

Reference

TO THE CHIEF EXECUTIVES OF ALL
MUNICIPAL COUNCILS AND OTHER
RESPONSIBLE AUTHORITIES
AND
CHIEF EXECUTIVES OF ALL REGIONAL
PLANNING AUTHORITIES

26 FEB 1991



Dear Sir/Madam,

PLANNING AND ENVIRONMENT ACT 1987
AMENDMENT S5 TO ALL PLANNING SCHEMES IN VICTORIA
PROTECTION AND CONSERVATION OF NATIVE VEGETATION

I have considered the report of the Independent Panel established to consider submissions about this amendment and have now decided to approve the amendment with changes.

In accordance with Section 40 of the Act, I enclose a copy of the approved amendment and a copy of the explanatory report. Please make these documents available for public inspection free of charge in accordance with Section 41 of the Act.

It is planned to publish notice of approval of the amendment in the *Government Gazette* on Wednesday 27 February 1991.

The panel received over 400 submissions and heard 230 submitters at hearings around the State. The panel considered there was a general consensus that some control over broadscale clearing was necessary, even among those opposed to the amendment. It recommended that controls over clearing continue, but that landholders and public authorities have the option to obtain a single permit to cover clearing associated with long-term land management plans or works programs.

The recommendation gives flexibility and choice and has been adopted by the Government. Individuals, groups or municipal councils can develop their own land management plans. The new approach puts the emphasis on preventative action to minimise land degradation and habitat loss.

The panel considered that the resources needed to help prepare and assess land management plans and works programs will be offset by less time needed to deal with individual applications. A survey of municipal councils last year showed that the number of applications received is not large. No council, apart from the Shire of Orbost which received 35, had dealt with more than 14 applications. Most received fewer than 5 and many had none.

Most of the exemptions in the interim controls have been incorporated into the amendment and many will continue to apply for five years. After this time, any clearing may proceed in accordance with an approved management plan or works program or separate permits will be needed.

Council and public authority works affecting native vegetation, apart from maintenance activities falling within the exemptions, will require approval of a works program or separate permits. Councils are encouraged to develop plans, such as roadside management plans, or works programs to enable clearing in accordance with the plan or program to proceed without the need for separate permits.

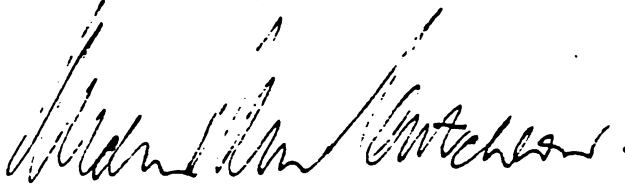
Advice and assistance is to be provided to those who bought land in the last ten years with a demonstrable intention to clear for agriculture.

After three years, there will be a review, involving all interest groups, to determine whether preparation of land management plans and works programs is proceeding satisfactorily, and whether any change is needed to the planned expiry of the exemptions.

Copies of the panel report, brochures and other explanatory material will be available soon. Interim principles for the preparation and assessment of plans are enclosed. Guidelines for preparing land management plans will be developed and circulated as part of a new planning guide for the administration of the controls. The training program already implemented for local government will continue.

Any questions about the amendment should be directed to regional offices of the Department of Planning and Housing or the Department of Conservation and Environment.

Yours sincerely,



ANDREW McCUTCHEON
MINISTER FOR PLANNING AND HOUSING

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INTERIM PRINCIPLES FOR PREPARATION OF
LAND MANAGEMENT PLANS
FEBRUARY 1991

Land managers are encouraged to use land management plans or works programs as a basis for making decisions about the management of natural resources, including native vegetation.

Land management plans can be at differing scales, for example, whole farm plans, catchment plans, landcare group plans, Shire plans, roadside management plans, salinity management plans, fire prevention plans, or any other plan which takes into account the broader context of land management.

Sufficient detail is required, even in large scale regional plans, to determine precisely where native vegetation is proposed to be cleared (if any) and where revegetation is proposed to occur.

A management plan must include a map and can include supporting documentation. It need not be complex but should identify:

- the area of land;
- land classes;
- capability of the land;
- uses to which the land is being put;
- any land that is degraded or susceptible to degradation;
- measures to be taken to rehabilitate any degraded land and prevent degradation;
- ways of improving the productivity of already-cleared land;
- description and general assessment of existing native vegetation;
- proposed management of native vegetation, including any proposed regeneration or planting;
- any other management measures;
- any other relevant issues (e.g. fire, habitat protection, stream protection);
- time period for which the plan is proposed.

If a land management plan has been submitted, the responsible authority must refer the application to clear native vegetation to the Department of Conservation and Environment and the Department of Agriculture.

Detailed guidelines for preparing land management plans are being developed and will be circulated as part of the new planning guide for the administration of the controls.

ALL PLANNING SCHEMES IN VICTORIA

AMENDMENT S5

EXPLANATORY REPORT

This amendment has been approved by the Minister for Planning and Housing. It changes the State Section of all planning schemes in Victoria.

The amendment is part of a package of measures to conserve remaining native vegetation in Victoria, in conjunction with a major revegetation program and measures to protect land and water, while improving agricultural productivity. The package of measures includes assistance, advice, assistance and training. The amendment replaces an interim control which had applied since 22 November 1989.

Under the amendment a permit is required to remove, destroy or lop native vegetation. Exemptions apply in a number of circumstances. Some of the exemptions do not apply after 1 March 1996.

The amendment encourages land managers to consider the benefits of using land management plans or works programs as a basis for making decisions about the management of natural resources, including native vegetation. The plan may be submitted as part of an application to remove, destroy or lop native vegetation. If approved, no other permits would be needed for any clearing in accordance with the plan or program. A landholder or authority may choose whether or not to submit an application which includes a land management plan or works program.

Applications including a plan or a program must be referred to the Director-General of Conservation and Environment. Applications including a plan must be referred to the Director-General of Agriculture.

Applications to remove or destroy more than 10 hectares of native vegetation must be referred to the Director-General of Conservation and Environment. Notice of all other applications must be given to the Director-General of Conservation and Environment.

Before a responsible authority decides any application to remove, destroy or lop native vegetation, it must consider a number of specified matters.

Before a responsible authority decides any application (whether or not clearing is specifically proposed), the conditions of any permit or the approval of any development, management or subdivision plan, it must consider specified matters in relation to native vegetation.

The amendment confirms that any controls over the removal, destruction or lopping of native vegetation in a regional or local section of a planning scheme must also be complied with.

ALL PLANNING SCHEMES IN VICTORIA

AMENDMENT S5

The Planning Authority for this amendment is the Minister for Planning and Housing.

STATE SECTION

The State section of all planning schemes in Victoria is amended as follows:

1 In Clause 2-1 for the definition of native vegetation substitute:

"Native vegetation Plants that are indigenous to Victoria, including trees, shrubs, herbs and grasses."

2 For the whole of Clause 3-6 substitute:

"3-6 Retention and Re-establishment of Native Vegetation

This policy applies to all land in Victoria.

3-6.1 Policy

It is planning policy that native vegetation is to be protected and conserved and that, in particular:

- * Habitat for native plants and animals is protected.
- * Ecological processes and genetic diversity are maintained.
- * Carbon is stored and does not add to the greenhouse effect.
- * Soil is protected from degradation, including salinisation and erosion.
- * Adverse effects on groundwater recharge are minimised.
- * Rivers, streams, wetlands and water resources are protected.
- * Land is used and managed in a sustainable manner.
- * Visual amenity and landscape quality are preserved and enhanced.

3-6.2 Policy influences

The major factors influencing this policy are the need:

- * To restore the land, by arresting and reversing the decline of native vegetation in Victoria.
- * To ensure that all Victorian species of flora and fauna, native ecosystems and communities can survive, flourish and retain their potential for evolutionary development.

- To control the spread of salinity of land and water resources throughout Victoria.
- To limit the impacts of the greenhouse effect on people and natural ecosystems.
- To manage catchments in a manner which takes account of all aspects of soil, water, flora and fauna conservation.
- To protect land and water resources from future degradation due to further removal or destruction of native vegetation.

3-6.3 Implementation of policy

In implementing this policy, special attention must be given:

- To the importance of retaining, restoring and enhancing native vegetation.
- To the importance of sustainable use of land.
- To the benefits of using land management plans or works programs as a basis for making decisions about the management of natural resources, including native vegetation, and about the use and development of those resources.
- To replacing any loss of native vegetation by regenerating or replanting at least an equivalent area of native vegetation.
- To siting new buildings and works so that the area of native vegetation removed or divided up is minimised.
- To ensuring stock are controlled so that grazing of native vegetation causes minimum destruction.
- To ensuring fire prevention or fuel reduction burning is carried out in a way that minimises the destruction of native vegetation.
- To identifying and mapping existing native vegetation."

3 For the heading in Clause 5 substitute:

"5 CONSIDERATION OF APPLICATIONS

5-1 Referral of applications"

4 In the table to the re-numbered Clause 5-1, for the two kinds of applications for which the referral authority is the Director-General of Conservation, Forests and Lands, substitute:

Kind of Application	Referral Authority
"Application to remove or destroy native vegetation if the area to be cleared is 10 hectares or greater.	Director-General of Conservation and Environment.
Application to remove or destroy native vegetation if the area to be cleared combined with any area to be cleared under a concurrent or previous application on the same or contiguous land, which was in the same ownership on 30 June 1989, and the combined area is 10 hectares or greater.	Director-General of Conservation and Environment.
Application to remove, destroy or lop native vegetation if a land management plan or works program is submitted.	Director-General of Conservation and Environment.
Application to remove, destroy or lop native vegetation if a land management plan is submitted.	Director-General of Agriculture."

5 After Clause 5-1 insert:

"5-2 Guidelines for approval

The responsible authority must consider the following matters before deciding on an application, the conditions of a permit, or the approval of a development, management or subdivision plan:

- The extent and character of native vegetation and the likelihood of its destruction.
- Whether native vegetation is to be or can be protected, planted or allowed to regenerate.
- Whether, in relation to subdivision plans, native vegetation can be protected through subdivision design and siting of open space areas."

6 For the whole of Clause 7-2 substitute:

"7-2 Native Vegetation Control

Note: The regional section or the local section may have controls over the removal, destruction or lopping of native vegetation and these also must be complied with.

The following requirement does not apply if the regional section or the local section includes a statement that the State section controls over the removal, destruction or lopping of native vegetation do not apply to specific land.

7-2.1 Permit required

A permit is required to remove, destroy or lop native vegetation.

Exemptions

This does not apply to the removal, destruction or lopping of native vegetation:

Site area

- On land which, together with all contiguous land in one ownership, has an area of less than 0.4 hectare.

Emergency works

- If the vegetation presents an immediate risk of personal injury or damage to property.
- Necessary for emergency access or emergency works by a public authority or municipal council.

Fire

- Necessary for fire fighting measures, periodic fuel reduction burning, the making of fire breaks up to 6 metres wide or the removal of ground fuel within 30 metres of a building.
- In accordance with a fire prevention notice under:
 - Section 65 of the *Forests Act 1958*.
 - Section 41 of the *Country Fire Authority Act 1958*.
 - Section 197 of the *Local Government Act 1989*.
- For maintenance of assets in accordance with a code of practice prepared under Section 65 of the *State Electricity Commission Act 1958*

Planted vegetation or harvesting

- If the native vegetation has been planted for forestry, agroforestry, shelter belts, woodlots, street trees, gardens, horticultural purposes or the like.
- For timber harvesting carried out under licence from the Director-General of Conservation and Environment.

Extractive Industry

- For the extraction of sand, stone, gravel, clay or the like in accordance with a licence under the *Extractive Industries Act 1966* or a permit under the *Planning and Environment Act 1987* if the licence or permit were in force on 22 November 1989.

Surveying

- To the minimum extent necessary for establishing sight-lines for the measurement of land by surveyors in the exercise of their profession, and if using hand held tools.

Rural activities

- As a result of grazing by domestic stock. This exemption does not apply to roads, other than unused roads specified under Section 400 of the *Land Act 1958*.
- To the minimum extent necessary for the construction, operation or maintenance of a farm structure, including a dam (other than on a stream), tracks, bores, windmills, tankstands, fences, stockyards, loading ramps, sheds and the like.
- If the native vegetation is seedlings or regrowth less than 10 years old and if the land is being re-established or maintained for cultivation or pasture.
- In accordance with a notice under Section 23(4) of the *Soil Conservation and Land Utilization Act 1958*.
- For cutting reasonable amounts of wood for personal use by the owner or occupier.

(These exemptions relating to rural activities do not apply after 1 March 1996.)

Weeds and Vermin

- If the native vegetation is proclaimed as a noxious weed or is bracken (*Pteridium esculentum*).
- In accordance with a notice under the *Vermin and Noxious Weeds Act 1958*.
- If the native vegetation is burgan (*Kunzea ericoides* {previously *Leptospermum phyllicoides*}) or manuka (*Leptospermum scoparium*) and is on land which meets each of the following conditions:
 - It is outside the Metropolitan Region.
 - It is more than 30 metres from a water course.
 - It is being re-established or maintained for cultivation or pasture.
 - Ground slopes are less than 30 percent.

- To the minimum extent necessary to remove burrows for vermin control. The total area in one ownership to be destroyed must not exceed 10 hectares.

(These exemptions relating to weeds and vermin do not apply after 1 March 1996.)

Buildings

- To the minimum extent necessary for the construction, use and maintenance of:
 - A dwelling.
 - Any building or works which are ancillary to a dwelling including tennis courts, barbecues, swimming pools, utility services or vehicle accessways.
 - Any building, including utility services or vehicle accessways which are ancillary to the building.
- Within 10 metres of a building.

(These exemptions relating to buildings do not apply after 1 March 1996.)

Utility services

- To the minimum extent necessary to maintain public utility services for the transmission of water, sewage, gas, electricity, electronic communications or the like.
- To the minimum extent necessary to continue the activity on land which has previously been cleared where seedlings or regrowth are less than 10 years old and the land is:
 - Within the formation of a road or railway line.
 - On or adjacent to a helipad, airfield or the like.
 - In an existing gravel pit.
 - On crown land or land owned by a public authority or municipal council.

(These exemptions relating to utility services do not apply after 1 March 1996.)

7-2.2 Notice requirements

In accordance with Section 52(1)(c) of the Act, a notice of each application must be given to the Director-General of Conservation and Environment.

This does not apply if the application must be referred to the Director-General of Conservation and Environment under Clause 5-1.

7-2.3 Guidelines for a permit

Before deciding on an application, the responsible authority must consider:

- The policy on retention and re-establishment of native vegetation.
- The conservation and enhancement of the area.
- The preservation of and impact on the natural environment or landscape values.
- The role of the native vegetation in:
 - Conserving fauna and flora.
 - Protecting water quality.
 - Providing shade and shelter.
- The role of the native vegetation in preventing:
 - Land degradation, including soil erosion, salinisation, acidity and water logging.
 - Adverse effects on groundwater recharge.
- The need to retain native vegetation:
 - Where ground slopes are more than 20 percent.
 - Within 30 metres of a wetland or watercourse.
 - Where groundwater recharge occurs.
 - On land subject to or which may contribute to soil erosion, slippage or salinisation.
 - On land where the soil or sub-soil may become unstable if cleared.
 - In a proclaimed water supply catchment.
 - In areas where removal, destruction or lopping could jeopardise the integrity or long term preservation of any identified site of scientific, nature conservation or cultural significance.
 - If it is rare or supports rare species of fauna or flora.
 - That forms part of a wildlife corridor.
- Any relevant permit to remove destroy or lop native vegetation in accordance with a land management plan or works program.
- Whether the application includes a land management plan or works program.
- The conservation of native vegetation protected under the *Archaeological and Aboriginal Relics Preservation Act 1972* or the *Aboriginal and Torres Strait Islander Heritage Protection Act 1984*.
- Whether provision is made or is to be made to establish and maintain native vegetation elsewhere on the land.

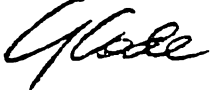
- The benefit of a condition requiring:
 - Planting, replanting or other treatment of any part of the land.
 - The retention of a buffer strip of native vegetation within specified distances of wetlands, watercourses, roads and property boundaries.
 - The fencing off of areas of native vegetation, in particular to exclude stock or vermin.
 - The identification of native vegetation that is to be retained, including the methods to be used to protect and manage the native vegetation.
- In the case of timber production, the benefit of including a condition requiring operations to be carried out in accordance with any relevant code of practice under Section 55 of the *Conservation, Forests and Lands Act 1987*.

7-2.4 Land management plan or works program

A permit may be granted to remove, destroy or lop native vegetation in accordance with a land management plan or a works program."

END OF DOCUMENT

I CERTIFY THAT THIS IS A TRUE COPY OF THE
 AMENDMENT APPROVED BY THE MINISTER
 FOR PLANNING AND HOUSING ON 26 FEB 1991


 GEOFF CODE
 MANAGER PLANNING CO-ORD BRANCH