

Fire protection (roadside fuel reduction) exemption



Application guidance – March 2023



The *Fire protection (roadside fuel reduction)* exemption can be relied on by road authorities for native vegetation removal that will reduce the risk of bushfire on roadsides.

This document assists road authorities understand the requirements and prepare an application seeking approval to rely on the exemption. It replaces the previous guidance published in February 2012 (*Roadside Vegetation Management for bushfire risk mitigation purposes – A guidelines for road managers*).

Native vegetation regulations

Native vegetation is defined in the Victoria Planning Provisions (VPP) as all plants that are indigenous to Victoria, including trees, shrubs, herbs, and grasses. Victoria's biodiversity is directly related to the variety and abundance of native vegetation across the state, as it provides habitat for wildlife and delivers a range of ecosystem services.

A planning permit, under Clause 52.17 or Clause 52.16 of all local planning schemes is required to remove native vegetation, including dead vegetation,

unless a relevant exemption to that requirement applies.

The Fire protection (roadside fuel reduction) exemption

Clauses 52.16 and 52.17 of all planning schemes contain the *Fire protection* exemption, which includes a specific exemption enabling road authorities to reduce roadside bushfire risk.

'The requirement to obtain a permit does not apply to native vegetation that is to be removed, destroyed or lopped to the minimum extent necessary to minimise 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 Energy, Environment and Climate Action (as constituted under Part 2 of the Conservation, Forest and Lands Act 1987). In this exemption, roadside, public road and responsible authority have the same meaning as in section 3 of the Road Management Act 2004.'

Scope of exemption

The exemption is available to all road authorities proposing treatments on roadsides to meet one or more of the following fire management objectives set out in the *Roadside Fire Management Guidelines (CFA 2001)*

- Objective 1 – Prevent fires on roadsides

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- Objective 2 – Contain roadside fires
- Objective 3 – Manage safety of road users
- Objective 4 – Provide control lines

The vegetation treatments (actions resulting in vegetation removal) available under this exemption are limited to those which are unlikely to have significant biodiversity impact to roadside vegetation. Vegetation treatments accepted under this exemption include the removal of:

- Fallen trees, branches, and debris
- Grasses and understorey shrubs
- Hazardous trees deemed clear and present danger trees/branches, including those that are likely to fall onto the road because of high winds before or during a bushfire
- Vegetation associated with the maintenance of existing bushfire mitigation works such as established fuel breaks, control lines and access tracks.

Non-exempt vegetation treatments:

The following vegetation treatments are likely to have a significant impact and will require a planning permit:

- Removal of all trees within the fall line of the road,
- Broadscale removal of grasslands using chemicals, grading, or ploughing.

Strategic planning

This exemption is intended to be used as a tool to assist road authorities with their strategic long-term planning to reduce the risk to life and property along roads with an elevated bushfire risk rating.

The use of other exemptions, as outlined in [Application of Clause 52.17 exemptions enabling road authority bushfire risk reduction activities](#) may be a more timely option when undertaking vegetation treatments to reduce bushfire risk along roads. Please check how the use of these exemptions apply in that document as additional or secondary approval is not required.

- Dead native vegetation
- Fire protection
 - Fire fighting
 - Planned burning
 - Fuel break/firefighting access tracks
 - Fire prevention notice
 - Electric line clearance
- Grasses

- Planted vegetation
- Regrowth
- Road safety (Maintenance component)
- Weeds

Note - Any strategic planning process must also address requirements under all other relevant pieces of legislation.

Application template

A template, which addresses all application criteria, should be used to seek written agreement to rely on the Fire protection (roadside fuel reduction) exemption proposals. The [Application template](#) is available on DEECA’s website.

A summary of the required criteria is detailed in the next section of this guidance.

This template is meant for target areas along roadways. It may not be suitable for applications targeting bushfire reduction across the broader road network.

Application steps

Step 1

Compile all the relevant information to apply. See Application criteria below.

Step 2

Complete the application template, *Fire protection (roadside fuel reduction) exemption – Application template to rely on exemption*.

Step 3

Submit a completed application to DEECA’s Native Vegetation Regulations team at Nativevegetation.support@delwp.vic.gov.au

The NVR team:

- Check application for completeness
- Will consult with the relevant DEECA Natural Environment Programs Team
- Assess the application to ensure compliance with the application criteria.
- Once all application criteria have been satisfactorily addressed, respond to the road authority with written agreement within 20 working days.

Application Criteria

The following information must be included as part of the application and work plan to obtain written agreement from the Secretary to DEECA.

The numbered criteria below correspond to information required on the template.

1. Road authority and treatment location details

Complete this table with the appropriate project location and contact details.

- **Responsible road authority** – Name of the authority responsible for the road.
- **Organisation doing the work** – Provide the name of the contractor or organisation doing the work (e.g., DEECA)
- **Contact** – Name, position, email, and phone number of the staff member responsible for the project.
- **Timing of works** – Provide the approximate time of year (month) you expect the works will occur.
- **Road name** – Name of the road or roads where the works will occur.
- **Local government area** – Name of the municipal area(s) where the work will occur.
- **Catchment management authority (CMA)** – Name of the CMA(s) where the works will occur.
- **Work plan reference ID** – Provide a unique reference number for the work plan.
- **Safer together program** – Indicate (Y/N) whether the proposed works are part of the Safer together program.
- **Brief description of works** – Provide a few sentences describing the fuel reduction program, fire management objective, vegetation treatment and extent of works. More detailed information is asked later in the application.

2. Bushfire risk assessment

This exemption is limited to roadsides which have been identified as having a high risk to life and property from bushfire.

- a) **Methodology** - A bushfire risk assessment methodology must be used to identify the roadside risk posed by bushfire. Provide the name of the methodology used and provide a brief description of the method.

Include the methodology as an attachment to the application.

- b) **Fire management plan** – The proposed treatment area must be referenced in a relevant strategic or landscape scale fire management

plan as an area identified as high risk. Provide the name of this plan and refer to the section which references the proposed treatment area.

Include the fire management plan as an attachment to the application.

- c) **Treatment selection** - Treatment refers to the type of vegetation removal chosen to reduce the bushfire risk identified from the bushfire risk assessment.

The treatment must be considered by a relevant multi-agency group with representation from fire management staff and biodiversity staff with the intention of designing works to avoid or minimise significant impact to biodiversity values.

Provide the names of the agencies involved in the multi-agency group.

- d) **Workplan endorsement** – A work plan, including its treatments must be endorsed by the Municipal Fire Management Planning committee. Provide the date the work plan was endorsed, along with any relevant commentary.

Provide evidence (e.g., minutes) of the endorsement as an attachment.

3. Biodiversity values impacted

Provide a description of the native vegetation within the area that will be treated. It is recommended to consult the following datasets and verify the on-ground status within the treatment areas.

- Native vegetation extent
- Ecological Vegetation Class Pre 1750
- Native vegetation condition
- Environmental overlays
- Victorian Biodiversity Atlas (within 500 metres of treatment area)
- DEECA Natural Environment Programs staff

- a) **Describe method** – Describe the data sets (or assessment method) used to identify biodiversity values within and directly adjacent to the treatment area. Site assessments may be required for due diligence under the FFG Act.

- b) **Treatment area extent** – Include the extent in hectares of the entire area to be treated. The treatment area may be contiguous or in separate locations.

- c) **Describe the vegetation to be removed** – briefly detail the type and condition of vegetation to be removed within the treatment area.

– Ecological Vegetation Class (EVC). List the EVC(s) which will be impacted by the vegetation treatment.

- Vegetation condition. Succinctly describe the type and condition of the vegetation to be treated, including the quality of the canopy and understorey compared to its EVC benchmark. Is it weedy, predominately regrowth or degraded?
 - Large trees. If large trees will be removed, provide the reason for removal and the number (actual or estimate) to be removed.
- d) **Minimum extent necessary** – Explain the planning or mitigation measures in place to keep native vegetation removal to only what is necessary to achieve the fire management objective. Efforts may include:
- Ensuring contractors are aware of treatment and non-treatment areas.
 - Removing hazard limbs rather than whole trees
 - Less impactful removal methods such as road-based or handheld equipment.
 - Thinning understorey shrubs rather than total removal
 - Avoiding listed threatened species with clearly defined exclusion zones.
- e) **FFG due diligence check** - The Fire protection exemption does not exempt obligations under the *Flora and Fauna Guarantee Act 1987*. A check for impacts to values under the FFG Act should be carried out at this time. Indicate whether an FFG Act due diligence check has been carried out, and whether there are any impacts to consider.

4. Attachments

Provide the following information as attachments. The information provided for the criteria above should be a brief description of what is in the attachments.

- a) **Bushfire risk assessment**
- b) **Fire management plan**
- c) **Map of Biodiversity values in treatment area** – Map(s) must show treatment area in landscape context, and identify EVC(s), VBA records and environmental overlays.
- d) **Municipal endorsement of work plan**
- e) **Shape file of treatment area** – This shape file will be used by DELWP to geospatially record the treatment area.
- f) **Photos** – These must represent the current type and condition of the vegetation within the treatment area.

g) 5. Work plan

Provide the following information detailing the works

- a) **Summary** – Provide the treatment location and treatment attributes (Road name, Time of works, Bushfire risk rating, Fire management objective, Vegetation treatment, Treatment area extent (ha), Additional approvals required)
- b) **Vegetation treatment methodology** – Describe how the vegetation will be removed, and any avoid and minimise, or mitigation measures to be applied.

Include the ongoing maintenance which will occur to maintain the fuel reduced level reached by this work.

- c) **Hazardous tree methodology** – If ‘clear and present danger trees’ have been identified for removal, describe the hazardous tree assessment methodology adopted. It is advised to use the Emergency Management Victoria, Joint Standard Operating Procedure (SOP JO8.03) to identify clear and present danger trees’.

Flora and Fauna Guarantee Act 1987

The fire protection (roadside fuel reduction) exemption **does not** apply to requirements under the FFG Act. A permit is required to 'take' any protected flora listed under the Act. The FFG Act defines take to mean kill, injure, disturb, or collect.

As part of biodiversity value checks for bushfire risk reduction activities under this exemption, it is strongly recommended to include checks for impacts to FFG Act listed species and communities. DEECA regional biodiversity staff can provide advice on the most appropriate process to identify values and seek approval to take protected flora listed under the Act.

A due diligence check will include searching for records on the Victorian Biodiversity Atlas (VBA), Nature Kit, onsite inspections, and any local government records.

For further information regarding requirements under the FFG Act or advice on correct processes to follow, please contact the relevant DEECA region:

- Port Phillip and Westernport:
ppr.planning@delwp.vic.gov.au
- Barwon South West:
bsw.environment@delwp.vic.gov.au
- Grampians:
Grampians.environment@delwp.vic.gov.au
- Loddon Mallee:
Loddonmallee.environment@delwp.vic.gov.au
- Hume:
Humeregion.planning@delwp.vic.gov.au
- Gippsland:
Gippsland.environment@delwp.vic.gov.au

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