

Northern Victoria Irrigation Development Guidelines



Fact Sheet 4 - Native Vegetation Protection

This factsheet is part of an information kit to assist developers of new irrigation developments in complying with the New Irrigation Development Guidelines 2020 (the Guidelines). Protection of native vegetation is a component of seeking approval for a proposed development.

WHERE TO START

All developers of new irrigation developments (and significant re-developments) within Goulburn Murray Water (GMW) region of Northern Victoria must follow the Guidelines. Fundamental in this process is protecting native vegetation and biodiversity from damage or loss caused by the construction or operation of a new irrigation development.

Contact an Irrigation Development Coordinator

Agriculture Victoria employs Irrigation Development Coordinators (IDCs) in Northern Victoria to provide information about the Guidelines and to guide applicants through the approvals process, including what to do regarding native vegetation.

The IDC service is provided at no charge and can save developers considerable time and resources.

IDC contacts:

Echuca (west of the Goulburn River to Nyah)

- Kathy Long, Agriculture Victoria, PO Box 441, Echuca, Vic. 3564
kathy.long@agriculture.vic.gov.au

Rutherglen (east of the Goulburn River and the North East).

- Dennis Watson, Agriculture Victoria, 124 Chiltern Valley Road, Rutherglen, Vic 3685
dennis.watson@agriculture.vic.gov.au

Complete an Irrigation Development Application Form

To commence the approval process, developers must obtain an Irrigation Development Application Form from the relevant IDC. Return the completed form to the IDC.

The completed Irrigation Development Application Form provides the basis for preliminary assessments. The IDC will undertake a desktop analysis to examine readily known issues which may prevent the development from going ahead and/or have a large impact upon the viability of the development. A site visit may be required to clarify development issues that may require further investigation. This process will identify the likely native vegetation protection requirements.

WHAT TO EXPECT

All applicants must demonstrate that they have avoided the removal, destruction or lopping of native vegetation. They must also demonstrate that they have considered the impacts on biodiversity, including the risk of consequential or cumulative losses. For example, they should consider whether the change will result in the death of trees or other vegetation.

These issues should be discussed at an early stage of the approvals process. It is easier to develop proposals that avoid loss if they consider the requirement from the outset. This also helps to avoid disappointment and frustration in having to alter designs late in the process.

What is native vegetation?

Native vegetation includes all trees (including dead standing trees greater than 40cm DBH), shrubs, herbs and grasses that are indigenous to Victoria.

There are a number of legal mechanisms that may apply to protect native vegetation. These are explained in general terms below.

The IDC, staff from the Department of Energy, Environment, and Climate Action (formally Department of Environment, Land, Water and Planning), and local government will provide guidance. It is the responsibility of the developer to understand and follow the relevant legislation and requirements.



Planning and Environment Act 1987

Under this Act, all Victorian planning schemes contain state standard particular provisions (*clause 52.17 Native vegetation*) that requires a planning permit to remove, destroy or lop native vegetation. This includes regrowth vegetation greater than ten years old on land that was lawfully cleared.

Assumed losses

Removal of native vegetation through assumed losses arises from works and activities which:

- cause excessive lopping and the use or development to be in close proximity to trees, and
- Indirect impacts.

Lopping or removal of more than one third of a canopy tree, as provided for in the 'lopping and pruning for maintenance' exemption, is treated as assumed loss unless an arborist report concludes the tree will survive.

Developments can cause indirect loss of native vegetation due to encroachment, especially through compaction and excavation in close proximity to tree roots (even though the tree has not been physically removed).

All trees have a Tree Protection Zone (TPZ) which is the area above and below the ground, set aside for protection of the tree's canopy and roots so it remains viable. The TPZ is 12 times the tree trunk diameter, measured at a height of 1.4 metres, and should not be less than 2m or greater than 15m.

Unless an arborist report indicates otherwise, a tree or trees are deemed lost if the encroachment (such as excavation for trenching, changes in soil level, cultivation, placement of fill, storage of items, parking of vehicles etc..) into a TPZ is greater than 10 per cent or inside the Structural Root Zone.

Other Indirect impacts that may destroy native vegetation include shading, changes to hydrology, effluent discharge, and stormwater runoff.

Any works within the TPZ or likely to have indirect impacts need to be included in an application for native vegetation removal.

Vegetation buffers may help reduce the need for a planning permit application to remove native vegetation and further information can be found on Fact Sheet – Buffer Standards for the Protection of Biodiversity.

Exemptions to a permit to remove, destroy, or lop native vegetation

Some exemptions may apply which can be found on the [DELWP website](#). Exemptions often contain conditional information outlining the circumstances and conditions under which the vegetation can be removed, destroyed, or lopped.

For example, planted native vegetation may be removed, destroyed, or lopped if it was either planted or grown from direct seeding. However, this exemption does not apply to native vegetation planted or managed with public funding for the purposes of land protection or enhancing biodiversity, unless in accordance with written permission of the agency (or its successor) that provided the funding.

Native vegetation removal under exemptions, should always be in accordance with the intent and conditions of the exemption, and to the minimum extent necessary.

You also need to check what other planning controls apply to land first, such as zones or overlays, that may 'override' exemptions under *clause 52.17 Native vegetation* and require a planning permit for the removal. If unsure, check with your local council's planning team.



Planning permit application to removal native vegetation and offsets

Planning permit applications to remove native vegetation and the calculation of offset requirements must comply with the DELWP (2017) *Guidelines for the removal, destruction or lopping of native vegetation*.

Applications to remove native vegetation are categorised into one of three pathways which reflect the level of assessment required. For current information:

- Contact your local council
- Visit the [Farming and Native Vegetation Portal](#)
- See DEECA's:
 - [Native Vegetation website](#) and/or
 - [Native vegetation removal regulations - Applicant's guide \(2023\)](#)

An 'offset' is an area of native vegetation or revegetation that is permanently protected and actively managed to control threats such as pests and weeds. Prior to the removal of any native vegetation, an offset may be required to be provided to compensate for the impact on biodiversity. The type and amount of offset required depends on the native vegetation being removed and the contribution it makes to Victoria's biodiversity.

The IDC can provide preliminary guidance regarding offset requirements. The DEECA [website](#) has more information on offsets for the removal of native vegetation including a list of vegetation brokers.

Flora and Fauna Guarantee (FFG) Act 1988

Some native plants including wattles (*Acacia sp.*), daisies (*Asteraceae sp.*) and rare plants have additional protection. A Protected Flora Permit for works on public land must be obtained if the works may affect plants or ecological communities listed in the Protected Flora List (DELWP 2017). Protected Flora Permits can be obtained from the regional DEECA office. See the DEECA's website for more information on the [Flora and Fauna Guarantee Act 1988](#) or contact your regional Hume or Loddon Mallee (Loddonmallee.environment@delwp.vic.gov.au) office.



Environment Effects (EE) Act 1978

If the proposed project could have a significant effect on the environment, it must be referred to the Minister for Planning for a decision on whether an Environmental Effects Statement is required. The [criteria for environmental effects referral](#) include clearing 10 hectares or more of native vegetation, potential impacts on threatened species, important wetlands, and/or Aboriginal cultural heritage. Pre-referral consultation with the DEECA Referrals Coordinator (03) 8392 5503 is encouraged.

Environment Protection and Biodiversity Conservation (EPBC) Act 1999

If the proposed project could impact on any matters of national environmental significance, it must be referred to the Commonwealth Government under the Federal EPBC Act.

Matters include nationally threatened species and communities such as Regent Parrots (nationally vulnerable). The [Significant Impact Guidelines](#) outline a self-assessment process to determine if you need to refer your project.

If a project is referred, the Commonwealth will advise if the project is a Controlled Action requiring assessment against the requirements of the Federal EPBC Act.

Environmental assessment bilateral agreement

The [bilateral agreement](#) between Victoria and the Commonwealth Government avoids duplication of assessment processes. Victoria can assess proposals that the Commonwealth has determined as controlled actions under the EPBC Act and are also likely to have a significant impact on the environment under the Victorian EE Act. The Commonwealth will still make the approval decision under the EPBC Act, relying on the assessment report prepared by the relevant Victorian decision-maker.

DEVELOPER RESPONSIBILITIES

It is the developer's responsibility to ensure compliance under the above legislation. In this context all new developments must proceed within the framework of this legislation.

The developer is responsible for understanding that significant penalties apply for breaches of any relevant Act listed above.

For all activities there are reporting and compliance requirements that need to be met when undertaking works.



FURTHER INFORMATION

The IDC can provide an information kit containing related fact sheets:

- Irrigation and drainage plan
- Protecting Aboriginal cultural heritage
- Native vegetation protection
- Buffer standards
- Applying for a works license
- Public land managers consent application
- Siting and design guidelines
- Roles and responsibilities

ACCESSIBILITY

If you would like to receive this publication in an accessible format, please telephone Kathy Long on 03 54821922 or email irrigation@agriculture.vic.gov.au

If you are deaf, or have a hearing or speech impairment contact the [National Relay Service](#) on 133 677
