works	Defined in section 3 of the <i>Planning and Environment Act 1987</i> as: Includes any change to the natural or existing condition or topography of land including the removal, destruction or lopping of trees and the removal of vegetation or topsoil.

2 Exemptions guidance

This section includes specific information about the interpretation, purpose and application of each exemption in Clause 52.17. It does not explain and define all wording in every exemption.

Not all the Clause 52.17 exemptions are included in Clause 52.16. Refer to the Clause 52.16-8 for the full list of exemptions included in Clause 52.16. Some Clause 52.16 exemptions have different purposes, wording and application to the corresponding exemption in Clause 52.17 (e.g. Regrowth). These differences are explained for each relevant exemption.

2.1 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:
 - 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 *Conservation, Forests and Lands Act 1987*).

The purpose of this exemption is to not require a permit to remove native vegetation where the removal is required to do work that will clearly improve outcomes for biodiversity.

Written agreement from the Secretary to DELWP is required in order rely on this exemption to remove native vegetation. The Secretary to DELWP will provide written agreement based on the following criteria:

1. The primary purpose of the work is for biodiversity conservation.
2. Steps are taken to avoid and minimise impacts on native vegetation when undertaking the work.
3. A comparison assessment shows that the losses to biodiversity due to the removal of native vegetation are outweighed by the expected improvements to biodiversity due to the work. The assessment should consider impacts on the values of native vegetation, and the information used to measure these values, described in Section 3 of the *Guidelines for the removal, destruction or lopping of native vegetation*. The assessment should include:
 - a. An estimate of the losses to biodiversity due to the removal of native vegetation
 - b. An estimate of the improvements to biodiversity due to the work, including any expected improvement to:
 - i. native vegetation condition and extent
 - ii. outcomes for rare or threatened species
 - iii. ecosystem function, and the improvements that will flow from this to biodiversity.
4. Monitoring will be undertaken to ensure the objectives of the conservation work are being achieved.

5. There is a management plan for the works that explains how they will be undertaken.

Based on the above criteria the Secretary to DELWP may provide written agreement for all or for part of the native vegetation removal proposed to rely on this exemption.

2.2 Crown land

- Native vegetation that is to be removed, destroyed or lopped to the minimum extent necessary to manage Crown land:
 - 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*), or Parks Victoria, and in accordance with the *Procedure for the removal, destruction or lopping of native vegetation on Crown land*; or
 - with written permission from the Secretary to the Department of Environment, Land, Water and Planning (as constituted under Part 2 of the *Conservation, Forests and Lands Act 1987*).

This exemption comprises two separate parts, each with a specific purpose:

1. The first part applies to native vegetation removal on Crown land that is undertaken by, or on behalf of DELWP or Parks Victoria. To rely on this exemption to remove native vegetation, the removal must be in accordance with the *Procedure for the removal, destruction or lopping of native vegetation on Crown land* available on DELWP's website. Organisations or individuals other than DELWP or Parks Victoria cannot rely on this part of the exemption to remove native vegetation on Crown land.
2. The second part applies to parties who have sought and obtained written permission from the Secretary to DELWP to remove native vegetation.

2.3 Dead vegetation

- Dead native vegetation.
This exemption does not apply to a standing dead tree with a trunk diameter of 40 centimetres or more at a height of 1.3 metres above ground level.

The purpose of this exemption is to not require a permit to remove small dead trees and fallen timber, while still requiring a permit to remove large dead trees, which have higher biodiversity values, such as hollows for birds and animals to live in.

Careful consideration must be given to native vegetation recently impacted by natural events such as fire or flood, as it may appear dead but may recover after a period of time through vegetative regeneration i.e. re-sprout from its branches or roots.

2.4 Emergency works

- Native vegetation that is to be removed, destroyed or lopped:
 - 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.

This exemption comprises two separate parts, each with a specific purpose.

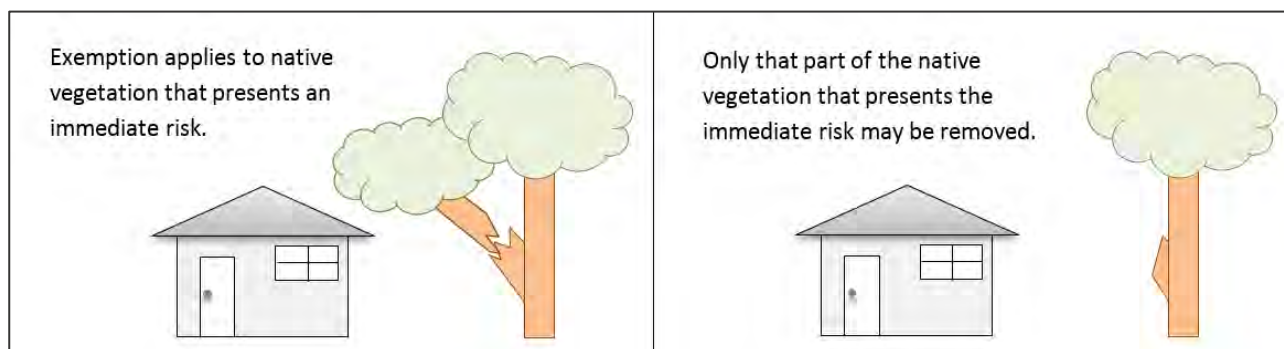
1. The first part of this exemption enables a public authority or municipal council, or those acting on their behalf, to remove any native vegetation required to gain emergency access at the time of an emergency, without the need to obtain a planning permit.

This exemption is not for the creation of access to prepare for an emergency, or after an emergency has occurred and the immediate threat has passed. Examples of when emergency access is required includes traffic accidents, a burst water main or a bushfire.

2. The second part of the exemption enables the removal any native vegetation that presents an immediate risk of personal injury or damage to property (e.g. a building) without a permit. For the risk to be considered immediate, the only option to manage the risk is by removing native vegetation within a shorter timeframe than it would take to apply for and be issued with a permit for its removal.

This exemption does not apply to native vegetation that has the potential to cause personal injury or property damage in the longer term. If future injury or damage from native vegetation is a concern, a planning permit can be sought to remove it.

Where practical, a qualified arborist should assess whether the native vegetation presents an immediate risk of limb or trunk failure. Where other means exist to address the risk, the exemption should not be relied on.



2.5 Existing buildings

- Native vegetation that is to be 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:

- the operation or maintenance of a fence; or
- native vegetation located more than 10 metres from the outermost point of the building.

The purpose of this exemption is to not require a permit for the removal of native vegetation necessary to allow for the use or maintenance of an existing building. The exemption only applies to buildings that were constructed in accordance with a planning permit or building permit issued before 15 September 2008.

The 10-metre limit applies from the top of canopy trees to the ground cover. If 10 metres from the outermost point of the building is within the trunk of a tree, the entire tree may be removed, if the removal is necessary to use or maintain the building. The lopping of branches should be considered prior to the removal of the entire tree.

Refer to the Fences exemption for native vegetation removal allowed for the operation or maintenance of a fence.

2.6 Existing buildings and works in the Farming Zone and Rural Activity Zone

- Native vegetation that is to be 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:
 - the use or maintenance of a dwelling; or
 - the operation or maintenance of a fence; or
 - native vegetation located more than 10 metres from the outermost point of the building or works.

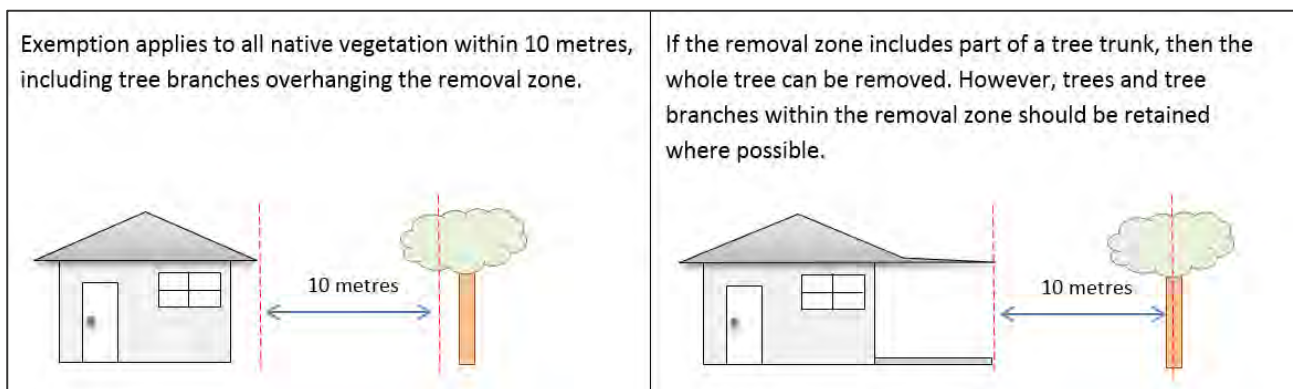
The purpose of this exemption is to not require a permit for the removal of native vegetation to enable the use or maintenance of an existing building or works used for Agricultural production.

‘Works’ in this exemption refers to things other than buildings used for agriculture production, such as the examples given within the exemption. Works does not include the action of removing native vegetation.

This exemption only applies in the Farming Zone or Rural Activity Zone.

The 10-metre limit applies from the top of canopy trees to the ground cover. If 10 metres from the outermost point of the building lands within the trunk of a tree, the entire tree may be removed under this exemption, if the removal is necessary to use or maintain the building. The lopping of branches should be considered prior to the removal of the entire tree.

Refer to the Fences exemption for native vegetation removal allowed for the operation or maintenance of a fence. Refer to the Existing buildings exemption for the exemption for native vegetation removal allowed for the use or maintenance of a dwelling.



2.7 Fences

- Native vegetation that is to be removed, destroyed or lopped to the minimum extent necessary to enable:
 - the operation or maintenance of an existing fence
 - the construction of a boundary fence between properties in different ownership.
- The clearing along both sides of the fence when combined must not exceed 4 metres in width, except where land has already been cleared 4 metres or more along one side of the fence, then up to 1 metre can be cleared along the other side of the fence.

This exemption enables the removal of native vegetation in two separate activities.

1. The removal of native vegetation to maintain (or replace) an existing fence without the need to obtain a planning permit.

2. The removal of native vegetation to construct a new boundary fence between two properties in different ownership. Removing native vegetation for the construction of a new internal fence is not exempt from requiring a planning permit.

There are limits to the amount of native vegetation that can be removed to maintain or construct a fence. Native vegetation can be removed up to a combined maximum total width of 4 metres along the fenceline. This may consist of any combination of width distances on either side of the fence that totals 4 metres. For example, 2 metres on one side and 2 metres on the other, or 1 metre on one side and 3 metres on the other side.

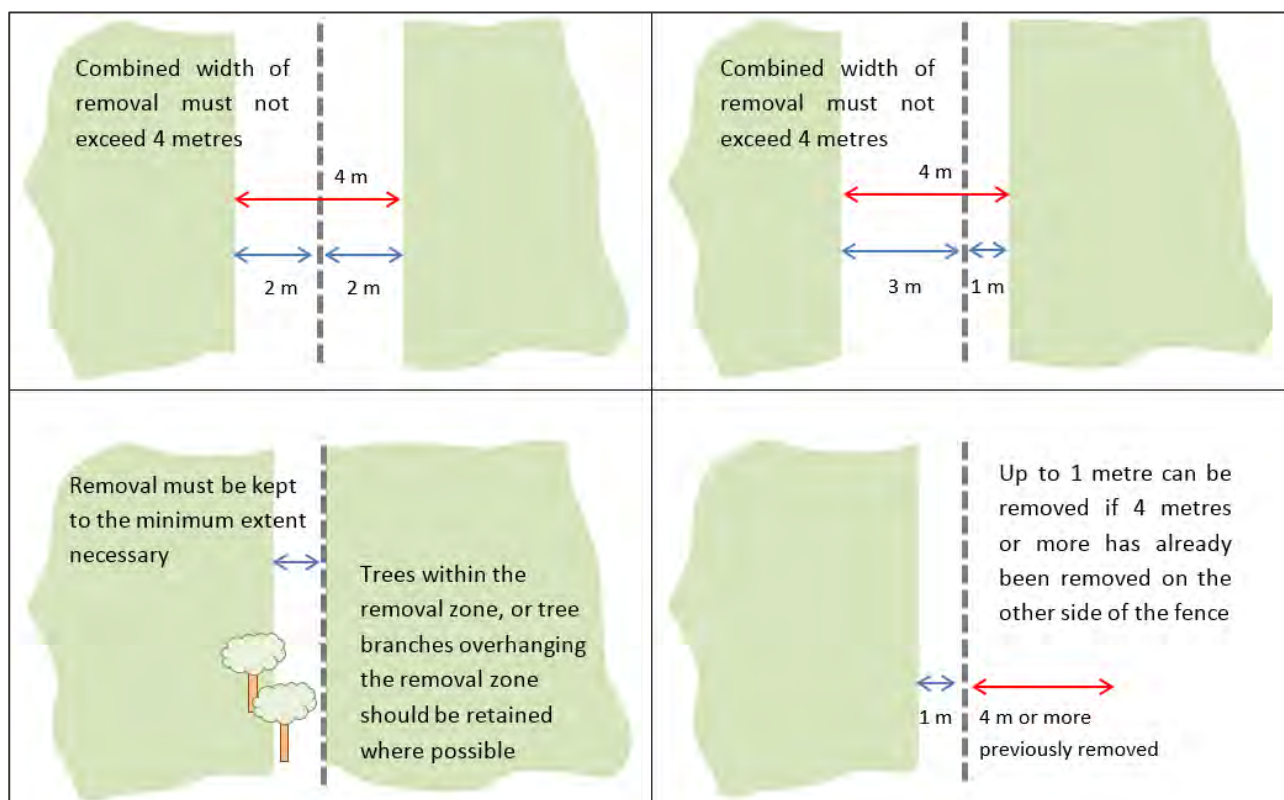
Note that if one side of the fence is already cleared to a width of 4 metres or more, regardless of when this clearing occurred (e.g. a cleared paddock), then up to 1 metre of native vegetation can be removed on the other side of the fence. This is to remove a limited amount of native vegetation that may hamper the construction or maintenance of the fence.

While there are area limits within this exemption the exemption does not automatically allow this amount of native vegetation to be removed. When relying on this exemption the removal of native vegetation must only be to the minimum extent necessary. To meet this requirement, consider the following:

- the exemption is intended to allow maintenance or construction of the fence, not to remove all the native vegetation that could fall on the fence at some point in time
- retain the following native vegetation if its removal is not necessary to enable maintenance or construction of a fence:
 - branches overhanging the clearance area
 - trees with trunks partially in the clearance area
 - ground cover.

Note that for new subdivisions, existing native vegetation that occurs within 4 metres along shared property boundaries must be accounted for in the planning permit application to allow for the future construction of all boundary fences. The area of consequential native vegetation removal is 4 metres times the length of the boundary fence.

Ensure adjacent landholder consent is obtained to clear on their side of the fence.



2.8 Fire protection

- Native vegetation that is to be 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 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 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, 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, 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.

The purpose of this exemption is to not require a permit to remove native vegetation that is necessary for specific fire protection activities. In this exemption, roadside, public road and responsible road authority have the same meanings as in section 3 of the *Road Management Act 2004*.

This exemption comprises seven separate parts, each with a specific purpose.

1. Firefighting covers activities required to fight an active bushfire. It does not include activities that are in preparation for a bushfire or after a bushfire has occurred.
2. Planned burning refers to both ecological and fuel reduction burns, and includes the establishment of fire control lines. Planned burning is the deliberate application of fire under specified environmental conditions to a predetermined area and at a time, intensity and rate of spread required to achieve planned resource management objectives.
3. A fuelbreak is defined as a strip of land where vegetation has been removed or substantially modified to reduce the risk of bushfires starting and/or reduce the rate of spread and intensity of fire. A fire fighting access track is expressly for bushfire management purposes and not for other purposes.

Fuelbreaks and firefighting access tracks should be combined where possible, with the total width not exceeding 6 metres. Multiple fuelbreaks and/or fire fighting access tracks cannot be constructed abutting one another where the total width is greater than 6 metres. There must be a clear need for a fuel break and/or a fire fighting access track to protect life and property, in order to rely on this part of the exemption.

4. A strategic fuelbreak is a fuelbreak between 6 and 40 metres wide, created for the protection of strategic assets, such as water catchments. To rely on this exemption the fuelbreak must be established in accordance with a strategic fuel break plan approved by the Secretary to the DELWP. Note this exemption can only be relied on by a public authority, which does not include a municipal council.
5. This part of the exemption allows native vegetation removal to be undertaken in accordance with a fire prevention notice or direction issued under the relevant Act, without requiring a permit.
6. This part of the exemption allows native vegetation removal when undertaken to establish a clear zone, or minimise the risk of bushfire ignition from an electrical line, from requiring a permit. Native vegetation removal must be in accordance with the relevant Code of Practice.
7. This part of the exemption allows the removal of native vegetation on public roadsides managed by a responsible road authority to minimise the risk to life and property from bushfire. The road authority must obtain the written agreement of the Secretary to DELWP allowing them to undertake native vegetation removal in accordance with a work plan. The work plan is developed by a multi-agency group in accordance with the requirements of *Roadside vegetation management for bushfire risk mitigation purposes*.

Note that there are additional exemptions from requiring a permit to remove native vegetation for bushfire protection in Clause 52.48 of planning schemes.

2.9 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*.

The purpose of this exemption is to avoid duplicative approval processes by not requiring a planning permit for native vegetation removal that occurs under an operation plan approved under the *Geothermal Energy Resources Act 2005*.

To rely on this exemption the removal of native vegetation must be part of an operation plan approved under the *Geothermal Energy Resources Act 2005*. This approval process requires assessment and offsetting of native vegetation removal in accordance with the *Guidelines for the removal, destruction or lopping of native vegetation*.

2.10 Grasses

- Native grass that is to be 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.

The purpose of this exemption enables the mowing or slashing of native grasses to maintain existing assets, without the need to obtain a planning permit. This exemption does not apply to other plants such as herbs, bushes, shrubs and trees.

Note that:

- If the grass is a lawn, garden or landscaped area it can be mowed or slashed to any height.
- If the grass is not in a lawn, garden or landscaped area it cannot be mowed or slashed to less than 10 centimetres above ground level. This includes grasses in paddock, bushland or road reserve.

Slashing and mowing after seeding times should be considered to allow for natural regeneration of the treated area.

2.11 Grazing

- Native vegetation that is to be removed, destroyed or lopped by domestic stock grazing on:
 - freehold land; or
 - Crown land in accordance with a licence, permit or lease granted under applicable legislation.

The purpose of this exemption is to enable grazing by domestic stock on native vegetation without requiring a planning permit. This exemption only applies to grazing and does not apply to any other impacts that stock or agricultural activities may have on native vegetation.

Domestic stock are animals that are kept, bred or boarded for agricultural purposes.

2.12 Greenhouse gas sequestration (including exploration)

- Native vegetation that is to be 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 purpose of this exemption is to avoid duplicative approval processes by not requiring a planning permit for native vegetation removal that occurs under an operation plan approved under the *Greenhouse Gas Geological Sequestration Act 2008*.

To rely on this exemption the removal of native vegetation must be provided for or required as part of an operation plan approved under the *Greenhouse Gas Geological Sequestration Act 2008*. This approval process involves the assessment and offsetting of native vegetation removal in accordance with the *Guidelines for the removal, destruction or lopping of native vegetation*.

2.13 Harvesting for timber production – naturally established native vegetation

- Naturally established native vegetation that is to be removed, destroyed or lopped to enable timber harvesting operations and associated activities that are in accordance with the *Code of Practice for Timber Production 2014* and:
 - undertaken on public land under a licence or permit issued under section 52 of the *Forests Act 1958*; or
 - authorised in accordance with Part 5 of the *Sustainable Forests (Timber) Act 2004*.

The purpose of this exemption is to avoid duplicative approval processes for the removal of naturally established native vegetation when conducting timber harvesting operation on public land. To rely on this exemption to remove native vegetation without obtaining a planning permit, the timber harvesting activity must be in accordance with the *Code of Practice for Timber Production 2014*, which requires an approved timber harvesting plan, and:

- be on public land undertaken under the relevant licence or permit; or
- be authorised in accordance with Part 5 of the *Sustainable Forests (Timber) Act 2004*.

Native vegetation removal not included within the timber harvesting plan is not covered by this exemption.

Naturally established vegetation excludes plantations. Refer to the Regrowth exemption for native vegetation removal allowed within the boundary of a timber production plantation.

2.14 Land management and directions notices

- 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 *Catchment and Land Protection Act 1994*.

The purpose of this exemption is to not require a permit for the removal of native vegetation that is necessary in order to comply with land management or directions notices. To rely on this exemption to remove native vegetation the landowner must have been served a land management (s.37), or directions notice (s.70B) under the *Catchment and Land Protection Act 1994*.

A land management notice can put conditions or restrictions on land use or land management practices to improve land management or prevent or minimise land degradation.

A directions notice can direct a landowner for the control or eradication of noxious weeds or established pest animals.

2.15 Land use conditions

- 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 *Catchment and Land Management Act 1994*.

The purpose of this exemption is to not require a permit for the removal of native vegetation necessary to comply with a land use condition served under the *Catchment and Land Management Act 1994*.

To rely on this exemption to remove native vegetation the landowner must have been served a land use condition (s.33) under the Act.

In accordance with a special area plan, a landowner may be served land use conditions, which sets out land use conditions applying to their land.

2.16 Lopping and pruning for maintenance

- Lopping or pruning native vegetation, for maintenance only, provided no more than 1/3 of the foliage of each individual plant is lopped or pruned.

This exemption does not apply to:

- the pruning or lopping of the trunk of a native tree; or
- native vegetation on a roadside or railway reservation.

The purpose of this exemption is to not require a permit for limited lopping or pruning of native vegetation for maintenance of an existing asset. This exemption only allows lopping and pruning of native vegetation that is interfering with a physical asset, not just to maintain native vegetation in a certain size or form.

The intent of the exemption is to not allow successive removal of one third of the foliage of an individual plant so that it reduces its foliage cover over time.

Foliage is the leaves of a plant.

The trunk of a tree is the large main stem from which the branches grow.

Lopping and pruning of native vegetation on roadsides and railway reserves is addressed within the relevant road safety and railways exemption.

2.17 Mineral exploration and extraction

- Native vegetation that to be removed, destroyed or lopped to the minimum extent necessary by the holder of an exploration, mining, prospecting, or retention licence issued under the *Mineral Resources (Sustainable Development) Act 1990*:
 - that is low impact exploration within the meaning of Schedule 4A of the *Mineral Resources (Sustainable Development) Act 1990*; or
 - in accordance with 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.

The purpose of this exemption is to avoid duplicative approval processes by not requiring a planning permit for native vegetation removal that occurs with approval under the *Mineral Resources (Sustainable Development) Act 1990*.

To rely on this exemption to remove native vegetation for mineral extraction the removal of native vegetation must be part of a work plan approved under the *Mineral Resources (Sustainable Development) Act 1990 (MRSD Act 1990)*. An agreement between Department of Economic Development, Jobs, Transport and Resources, the department responsible for administering the MRSD Act 1990, and DELWP requires that the approval process for a work plan involve assessment and offsetting of native vegetation removal in accordance with the *Guidelines for the removal, destruction and lopping of native vegetation*.

To rely on this exemption to remove native vegetation for mineral exploration the removal of native vegetation must be in accordance with low impact exploration as defined in Schedule 4A of the *Mineral Resources (Sustainable Development) Act 1990*.

2.18 New buildings and works in the Farming Zone and Rural Activity Zone

- Native vegetation that is to be 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.

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 if each tree has a trunk diameter of less than 40 centimetres at a height of 1.3 metres above ground level;
- 5 native trees if each tree has a trunk diameter of 40 centimetres or more at a height of 1.3 metres above ground level.

This exemption does not apply to the construction or operation of a pivot irrigation system or horticultural trellising.

The purpose of this exemption is to not require a permit for limited native vegetation removal to enable construction of a building or works used for agricultural production.

‘Works’ in this exemption refers to things other than buildings used for agricultural production, such as the examples given (dam, utility services etc.). Works does not include the action of removing native vegetation.

The native vegetation removed must not exceed any of the specified limits, but it can include a combination of these. Those relying on this exemption to remove native vegetation should keep records of the date, amount and type of native vegetation that is being removed to ensure that it is within the exemption limits. If the limit is exceeded during the period, then a permit is required for the part of the native vegetation that is over the limit.

2.19 New dwellings in the Farming Zone and Rural Activity Zone

- Native vegetation that is to be removed, destroyed or lopped to the minimum extent necessary 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:

- 300 square metres of native vegetation which does not include a tree;
- 5 native trees if each tree has a trunk diameter of less than 40 centimetres at a height of 1.3 metres above ground level;
- 1 native tree if the tree has a trunk diameter of 40 centimetres or more at a height of 1.3 metres above ground level.

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.

The purpose of this exemption is to not require a permit for a limited amount of native vegetation removal to enable construction of a new dwelling in the Farming Zone or the Rural Activity Zone.

The native vegetation removed must not exceed any of the dot point limits, but it can include a combination of these. Those relying on this exemption to remove native vegetation should keep records of the date, amount and type of native vegetation that is being removed to ensure that it is within the exemption limits. If the limit is exceeded during the period, then a permit is required for the part of the native vegetation that is over the limit.

2.20 Personal use

- Native vegetation that is to be removed, destroyed or lopped to the minimum extent necessary to obtain reasonable amounts of wood for personal use by the owner or lawful 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:

- contiguous land in one ownership that has an area of less than 10 hectares; or

- the removal, destruction or lopping of native vegetation by means other than cutting or chopping; or
- 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.

The purpose of this exemption is to not require a permit to obtain wood through the removal of a limited number of small trees and logs for personal use. This exemption only relates to wood, which could come from woody bushes or small trees (dead or alive) and does not include large trees or other types of native vegetation, such as flowers and grasses.

Only the owner or lawful occupier of contiguous land in the one ownership that is larger than 10 hectares can rely on this exemption to remove native vegetation. The owner or occupier of the land cannot give permission to another party to rely on this exemption to remove native vegetation for that party's personal use.

Reasonable amount refers to the amount of native vegetation necessary to carry out a particular personal use. For example, if a landowner is constructing a new fence that requires 20 fence posts, it is reasonable for them to only remove enough native vegetation to create 20 posts. Reasonable can be tested as to what would be an amount of native vegetation other reasonable people in similar circumstances could be expected to use.

The removal of native vegetation for trade or sale is not allowed when relying on this exemption, as that would not be for personal use.

This exemption only applies to native vegetation removed by cutting or chopping, which includes chain sawing, but does not include removal by bulldozers or tractors.

2.21 Pest animal burrows

- Native vegetation that is to be removed, destroyed or lopped to the minimum extent necessary to enable the removal of pest animal burrows in the Farming Zone or the Rural Activity Zone:
 - in accordance with written agreement of an officer of the department responsible for administering the *Flora and Fauna Guarantee Act 1988*; or
 - 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:
 - 1 hectare of native vegetation which does not include a tree;
 - 15 native trees if each tree has a trunk diameter of less than 20 centimetres at a height of 1.3 metres above ground level.

The purpose of this exemption is to not require a permit for the removal of a limited amount of native vegetation to enable the removal of pest animal burrows. The native vegetation removal allowed is incidental to the removal of the pest animal burrows. Pest animal is as defined in the *Catchment and Land Protection Act 1994*.

This exemption comprises two separate parts, each with a specific purpose.

1. The first part relates to the removal of pest animal burrows which cover a large area and may require the removal of native vegetation beyond the limits of the second dot point. In such circumstances, conditions can be placed on the written agreement of an officer of DELWP which address the potential impact to native vegetation.
2. In the second part the removal does not require written agreement but must be within the limits included in the exemption. The native vegetation removed must not exceed any of the dot point limits, but it can include a combination of these. If the limit is exceeded during the period, then a permit is required for the part of the native vegetation that is over the limit. The landholder must keep accurate records to demonstrate compliance with the native vegetation removal limits and time requirements of this exemption.

Note that this exemption can only be relied on to remove native vegetation in either the Farming Zone or Rural Activity Zone.

Note that in Clause 52.16 this exemption only consists of the first part.

2.22 Planted vegetation

- Native vegetation that is to be 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 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.

The purpose of this exemption is to not require a permit for the removal of native vegetation which has either been planted (e.g. planting a seedling or an established plant) or grown from direct seeding (e.g. placing a seed in the ground in any manner).

This exemption does not apply to native vegetation planted or grown with public funding for the primary purposes of enhancing biodiversity or protection of land, unless the funding agency (or its successor) provides written agreement to the landholder to remove the native vegetation.

Biodiversity purposes include improving rare and threatened species habitat, improving the condition or extent of native vegetation or improving the functioning of an ecosystem and its delivery of ecosystem services. It does not include planting that may have biodiversity benefits, but that the main purpose of the planting was amenity, such as along a road.

Land protection purposes include managing salinity and erosion, or improving the quality of land or water resources. It does not include planting that may have an erosion management function, but that the main purpose of the planting was amenity, such as along a road.

Written agreement allows the funding agency to place conditions on the native vegetation removal which does not undermine the original purpose of the funding.

Public funding includes money provided by any level of government or public authority. It may then be passed on to another organisation or authority to administer, or to provide in grants to third parties.

2.23 Railways

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 *Conservation, Forests and Lands Act 1987*).

The purpose of this exemption is to not require a permit for the removal of native vegetation along existing railways and railway access roads for routine maintenance, and some essential construction works.

To rely on this exemption to remove native vegetation the rail manager must have written agreement from the Secretary to DELWP. The Secretary's written agreement may require compliance with the *Railways exemption – procedure for the removal, destruction or lopping of native vegetation* (the Railways procedure). The Railways procedure includes a set of obligations which align with the no net loss objective.

The Railways procedure and list of rail managers that have written agreement to rely on this exemption to remove native vegetation can be found on the DELWP website at www.environment.vic.gov.au/native-vegetation

2.24 Regrowth

- 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:
 - 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.

The primary purpose of this exemption is to not require a permit for the removal of native vegetation that has regrown in an area that has been lawfully cleared.

Land lawfully cleared includes:

- land cleared with a planning permit
- land cleared relying on exemptions from requiring a planning permit
- clearing that was legal at the time it originally occurred, and the area has been periodically maintained as cleared land since then, including within the last 10 years.

This exemption comprises four separate parts, each with a specific purpose.

1. The first part allows for the continuous clearing of an area that has been lawfully cleared within the past 10 years. It does not apply to areas where 10 years or more have elapsed between episodes of clearing, or to native plants in locations that have not been lawfully cleared within the previous 10 years.
2. The second part allows bracken to be cleared, regardless of its age, from areas lawfully cleared in the past.
3. The third part relates to a property vegetation plan (PVP) approved under Section 69 of the *Conservation, Forests and Lands Act 1987*. Only native vegetation identified on the PVP as regrowth, or identified on land used or maintained for cultivation or pasture for the duration of the PVP is considered as regrowth and exempt.
4. The fourth part of the exemption relates to a documented timber production plantation. If the plantation has ceased to be used for the purpose of timber production, the exemption still applies as long as the area continues to be documented as a plantation. Note that the planted vegetation exemption relates to the original timber harvested in the planation.

Regrowth that occurs in areas where native vegetation was destroyed or damaged as a result of flood, fire or other natural disaster is not exempt, as its removal has not been assessed and approved.

In Clause 52.16 the exemption does not include part 1 (less than 10 years old) as areas where regrowth can be cleared in the future are specifically identified in the NVPP. Clause 52.16 does not include the property vegetation plan part as these would not occur for retained vegetation within a NVPP.

2.25 Road safety

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 *Conservation, Forests and Lands Act 1987*).

The purpose of this exemption is to not require a permit for the removal of native vegetation along existing roads for routine maintenance, and some essential safety and construction works.

To rely on this exemption to remove native vegetation a public authority or municipal council must have written agreement from the Secretary to DELWP. The Secretary's written agreement may require compliance with the *Road safety exemption – procedure for the removal, destruction or lopping of native vegetation* (Road safety procedure). The Road safety procedure includes a set of obligations which align with the no net loss objective.

The Road safety procedure and a list of road authorities that have written agreement to rely on this exemption to remove native vegetation can be found on the DELWP website at www.environment.vic.gov.au/native-vegetation.

2.26 Site area

- Native vegetation that is to be removed, destroyed or lopped 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.

The purpose of this exemption is to not require a permit for the removal of native vegetation on small lots.

This is because when land is subdivided into small lots it becomes disconnected from other native vegetation and becomes degraded. Any native vegetation remaining on small lots has reduced environmental value and therefore is assumed lost.

When land is being subdivided into lots 0.4 hectares or smaller this enable the consequential removal of native vegetation without a planning permit in future. All the native vegetation on these lots should be assessed and offset in accordance with the *Guidelines for the removal, destruction or lopping of native vegetation* at the time of subdivision.

2.27 Stone exploration

- Native vegetation that it to be 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 costeaning and bulk sampling activities.

The purpose of this exemption is to allow limited native vegetation removal when carrying out stone exploration.

Stone is defined in planning schemes as: Basalt, freestone, granite, limestone, sandstone, or other building stone, or rock, ordinarily used for building, manufacturing, road making, or construction; or clay (not fine clay, bentonite, or kaolin), earth, gravel, quartz (not quartz crystals), sand, soil, slate, or other similar material.

The native vegetation removed must not exceed any of the dot point limits, but it can include a combination of these. Those relying on this exemption to remove native vegetation should keep records of the date, amount and type of native vegetation that is being removed to ensure that it is within the exemption limits. If the limit is exceeded during the period, then a permit is required for the part of the native vegetation that is over the limit.

2.28 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 *Mineral Resources (Sustainable Development) Act 1990* and authorised by a work authority under that Act.

The purpose of this exemption is to avoid duplicative approval processes by not requiring a planning permit for native vegetation removal that occurs in association with work under a work plan for stone extraction approved under the *MRSD Act 1990*.

To rely on this exemption to remove native vegetation for stone extraction the removal of native vegetation must be associated with work under a work plan approved under the *MRSD Act 1990* and authorised by a work authority under that Act. This approval process involves assessment and offsetting of native vegetation removal in accordance with the *Guidelines for the removal, destruction or lopping of native vegetation*.

2.29 Stock movements on roads

- Native vegetation that is to be 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.

The purpose of this exemption is to not require a permit for the incidental destruction of native vegetation made by stock when they are moved along a road.

Stock includes domestic animals kept for the purpose of agriculture.

Note that 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.

2.30 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 *Surveying Act 2004*) using hand-held tools to establish a sightline for the measurement of land.

The purpose of this exemption is to not require a permit for the removal of native vegetation to establish sight lines when surveying.

A licensed surveyor is defined under the *Surveying Act 2004* as a person whose name is entered on the Register of Licensed Surveyors (also defined in this Act). Those acting on behalf of a licensed surveyor, such as assistants or contractors, can rely on this exemption to remove native vegetation.

The native vegetation can only be removed using tools that can be held and operated in a person's hand(s), such as an axe or a chainsaw.

2.31 Traditional Owners

- Native vegetation that is to be removed, destroyed or lopped by a person acting under, and in accordance with:
 - a natural resource agreement under Part 6 of the *Traditional Owner Settlement Act 2010*; or
 - an authorisation order made under sections 82 or 84 the *Traditional Owner Settlement Act 2010* as those sections were in force immediately before the commencement of section 24 of the *Traditional Owner Settlement Amendment Act in 2016* (1 May 2017).

The purpose of this exemption is to not require a permit for the removal of native vegetation by Traditional Owners when they are acting under, and in accordance with a natural resource agreement under part 6 of the *Traditional Owner Settlement Act 2010*. This is the current agreement.

In addition, the purpose of this exemption is to not require a permit for the removal of native vegetation by Traditional Owners when they are acting under, and in accordance with a natural resource agreement that was established under the *Traditional Owner Settlement Act 2010* before May 2017 when the Act was amended. Before May 2017 the natural resource agreements were pursuant to the then section 80 of the *Traditional Owner Settlement Act 2010*.

The natural resource agreement applies to a specific area, either on Crown land or land in the Traditional Owners' ownership, and specifies how natural resources, including native vegetation, can be used for traditional and cultural purposes.

2.32 Utility installations

- Native vegetation that is to be removed, destroyed or lopped to the minimum extent necessary:
 - 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 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*).

This exemption comprises two separate parts, each with a specific purpose.

1. The purpose of the first part of the exemption is to enable the removal of native vegetation to undertake maintenance of a Minor utility installation. The maintenance activities are routine, ongoing and needed to keep an existing installation as close as possible to its current functioning state. Anyone can undertake these maintenance activities, without the need to obtain a planning permit.

A minor utility installation is defined in Clause 74 of all planning schemes as:

Land used for a utility installation comprising any of the following:

- a. sewerage or water mains;
 - b. storm or flood water drains or retarding basins;
 - c. gas mains providing gas directly to consumers;
 - d. power lines designed to operate at less than 220,000 volts;
 - e. a sewage treatment plant, and any associated disposal works, required to serve a neighbourhood;
 - f. a pumping station required to serve a neighbourhood; or
 - g. an electrical sub-station designed to operate at no more than 66,000 volts. It includes any associated flow measurement device or a structure to gauge waterway flow.
2. The purpose of the second part of the exemption is to enable the removal of native vegetation for routine maintenance, and construction works for a utility installation, without the need to obtain a planning permit. This is subject to the removal of native vegetation being undertaken in accordance with the

written agreement of the Secretary to the DELWP (as constituted under Part 2 of the *Conservation, Forests and Lands Act 1987*).

The written agreement may require compliance with a *Utility installations exemption – procedure for the removal, destruction or lopping of native vegetation*. This document includes a set of obligations that align with the no net loss objective. Any procedure and a list of the utility service providers that have written agreement to rely on this exemption to remove native vegetation can be found on the DELWP website at <https://www.environment.vic.gov.au/native-vegetation>.

This part of the exemption is available to a utility services provider, or those acting on their behalf. A utility service provider is defined in Clause 72 of all planning schemes as:

A person, other than a public authority or municipal council, having responsibility under an Act for the generation, transmission, distribution or supply of electricity, gas, power, telecommunications, water supply, drainage or sewerage services.

Utility installation is defined in Clause 72 of all planning schemes as:

Land used:

- a. for telecommunications;
- b. to transmit or distribute gas, oil, or power;
- c. to collect, treat, transmit, store, or distribute water; or
- d. to collect, treat, or dispose of storm or flood water, sewage, or sullage.

It includes any associated flow measurement device or a structure to gauge waterway flow.

2.33 Vehicle access from public roads

- Native vegetation that is to be 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. This exemption only applies to properties which share a common boundary with the road reserve, and 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.

This purpose of this exemption is to not require a permit to remove native vegetation in a public roadside to construct or maintain a vehicle accessway to a property.

The construction of a new accessway is only exempt if there is no existing accessway which provides reasonable access to an area of the property. A benchmark of one accessway per land parcel is considered reasonable.

All practical opportunities must be explored to place the accessway to avoid the removal of native vegetation. Areas of the public roadside where there is little or no native vegetation should first be considered for the accessway. If areas without native vegetation do not exist, or if using these areas for the accessway is not considered practical in terms of safety, or proximity to the areas of the property that need to be accessed, then the removal of native vegetation under this exemption can be considered. The removal of any native vegetation is required to be minimised.

The total width of native vegetation removal must not exceed 6 metres. There are no limits to the length of accessway required, but it must be a direct path from the public road to the property boundary.

Note that for new subdivisions the removal of native vegetation for the provision of access to all lots, including new roads and accessways, should be included in consequential loss of native vegetation that relates to the subdivision.

2.34 Weeds

- Native vegetation that is to be 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.

The purpose of this exemption is to not require a permit to remove minimal native vegetation that is incidental in the removal of weeds listed in the schedule of Clause 52.17 of the relevant planning scheme.

The native vegetation removed that is incidental to removing the weed must not exceed any of the dot point limits, but it can include a combination of these. Those relying on this exemption to remove native vegetation should keep records of the date, amount and type of native vegetation that is being removed to ensure that it is within the exemption limits. If the limit is exceeded during the period, then a permit is required for the part of the native vegetation that is over the limit.

The listed weed can be noxious or indigenous. There are no limits to the amount that can be removed of the weed that is listed in the schedule. Care should be taken when listing indigenous weeds in Schedule 2, as listing a plant species in the schedule exempts its removal in the whole municipality. A weed and an associated area can be listed in Schedule 1 to limit where this plant can be removed. Planning authorities should consult with DELWP before adding or updating to the weeds and areas listed in the schedules to Clause 52.17.

DELWP Determination Summary extract. Firebreak exemption **October 2018.**

Scenario 1 – Construction of a firebreak in Farming Zone.

Pursuant to Clause 52.17-7 A planning permit is not required for construction of a firebreak of up to 6m wide.

“The requirement to obtain a permit does not apply to:Fire protectionNative vegetation that is to be removed, destroyed or lopped to the minimum extent necessary to carry out any of the following fire protection activities;.....planned burning; making or maintenance of a fuelbreak or firefighting access track (or any combination thereof) that does not exceed a combined width of 6 metres; ...”

From the DELWP Guideline “Exemptions from requiring a planning permit to remove, destroy or lop native vegetation -Guidance” (December 2017)

“3. A fuelbreak is defined as a strip of land where vegetation has been removed or substantially modified to reduce the risk of bushfires starting and/or reduce the rate of spread and intensity of fire. A firefighting access track is expressly for bushfire management purposes and not for other purposes. Fuelbreaks and firefighting access tracks should be combined where possible, with the total width not exceeding 6 metres. Multiple fuelbreaks and/or firefighting access tracks cannot be constructed abutting one another where the total width is greater than 6 metres. There must be a clear need for a fuel break and/or a fire fighting access track to protect life and property, in order to rely on this part of the exemption. “

Council interpretation for a firebreak in the Farming Zone.

That this exemption applies to **all native vegetation within the 6m strip for a firebreak including large trees**, where there is a demonstrated need for a fire fighting access track or break.

DELWP: Agree

Scenario 2 – Construction of a firebreak in Farming Zone where the Environmental Significance ESO1 applies.

Whilst additional controls restrict the exemption outlined above for 52.17

Pursuant to Clause 42.01-2 “A permit is required to;Remove, destroy or lop any vegetation, including dead vegetation. This does not apply: – If a schedule to this overlay specifically states that a permit is not required. – If the table to Clause 42.01-3 specifically states that a permit is not required.”

The table of exemptions in Clause 42.01-3 identifies the identical exemption mentioned in 52.17 “Fire protection..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;”

The Schedule for ESO1 Identifies no further restrictions.

Council interpretation for a firebreak where ESO1 applies.

That this exemption applies to **all vegetation within the 6m strip for a firebreak including large trees**, where there is a demonstrated need for a fire fighting access track or break.

DELWP: Agree

Scenario 3 – Construction of a firebreak in Farming Zone where the Environmental Significance (ESO2) applies.

The Schedule for ESO2 has the following inclusion under point, “3.0 Permit requirements”

“A permit is not required:

- to construct a building or construct or carry out works.
- to remove, destroy or lop vegetation in accordance with a Property Management Plan approved by the responsible authority and endorsed by Department of Sustainability and Environment.
- to remove, destroy or lop any dead vegetation, except dead eucalyptus trees with a trunk diameter greater than 40 centimetres at 1.3 metres above ground level.
- to remove, destroy or lop the minimum extent of native vegetation necessary for the maintenance of farm fences. The combined maximum width of clearing permitted either side of the fence is 4m.
- to remove, destroy or lop any live vegetation, unless the vegetation is:
 - a hollow bearing eucalypt tree.
 - Buloke with a trunk diameter of greater than 20 centimetres at 1.3 metre above ground level.
 - Buloke with a density of more than 1 tree per 10 hectares of development.
 - Stringybark with a trunk diameter of greater than 30 centimetres at 1.3 metre above ground level.

(Council notes that there is an apparent formatting error as the points appear in the planning scheme with the final 4 points above should be read as a subset of the previous point.)

Council interpretation for a firebreak where ESO2 applies.

That this exemption allows the clearing of vegetation with the 6m with the exception of;

- dead eucalyptus trees with a trunk diameter greater than 40 centimetres at 1.3 metres above ground level.
- a hollow bearing eucalypt tree.
- Buloke with a trunk diameter of greater than 20 centimetres at 1.3 metre above ground level.
- Buloke with a density of more than 1 tree per 10 hectares of development.
- Stringybark with a trunk diameter of greater than 30 centimetres at 1.3 metre above ground level.

DELWP: Disagree. The NVR team's interpretation is that the table of exemptions to Clause 42.01-3 provides for an exemption from requiring a planning permit for the removal of any vegetation under the ESO2 for... 'the making or maintenance of a fuelbreak for fire fighting access track (or any combination thereof) that does not exceed a combined width of 6 metres.'

References.

West Wimmera Planning Scheme Online

- 35.07 Farming Zone
- Schedule to the Farming Zone
- 42.01 Environmental Significance Overlay
- Schedule 1 to the Environmental Significance Overlay (ESO1)
- Schedule 2 to the Environmental Significance Overlay (ESO2)
- 44.06 Bushfire Management Overlay
- 52.12 Bushfire Protection Exemptions
- 52.17 Native Vegetation
- Schedule to the Clause 52.17

DELWP (2017) *Exemptions from requiring a planning permit to remove, destroy or lop native vegetation -Guidance.*

DSE (2002) *Victoria's Native Vegetation Management – A Framework for Action, 2002.*

Exemptions from requiring a planning permit to
remove, destroy or lop native vegetation

Guidance



December 2017

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ISBN 978-1-76047-788-2 (pdf)

Cover image: Grassy Woodland, Northwest Victoria, DELWP (Penny Croucamp)

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1 Introduction

1.1 Purpose

This document provides guidance for the interpretation and application of the exemptions from requiring a planning permit to remove, destroy or lop native vegetation in the Victoria's planning system. This document is designed for use by:

- responsible authorities
- referral authorities
- those relying on exemptions to remove, lop or destroy native vegetation.

This document will be updated from time to time to ensure it provides effective guidance and reflects any changes in policy or law relating to native vegetation removal.

1.2 Scope

All Victorian planning schemes contain state standard particular provisions that require a planning permit to remove, destroy or lop native vegetation. For the purposes of this document, the term 'remove native vegetation' includes to lop or destroy native vegetation.

These planning scheme provisions also include exemptions from requiring a planning permit to remove native vegetation for certain uses, activities or development. This document provides guidance on the exemptions contained in:

- Clause 52.16 (Native Vegetation Precinct Plan)
- Clause 52.17 (Native Vegetation)

This document does not address:

- the exemptions from requiring a permit to remove vegetation in Clause 52.48 (Bushfire Protection)
- specific sites and exclusions affected locally by Clause 52.03 (Specific Sites and Exclusions)
- exemptions incorporated in the schedule to Clause 52.17 in planning schemes.

More information about Clause 52.48 can be found in *Advisory Note 39 – Amendment VC83 – Bushfire protection: Vegetation exemptions*. Please seek information about exemptions in other parts of the planning scheme from your local council planning department.

The guidance set out in this document is general in nature. It is not determinative, and may not account for all circumstances.

This document does not form part of any planning scheme, and as a guidance document, does not alter the effect or application of the exemptions or the relevant planning scheme. The authority responsible for administering and enforcing the relevant planning scheme remains responsible for considering the application of the exemptions and their scope based on the specific circumstances of an individual matter.

Some environmental overlays also include a requirement for a permit to remove vegetation, and have corresponding or similar exemptions to those in Clauses 52.16 and 52.17. Many of these exemptions have the same purpose and wording as those in Clause 52.16 and Clause 52.17. This document does not provide specific guidance on the exemptions within the overlays, however it may be useful to help understand corresponding exemptions in the following overlays:

- Environmental Significance Overlay

- Vegetation Protection Overlay
- Significant Landscape Overlay
- Erosion Protection Overlay
- Salinity Protection Overlay.

1.3 General purpose of exemptions

The exemptions in Clauses 52.16 and 52.17 provide for the removal of native vegetation for a range of activities, uses and development without needing a planning permit. Exemptions ensure that the provisions that control the removal of native vegetation function well by:

- allowing for the maintenance of areas where native vegetation has previously been removed
- ensuring activities can occur for public safety
- clarifying certain rights to use land that involves the removal of native vegetation
- allowing access to an approval process outside the Victorian planning system that implements the objectives of Victoria's policy for the removal of native vegetation
- avoiding duplicative processes where the removal of native vegetation is approved under a separate Act or approval process
- ensuring activities for land management and biodiversity improvements can occur
- allowing removal of native vegetation where the costs of obtaining a planning permit would outweigh the cost to the environment of the native vegetation being removed.

1.4 Best practice when relying on exemptions

Where a landholder, landowner or land manager removes native vegetation by relying on an exemption in either Clause 52.16 or 52.17, they are responsible for complying with the relevant planning scheme requirements. Steps that those relying on exemptions should undertake include:

1. Determine the purpose, location and extent of the proposed native vegetation removal.
2. Check what planning controls apply to the land, including zones and overlays or local provisions that may require a permit for the proposed use, activity or development.
3. If unsure, check with the local council planning department to confirm if an exemption applies to the proposed removal of native vegetation under all relevant planning controls.
4. Use this guidance document to help understand the exemption purpose and where it might apply.
5. Comply with any other approval processes referenced in the exemption (e.g. in the road safety exemption).
6. Consider any property law requirements that may apply. This may include the need to get consent from an adjacent landholder or land manager to remove native vegetation on their land, where the exempt activity is not on your property.
7. Comply with any conditions or requirements of the relevant exemption, such as:
 - only removing native vegetation to the minimum extent necessary (see section 1.5 for more information)
 - removing native vegetation within the exemption limit.
8. Keep records of native vegetation removal to substantiate that an exemption has been relied upon.

9. Ensure compliance with any other regulatory requirements relating to the activity, use or development, such as:

- Flora and Fauna Guarantee Act 1988 (Victoria)
- Environment Protection and Biodiversity Conservation Act 1999 (Australia).

1.5 Minimising removing native vegetation when relying on exemptions

To ensure that exemptions from requiring a permit to remove native vegetation have minimal environment impacts most exemptions explicitly require that the native vegetation removal is to the minimum extent necessary. A condition of relying on these exemptions to remove native vegetation is that the removal is minimised. To achieve this, consider the following:

- exemptions must be relied upon sparingly. Consider using one exemption to meet multiple objectives. For example, an access track can also be a fuel break.
- any limits for native vegetation removal specified in an exemption are maximum amount, and it is not expected that native vegetation should necessarily be removed up to the limit. The onus is on those relying on the exemption to only remove that vegetation necessary to undertake the activity, use or development.
- only remove native vegetation for the purpose specified in the exemption. For example, native vegetation can only be removed along a fenceline for the construction or maintenance of that fence, within the limits specified in the exemption. Then within those limits only remove the native vegetation that will enable the actual maintenance or construction of the fence.

Practical approaches to minimising removing native vegetation

Before relying on an exemption, check if there are any ways to undertake the activity without removing any native vegetation. If native vegetation removal is still required, it must be minimised by considering:

- locate activities, use or development in areas with no or little native vegetation
- design the activity or development to minimise the impact footprint
- build upward instead of outward (i.e. multi-storey rather than single storey)
- place buildings close to the property entrance or close together to minimise the length of roads or pathways
- place infrastructure underground by boring instead of open trenching, or place it underneath driveways or pathways
- use a removal method that causes minimal impact on native vegetation. Generally using hand held tools rather than machinery or pesticides minimises impacts.

Focus of minimising

The term 'to the minimum extent necessary' relates to both the area of native vegetation removed, and minimising the impacts of the removal of native vegetation on biodiversity and the other values of the native vegetation. For example, a small area of native vegetation removal is proposed, but it is important habitat for a threatened species, or could cause erosion around a creek, so therefore this native vegetation removal should be minimised. When relying on exemptions focus minimising the impact of the removal of native vegetation on the following values. See <http://maps.biodiversity.vic.gov.au/viewer/?viewer=NatureKit> and <https://nvim.delwp.vic.gov.au/> for the maps referenced below:

- large, intact or high quality areas of native vegetation.
- native vegetation that has higher condition and strategic biodiversity value scores.
 - a condition score above 0.6 indicates the native vegetation is very good condition (See the *Native vegetation condition map*)

- a strategic biodiversity value score above 0.8 means the site is very important for Victoria’s biodiversity from a statewide perspective (See the *Strategic biodiversity values map*)
- large or hollow-bearing native trees, including areas within 15 metres of the tree trunk. Large trees with hollows usually have more biodiversity value than smaller trees without hollows.
- highly localised habitats for rare and threatened species, and important habitat for dispersed rare or threatened species, according to the *Habitat importance maps*.

In addition, minimise the removal of the native vegetation in the following locations:

- 30 metres from a waterway
- land with a slope greater than 20 per cent
- where salinity or erosion risk have been identified
- where the local council has identified important landscape values, such as areas providing visual amenity
- where Aboriginal cultural values have been identified. There may be requirements under the *Aboriginal Cultural Heritage Act 2006* that prevent or control the removal of native vegetation.

1.6 Common terms

This section describes terms commonly used in many exemptions. Where a term has been defined below, it will not be defined in the specific exemption guidance later in this document. See also Clauses 72 to 75 of your planning schemes for defined General terms and Land use terms.

Term	Definition
Agricultural production	Defined in Clause 72 of all planning schemes as: Any form of primary production of renewable commodities. It does not include Stone extraction, Mineral extraction, or timber production from native forest.
Agriculture	Defined in Clause 74 of all planning schemes as: Land used to: (a) propagate, cultivate or harvest plants, including cereals, flowers, fruit, seeds, trees, turf, and vegetables; (b) keep, breed, board, or train animals, including livestock, and birds; or (c) propagate, cultivate, rear, or harvest living resources of the sea or inland waters. Note that this includes timber production.
Building	Defined in section 3 of the <i>Planning and Environment Act 1987</i> as: Including: (a) a structure and part of a building or a structure; and (b) fences, walls, out-buildings, service installations and other appurtenances of a building; and (c) a boat or a pontoon which is permanently moored or fixed to land.
Contiguous land	Contiguous refers to land adjoining or having a common boundary.
Dwelling	Defined in Clause 74 of all planning schemes as: A building used as a self-contained residence which must include: (a) a kitchen sink; (b) food preparation facilities; (c) a bath or shower; and (d) a closet pan and wash basin. It includes out-buildings and works normal to a dwelling.
Five-year period	A five-year period is as any period of five consecutive years. For example, 2 June 1990 to 1 June 1995, or 15 September 2002 to 14 September 2007.

Term	Definition
	This concept appears in several exemptions to limit the amount of native vegetation that may be removed in any five-year period.
Lot	Defined in Clause 72 of all planning schemes as: A part (consisting of one or more pieces) of any land (except a road, a reserve, or common property) shown on a plan, which can be disposed of separately and includes a unit or accessory unit on a registered plan of strata subdivision and a lot or accessory lot on a registered cluster plan.
Maintenance	Maintenance is routine and on-going, prevents asset deterioration, and conserves the state of the asset as near as possible to its original condition. Maintenance does not include an expansion of an asset's footprint and should not involve the removal of large trees.
Owner (including Ownership)	Defined in the <i>Planning and Environment Act 1987</i> as: <ul style="list-style-type: none"> (a) in relation to land which has been alienated in fee by the Crown and is under the operation of the <i>Transfer of Land Act 1958</i> (other than land in an identified folio under that Act), means the person who is registered or entitled to be registered as proprietor, or the persons who are registered or entitled to be registered as proprietors, of an estate in fee simple in the land; and (b) in relation to land which has been alienated in fee by the Crown and is land in an identified folio under the <i>Transfer of Land Act 1958</i> or land not under the operation of the <i>Transfer of Land Act 1958</i>, means the person who is the owner, or the persons who are the owners, of the fee or equity of redemption; and (c) in relation to Crown land reserved under the <i>Crown Land (Reserves) Act 1978</i> and managed or controlled by a committee of management, means— <ul style="list-style-type: none"> (i) in Part 3, if the land is agreement land within the meaning of the <i>Traditional Owner Settlement Act 2010</i>, each of the following— <ul style="list-style-type: none"> a. the traditional owner group entity within the meaning of <i>Traditional Owner Settlement Act 2010</i> for the land; b. the Minister administering the <i>Crown Land (Reserves) Act 1978</i>; (ii) in any other case, the Minister administering the <i>Crown Land (Reserves) Act 1978</i>; and (d) in relation to any other Crown land, means— <ul style="list-style-type: none"> (i) in Part 3, if the land is agreement land within the meaning of the <i>Traditional Owner Settlement Act 2010</i>, each of the following— <ul style="list-style-type: none"> a. the traditional owner group entity within the meaning of <i>Traditional Owner Settlement Act 2010</i> for the land; b. the Minister or public authority that manages or controls the land; (ii) in any other case, the Minister or public authority that manages or controls the land.
Outermost point	The outermost point is the edge of a building and includes anything attached to the building, including eaves, verandas, pergolas, awnings and the like.
Public authority	Defined in section 3 of the <i>Planning and Environment Act 1987</i> as: A body established for a public purpose by or under any Act but does not include a municipal council.
Roadside	Defined in section 3 of the <i>Road Management Act 2004</i> as: Any land (estate, interest, easement, servitude, privilege or right) that is within the boundaries of a road (other than the shoulders of the road) which is not a roadway or a pathway and includes the land on which any vehicle crossing or pathway which connects from a roadway or pathway on a road to other land has been constructed. Any nature strip, forest, bushland, grassland or landscaped area within the road reserve can be considered to be roadside.
Secretary to DELWP	The Secretary to DELWP as constituted under Part 2 of the <i>Conservation, Forests and Lands Act 1987</i> is a body corporate. DELWP staff can be delegated to act as the Secretary to DELWP.
Trunk diameter	Trunk diameter means the diameter of the main trunk of a tree, measured over bark at 1.3 metres above ground level. In the case of multi-trunked trees, the diameter of the largest trunk is

Term	Definition
	measured.
Use	Defined in section 3 of the <i>Planning and Environment Act 1987</i> as: In relation to land includes use or proposed use for the purpose for which the land has been or is being or may be developed.
Works	Defined in section 3 of the <i>Planning and Environment Act 1987</i> as: Includes any change to the natural or existing condition or topography of land including the removal, destruction or lopping of trees and the removal of vegetation or topsoil.

2 Exemptions guidance

This section includes specific information about the interpretation, purpose and application of each exemption in Clause 52.17. It does not explain and define all wording in every exemption.

Not all the Clause 52.17 exemptions are included in Clause 52.16. Refer to the Clause 52.16-8 for the full list of exemptions included in Clause 52.16. Some Clause 52.16 exemptions have different purposes, wording and application to the corresponding exemption in Clause 52.17 (e.g. Regrowth). These differences are explained for each relevant exemption.

2.1 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:
 - 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 *Conservation, Forests and Lands Act 1987*).

The purpose of this exemption is to not require a permit to remove native vegetation where the removal is required to do work that will clearly improve outcomes for biodiversity.

Written agreement from the Secretary to DELWP is required in order rely on this exemption to remove native vegetation. The Secretary to DELWP will provide written agreement based on the following criteria:

1. The primary purpose of the work is for biodiversity conservation.
2. Steps are taken to avoid and minimise impacts on native vegetation when undertaking the work.
3. A comparison assessment shows that the losses to biodiversity due to the removal of native vegetation are outweighed by the expected improvements to biodiversity due to the work. The assessment should consider impacts on the values of native vegetation, and the information used to measure these values, described in Section 3 of the *Guidelines for the removal, destruction or lopping of native vegetation*. The assessment should include:
 - a. An estimate of the losses to biodiversity due to the removal of native vegetation
 - b. An estimate of the improvements to biodiversity due to the work, including any expected improvement to:
 - i. native vegetation condition and extent
 - ii. outcomes for rare or threatened species
 - iii. ecosystem function, and the improvements that will flow from this to biodiversity.
4. Monitoring will be undertaken to ensure the objectives of the conservation work are being achieved.

5. There is a management plan for the works that explains how they will be undertaken.

Based on the above criteria the Secretary to DELWP may provide written agreement for all or for part of the native vegetation removal proposed to rely on this exemption.

2.2 Crown land

- Native vegetation that is to be removed, destroyed or lopped to the minimum extent necessary to manage Crown land:
 - 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*), or Parks Victoria, and in accordance with the *Procedure for the removal, destruction or lopping of native vegetation on Crown land*; or
 - with written permission from the Secretary to the Department of Environment, Land, Water and Planning (as constituted under Part 2 of the *Conservation, Forests and Lands Act 1987*).

This exemption comprises two separate parts, each with a specific purpose:

1. The first part applies to native vegetation removal on Crown land that is undertaken by, or on behalf of DELWP or Parks Victoria. To rely on this exemption to remove native vegetation, the removal must be in accordance with the *Procedure for the removal, destruction or lopping of native vegetation on Crown land* available on DELWP's website. Organisations or individuals other than DELWP or Parks Victoria cannot rely on this part of the exemption to remove native vegetation on Crown land.
2. The second part applies to parties who have sought and obtained written permission from the Secretary to DELWP to remove native vegetation.

2.3 Dead vegetation

- Dead native vegetation.
This exemption does not apply to a standing dead tree with a trunk diameter of 40 centimetres or more at a height of 1.3 metres above ground level.

The purpose of this exemption is to not require a permit to remove small dead trees and fallen timber, while still requiring a permit to remove large dead trees, which have higher biodiversity values, such as hollows for birds and animals to live in.

Careful consideration must be given to native vegetation recently impacted by natural events such as fire or flood, as it may appear dead but may recover after a period of time through vegetative regeneration i.e. re-sprout from its branches or roots.

2.4 Emergency works

- Native vegetation that is to be removed, destroyed or lopped:
 - 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.

This exemption comprises two separate parts, each with a specific purpose.

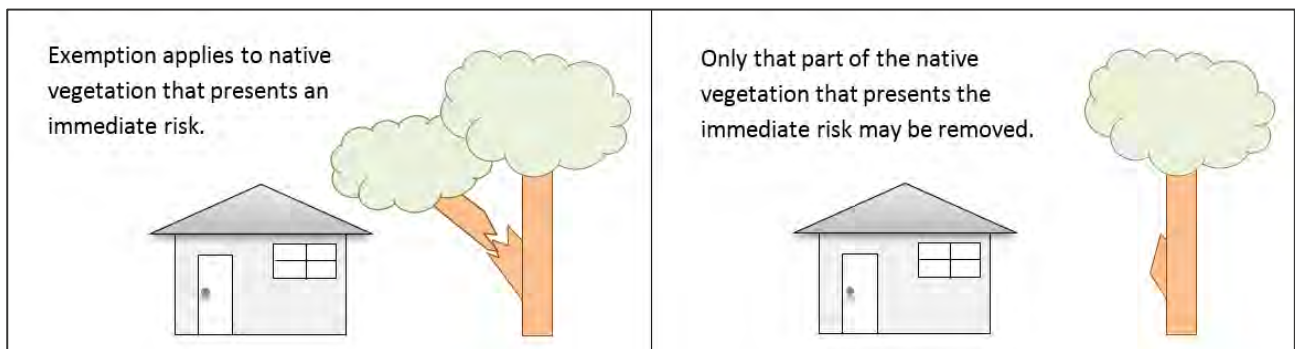
1. The first part of this exemption enables a public authority or municipal council, or those acting on their behalf, to remove any native vegetation required to gain emergency access at the time of an emergency, without the need to obtain a planning permit.

This exemption is not for the creation of access to prepare for an emergency, or after an emergency has occurred and the immediate threat has passed. Examples of when emergency access is required includes traffic accidents, a burst water main or a bushfire.

2. The second part of the exemption enables the removal any native vegetation that presents an immediate risk of personal injury or damage to property (e.g. a building) without a permit. For the risk to be considered immediate, the only option to manage the risk is by removing native vegetation within a shorter timeframe than it would take to apply for and be issued with a permit for its removal.

This exemption does not apply to native vegetation that has the potential to cause personal injury or property damage in the longer term. If future injury or damage from native vegetation is a concern, a planning permit can be sought to remove it.

Where practical, a qualified arborist should assess whether the native vegetation presents an immediate risk of limb or trunk failure. Where other means exist to address the risk, the exemption should not be relied on.



2.5 Existing buildings

- Native vegetation that is to be 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:

- the operation or maintenance of a fence; or
- native vegetation located more than 10 metres from the outermost point of the building.

The purpose of this exemption is to not require a permit for the removal of native vegetation necessary to allow for the use or maintenance of an existing building. The exemption only applies to buildings that were constructed in accordance with a planning permit or building permit issued before 15 September 2008.

The 10-metre limit applies from the top of canopy trees to the ground cover. If 10 metres from the outermost point of the building is within the trunk of a tree, the entire tree may be removed, if the removal is necessary to use or maintain the building. The lopping of branches should be considered prior to the removal of the entire tree.

Refer to the Fences exemption for native vegetation removal allowed for the operation or maintenance of a fence.

2.6 Existing buildings and works in the Farming Zone and Rural Activity Zone

- Native vegetation that is to be 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:
 - the use or maintenance of a dwelling; or
 - the operation or maintenance of a fence; or
 - native vegetation located more than 10 metres from the outermost point of the building or works.

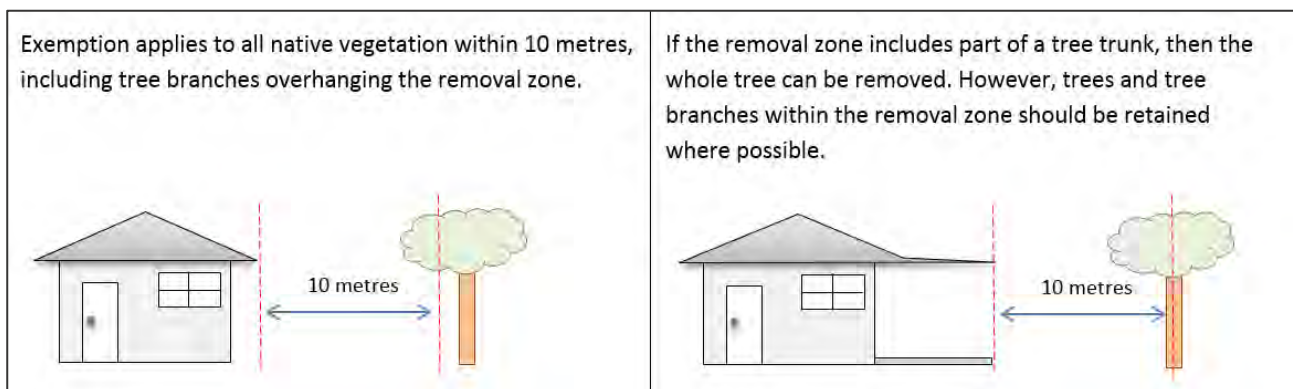
The purpose of this exemption is to not require a permit for the removal of native vegetation to enable the use or maintenance of an existing building or works used for Agricultural production.

‘Works’ in this exemption refers to things other than buildings used for agriculture production, such as the examples given within the exemption. Works does not include the action of removing native vegetation.

This exemption only applies in the Farming Zone or Rural Activity Zone.

The 10-metre limit applies from the top of canopy trees to the ground cover. If 10 metres from the outermost point of the building lands within the trunk of a tree, the entire tree may be removed under this exemption, if the removal is necessary to use or maintain the building. The lopping of branches should be considered prior to the removal of the entire tree.

Refer to the Fences exemption for native vegetation removal allowed for the operation or maintenance of a fence. Refer to the Existing buildings exemption for the exemption for native vegetation removal allowed for the use or maintenance of a dwelling.



2.7 Fences

- Native vegetation that is to be removed, destroyed or lopped to the minimum extent necessary to enable:
 - the operation or maintenance of an existing fence
 - the construction of a boundary fence between properties in different ownership.
- The clearing along both sides of the fence when combined must not exceed 4 metres in width, except where land has already been cleared 4 metres or more along one side of the fence, then up to 1 metre can be cleared along the other side of the fence.

This exemption enables the removal of native vegetation in two separate activities.

1. The removal of native vegetation to maintain (or replace) an existing fence without the need to obtain a planning permit.

2. The removal of native vegetation to construct a new boundary fence between two properties in different ownership. Removing native vegetation for the construction of a new internal fence is not exempt from requiring a planning permit.

There are limits to the amount of native vegetation that can be removed to maintain or construct a fence. Native vegetation can be removed up to a combined maximum total width of 4 metres along the fenceline. This may consist of any combination of width distances on either side of the fence that totals 4 metres. For example, 2 metres on one side and 2 metres on the other, or 1 metre on one side and 3 metres on the other side.

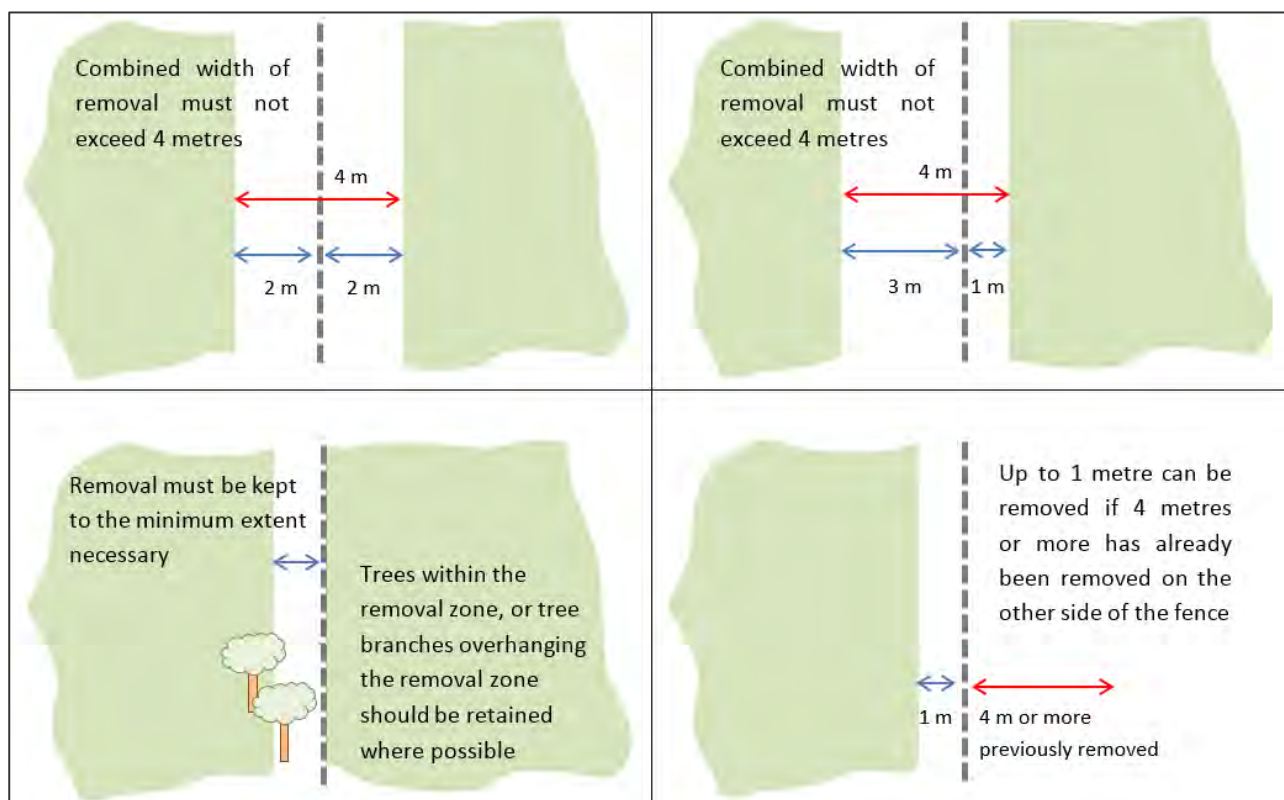
Note that if one side of the fence is already cleared to a width of 4 metres or more, regardless of when this clearing occurred (e.g. a cleared paddock), then up to 1 metre of native vegetation can be removed on the other side of the fence. This is to remove a limited amount of native vegetation that may hamper the construction or maintenance of the fence.

While there are area limits within this exemption the exemption does not automatically allow this amount of native vegetation to be removed. When relying on this exemption the removal of native vegetation must only be to the minimum extent necessary. To meet this requirement, consider the following:

- the exemption is intended to allow maintenance or construction of the fence, not to remove all the native vegetation that could fall on the fence at some point in time
- retain the following native vegetation if its removal is not necessary to enable maintenance or construction of a fence:
 - branches overhanging the clearance area
 - trees with trunks partially in the clearance area
 - ground cover.

Note that for new subdivisions, existing native vegetation that occurs within 4 metres along shared property boundaries must be accounted for in the planning permit application to allow for the future construction of all boundary fences. The area of consequential native vegetation removal is 4 metres times the length of the boundary fence.

Ensure adjacent landholder consent is obtained to clear on their side of the fence.



2.8 Fire protection

- Native vegetation that is to be 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 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 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, 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, 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.

The purpose of this exemption is to not require a permit to remove native vegetation that is necessary for specific fire protection activities. In this exemption, roadside, public road and responsible road authority have the same meanings as in section 3 of the *Road Management Act 2004*.

This exemption comprises seven separate parts, each with a specific purpose.

1. Firefighting covers activities required to fight an active bushfire. It does not include activities that are in preparation for a bushfire or after a bushfire has occurred.
2. Planned burning refers to both ecological and fuel reduction burns, and includes the establishment of fire control lines. Planned burning is the deliberate application of fire under specified environmental conditions to a predetermined area and at a time, intensity and rate of spread required to achieve planned resource management objectives.
3. A fuelbreak is defined as a strip of land where vegetation has been removed or substantially modified to reduce the risk of bushfires starting and/or reduce the rate of spread and intensity of fire. A fire fighting access track is expressly for bushfire management purposes and not for other purposes.

Fuelbreaks and firefighting access tracks should be combined where possible, with the total width not exceeding 6 metres. Multiple fuelbreaks and/or fire fighting access tracks cannot be constructed abutting one another where the total width is greater than 6 metres. There must be a clear need for a fuel break and/or a fire fighting access track to protect life and property, in order to rely on this part of the exemption.

4. A strategic fuelbreak is a fuelbreak between 6 and 40 metres wide, created for the protection of strategic assets, such as water catchments. To rely on this exemption the fuelbreak must be established in accordance with a strategic fuel break plan approved by the Secretary to the DELWP. Note this exemption can only be relied on by a public authority, which does not include a municipal council.
5. This part of the exemption allows native vegetation removal to be undertaken in accordance with a fire prevention notice or direction issued under the relevant Act, without requiring a permit.
6. This part of the exemption allows native vegetation removal when undertaken to establish a clear zone, or minimise the risk of bushfire ignition from an electrical line, from requiring a permit. Native vegetation removal must be in accordance with the relevant Code of Practice.
7. This part of the exemption allows the removal of native vegetation on public roadsides managed by a responsible road authority to minimise the risk to life and property from bushfire. The road authority must obtain the written agreement of the Secretary to DELWP allowing them to undertake native vegetation removal in accordance with a work plan. The work plan is developed by a multi-agency group in accordance with the requirements of *Roadside vegetation management for bushfire risk mitigation purposes*.

Note that there are additional exemptions from requiring a permit to remove native vegetation for bushfire protection in Clause 52.48 of planning schemes.

2.9 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*.

The purpose of this exemption is to avoid duplicative approval processes by not requiring a planning permit for native vegetation removal that occurs under an operation plan approved under the *Geothermal Energy Resources Act 2005*.

To rely on this exemption the removal of native vegetation must be part of an operation plan approved under the *Geothermal Energy Resources Act 2005*. This approval process requires assessment and offsetting of native vegetation removal in accordance with the *Guidelines for the removal, destruction or lopping of native vegetation*.

2.10 Grasses

- Native grass that is to be 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.

The purpose of this exemption enables the mowing or slashing of native grasses to maintain existing assets, without the need to obtain a planning permit. This exemption does not apply to other plants such as herbs, bushes, shrubs and trees.

Note that:

- If the grass is a lawn, garden or landscaped area it can be mowed or slashed to any height.
- If the grass is not in a lawn, garden or landscaped area it cannot be mowed or slashed to less than 10 centimetres above ground level. This includes grasses in paddock, bushland or road reserve.

Slashing and mowing after seeding times should be considered to allow for natural regeneration of the treated area.

2.11 Grazing

- Native vegetation that is to be removed, destroyed or lopped by domestic stock grazing on:
 - freehold land; or
 - Crown land in accordance with a licence, permit or lease granted under applicable legislation.

The purpose of this exemption is to enable grazing by domestic stock on native vegetation without requiring a planning permit. This exemption only applies to grazing and does not apply to any other impacts that stock or agricultural activities may have on native vegetation.

Domestic stock are animals that are kept, bred or boarded for agricultural purposes.

2.12 Greenhouse gas sequestration (including exploration)

- Native vegetation that is to be 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 purpose of this exemption is to avoid duplicative approval processes by not requiring a planning permit for native vegetation removal that occurs under an operation plan approved under the *Greenhouse Gas Geological Sequestration Act 2008*.

To rely on this exemption the removal of native vegetation must be provided for or required as part of an operation plan approved under the *Greenhouse Gas Geological Sequestration Act 2008*. This approval process involves the assessment and offsetting of native vegetation removal in accordance with the *Guidelines for the removal, destruction or lopping of native vegetation*.

2.13 Harvesting for timber production – naturally established native vegetation

- Naturally established native vegetation that is to be removed, destroyed or lopped to enable timber harvesting operations and associated activities that are in accordance with the *Code of Practice for Timber Production 2014* and:
 - undertaken on public land under a licence or permit issued under section 52 of the *Forests Act 1958*; or
 - authorised in accordance with Part 5 of the *Sustainable Forests (Timber) Act 2004*.

The purpose of this exemption is to avoid duplicative approval processes for the removal of naturally established native vegetation when conducting timber harvesting operation on public land. To rely on this exemption to remove native vegetation without obtaining a planning permit, the timber harvesting activity must be in accordance with the *Code of Practice for Timber Production 2014*, which requires an approved timber harvesting plan, and:

- be on public land undertaken under the relevant licence or permit; or
- be authorised in accordance with Part 5 of the *Sustainable Forests (Timber) Act 2004*.

Native vegetation removal not included within the timber harvesting plan is not covered by this exemption.

Naturally established vegetation excludes plantations. Refer to the Regrowth exemption for native vegetation removal allowed within the boundary of a timber production plantation.

2.14 Land management and directions notices

- 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 *Catchment and Land Protection Act 1994*.

The purpose of this exemption is to not require a permit for the removal of native vegetation that is necessary in order to comply with land management or directions notices. To rely on this exemption to remove native vegetation the landowner must have been served a land management (s.37), or directions notice (s.70B) under the *Catchment and Land Protection Act 1994*.

A land management notice can put conditions or restrictions on land use or land management practices to improve land management or prevent or minimise land degradation.

A directions notice can direct a landowner for the control or eradication of noxious weeds or established pest animals.

2.15 Land use conditions

- 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 *Catchment and Land Management Act 1994*.

The purpose of this exemption is to not require a permit for the removal of native vegetation necessary to comply with a land use condition served under the *Catchment and Land Management Act 1994*.

To rely on this exemption to remove native vegetation the landowner must have been served a land use condition (s.33) under the Act.

In accordance with a special area plan, a landowner may be served land use conditions, which sets out land use conditions applying to their land.

2.16 Lopping and pruning for maintenance

- Lopping or pruning native vegetation, for maintenance only, provided no more than 1/3 of the foliage of each individual plant is lopped or pruned.

This exemption does not apply to:

- the pruning or lopping of the trunk of a native tree; or
- native vegetation on a roadside or railway reservation.

The purpose of this exemption is to not require a permit for limited lopping or pruning of native vegetation for maintenance of an existing asset. This exemption only allows lopping and pruning of native vegetation that is interfering with a physical asset, not just to maintain native vegetation in a certain size or form.

The intent of the exemption is to not allow successive removal of one third of the foliage of an individual plant so that it reduces its foliage cover over time.

Foliage is the leaves of a plant.

The trunk of a tree is the large main stem from which the branches grow.

Lopping and pruning of native vegetation on roadsides and railway reserves is addressed within the relevant road safety and railways exemption.

2.17 Mineral exploration and extraction

- Native vegetation that to be removed, destroyed or lopped to the minimum extent necessary by the holder of an exploration, mining, prospecting, or retention licence issued under the *Mineral Resources (Sustainable Development) Act 1990*:
 - that is low impact exploration within the meaning of Schedule 4A of the *Mineral Resources (Sustainable Development) Act 1990*; or
 - in accordance with 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.

The purpose of this exemption is to avoid duplicative approval processes by not requiring a planning permit for native vegetation removal that occurs with approval under the *Mineral Resources (Sustainable Development) Act 1990*.

To rely on this exemption to remove native vegetation for mineral extraction the removal of native vegetation must be part of a work plan approved under the *Mineral Resources (Sustainable Development) Act 1990 (MRSD Act 1990)*. An agreement between Department of Economic Development, Jobs, Transport and Resources, the department responsible for administering the MRSD Act 1990, and DELWP requires that the approval process for a work plan involve assessment and offsetting of native vegetation removal in accordance with the *Guidelines for the removal, destruction and lopping of native vegetation*.

To rely on this exemption to remove native vegetation for mineral exploration the removal of native vegetation must be in accordance with low impact exploration as defined in Schedule 4A of the *Mineral Resources (Sustainable Development) Act 1990*.

2.18 New buildings and works in the Farming Zone and Rural Activity Zone

- Native vegetation that is to be 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.

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 if each tree has a trunk diameter of less than 40 centimetres at a height of 1.3 metres above ground level;
- 5 native trees if each tree has a trunk diameter of 40 centimetres or more at a height of 1.3 metres above ground level.

This exemption does not apply to the construction or operation of a pivot irrigation system or horticultural trellising.

The purpose of this exemption is to not require a permit for limited native vegetation removal to enable construction of a building or works used for agricultural production.

‘Works’ in this exemption refers to things other than buildings used for agricultural production, such as the examples given (dam, utility services etc.). Works does not include the action of removing native vegetation.

The native vegetation removed must not exceed any of the specified limits, but it can include a combination of these. Those relying on this exemption to remove native vegetation should keep records of the date, amount and type of native vegetation that is being removed to ensure that it is within the exemption limits. If the limit is exceeded during the period, then a permit is required for the part of the native vegetation that is over the limit.

2.19 New dwellings in the Farming Zone and Rural Activity Zone

- Native vegetation that is to be removed, destroyed or lopped to the minimum extent necessary 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:

- 300 square metres of native vegetation which does not include a tree;
- 5 native trees if each tree has a trunk diameter of less than 40 centimetres at a height of 1.3 metres above ground level;
- 1 native tree if the tree has a trunk diameter of 40 centimetres or more at a height of 1.3 metres above ground level.

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.

The purpose of this exemption is to not require a permit for a limited amount of native vegetation removal to enable construction of a new dwelling in the Farming Zone or the Rural Activity Zone.

The native vegetation removed must not exceed any of the dot point limits, but it can include a combination of these. Those relying on this exemption to remove native vegetation should keep records of the date, amount and type of native vegetation that is being removed to ensure that it is within the exemption limits. If the limit is exceeded during the period, then a permit is required for the part of the native vegetation that is over the limit.

2.20 Personal use

- Native vegetation that is to be removed, destroyed or lopped to the minimum extent necessary to obtain reasonable amounts of wood for personal use by the owner or lawful 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:

- contiguous land in one ownership that has an area of less than 10 hectares; or

- the removal, destruction or lopping of native vegetation by means other than cutting or chopping; or
- 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.

The purpose of this exemption is to not require a permit to obtain wood through the removal of a limited number of small trees and logs for personal use. This exemption only relates to wood, which could come from woody bushes or small trees (dead or alive) and does not include large trees or other types of native vegetation, such as flowers and grasses.

Only the owner or lawful occupier of contiguous land in the one ownership that is larger than 10 hectares can rely on this exemption to remove native vegetation. The owner or occupier of the land cannot give permission to another party to rely on this exemption to remove native vegetation for that party's personal use.

Reasonable amount refers to the amount of native vegetation necessary to carry out a particular personal use. For example, if a landowner is constructing a new fence that requires 20 fence posts, it is reasonable for them to only remove enough native vegetation to create 20 posts. Reasonable can be tested as to what would be an amount of native vegetation other reasonable people in similar circumstances could be expected to use.

The removal of native vegetation for trade or sale is not allowed when relying on this exemption, as that would not be for personal use.

This exemption only applies to native vegetation removed by cutting or chopping, which includes chain sawing, but does not include removal by bulldozers or tractors.

2.21 Pest animal burrows

- Native vegetation that is to be removed, destroyed or lopped to the minimum extent necessary to enable the removal of pest animal burrows in the Farming Zone or the Rural Activity Zone:
 - in accordance with written agreement of an officer of the department responsible for administering the *Flora and Fauna Guarantee Act 1988*; or
 - 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:
 - 1 hectare of native vegetation which does not include a tree;
 - 15 native trees if each tree has a trunk diameter of less than 20 centimetres at a height of 1.3 metres above ground level.

The purpose of this exemption is to not require a permit for the removal of a limited amount of native vegetation to enable the removal of pest animal burrows. The native vegetation removal allowed is incidental to the removal of the pest animal burrows. Pest animal is as defined in the *Catchment and Land Protection Act 1994*.

This exemption comprises two separate parts, each with a specific purpose.

1. The first part relates to the removal of pest animal burrows which cover a large area and may require the removal of native vegetation beyond the limits of the second dot point. In such circumstances, conditions can be placed on the written agreement of an officer of DELWP which address the potential impact to native vegetation.
2. In the second part the removal does not require written agreement but must be within the limits included in the exemption. The native vegetation removed must not exceed any of the dot point limits, but it can include a combination of these. If the limit is exceeded during the period, then a permit is required for the part of the native vegetation that is over the limit. The landholder must keep accurate records to demonstrate compliance with the native vegetation removal limits and time requirements of this exemption.

Note that this exemption can only be relied on to remove native vegetation in either the Farming Zone or Rural Activity Zone.

Note that in Clause 52.16 this exemption only consists of the first part.

2.22 Planted vegetation

- Native vegetation that is to be 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 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.

The purpose of this exemption is to not require a permit for the removal of native vegetation which has either been planted (e.g. planting a seedling or an established plant) or grown from direct seeding (e.g. placing a seed in the ground in any manner).

This exemption does not apply to native vegetation planted or grown with public funding for the primary purposes of enhancing biodiversity or protection of land, unless the funding agency (or its successor) provides written agreement to the landholder to remove the native vegetation.

Biodiversity purposes include improving rare and threatened species habitat, improving the condition or extent of native vegetation or improving the functioning of an ecosystem and its delivery of ecosystem services. It does not include planting that may have biodiversity benefits, but that the main purpose of the planting was amenity, such as along a road.

Land protection purposes include managing salinity and erosion, or improving the quality of land or water resources. It does not include planting that may have an erosion management function, but that the main purpose of the planting was amenity, such as along a road.

Written agreement allows the funding agency to place conditions on the native vegetation removal which does not undermine the original purpose of the funding.

Public funding includes money provided by any level of government or public authority. It may then be passed on to another organisation or authority to administer, or to provide in grants to third parties.

2.23 Railways

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 *Conservation, Forests and Lands Act 1987*).

The purpose of this exemption is to not require a permit for the removal of native vegetation along existing railways and railway access roads for routine maintenance, and some essential construction works.

To rely on this exemption to remove native vegetation the rail manager must have written agreement from the Secretary to DELWP. The Secretary's written agreement may require compliance with the *Railways exemption – procedure for the removal, destruction or lopping of native vegetation* (the Railways procedure). The Railways procedure includes a set of obligations which align with the no net loss objective.

The Railways procedure and list of rail managers that have written agreement to rely on this exemption to remove native vegetation can be found on the DELWP website at www.environment.vic.gov.au/native-vegetation

2.24 Regrowth

- 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:
 - 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.

The primary purpose of this exemption is to not require a permit for the removal of native vegetation that has regrown in an area that has been lawfully cleared.

Land lawfully cleared includes:

- land cleared with a planning permit
- land cleared relying on exemptions from requiring a planning permit
- clearing that was legal at the time it originally occurred, and the area has been periodically maintained as cleared land since then, including within the last 10 years.

This exemption comprises four separate parts, each with a specific purpose.

1. The first part allows for the continuous clearing of an area that has been lawfully cleared within the past 10 years. It does not apply to areas where 10 years or more have elapsed between episodes of clearing, or to native plants in locations that have not been lawfully cleared within the previous 10 years.
2. The second part allows bracken to be cleared, regardless of its age, from areas lawfully cleared in the past.
3. The third part relates to a property vegetation plan (PVP) approved under Section 69 of the *Conservation, Forests and Lands Act 1987*. Only native vegetation identified on the PVP as regrowth, or identified on land used or maintained for cultivation or pasture for the duration of the PVP is considered as regrowth and exempt.
4. The fourth part of the exemption relates to a documented timber production plantation. If the plantation has ceased to be used for the purpose of timber production, the exemption still applies as long as the area continues to be documented as a plantation. Note that the planted vegetation exemption relates to the original timber harvested in the planation.

Regrowth that occurs in areas where native vegetation was destroyed or damaged as a result of flood, fire or other natural disaster is not exempt, as its removal has not been assessed and approved.

In Clause 52.16 the exemption does not include part 1 (less than 10 years old) as areas where regrowth can be cleared in the future are specifically identified in the NVPP. Clause 52.16 does not include the property vegetation plan part as these would not occur for retained vegetation within a NVPP.

2.25 Road safety

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 *Conservation, Forests and Lands Act 1987*).

The purpose of this exemption is to not require a permit for the removal of native vegetation along existing roads for routine maintenance, and some essential safety and construction works.

To rely on this exemption to remove native vegetation a public authority or municipal council must have written agreement from the Secretary to DELWP. The Secretary's written agreement may require compliance with the *Road safety exemption – procedure for the removal, destruction or lopping of native vegetation* (Road safety procedure). The Road safety procedure includes a set of obligations which align with the no net loss objective.

The Road safety procedure and a list of road authorities that have written agreement to rely on this exemption to remove native vegetation can be found on the DELWP website at www.environment.vic.gov.au/native-vegetation.

2.26 Site area

- Native vegetation that is to be removed, destroyed or lopped 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.

The purpose of this exemption is to not require a permit for the removal of native vegetation on small lots.

This is because when land is subdivided into small lots it becomes disconnected from other native vegetation and becomes degraded. Any native vegetation remaining on small lots has reduced environmental value and therefore is assumed lost.

When land is being subdivided into lots 0.4 hectares or smaller this enable the consequential removal of native vegetation without a planning permit in future. All the native vegetation on these lots should be assessed and offset in accordance with the *Guidelines for the removal, destruction or lopping of native vegetation* at the time of subdivision.

2.27 Stone exploration

- Native vegetation that it to be 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 costeaning and bulk sampling activities.

The purpose of this exemption is to allow limited native vegetation removal when carrying out stone exploration.

Stone is defined in planning schemes as: Basalt, freestone, granite, limestone, sandstone, or other building stone, or rock, ordinarily used for building, manufacturing, road making, or construction; or clay (not fine clay, bentonite, or kaolin), earth, gravel, quartz (not quartz crystals), sand, soil, slate, or other similar material.

The native vegetation removed must not exceed any of the dot point limits, but it can include a combination of these. Those relying on this exemption to remove native vegetation should keep records of the date, amount and type of native vegetation that is being removed to ensure that it is within the exemption limits. If the limit is exceeded during the period, then a permit is required for the part of the native vegetation that is over the limit.

2.28 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 *Mineral Resources (Sustainable Development) Act 1990* and authorised by a work authority under that Act.

The purpose of this exemption is to avoid duplicative approval processes by not requiring a planning permit for native vegetation removal that occurs in association with work under a work plan for stone extraction approved under the *MRSD Act 1990*.

To rely on this exemption to remove native vegetation for stone extraction the removal of native vegetation must be associated with work under a work plan approved under the *MRSD Act 1990* and authorised by a work authority under that Act. This approval process involves assessment and offsetting of native vegetation removal in accordance with the *Guidelines for the removal, destruction or lopping of native vegetation*.

2.29 Stock movements on roads

- Native vegetation that is to be 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.

The purpose of this exemption is to not require a permit for the incidental destruction of native vegetation made by stock when they are moved along a road.

Stock includes domestic animals kept for the purpose of agriculture.

Note that 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.

2.30 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 *Surveying Act 2004*) using hand-held tools to establish a sightline for the measurement of land.

The purpose of this exemption is to not require a permit for the removal of native vegetation to establish sight lines when surveying.

A licensed surveyor is defined under the *Surveying Act 2004* as a person whose name is entered on the Register of Licensed Surveyors (also defined in this Act). Those acting on behalf of a licensed surveyor, such as assistants or contractors, can rely on this exemption to remove native vegetation.

The native vegetation can only be removed using tools that can be held and operated in a person's hand(s), such as an axe or a chainsaw.

2.31 Traditional Owners

- Native vegetation that is to be removed, destroyed or lopped by a person acting under, and in accordance with:
 - a natural resource agreement under Part 6 of the *Traditional Owner Settlement Act 2010*; or
 - an authorisation order made under sections 82 or 84 the *Traditional Owner Settlement Act 2010* as those sections were in force immediately before the commencement of section 24 of the *Traditional Owner Settlement Amendment Act in 2016* (1 May 2017).

The purpose of this exemption is to not require a permit for the removal of native vegetation by Traditional Owners when they are acting under, and in accordance with a natural resource agreement under part 6 of the *Traditional Owner Settlement Act 2010*. This is the current agreement.

In addition, the purpose of this exemption is to not require a permit for the removal of native vegetation by Traditional Owners when they are acting under, and in accordance with a natural resource agreement that was established under the *Traditional Owner Settlement Act 2010* before May 2017 when the Act was amended. Before May 2017 the natural resource agreements were pursuant to the then section 80 of the *Traditional Owner Settlement Act 2010*.

The natural resource agreement applies to a specific area, either on Crown land or land in the Traditional Owners' ownership, and specifies how natural resources, including native vegetation, can be used for traditional and cultural purposes.

2.32 Utility installations

- Native vegetation that is to be removed, destroyed or lopped to the minimum extent necessary:
 - 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 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*).

This exemption comprises two separate parts, each with a specific purpose.

1. The purpose of the first part of the exemption is to enable the removal of native vegetation to undertake maintenance of a Minor utility installation. The maintenance activities are routine, ongoing and needed to keep an existing installation as close as possible to its current functioning state. Anyone can undertake these maintenance activities, without the need to obtain a planning permit.

A minor utility installation is defined in Clause 74 of all planning schemes as:

Land used for a utility installation comprising any of the following:

- a. sewerage or water mains;
 - b. storm or flood water drains or retarding basins;
 - c. gas mains providing gas directly to consumers;
 - d. power lines designed to operate at less than 220,000 volts;
 - e. a sewage treatment plant, and any associated disposal works, required to serve a neighbourhood;
 - f. a pumping station required to serve a neighbourhood; or
 - g. an electrical sub-station designed to operate at no more than 66,000 volts. It includes any associated flow measurement device or a structure to gauge waterway flow.
2. The purpose of the second part of the exemption is to enable the removal of native vegetation for routine maintenance, and construction works for a utility installation, without the need to obtain a planning permit. This is subject to the removal of native vegetation being undertaken in accordance with the

written agreement of the Secretary to the DELWP (as constituted under Part 2 of the *Conservation, Forests and Lands Act 1987*).

The written agreement may require compliance with a *Utility installations exemption – procedure for the removal, destruction or lopping of native vegetation*. This document includes a set of obligations that align with the no net loss objective. Any procedure and a list of the utility service providers that have written agreement to rely on this exemption to remove native vegetation can be found on the DELWP website at <https://www.environment.vic.gov.au/native-vegetation>.

This part of the exemption is available to a utility services provider, or those acting on their behalf. A utility service provider is defined in Clause 72 of all planning schemes as:

A person, other than a public authority or municipal council, having responsibility under an Act for the generation, transmission, distribution or supply of electricity, gas, power, telecommunications, water supply, drainage or sewerage services.

Utility installation is defined in Clause 72 of all planning schemes as:

Land used:

- a. for telecommunications;
- b. to transmit or distribute gas, oil, or power;
- c. to collect, treat, transmit, store, or distribute water; or
- d. to collect, treat, or dispose of storm or flood water, sewage, or sullage.

It includes any associated flow measurement device or a structure to gauge waterway flow.

2.33 Vehicle access from public roads

- Native vegetation that is to be 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.

This exemption only applies to properties which share a common boundary with the road reserve, and 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.

This purpose of this exemption is to not require a permit to remove native vegetation in a public roadside to construct or maintain a vehicle accessway to a property.

The construction of a new accessway is only exempt if there is no existing accessway which provides reasonable access to an area of the property. A benchmark of one accessway per land parcel is considered reasonable.

All practical opportunities must be explored to place the accessway to avoid the removal of native vegetation. Areas of the public roadside where there is little or no native vegetation should first be considered for the accessway. If areas without native vegetation do not exist, or if using these areas for the accessway is not considered practical in terms of safety, or proximity to the areas of the property that need to be accessed, then the removal of native vegetation under this exemption can be considered. The removal of any native vegetation is required to be minimised.

The total width of native vegetation removal must not exceed 6 metres. There are no limits to the length of accessway required, but it must be a direct path from the public road to the property boundary.

Note that for new subdivisions the removal of native vegetation for the provision of access to all lots, including new roads and accessways, should be included in consequential loss of native vegetation that relates to the subdivision.

2.34 Weeds

- Native vegetation that is to be 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.

The purpose of this exemption is to not require a permit to remove minimal native vegetation that is incidental in the removal of weeds listed in the schedule of Clause 52.17 of the relevant planning scheme.

The native vegetation removed that is incidental to removing the weed must not exceed any of the dot point limits, but it can include a combination of these. Those relying on this exemption to remove native vegetation should keep records of the date, amount and type of native vegetation that is being removed to ensure that it is within the exemption limits. If the limit is exceeded during the period, then a permit is required for the part of the native vegetation that is over the limit.

The listed weed can be noxious or indigenous. There are no limits to the amount that can be removed of the weed that is listed in the schedule. Care should be taken when listing indigenous weeds in Schedule 2, as listing a plant species in the schedule exempts its removal in the whole municipality. A weed and an associated area can be listed in Schedule 1 to limit where this plant can be removed. Planning authorities should consult with DELWP before adding or updating to the weeds and areas listed in the schedules to Clause 52.17.

ATTACHMENT 1

DSE-LOCAL GOVERNMENT APPROACH TO THE PLANNING PERMIT EXEMPTION (UNDER THE VICTORIA PLANNING PROVISIONS) TO REMOVE, DESTROY OR LOP NATIVE VEGETATION TO MAINTAIN THE SAFE AND EFFICIENT FUNCTION OF EXISTING PUBLIC ROADS.

This agreement outlines the shared approach agreed by the Department of Sustainability and Environment (DSE), the Municipal Association of Victoria (MAV) and Local Government Authorities (LGAs) to provide a common understanding of how the exemption will be implemented by DSE and LGAs, to ensure that roads are managed for their safe and efficient function, that administrative processes are streamlined, and that the objectives of the Government's policy for native vegetation are delivered. This agreement outlines the exemption and the principles that have been developed to describe the shared areas of interest between the portfolios. The principles are underpinned by a practical list of key operational elements to be followed in the use of the exemption.

Exemption

Under the Victoria Planning Provisions (VPP), no planning permit is required to remove, destroy or lop native vegetation to the minimum extent necessary if any of the following apply:

To maintain the safe and efficient function of an existing public road managed by the relevant Responsible Road Authority (as defined by the Road Management Act 2004) in accordance with the written agreement of the Secretary of DSE.

The exemption also applies to areas designated under Planning Scheme overlays, so that no planning permit is required despite the presence of an overlay. These include:

- Vegetation Protection Overlays;
- Significant Landscape Overlays;
- Erosion Management Overlays; and
- Environmental Significance Overlays.

The exemption does not apply to the permit requirements under the *Flora and Fauna Guarantee Act 1988* (where a permit may still be required) and the *Environment Protection and Biodiversity Conservation Act 1999* (Commonwealth).

Principles

- DSE and LGAs are both committed to contributing to the Government's objective of a Net Gain in native vegetation and the principles and approaches identified in Victoria's Native Vegetation Management Framework.
- DSE and LGAs will work together to develop practical approaches to achieve the Victorian Government's Net Gain objective for native vegetation, while ensuring safe and efficient operation of transport system and that competing policy objectives and priorities are identified and addressed.

- DSE and LGAs will collaborate to simplify and streamline administrative processes for meeting native vegetation requirements in relation to transport planning and operations and to projects that are not covered by the exemption.
- DSE and LGAs will share information and collaborate in their work to ensure there is a common understanding of transport and native vegetation policies.
- DSE and LGAs will seek to achieve consensus on operational elements of the use of the exemption by actively facilitating problem solving approaches.

Key Operational Elements in the use of the Exemption

- The exemption applies in order to maintain the safe and efficient function of existing public roads.
- The exemption aims to both streamline administrative processes and recognise avoidance and minimisation goals of the Net Gain approach.
- The exemption only applies to native vegetation on road reserves owned or managed by the Responsible Road Authority, not any other land owned or managed by an LGA.
- The exemption applies for maintenance activities needed to maintain the safe and efficient function of existing roads.
- The exemption does not require the provision of offsets but these may be volunteered.

Notification

LGAs will notify DSE prior to any clearing involving the removal or destruction, not including lopping (see below), of native vegetation proposed under the exemption. The notification will involve contacting the relevant DSE Biodiversity Group Manager to discuss the proposed clearing. If the proposal is considered significant by DSE, a site visit may be required to discuss options for avoiding or minimising impacts to biodiversity.

Maintaining safe and efficient function

The function of a road is to provide safe and efficient travel and transport for the community and the appropriate use of road reserves. A range of activities are undertaken in order to maintain this function including the following categories of actions for which the exemption will be used:

- maintenance activities
- safety treatments

Maintenance activities covered by this exemption are:

- | | |
|--|--|
| ▪ drainage maintenance | ▪ safety barrier maintenance |
| ▪ trimming/lopping of vegetation (see definition) | ▪ fencing maintenance |
| ▪ grass mowing, slashing/reach arm mowing, weed spraying and edge trimming | ▪ resealing and resheeting pavements |
| ▪ removing fallen timber | ▪ track surfacing and maintenance |
| ▪ sign and guidepost maintenance | ▪ embankments and cuttings maintenance |
| ▪ maintaining sight lines | ▪ fire prevention maintenance |
| | ▪ maintenance access |
| | ▪ tie renewal |

- signalling equipment and maintenance
- aerial and underground services maintenance
- buildings and car parks
- level crossing maintenance
- standsites maintenance
- bridge/culvert maintenance, including waterway maintenance
- structures maintenance

Lopping/ Trimming

Removal of less than one-third of the foliage from any individual plant is not considered to affect the continued health of the plant. On this basis, lopping of branches or trimming of trees which results in no more than one-third of the foliage being removed from any individual plant, is not considered to constitute tree removal and there are no requirements to notify or report the lopping to DSE.

Safety treatments covered by this exemption are:

- safety barrier installation (e.g. wire rope/guard rail), shoulder sealing/widening and associated road formation works
- removal/trimming of hazardous vegetation, where the aim is to remove or reduce known likely safety risks posed by native vegetation, rather than risks that are unlikely threats to safety

Clearing Thresholds

The exemption may only be used for safety treatments that result in a loss of the majority of basal cover of perennial native species below the following area thresholds for any particular project:

- < 0.5 ha of native vegetation in an EVC with a bioregional conservation status of endangered, vulnerable or rare.
- < 1 ha of native vegetation in an EVC with a bioregional conservation status of depleted or least concern.
- < 6 medium, large or very large old trees (as assessed by reference to the relevant EVC benchmark) whether they are in a patch of native vegetation or classed as scattered trees.

If works exceed the thresholds then a permit will be required.

Applying the Thresholds

The thresholds apply to Projects involving the removal of native vegetation for safety treatments. A safety treatment Project involving the removal of native vegetation should be separated by at least two kilometres from any other safety treatment Project operating under this exemption. Furthermore, once a project has reached completion, one year must pass before another road safety treatment Project can operate under this exemption within a distance of two kilometres. LGAs should not classify projects in a way so that the Public Road exemption applies.

Records

Each LGA will keep a record of all maintenance activities and safety treatments undertaken and provide an annual report to DSE of the aggregate losses that have occurred under this exemption in accordance with the reporting template provided by DSE.

Offsets

Offsets are not required with respect to losses incurred in the case by case use of the exemption, but may be volunteered by a LGA from time to time in recognition of and to mitigate these losses.

Review of Agreement

This agreement may be reviewed within 12 months if required by either party.

Breach of Agreement

The relevant LGA will advise DSE of any breaches of these Operational Elements as soon as possible after they occur. If there are regular breaches, this agreement will be reviewed. A breach of this Agreement by a LGA may result in the Agreement being revoked.

**DSE-DOT APPROACH TO THE PLANNING PERMIT EXEMPTION
(UNDER THE VICTORIA PLANNING PROVISIONS)
TO REMOVE, DESTROY OR LOP NATIVE VEGETATION TO MAINTAIN
THE SAFE AND EFFICIENT FUNCTION OF ROADS AND RAILWAYS.**

INTRODUCTION

This explanatory note outlines the shared approach agreed by the Department of Sustainability and Environment (DSE) and the Department of Transport (DOT) to provide a common understanding of how the exemption will be implemented by DSE and DOT and its agencies and agents, to ensure that railways and roads are managed for their safe and efficient function, that administrative processes are streamlined, and that the objectives of the Government's policy for native vegetation are delivered. This note outlines the exemption, and the principles and practical operational elements that have been developed for use of the exemption.

Reference in the following text to DOT also includes DOT portfolio agencies and agents acting on behalf of DOT or its portfolio agencies.

Principles

- DOT and DSE are both committed to contributing to the Government's objective of a Net Gain in native vegetation and the principles and approaches identified in the Native Vegetation Management Framework.
- DOT and DSE will work together to develop practical approaches to achieve the Victorian Government's Net Gain objective for native vegetation, while ensuring safe and efficient operation of the transport system, effective integration of transport and land use planning for future development, and that competing policy objectives and priorities are identified and addressed.
- DOT and DSE will collaborate to simplify and streamline administrative processes for meeting native vegetation requirements in relation to transport planning and operations.
- DOT and DSE will share information and collaborate in their work to seek consensus and ensure there is a common understanding of transport and native vegetation policies.
- DOT and DSE will share information, collaborate, and respond to issues, in a timely manner.

The Exemption

From [gazetted date], the Victoria Planning Provisions (VPP) provide that no planning permit is required to remove, destroy or lop native vegetation to the minimum extent necessary if any of the following apply:

- To maintain the safe and efficient function of an existing public road managed by the relevant responsible road authority (as defined by the *Road Management Act 2004 (Vic)*) in accordance with the written agreement of the Secretary of DSE; or
- To maintain the safe and efficient function of an existing railway or railway access road, in accordance with the written agreement of the Secretary of DSE.

The exemption also applies to areas designated under Planning Scheme overlays, so that no planning permit is required despite the presence of an overlay. The exemption does not apply to the permit requirements under the *Flora and Fauna Guarantee Act (1988)*, and a permit is still required under that Act where applicable.

USE OF THE EXEMPTION

Key operational elements

- The exemption is to assist the Transport portfolio in undertaking its legal responsibilities to maintain the safe and efficient function of existing roads and railways.
- The exemption aims to both streamline administrative processes and recognise the “avoid and minimise” goals of the Net Gain approach.
- The exemption will be used for safety treatments, maintenance activities and minor improvement works needed to maintain the safe and efficient function of existing roads and railways.
- The exemption will only be used for native vegetation on land controlled, managed, owned or occupied by the responsible road authority or railway body.
- The exemption does not mandate provision of offsets but these may be volunteered.

Maintaining safe and efficient function

The key functions of a road or railway are to provide safe and efficient travel and transport for the community and the appropriate use of road and rail reserves, in accordance with the obligations of the responsible road authority or rail body. A range of actions are undertaken in order to maintain these functions, including the following categories of actions for which the Exemption will be used:

- maintenance activities;
- minor improvement works; and
- road safety treatments.

More detail on each of these categories is provided below.

Maintenance activities keep roads and railways in a condition that is safe, retains the integrity of the infrastructure to ensure it is safe and functioning correctly. Maintenance activities can vary in scope from small short-term works such as clearing a blocked drain, weed spraying, repairing a damaged sign or keeping an access road clear, to larger works such as re-forming long lengths of drains or replacing significant lengths of safety barrier that is old and no longer able to perform satisfactorily.

Maintenance activities include:

- Drainage maintenance;
- Trimming/lopping of vegetation;
- Grass mowing, weeds spraying and edge trimming;
- Removing dead and fallen timber;
- Sign and guidepost maintenance;
- Maintaining sight lines;
- Safety barrier maintenance;
- Fencing maintenance;
- Resealing and resheeting pavements;
- Track surfacing and maintenance;
- Embankments and cuttings maintenance;
- Fire prevention maintenance;
- Maintenance access;
- Tie renewal;
- Pest control;
- Signalling equipment maintenance;
- Aerial and underground services maintenance;
- Buildings, carparks and platforms maintenance;
- Level crossings maintenance;
- Standsites maintenance;
- Bridge/culvert maintenance, including waterway maintenance; and
- Structures maintenance.

Maintenance activities will be carried out in accordance with obligations under the:

- Road Management Act (Vic) 2004 for road authorities (e.g. Roads Management Plans) or
- Rail Safety Act (Vic) 2006 and Lease/Franchise Agreements for rail authorities (e.g. Safety Management Systems, Asset Management Plans).

Maintenance activities using the Exemption and involving the lopping or pruning of trees will be done using standard practices such that no more than one-third of the foliage is removed from any individual plant and the continued health of the vegetation is not affected.

Minor improvement works for the purposes of the Exemption will be subject to the thresholds outlined below, and include:

- Intersection and junction improvements;
- Installation of features such as signage, bus stops, driveways and horse trails;
- Duplication of a road or railway;
- Fencing improvements;
- Installation of roadside rest areas;
- Track realignment;
- Platform extension; and
- Station facilities such as bus and/or carparking areas.

The Exemption will be used for minor improvement works that result in a loss of the majority of basal cover of perennial native species below the following area thresholds for any particular project:

- < 0.5 ha of Native Vegetation in an EVC with Bioregional Conservation Status of Endangered, Vulnerable or Rare;
- < 1 ha of Native Vegetation in an EVC with Bioregional Conservation Status of Depleted or Least Concern; and
- < 6 scattered trees if the trees are assessed as a Medium, Large or Very Large old tree by applying the relevant EVC benchmark.

Road safety treatments include:

- Infrastructure safety works such as safety barrier installation (e.g. wire rope/guard rail), shoulder sealing/widening, and associated road formation works, that use existing standards and field knowledge (e.g. the size of safety zones) to minimise clearing whilst reducing road safety risk; and
- Removal or trimming of hazardous vegetation, where an aim is to remove or reduce known likely safety risks posed by native vegetation rather than risks that are unlikely threats to safety.

The Exemption will be used for all road safety treatments, such as wire rope barrier and guard rail, that seek to “avoid and minimise” the amount of vegetation removal, and for other road safety treatments that result in a loss of the majority of basal cover of perennial native species below the area thresholds described earlier under ‘Minor improvements’.

Consultation

Consultation with DSE must occur on all minor improvement works and road safety treatments using the Exemption, with the view of reducing impacts on significant native vegetation wherever possible. As part of the consultation process the DSE may identify aggregate losses of native vegetation that may occur as result of such works for Net Gain accounting purposes.

The proposed use of the exemption for minor improvement works or road safety treatments in an area that is subject to a Vegetation Protection Overlay (VPO) or an Environmental Significance Overlay (ESO) should be subject to notification of the relevant municipality and consultation with DSE before works commence on project-specific opportunities to minimise where possible the impacts on significant native vegetation.

This explanatory note will be reviewed annually on request by DSE or DOT to ensure the exemption is operating effectively.

Reporting

Breaches of these operational elements will be advised between DSE and DOT if they occur.

Offsets are not required with respect to losses incurred in the case by case use of the Exemption but may be volunteered by DOT from time to time in recognition of and to mitigate these losses.