

Written agreement exemptions (transport) – Cumulative impact criteria

NVR Guidance note

Victorian Planning Provisions – Clause 52.17 (Native vegetation)

A [Clause 52.17](#) (Native vegetation) planning permit from council is required to remove, destroy or lop native vegetation unless there is an exemption to that requirement. A standard planning permit application must address the application requirements of the [Guidelines for the removal, destruction or lopping of native vegetation](#) (Guidelines).

Guidelines - Application requirement 4 (Cumulative impact)

Under the standard application of the Guidelines, Application requirement 4 requires an applicant to provide details of any past removal so that extent can be considered for cumulative impacts to species habitat in the assessment of a current application.

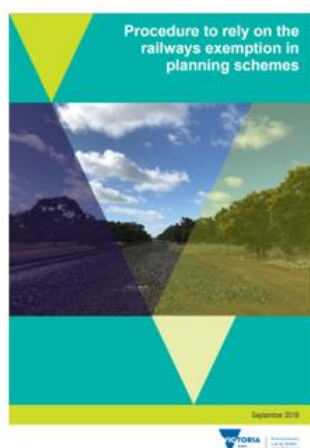
The applicant must provide the extent of any native vegetation approved for removal or removed without the required approvals within the previous five years on the same property, or contiguous land in the same ownership as the applicant.

This enables the consideration of cumulative impact to species habitat from multiple removal events which are within a confined vicinity (i.e., property). The area of past removal does not incur additional offset requirements, but the extent of area may influence the assessment pathway, or whether impact to species habitat will trigger a species offset requirement for the area of proposed removal.

Exemptions

The following Clause 52.17 exemptions are related to transport organisations which are responsible for the day to day ongoing safe and efficient operation of the transport network. Access to the exemptions requires written agreement from the Secretary to the Department of Energy, Environment and Climate Action (DEECA). Written agreement removes the requirement for a permit. However, it is provided on the condition that native vegetation removal is undertaken in accordance with a procedure that considers the application requirements, including Application requirement 4 of the Guidelines.

- Railways – [Railways procedure](#)
- Road safety – [Road safety procedure](#)



Written agreement – Cumulative impact

Each procedure requires consideration of past approvals, however, to date it has been difficult to definitively determine which past approvals should be considered. This has resulted in project planning uncertainty. Due to the nature (ongoing) and location (Crown land) of construction works under these exemptions an amended approach to considering cumulative impact to species habitat is required.

Purpose of guidance note

This guidance note is only applied to endorsed construction work undertaken by, or on behalf of, organisations who have been provided written agreement to rely on one of the above-mentioned exemptions. It has been developed to consider cumulative impact to species habitat from small scale upgrades and improvements these organisations must undertake on an ongoing basis to ensure the safe and efficient operation of infrastructure.

These operators have an ongoing responsibility to maintain the safe and efficient operation of transport infrastructure. This results in native vegetation removal associated with multiple pieces of work addressing an array of network issues often near one another.

This guidance note defines the extent of past and concurrent removal which must be considered for the purpose of assessing cumulative impact to species habitat from native vegetation removal under the exemptions mentioned above, while still enabling organisations to respond quickly to identified operational issues.

This guidance note is meant to be used in conjunction with the construction component of the relevant procedure.

Note:

Although this guidance note is intended to consider all possible scenarios, it is likely that scenarios will arise that do not fit neatly into this guidance. When such scenarios arise, it is expected that each project manager will discuss the subject proposal with regional DEECA staff to apply a practical and sensible approach.

Note:

This guidance note is designed specifically for road and rail operators. However, it may be considered in relation to other exemptions requiring written agreement to enable organisations to carry out works on linear infrastructure.

Excluded activities

Native vegetation removal for the following scenarios is not considered for cumulative impact.

Maintenance activities

- Native vegetation removal for **maintenance activities**, as defined in the relevant procedure.

Other approval pathways

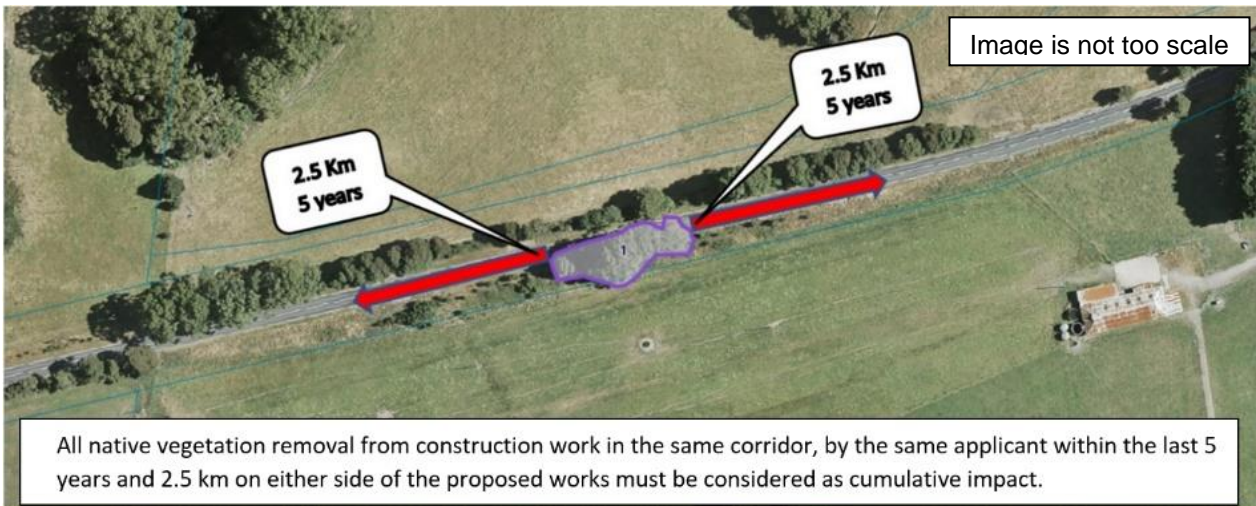
- Native vegetation removal approved under **other approval** mechanisms. Other approvals typically include Clause 52.16 and 52.17 planning permits, planning scheme amendments and approvals through other local planning provisions.

Cumulative impact - Criteria

The following set of criteria will enable proponents and assessors to clearly determine the extent of past or concurrent native vegetation removal which must be included in applications seeking endorsement under one of the relevant written agreement exemptions.

Where **all** the following criteria are met, impacts must be considered cumulatively.

1. **Applicant** – All past and concurrent works must have been undertaken by the same proponent who was granted written agreement to rely on a relevant exemption.
 - This includes contractors delivering works on behalf of the proponent.
2. **Approval pathway** – All past and concurrent works must have been or are currently seeking endorsement under the same exemption procedure.
 - Works approved under other approval pathways are not considered.
3. **Time period** – All past and concurrent works must have been endorsed in the previous 5 years from the date of lodging the request for endorsement.
 - The date of past endorsement is used, rather than the date of actual removal.
4. **Infrastructure** – All past and concurrent works must be either within the same transport reserve, or train station precinct (train station precincts are considered separate pieces of infrastructure from the transport reserve).
 - Roundabouts, intersections, or junctions are considered part of the larger piece of linear infrastructure.
5. **Vicinity** – All past and concurrent works must be either within 2.5 km from the proposed works, or within the same train station precinct.
 - For linear infrastructure, distance is measured from the outer edge of proposed native vegetation removal to the nearest edge of past or concurrent removal, which will result in a total distance of ~5 km plus project footprint.



- Train station precincts include the buildings, platforms, parking lots and any other ancillary area or structure managed by the rail agency which is associate with the operation of the train station.

Quick reference

Use this quick reference flow chart in conjunction with the more detailed Cumulative impact criteria section from above to determine if past or concurrent construction works should be considered as cumulative impact.

New construction work proposed		
Are there any past or concurrent projects:		
Criterion 1	By the same applicant?	Yes
		↓
Criterion 2	Endorsed under the same exemption?	Yes
		↓
Criterion 3	Approved within the past five years?	Yes
		↓
Criterion 4	On the same piece of infrastructure or within the same train precinct?	Yes
		↓
Criterion 5	Within 2.5 Km or within the same train station precinct?	Yes
<ul style="list-style-type: none"> • If all answers are Yes, consider the past or concurrent project as cumulative impact 		
<ul style="list-style-type: none"> • If any answers are No, do not consider the past or concurrent project as cumulative impact 		