

Application Guide: Taking Protected Flora

Background

The Flora and Fauna Guarantee Act

The *Flora and Fauna Guarantee Act 1988* (FFG Act) is the key piece of Victorian legislation for conserving threatened species and communities, and for managing potentially threatening processes (as defined by the Act). The Act applies to all land in Victoria, both public and private. However, some offence provisions do not apply on private land.

The FFG Act emphasises the prevention of impacts to avoid more species and communities becoming threatened with extinction. It promotes cooperative approaches to biodiversity conservation, recognising that all levels of government and the broader community must contribute to conservation efforts.

This guide supports applicants in completing the application form to take Protected Flora, where removal cannot be avoided.

Note: This guidance document supports the Take of Protected Flora application form, which does not apply to permits sought for deliberate take of flora for research or commercial purposes. For information on these permits, please visit <https://www.vic.gov.au/research-permits> or contact the Conservation Regulator via environmental.research@deeca.vic.gov.au.

Permit requirements under the Act

The Department of Energy, Environment and Climate Action (DEECA) issues FFG permits for Protected Flora. It is an offence to “take” Protected Flora listed under the FFG Act without a permit. Under Section 3 of the FFG Act, “Take” means to kill, injure, disturb or collect flora. “Collect” in this context means any part of the plant, including, bark, roots, flowers and seeds.

A detailed explanation of what constitutes “Protected Flora” and the associated permitting requirements under the FFG Act is provided in the [Declared Protected Flora Guidelines](#).

There are three ways that plants may qualify as Protected Flora:

1. All plant taxa (species, subspecies or varieties) listed as threatened under the FFG Act - [Flora and Fauna Guarantee Act 1988 Threatened List](#).
2. All plant taxa corresponding with [communities](#) listed as threatened under the FFG Act, where they occur in that community. For example, while River Red Gum is not itself a listed threatened species, it is protected when growing within an area classified as the Western Basalt Plains (River Red Gum) Grassy Woodland Community.
3. Plant taxa that are declared protected by the Governor in Council. These are not threatened but require protection for other reasons, such as because they are highly sought after for personal or commercial use, e.g. orchids and grass trees will be depleted in the wild if not afforded protection.

The FFG Act establishes different regulatory controls for two categories of Protected Flora:

- Restricted Use Protected Flora - A specified [subset](#) of the taxa declared protected by the Governor in Council (Point 3 above).
- All other Protected Flora, referred to in this guide as Generally Protected Flora - This includes the [remaining](#) declared taxa (Point 3) and all taxa covered under Points 1 and 2 above.

The table below summarises when a permit is required to take Protected Flora.

	Restricted Use Protected Flora	Generally Protected Flora
Incidental take ¹	No permit required	Permit required
Take for sale ²	Permit required	Permit required
Take for personal use ³	Permit required	Permit required

Notes:

1) Where plants are taken to make space for something else – for example, clearing for the construction or maintenance of a building, road, or pipeline; clearing for grazing or cropping; or clearing to construct a bushfire fuel break. Any take where the intent is not to obtain a specimen of the plant, but to simply remove it, is incidental take.

2) Includes take for the purpose of making the plant available for sale, regardless of whether it has actually been sold.

3) Includes any other reason for obtaining a specimen of the plant – for example, to collect or propagate, for use as food or fibre, or display.

Public authority duty

Prior to requesting a permit to Take Protected Flora, public authorities and ministers, under their obligation, or duty, are required to consider potential biodiversity impacts when exercising their functions, as set out in [Section 4B](#) of the FFG Act.

Consideration must be given to:

- The Biodiversity Strategy [Biodiversity 2037](#)
- [Action Statements](#)
- [Critical habitat determinations](#)
- [Management plans](#)
- Potential impacts to biodiversity, including:
 - Long and short-term impacts
 - Beneficial and detrimental impacts
 - Direct and indirect impacts
 - Cumulative impacts
 - The impacts of [potentially threatening processes](#).

Public authorities include Victorian government departments, certain statutory entities, Victoria Police, local councils, ministers, courts and tribunals, statutory bodies such as VicHealth, VicRoads and WorkSafe, water authorities, and other bodies declared by regulation to be public authorities or private companies performing functions on behalf of the Victorian Government.

Assessment Principles

The Secretary of DEECA, or their delegate, will assess the application based on the information provided in the form. The assessment is guided by the decision-making criteria set out in Regulation 9 of the [Flora and Fauna Guarantee Regulations 2020](#), which are listed on the application form for reference.

In accordance with Section 48(4) of the FFG Act, a permit cannot be issued to take Protected Flora if the Secretary, or their delegate, determines that doing so would threaten the conservation of the species or the ecological community of which it is a part.

Completing an application form for the Take of Protected Flora

Appendix 1 of this guide provides an example application form, with guiding notes to assist applicants.

For further assistance, please contact the relevant DEECA Natural Environment Programs (NEP) team:

- Barwon South West region - Bsw.environment@deeca.vic.gov.au
- Grampians region - Grampians.Environment@deeca.vic.gov.au
- Loddon Mallee region - Loddonmallee.Environment@deeca.vic.gov.au
- Gippsland region - Gippsland.Environment@deeca.vic.gov.au
- Port Phillip region - Ppr.nep@deeca.vic.gov.au
- Hume region - Hume_NEP@deeca.vic.gov.au

Permit extensions and variations

Should works be delayed beyond an issued FFG permit expiration date, it may be necessary to conduct another assessment and re-submit a new application for consideration.

Extensions of existing permits may be considered in certain circumstances, such as:

- Unforeseeable events e.g. natural disasters.
- Delays in the supply of materials or equipment.
- Legal or compliance issues, provided they are not associated with native vegetation removal or the FFG permit itself.

Variations may also be considered in certain circumstances, such as:

- Changes to the project scope.
- Increases or reductions in the amount of take.

Appendix 1 – Annotated application form template

1. Project details

Project name: <i>XX</i>		
Location: <i>XX (Append maps and aerial photos if available)</i>		
DEECA region: <i>Select from: Gippsland, Hume, Port Phillip, Loddon-Mallee, Grampians, Barwon South West. For help identifying which region a proposal falls into, refer to NVR Map</i>		
Key Contact: <i>XX</i>	Name: <i>XX</i>	
	Phone: <i>XX</i>	Email: <i>XX</i>
	Address: <i>XX</i>	

2. Information requirements

a) Is the Protected Flora proposed to be removed:

☒ Generally Protected Flora

☐ Restricted Use Protected Flora

[Refer to the definition of Protected Flora in this guide.](#)

b) Provide details on the species of Protected Flora proposed to be taken. Separate species into the appropriate tables for Generally Protected and Restricted Use Protected flora.

Generally Protected Flora

Common name	Scientific name	FFG status ¹	Quantity ²	Plant parts to be collected ³	Collection timing ⁴
<i>Purple Diuris</i>	<i>Diuris punctata</i>	<i>Endangered</i>	<i>7</i>	<i>Whole</i>	<i>Jan-Mar 2025</i>

Restricted Use Protected Flora

Common name	Scientific name	Quantity ²	Plant parts to be collected ³	Collection timing ⁴
-	-	-	-	-

Notes:

1 Critically Endangered, Endangered, Vulnerable, Threatened

2 Number, hectares

3 Whole, seed, stems, leaves, flowers.

4 Winter, spring, summer, autumn, all year, or specific date/ month

Ecological communities

FFG ecological community	Extent to be impacted/removed (ha)
<i>Western (Basalt) Plains Grasslands Community</i>	<i>0.8</i>

- c) Explain the reason for the “take” of the Protected Flora.

Note to applicants:

Describe the nature of the project or activity (e.g. infrastructure, development, land management) and how it directly results in the need to “take” (e.g. remove, damage, destroy, collect, or move) Protected Flora. Be specific about which species are affected and how.

Example response:

The proposed activity involves the widening of an existing rural road to improve traffic safety. As part of the road upgrade, a population of Purple Diuris (Diuris punctata), a Protected Flora species, will be impacted due to the extension of the road shoulder and associated earthworks.

- d) Explain why the take of Protected Flora cannot be avoided.

Note to applicants:

Demonstrate that avoidance has been actively considered. Include any options explored (e.g. redesigns, alternative alignments, micro-siting) and clearly explain why avoidance is not practicable given the project constraints.

Example response:

Avoidance of the Purple Diuris population was considered during project planning. However, the road alignment cannot be shifted further without compromising road safety and encroaching on a drainage easement on the opposite side. Adjustments to reduce the impact footprint have been made where feasible, but complete avoidance is not possible.

- e) If the Protected Flora forms part of a listed ecological community, describe the likely impacts of the proposed activity on the community’s extent, structural composition and habitat values.

Note to applicants:

If the flora is part of a listed ecological community, describe the scale and nature of the impact on that community’s area, integrity and habitat function. If not applicable, clearly state that the flora does not occur within a listed community.

There are no formal condition thresholds for FFG-listed communities. Field recognition should be guided by DEECA’s published [descriptions of community characteristics](#), and a precautionary approach should be applied to classification. Areas within the known distribution that contain representative species should be considered part of the listed community, including degraded or modified examples.

Example response:

The Protected Flora occurs within the Western (Basalt) Plains Grasslands Community listed under the FFG Act. Approximately 0.08 ha of this community will be removed. The impact will result in the loss of native grassland structure and reduction in habitat connectivity along the road verge. However, the majority of the grassland community in the surrounding area will remain intact and outside the development footprint.

- f) Explain what processes will be put in place to reduce the impact of the proposed activity, including any actions that may lead to a Potentially Threatening Process as listed under the FFG Act.

Note to applicants:

Outline the measures to reduce environmental harm, including best-practice construction protocols, timing, buffers and site restoration. Check the FFG list of Potentially Threatening Processes and address any relevant risks from the proposed activity.

Example response:

To minimise environmental impacts, construction will be limited to a defined footprint marked in the field. Machinery will be cleaned prior to site entry to prevent weed spread, and topsoil containing native seed will be salvaged and reused in rehabilitation areas.

The activity may contribute to a Potentially Threatening Process such as “Invasion of native vegetation by environmental weeds”; however, mitigation actions include a post-construction weed monitoring and management program for two years.

- g) Provide additional details including how the Protected Flora will be removed/ taken and the time of year of the proposed activity, or any other information to support your application.

Note to applicants:

Be clear about how and when the take will occur. Include methodology (e.g. excavation, mechanical removal), timing to reduce impacts, salvage or seed collection efforts, and how flora will be handled or relocated (if applicable).

Example response:

The flora will be removed during dry season works (January–March) to reduce soil compaction and seed spread risk. Plants will be hand-removed under supervision of a qualified ecologist and any individuals suitable for translocation will be relocated to an approved offset site in consultation with DEECA (see attached plan).

- h) Provide details of any engagement with the land manager.

Note to applicants:

Identify the land manager (e.g. local council, Parks Victoria, DEECA, private landholder) and summarise any correspondence or approvals. Attach letters or emails of support if available.

Example response:

The activity will occur on a local government-managed road reserve. The proponent has consulted with the local council, who provided in-principle support for the proposed road upgrade works and associated flora removal, subject to relevant approvals (see Attachment 4).

- i) Specify the preferred duration for the permit and why this length of time is required.

Note to applicants:

Nominate a realistic duration based on your project timeline. Consider including time for pre-works preparation, the activity itself, and any required follow-up such as monitoring or reporting.

Complete permit applications are generally processed by DEECA within 20 working days of submission.

Example response:

A permit duration of 24 months is requested to align with the scheduled completion of construction and post-impact monitoring commitments.

- j) Attach maps and supporting documents that relate to the proposal and the site's biodiversity values (e.g. biodiversity reports, compensation plans, obtained approvals, such as landowner consents, planning permits, *Marine and Coastal Act 2018* consents etc).

Attachment number	Description
1	Site plans
2	Construction Environmental Management Plan
3	Salvage and Translocation Plan
4	In-principle support from the landowner (local Council)