

Native Vegetation Regulations Newsletter 2

Update on the 2017 native vegetation removal regulations and *Guidelines for the removal, destruction or lopping of native vegetation* – November 2018



On 12 December 2017 the Victorian State Government introduced Amendment VC138 to the Victoria Planning Provisions and all Planning Schemes in Victoria. This included changes to Clause 12, Clause 52.16, Clause 52.17, Clause 66 and a new incorporated document, *Guidelines for the removal, destruction or lopping of native vegetation* (the Guidelines).

This newsletter contains recent updates from the Native Vegetation Regulation (NVR) team and addresses some of the most frequently asked questions about the implementation of the 2017 native vegetation removal regulations.

Email tracking

To optimise response time and email tracking, ensure emails are sent to the correct email address:

- Requests to generate a report in EnSym: EnSymNVRtool.Support@delwp.vic.gov.au
- Queries about the native vegetation removal regulations, the implementation of the Guidelines, and the NVIM native vegetation removal tool: NativeVegetation.Support@delwp.vic.gov.au
- Queries about native vegetation credits, registering an offset site or the Native Vegetation Offset Register (replaces the Credit Register email): NativeVegetation.OffsetRegister@delwp.vic.gov.au
- Queries about gain scoring, Vegetation Quality Assessment (VQA) methodology and competency checks: Habitat.hectares@delwp.vic.gov.au

- Queries about the assessment, management or establishment of third party offsets (replaces the BushBroker email): NativeVegetation.OffsetManagement@delwp.vic.gov.au

Transitional provisions

Scenario 3 of the transitional provisions states that:

*The requirements of Clause 52.17 of the planning schemes in force immediately before the commencement of Amendment VC138 continue to apply to an application for a permit **lodged within 12 months after that date**, if the Secretary to the Department of Environment, Land, Water and Planning (as constituted under Part 2 of the Conservation, Forests and Lands Act 1987) has stated in writing that a report about the proposed removal, destruction or lopping of native vegetation has been generated by the Department of Environment, Land, Water and Planning's native vegetation information systems within 12 months before that date.*

More than 70 applications to use Scenario 3 of the transitional provisions have been approved. **Scenario 3 can only be used for permit applications lodged before 12 December 2018.** Get any outstanding application in soon as any permit application lodged after 12 December 2018 must be submitted and assessed in accordance with the 2017 native vegetation removal regulations.

What's new

Road safety, railways and Crown land procedures

The following documents allowing applicants to rely on the *Road safety* exemption, *Railways* exemption and *Crown land* exemption (with written agreement from the Secretary) have been approved, and will soon be available on our website:

- *Procedure to rely on the road safety exemption in planning schemes.*
- *Procedure to rely on the railways exemption in planning schemes.*
- *Procedure for the removal, destruction or lopping of native vegetation on Crown land* (for use by DELWP and Parks Victoria).

A similar approach is being developed for utility service providers to rely on the *Utilities installations* exemption.

Guidance documents and supporting tools

The Assessor's handbook and the Applicants guide have been updated to address some new and recurring questions. Version 1.1 of both documents will be on the DELWP website soon.

The Gain calculator is periodically updated, check the website to confirm you have the most up to date version of the Gain calculator. If you notice any issues email nativevegetation.support@delwp.vic.gov.au.

DELWP native vegetation offsets website

The DELWP native vegetation offsets website has been revamped and now includes new information and resources about how to:

- secure an offset
- prepare an offset statement
- establish a third party credit site
- establish a first party offset site.

This information can be accessed at: <https://www.environment.vic.gov.au/native-vegetation/offsets/>.

Native Vegetation Credit Register refresh project

The NVR team are reviewing communication materials and process requirements associated with the Native Vegetation Credit Register (NVCR) to ensure information is clear, consistent and accessible to those who need it.

NVCR service providers (site assessors and brokers) have provided feedback on the process to establish a

native vegetation offset site and sell or purchase native vegetation credits through the NVCR. Feedback was provided about what was working well, what was not working well and suggestions for improvement.

Overall service providers reported that the team was responsive and turnaround times were usually quick. The lack of clear documented guidance on the processes and requirements of the NVCR and engagement tools for landowners was raised as an issue by most who responded.

Next steps:

We are preparing a response to feedback and developing a plan to revamp communication materials to be published on the website. This will ensure tailored information about native vegetation credits and processes are available for landowners and credit owners as well as brokers and site assessors.

You may be contacted as the team seeks further detailed input as these materials are finalised throughout the rest of the financial year.

If you regularly receive queries about the NVCR, how to establish a native vegetation offset site and sell or purchase native vegetation credits and would like to provide input or feedback, contact Kathleen Simpson at kathleen.simpson@delwp.vic.gov.au.

NVIM native vegetation offset tool

A new NVIM native vegetation offset tool is available at: <https://nvim.delwp.vic.gov.au/>. The tool enables landholders to complete their own site assessment when they want to create a **first party general offset site**. Landholders can:

- map the native vegetation they propose to protect and manage
- find out how much gain is available if that mapped native vegetation is protected and managed
- download a *Native vegetation offset report* used to establish a first party general offset site.

The *First party offset guide* provides information about how to establish a first party offset site and how to use the NVIM native vegetation offset tool. A first party general offset management plan template (including the annual report template) and Section 173 agreement template have also been developed for landowners using the NVIM native vegetation offset tool. These resources are available on the native vegetation offsets website.

Access to the Conservation work exemption

Clause 52.16-8 and 52.17-7 of the local planning schemes now include a *Conservation work* exemption:

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 *Conservation work* exemption is explained in the online document *Exemptions from requiring a planning permit to remove, destroy or lop native vegetation – Guidance*. The process to apply for access to the exemption is explained in *Conservation work exemption – application process* (May 2018), which can be requested by sending an email to nativevegetation.support@delwp.vic.gov.au.

Use of site-assessed information in place of mapped information

Information from a site assessment in accordance with the Guidelines can replace the following mapped information used in NVIM:

- Native vegetation condition score – the score determined by a habitat hectares assessment can be used in place of the score in the *Native vegetation condition map*
- Bioregional EVC determination (including its conservation status) – the EVC determined during the site assessment can be used when applying Decision guideline 9 about impacts to endangered EVCs but cannot be used to change the *Location map* or the assessment pathway of an application.
- Large tree determination – the site-assessed bioregional EVC large tree benchmark (including any species specific large tree benchmark) can be used in place of the benchmark associated with the EVC map.

Appendix 4 of the updated Assessor's handbook (Version 1.1) further describes how site assessed information can be used in place of mapped information.

If site-assessed information is to be used in place of mapped information, an EnSym NVR report should be created. If this is not possible, the NVIM NVR report can

be manually edited in some cases. Section 3.1.4 of the Assessor's handbook explains when this can be done.

Can a council officer who is an accredited native vegetation assessor replace mapped information?

A Council officer that is an accredited native vegetation assessor:

- **can** apply (or not apply) decision guideline 9 (as it relates to EVC and large trees) if they have specific knowledge about a site
- **can** adjust the large tree offset attribute requirement if they can confirm that the relevant large tree benchmark should be lower than that determined by NVIM, and the number of large trees should be reduced
- **can** adjust the condition score for a scattered tree in an NVIM NVR report to 0.2 if they have confirmed that the tree is a scattered tree. This is only possible when patches of native vegetation are not included in the proposal
- **cannot** otherwise replace mapped information

Current wetlands map

Mapped wetlands are treated as a patch of native vegetation, meaning a location that is mapped as a wetland in the *Current wetlands map* (referred to as a mapped wetland) is included when measuring the extent of native vegetation to be removed.

Can all or part of a wetland be removed from the assessment process?

The boundary of a wetland in the *Current wetlands map* (used in NVIM and in EnSym) can be amended in some cases. This can be to modify the boundary of the wetland using site assessed or more accurate mapped information, or to remove the wetland completely when it is no longer regarded as a wetland.

Appendix 4D of the updated Assessor's handbook (Version 1.1) includes new information on how to remove all or part of a wetland from the assessment process if the mapped wetland:

- is covered by a hardened, man-made surface
- does not support wetland values, or
- is permanent, deep water.

What are the EnSym spatial data attributes for a mapped wetland?

The modelled condition score is used for mapped wetlands unless a site assessment is carried out soon after inundation. To comply with the EnSym native vegetation regulations tool spatial data standards, the attributes for the proposed removal of part or all of an area in the *Current wetlands map* should be provided as follows:

- If native vegetation was present and assessed then use the BioEVC code and conservation status of the EVC that was identified on site, and the site-assessed condition score.
- If native vegetation was not present then refer to the EVC mapped on the site:
 - If that EVC is appropriate given the native vegetation nearby, use the BioEVC code and conservation status of the mapped EVC, and the modelled condition score.
 - If the mapped EVC is not appropriate, use the BioEVC code 'Wetland' and conservation status 'ND', and the modelled condition score.

Is an offset required for the removal of a single understorey tree or shrub?

The Guidelines state that a scattered tree must be a canopy species in the relevant EVC. This means that an understorey tree species in that EVC (e.g. a wattle) cannot be a scattered tree.

The definition of a patch includes an area of vegetation where at least 25 per cent of the total perennial understorey plant cover is native. An understorey tree or shrub is a perennial understorey plant that generally meets the 25 per cent native cover when you map around the drip line of the plant.

When you map a single understorey tree or shrub, the offset requirement may round to 0.000 units, which means no offset will be required. If there are multiple understorey trees being removed, an offset would likely be required.

Native vegetation offset sites

My proposed offset site will provide offsets for an application under the 2013 regulations. Do I use the 2013 gain scoring manual to calculate the gains?

No. All new offset sites must be assessed in accordance with the 2017 *Native vegetation gain scoring manual* and Guidelines.

Spatial files can be processed by DELWP using the 2013 EnSym to determine the Biodiversity Equivalence Units for the offset site – email 2013 compliant data to the EnSym email address.

Can large trees in a patch with a site condition score below 30/75 be an offset site?

Yes. Section 9.1.3 of the Guidelines specifies the eligibility requirements for a patch to be an offset. Footnote 13 states that:

Native canopy trees within a patch of native vegetation with a site condition score below 30 out of 75, and that are greater than or equal to 75% of the large tree DBH benchmark for the relevant bioregional EVC, can be protected as scattered trees.

Can a treeless EVC with a lack of weeds score below 7/15 be an offset?

No. The Guidelines specify that patches of native vegetation that are assessed by an accredited native vegetation assessor must meet the following eligibility requirements to be an offset:

- have a minimum 'site condition score' of 30 out of 75, and
- any treeless EVCs must also have a minimum 'lack of weeds score' of 7 out of 15.

The lack of weeds VQA scoring table is shown below, eligible scores are highlighted in blue.

Lack of Weeds

Category & Description	'high threat' weeds*		
	None	≤ 50%	> 50%
> 50% cover of weeds	4	2	0
25 - 50% cover of weeds	7	6	4
5 - 25% cover of weeds	11	9	7
< 5% cover of weeds**	15	13	11

Sites with lack of weeds score of 7 with >50% high threat weeds:

Treeless EVCs that receive a lack of weeds score of 7 where the proportion of high threat weeds is >50% (circled in red, above) must be carefully considered. A high cover of high threat weeds makes it difficult for the site to meet other eligibility requirements, including:

- the landowner or manager can control significant threats to the condition of the native vegetation (section 9.1.1 of the Guidelines), and
- ensure that weed cover does not increase beyond the current level (section 9.3 of the Guidelines).

If an NVCR accredited assessor believes this score of 7 does not impact eligibility, the assessor must demonstrate that the weed pressure is manageable before it will be accepted by the Native Vegetation Credit Register.

Sites with lack of weeds score of 6 or less:

Areas of native vegetation in a treeless EVC that receive a lack of weeds score of 6 or below are not yet eligible to be included in an offset site. This is because it is typically difficult to manage high weed cover in treeless vegetation types. This results in gain not being achieved.

The purpose of an offset site is to compensate for the loss in biodiversity value from the removal of native vegetation at another site. If there is a risk that gain will not be achieved at an offset site, there is a risk that the no net loss objective of the native vegetation removal regulations will not be met.

The risk of failure must be addressed before the site is acceptable as an offset site. This may be achieved when the landowner or land manager demonstrates the capacity to successfully implement weed control measures that reduces weed cover and/or proportion of high threat weeds to more acceptable levels.

If weeds are successfully managed to below acceptable levels, the site can be re-assessed and established as an offset site. The cost of this prior management can be considered when setting a price for any native vegetation credits.

Forward any cases where this requirement negatively impacts the establishment of an offset site to the native vegetation support email to inform future review of the Guidelines.

Alternative arrangements for species

Under the 2013 regulations an application for an alternative specific offset arrangement can be made in accordance with the information sheet *Alternative specific offset arrangements* when a specific offset requirement is not available on the NVCR.

When an offset site is not mapped habitat but is proposed as habitat for a species, the application must **(in addition to other relevant requirements)** demonstrate that the vegetation at the offset site has characteristics that meet the habitat requirements of the species. To do this, the following must all be provided:

- a description of the key habitat requirements of the species
- a description of the habitat characteristics of the offset site, and how these meet the requirements of the species, and
- information about proximity to known records of the species (any evidence that the species has been recorded nearby).

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