

Native Vegetation Newsletter 6

Update on the implementation of the Native Vegetation Regulations – June 2022



This newsletter contains recent updates from the Native Vegetation Regulation (NVR) team and addresses several commonly submitted queries relating to implementation of the regulations.

Support emails

To help us respond to queries as quickly as possible please submit your emails to the address that best matches your enquiry:

- Requests to generate a report in EnSym and any queries relating to the EnSym program:
EnSymNVRtool.Support@delwp.vic.gov.au
- Queries regarding the NVR, the implementation of the Native Vegetation Guidelines, and the NVIM removal and offset tools:
NativeVegetation.Support@delwp.vic.gov.au
- Queries regarding the assessment, management and establishment of offset sites:
NativeVegetation.OffsetManagement@delwp.vic.gov.au
- Queries regarding native vegetation credits, registering an offset site or the Native Vegetation Offset Register:
NativeVegetation.OffsetRegister@delwp.vic.gov.au
- Queries regarding payments and invoicing relating to offset sites:
NativeVegetation.OffsetPayments@delwp.vic.gov.au
- Queries regarding the Vegetation Quality Assessment (VQA) methodology and competency checks: Habitat.Hectares@delwp.vic.gov.au

Online training

An online training course is available to anyone seeking an overview of the NVR. The course is targeted at responsible and referral authorities who assess applications to remove native vegetation under Clause 52.16 or 52.17 of the Victoria Planning Provisions (VPP), Planning Scheme Amendments or other approval mechanisms. The course may also be useful for consultants who prepare planning permit applications to remove native vegetation.

The course is free and takes approximately two hours to complete. To request access to the training, please email NativeVegetation.Support@delwp.vic.gov.au.

VQA competency checks

The NVR team has delivered four in-person field-based VQA competency checks, aimed at new assessors, since the last newsletter was published in October 2021, with additional sessions proposed over the coming months (see below).

Due to Covid restrictions over the past two years, recertification sessions for site assessors were largely suspended, with the NVR team permitting extensions beyond the usual two-year certification period. This concession remains in place; however, transitional arrangements are being made and all assessors with lapsed certifications will soon be required to undergo recertification.

In June 2022, the NVR team will email all assessors with lapsed certifications and provide two options for renewal:

1. In-person recertification (same recertification method as current) through attendance at one of the in-person field days listed below; or

Native Vegetation Newsletter 6

2. Remote recertification (new option) whereby assessors complete an online questionnaire, attend a one-hour online session which will include a written exercise and undertake a field-based assessment that is submitted to the NVR team.

All assessors with lapsed certifications will be required to enrol for recertification by 30 September 2022, and certification will continue to be extended to the date of their enrolment. Note that this requirement relates to enrolment rather than achieving recertification within the three-month window to allow time for the NVR team to undertake the recertification sessions.

To enrol in a recertification session please email habitat.hectares@delwp.vic.gov.au and specify your preference for 'remote' session or a particular in-person session listed below.

The following in-person sessions at Warrandyte are available for assessors seeking initial certification or recertification (pending sufficient enrolments in each session):

- 1 July 2022
- 11 August 2022
- 2 September 2022
- 6 October 2022

In addition to addressing the recertification backlog, the NVR team will shortly document a process for addressing any reported issues with the VQA work produced by certified assessors.

What's new

Reporting

The following reports have been published on the DELWP website since publication of the last newsletter (<https://www.environment.vic.gov.au/nativevegetation/native-vegetation>):

- *Annual Report 2020 – 2021 - A report on the operations of the native vegetation removal regulations.*
- *Crown land exemption report, Removal and counterbalance activities 2020/21*

The NVR team is engaging with councils to source data for the 2021/22 Annual Report, including information relating to permitted removals and any established Section 173 offset sites. This data is essential for evaluating the no net loss objective and all councils are strongly encouraged to contribute.

EnSym website

The website for the EnSym NVR Tool has recently moved to this address -

<https://www.environment.vic.gov.au/native-vegetation/native-vegetation/ensym-native-vegetation-regulations-tool>.

The website contains an overview of the EnSym Tool, the spatial data standards, data templates, instructional videos and program installation instructions. Program installation files and licence keys can be requested by contacting EnSymNVRtool.Support@delwp.vic.gov.au.

Review of bushfire planning provisions

Over the past 10 years, the Victorian Government has delivered changes to how planning schemes consider bushfire with a focus on prioritising human life over other policy objectives. Many of these changes were in response to the recommendations made by the 2009 Victorian Bushfires Royal Commission.

The focus over the next year is to enhance the bushfire planning provisions by making them clearer. To this end, the DELWP Planning Group is undertaking a reform project, aimed at providing:

- A more usable state bushfire planning policy
- Clearer planning requirements for developing land in bushfire prone areas
- Better bushfire hazard assessments
- Improved processes for implementing bushfire-related planning permit conditions
- Training and capacity building opportunities.

The policy objective of prioritising life in decision making is not subject to review, nor are the provisions that support bushfire recovery and rebuilding in bushfire affected communities.

A discussion paper was released in December 2021 (<https://engage.vic.gov.au/bushfire-planning-made-clearer-options-victorias-planning-system>), with stakeholder information sessions held in January and February 2022. Submissions on the discussion paper closed in February 2022, with over 50 submissions received. Targeted consultations are underway and a work plan of recommendations is being prepared.

Please direct any queries regarding the reform project to planning.systems@delwp.vic.gov.au.

Native vegetation removal under particular provisions

As outlined in Section 3.1 of the latest Annual Report (<https://www.environment.vic.gov.au/nativevegetation/native-vegetation>), the permitted removal of native vegetation can occur under a variety of legislative instruments, for example - Clauses 52.16 and 52.17 of the VPP, Planning Scheme Amendments, licences issued under the *Pipelines Act 2005*, or Work Plans approved under the *Mineral Resources (Sustainable Development) Act 1990* etc.

Native Vegetation Newsletter 6

Native vegetation removal may also be approved under other particular provisions of the VPP and relevant planning schemes, including clauses:

- 52.03 – Level Crossing Removal Project
- 52.20 – Victoria's Big Housing Build
- 52.30 – State Project
- 52.35 – Major Road Projects
- 52.36 – Rail Projects

While these clauses provide certain industries and projects with an alternative approvals pathway, they still direct proponents to comply with the NVR. In contrast to approvals under Clauses 52.17 and 52.16, the above noted particular provisions:

- Require proponents to submit information to the satisfaction of the Secretary to DELWP, rather than apply to council for a permit to remove native vegetation.
- Allow proponents to remove native vegetation for preparatory works prior to securing an offset, if specified information is submitted to the satisfaction of the Secretary to DELWP (Clauses 52.03, 52.35 and 52.36 only).
- Permit the Secretary to DELWP to vary the timing of the offset requirement if there are exceptional circumstances to warrant a variation.

With respect to the variation of offset timing, this is only likely to apply to proponents who have triggered a Species Offset. The proponent would also need to demonstrate upfront that the required units can be sourced and that the offset owner is willing to supply them.

New exemptions for State transport projects

Planning Scheme Amendment VC200 was gazetted on 17 February 2022 to support the efficient and timely approval of state transport infrastructure delivered by or on behalf of the State of Victoria.

Amongst other updates, VC200:

- Amended Clause 72.01 (Responsible authority for this planning scheme) to make the Minister for Planning the responsible authority for a use or development (other than the subdivision of land) carried out by or on behalf of the Head, Transport for Victoria.
- Introduced the following two exemptions into Clause 52.17 of the VPP and all planning schemes:

- *Tram stops - Native vegetation that is to be removed, destroyed or lopped to the minimum extent necessary by or on behalf of the Head, Transport for Victoria to construct a tram stop, including a tram stop shelter.*
- *Transport land - Native vegetation that is to be removed, destroyed or lopped to the minimum extent necessary by or on behalf of the Head, Transport for Victoria on land in a Transport Zone, or land in a Public Acquisition Overlay if the Head, Transport for Victoria is the acquiring authority, to construct or maintain transport system infrastructure, 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 process of obtaining written agreement from the Secretary to DELWP for the above noted Transport Land exemption will be determined through upcoming consultation with the Department of Transport (DoT). The NVR team is also assessing implications for the Road Safety exemption and Railways exemption.

Melbourne Water integration

The Port Phillip and Westernport Catchment Management Authority (PPWCMA) integrated into Melbourne Water on 1 January 2022.

When a General Offset requirement is established under the NVR, the Native Vegetation Removal Report, produced by NVIM or EnSym, identifies the Catchment Management Authority (CMA) boundary or municipal district in which an offset must be located.

The NVIM and EnSym systems will be updated to reflect the integration and, in the meantime, any reference to PPWCMA should be taken to mean Melbourne Water. The CMA boundary remains unchanged.

Policy advice and other information

Audit into offsetting native vegetation loss on private land

On 11 May 2022, the Victorian Auditor-General's Office (VAGO) tabled a report on the findings of an audit into the offsetting of native vegetation loss on private land.

The authorities included in the audit were DELWP, Trust for Nature, Baw Baw Shire Council, Campaspe Shire Council, Nillumbik Shire Council and Yarra Ranges Shire Council.

VAGO made two recommendations to the audited councils to improve their management of native vegetation and four recommendations directly to DELWP to improve:

Native Vegetation Newsletter 6

- Reporting on the no-net-loss objective
- The currency and completeness of its datasets and its management of the Native Vegetation Offset Register
- Monitoring of clearing across the state, including the use of spatial imagery analysis
- Management of offset sites
- Support to councils in implementing the regulations.

VAGO also made another recommendation for both DELWP and the audited Councils to confirm the root causes for non-compliance with the NVR and determine strategies to effectively manage native vegetation clearing on private land.

Many of the actions identified are in progress and were already proposed to be incorporated within DELWP's forward workplan. Accordingly, DELWP has either accepted or accepted in principle each of the recommendations provided by VAGO.

The audit report, which incorporates responses from DELWP and the audited councils is available here - <https://www.audit.vic.gov.au/report/offsetting-native-vegetation-loss-private-land?section=>.

Native Vegetation Offset Register administration

Offset credits are commonly allocated to a range of instruments that permit the removal of native vegetation, including planning permits, planning scheme amendments, work plans, particular provisions and certain exemptions.

When requesting an Allocated Credit Extract from the NVR team, please ensure the following details are correct:

- Native Vegetation Removal Report ID
- Planning approval type (e.g. 52.17 permit)
- Planning permit identifier
- If the native vegetation removal is not subject to a planning permit, the full details of the approval instrument e.g. 'Utility Installations Exemption – Water Services Providers' rather than 'Exemption'
- Responsible authority, noting that DELWP is the responsible authority for most exemptions.

Process for reconciling offsets

Offsets can be reconciled at the end of a project so that any excess credits resulting from the avoidance of native vegetation impacts can be unallocated and banked or sold on. The process of reconciling offsets is outlined on Page 16 of the *Assessor's Handbook*.

To complete an offset reconciliation, the entire Allocated Credit Extract needs to be revoked using the *Revoking Form*, which can be provided by a registered broker or the NVR team. Once the credits have been revoked, a new Allocated Credit Extract will be issued for the actual removal upon receipt of a *Notification to Allocate Form*. A credit statement will be issued for any residual credits.

It is important to note the NVR team cannot revoke the credits without the responsible authority's signature on the *Revoking Form*. For further information please contact Nativevegetation.offsetregister@delwp.vic.gov.au.

Offset administration

To avoid unanticipated costs and/or delays in securing offsets please note the following reminders and clarifications:

- If a new third party offset site is being used to offset a loss, the 'offset statement' provided with the planning permit application should include a letter from the landowner stating that they are in principle willing to enter into a security agreement, providing assurance that the proposed offset strategy is able to be implemented (Page 14 of the *Assessor's Handbook*)
- When a single removal event triggers both Commonwealth and Victorian offset requirements, these can be met from the same offset site/zone, provided:
 - The purchase of Commonwealth and Victorian offsets occurs at the same time
 - The allocation of Commonwealth and Victorian offsets occurs at the same time
 - Evidence is provided demonstrating that a single removal impact will take place over the same land and this land has both Commonwealth and Victorian offset requirements.
- Any written agreement provided by the Secretary to DELWP to rely on an alternative offset arrangement does not indemnify proponents from the offset eligibility requirements. To execute the alternative offset arrangement, the proposed offset site needs to undergo the usual quality assurance process. Prior to the removal of native vegetation, evidence must be provided to the responsible authority that the offset is secured in accordance with Section 8 of the Native Vegetation Guidelines.

Compliance and enforcement

The following information is provided to support Councils in meeting their obligations for native vegetation compliance and enforcement under the *Planning and Environment Act 1987*:

Native Vegetation Newsletter 6

- The Municipal Association of Victoria (MAV) hosts a Native Vegetation Compliance Community of Practice (NVCCoP) for Local Government officers and DELWP staff with a specific interest in native vegetation regulation, compliance and enforcement. The NVCCoP aims to:
 - Develop resources that can be shared amongst members of the group
 - Capture existing knowledge and information about native vegetation regulation and compliance
 - Support collaborative processes to solve compliance and enforcement cases.

MAV hosts the NVCCoP virtual team room and holds seminars to bring practitioners together to discuss and share approaches and opportunities relating to native vegetation compliance.

Current staff of Victorian councils and relevant government departments can request access to the NVCCoP via the following link - <https://forms.office.com/r/a2BHiMf2pa>.

- In cases of unpermitted or accidental native vegetation removal, the Native Vegetation Offset Register can issue Allocated Credit Extracts for the purchase of native vegetation credits to offset this removal.
- The NVR team requests that the conditions of any permits issued to remove native vegetation include reference to the associated Native Vegetation Removal Report ID, which can be found on Native Vegetation Removal Reports developed in NVIM or EnSym. This will provide transparency with respect to the approved extent of clearing and support compliance activities.

Exemption endorsements

There are several exemptions under the NVR that may require proponents to submit a *Project Endorsement Form* to the regional DELWP Natural Environment Program (NEP) team e.g. for low impact construction works under the Road Safety Exemption.

For reasons relating to accountability and compliance/enforcement, only the organisation with written agreement to rely on the exemption is permitted to seek project endorsement. Contractors undertaking works on behalf of an approved organisation cannot seek endorsement.

VQA records

The NVR team has recently received several queries regarding the data collection requirements for VQAs.

Site assessors can download blank VQA field assessment sheets from the DELWP website. The VQA Manual (Page 9) acknowledges that VQA data may be collected via a range of methods, including field sheets or hand-held computers.

The NVR team confirms that there is no requirement to complete hard copy field assessment sheets, so long as the required data is collected and can be supplied in a clear format at the request of DELWP or the responsible authority.

Treatment of Sifton Bush (*Cassinia sifton*) under the NVR

Sifton Bush is a drought tolerant, unpalatable and disturbance responsive shrub with an expanding range across Victoria. The origin status of the species is contentious, with speculation that it may have been introduced to Victoria from New South Wales by miners during the major gold rushes of the 1850s. Accordingly, Royal Botanic Gardens Victoria classify the establishment means of Sifton Bush as 'Uncertain' on the VicFlora website.

For the purpose of the NVR, a plant must be classified as either indigenous or non-indigenous to Victoria. To this end, the NVR team has completed a process of expert elicitation to provide certainty regarding the treatment of Sifton Bush under the NVR.

Based on expert advice, the Victorian Biodiversity Atlas (VBA) has been updated to classify Sifton Bush as '*Native but some stands may be alien*', which is the same classification applied to other naturalised native plants like Sweet Pittosporum (*Pittosporum undulatum*).

It is the NVR team's position that Sifton Bush is indigenous to Victoria. As such, **unless an exemption applies, a planning permit is required to remove Sifton Bush regardless of where it occurs in the State.**

When conducting a VQA, similar to other naturalised natives, Sifton Bush should be treated as a native understorey species within its natural range and as a native weed outside its natural range. The natural range of Sifton Bush is inherently subjective and should be considered on a case-by-case basis. It is the NVR team's position that Sifton Bush is generally synonymous with Box Ironbark Forest and that the natural range of the species lies within the Goldfields, Central Victorian Uplands, Northern Inland Slopes and Victorian Riverina bioregions.

Conservation Work Exemption Case Study –

The Conservation Work Exemption (CWE) was incorporated into the VPP in December 2017, following the gazettal of Planning Scheme Amendment VC138.

The exemption allows native vegetation to be removed without a planning permit under Clauses 52.16 and 52.17 of the VPP and relevant planning scheme when:

- The proposed removal will result in an overall improvement for biodiversity; and
- Written agreement is provided by the Secretary to DELWP.

The NVR team receives applications to rely on the CWE and administers the provision of written agreement from the Secretary to DELWP (or a delegate).

Since incorporation of the CWE, the NVR team has received applications from a range of stakeholders, covering a diverse assortment of conservation-focussed activities, including:

- Ecological thinning of overabundant native trees and shrubs
- Weed treatments requiring the removal of native vegetation, including naturalised native plants
- Environmental watering
- Wetland construction
- Ecological research
- Cultural burning
- Grassland restoration.

The following case study provides an example of how the CWE is being used to support significant conservation projects.

Reconnecting diverse native grassland on the Woorndoo-Dundonnell Road, Woorndoo

In October 2021, the Woorndoo Chatsworth Landcare Group (WCLG) received written agreement to rely on the CWE when undertaking a grassland restoration project at Woorndoo, within the Barwon South West region.

The project aims to establish a continuous and diverse native grassland by repairing and re-connecting patches of Kangaroo Grass (*Themeda triandra*) dominated Plains Grassland within an approximate 850 metre section of the Woorndoo-Dundonnell Road reserve.

A drone survey enabled the mapping of Plains Grassland patches and the intervening areas of exotic vegetation. Following recent burning, the rapid re-growth of Kangaroo Grass and exotic pasture grasses has further delineated areas between native patches for treatment.

Treatment areas will be subject to soil stripping, with approximately 80-100mm of topsoil removed to reduce weed propagules in the soil seed bank and elevated nutrient levels. Following this, the treatment areas will be revegetated through the mechanical direct sowing of local native grasses and forbs, with seeds sourced from field collections, local in-ground grass crops and the WCLG nursery. The treatment areas will be further enhanced through the planting from tube stock of locally significant forb species including Common Everlasting (*Chrysocephalum apiculatum*), Bulbine Lily (*Bulbine bulbosa*), Chocolate Lily (*Arthropodium strictum* and *Arthropodium* sp. 3), Clover Glycine (*Glycine latrobeana*) and Blue Devil (*Eryngium ovinum*). Each species will be planted in sufficient numbers to have the potential to form sustainable populations.

Following these treatments, WCLG will establish a weed control program and undertake monitoring to gauge the success of the project and support adaptive management.



Image 1. Treatment site. Phalaris dominated vegetation in the foreground; Themeda grassland remnant on the slope in the distance.

The anticipated gains from this restoration project are reinforced by the outcomes of a similar restoration project undertaken by WCLG in 2013, within the road reserve of the nearby Woorndoo-Streatham Road. This previously cropped site was successfully converted to a diverse, high-quality 1.25-hectare native grassland. A further 1.25 hectares was direct sown in 2019 with funding from a DELWP Community Volunteer Action Grant.

Native Vegetation Newsletter 6

Images 2 and 3. Restored native grassland on Woorndoo-Streatham Road. Direct sown in 2013. Photographed in late spring 2018 (top) and mid-summer 2021 (bottom).



At the time of publishing this newsletter, the project is about to commence soil stripping within the treatment areas. This will be followed by any necessary weed control and direct sowing in spring.

The written agreement issued in October 2021 allowed WCLG to avoid applying for a permit to remove, destroy or lop native vegetation and avoided the prospect of having to secure native vegetation offsets. Application of the exemption acknowledges that this project directly addresses the continuing decline in the extent and quality of natural temperate grassland in Victoria and is anticipated to become an exemplar for further restoration projects within the Woorndoo district.

This case study provides just one example of how the CWE is supporting conservation projects.

In 2021, the NVR team developed a guidance note to support applicants applying for written agreement to access the CWE and a template for small-scale proposals. Both documents are available on the DELWP website

(<https://www.environment.vic.gov.au/native-vegetation/native-vegetation/exemptions-from-requiring-a-permit>).

If you have any queries regarding the CWE or application process, please email Nativevegetation.support@delwp.vic.gov.au.

