

## 42.01

02/04/2015  
VC124

## ENVIRONMENTAL SIGNIFICANCE OVERLAY

Shown on the planning scheme map as **ESO** with a number.

### Purpose

To implement the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.

To identify areas where the development of land may be affected by environmental constraints.

To ensure that development is compatible with identified environmental values.

## 42.01-1

19/01/2006  
VC37

### Environmental significance and objective

A schedule to this overlay must contain:

- A statement of environmental significance.
- The environmental objective to be achieved.

## 42.01-2

15/09/2008  
VC49

### Permit requirement

A permit is required to:

- Construct a building or construct or carry out works. This does not apply if a schedule to this overlay specifically states that a permit is not required.
- Construct a fence if specified in a schedule to this overlay.
- Construct bicycle pathways and trails.
- Subdivide land. This does not apply if a schedule to this overlay specifically states that a permit is not required.
- Remove, destroy or lop any vegetation, including dead vegetation. This does not apply:
  - If a schedule to this overlay specifically states that a permit is not required.
  - If the table to Clause 42.01-3 specifically states that a permit is not required.
  - To the removal, destruction or lopping of native vegetation in accordance with a native vegetation precinct plan specified in the schedule to Clause 52.16.

## 42.01-3

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### Table of exemptions

**No permit is required to remove, destroy or lop vegetation to the minimum extent necessary if any of the following apply:**

#### Bracken

- The vegetation is bracken (*Pteridium esculentum*) which has naturally established or regenerated on land lawfully cleared of naturally established vegetation.

This exemption does not apply to land on which vegetation has been cleared or otherwise destroyed or damaged as a result of flood, fire or other natural disaster.

#### Crown land

- The vegetation is to be removed, destroyed or lopped on Crown land and by a person acting under and in accordance with an authorisation order made under sections 82 or 84 of the *Traditional Owner Settlement Act 2010*.

**No permit is required to remove, destroy or lop vegetation to the minimum extent necessary if any of the following apply:**

<b>Emergency works</b>	<ul style="list-style-type: none"> <li>▪ The vegetation presents an immediate risk of personal injury or damage to property and only that part of vegetation which presents the immediate risk is removed, destroyed or lopped.</li> <li>▪ The vegetation is to be removed, destroyed or lopped by a public authority or municipal council to create an emergency access or to enable emergency works.</li> </ul>
<b>Fire protection</b>	<ul style="list-style-type: none"> <li>▪ The vegetation is to be removed, destroyed or lopped for the making of a fuelbreak by or on behalf of a public authority in accordance with a strategic fuelbreak plan approved by the Secretary to the Department of Environment, Land, Water and Planning (as constituted under Part 2 of the <i>Conservation, Forest and Lands Act 1987</i>). The maximum width of a fuelbreak must not exceed 40 metres.</li> <li>▪ The vegetation is to be removed, destroyed or lopped for fire fighting measures, fuel reduction burning, or the making of a fuel break up to 6 metres wide.</li> <li>▪ The vegetation is ground fuel within 30 metres of a building.</li> <li>▪ The vegetation is to be removed, destroyed or lopped in accordance with a fire prevention notice under: <ul style="list-style-type: none"> <li>• Section 65 of the <i>Forests Act 1958</i>.</li> <li>• Section 41 of the <i>Country Fire Authority Act 1958</i>.</li> <li>• Section 8 of the <i>Local Government Act 1989</i>.</li> </ul> </li> <li>▪ The vegetation is to be removed, destroyed or lopped to keep the whole or any part of any vegetation clear of an electric line in accordance with a code of practice prepared under Part 8 of the <i>Electricity Safety Act 1998</i>.</li> <li>▪ The vegetation is to be removed, destroyed or lopped in accordance with any code of practice prepared in accordance with Part 8 of the <i>Electricity Safety Act 1998</i> in order to minimise the risk of bushfire ignition in the proximity of electricity lines.</li> <li>▪ The vegetation is to be removed, destroyed or lopped to reduce fuel loads on roadsides to minimise the risk to life and property from bushfire of an existing public road managed by the relevant responsible road authority (as defined by the <i>Road Management Act 2004</i>) 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 <i>Conservation, Forest and Lands Act 1987</i>).</li> </ul>
<b>Geothermal energy exploration and extraction</b>	<ul style="list-style-type: none"> <li>▪ The vegetation is to be removed, destroyed or lopped to enable the carrying out of geothermal energy exploration or extraction in accordance with the <i>Geothermal Energy Resources Act 2005</i>.</li> </ul>
<b>Greenhouse gas sequestration exploration</b>	<ul style="list-style-type: none"> <li>▪ The vegetation is to be removed, destroyed or lopped to enable the carrying out of geothermal energy exploration or extraction in accordance with the <i>Greenhouse Gas Geological Sequestration Act 2008</i>.</li> </ul>
<b>Greenhouse gas sequestration</b>	<ul style="list-style-type: none"> <li>▪ The vegetation is to be removed, destroyed or lopped to enable the carrying out of geothermal energy exploration or extraction in accordance with the <i>Greenhouse Gas Geological Sequestration Act 2008</i>.</li> </ul>
<b>Land management notices</b>	<ul style="list-style-type: none"> <li>▪ The vegetation is to be removed, destroyed or lopped to comply with land management notice issued under the <i>Catchment and Land Protection Act 1994</i>.</li> </ul>

**No permit is required to remove, destroy or lop vegetation to the minimum extent necessary if any of the following apply:**

<b>Land use conditions</b>	<ul style="list-style-type: none"> <li>▪ The vegetation is to be removed, destroyed or lopped to comply with a land use condition served under the <i>Catchment and Land Protection Act 1994</i>.</li> </ul>
<b>Mineral Exploration</b>	<ul style="list-style-type: none"> <li>▪ The vegetation is to be removed, destroyed or lopped to enable the carrying out of Mineral exploration.</li> </ul>
<b>Mineral extraction</b>	<ul style="list-style-type: none"> <li>▪ The vegetation is to be removed, destroyed or lopped to enable the carrying out of Mineral extraction in accordance with a work plan approved under the <i>Mineral Resources (Sustainable Development) Act 1990</i> and authorised by a work authority granted under that Act.</li> </ul>
<b>Noxious weeds</b>	<ul style="list-style-type: none"> <li>▪ The vegetation is a noxious weed the subject of a declaration under section 58 or section 58A of the <i>Catchment and Land Protection Act 1994</i>. This exemption does not apply to Australian Dodder (<i>Cuscuta australis</i>).</li> </ul>
<b>Pest animal burrows</b>	<ul style="list-style-type: none"> <li>▪ The vegetation is to be removed, destroyed or lopped to enable the removal of pest animal burrows.</li> <li>▪ In the case of native vegetation the written agreement of an officer of the Department responsible for administering the <i>Flora and Fauna Guarantee Act 1988</i> is required before the vegetation can be removed, destroyed or lopped.</li> </ul>
<b>Planted vegetation</b>	<ul style="list-style-type: none"> <li>▪ The vegetation has been planted or grown as a result of direct seeding for Crop raising or Extensive animal husbandry.</li> </ul>
<b>Railways</b>	<ul style="list-style-type: none"> <li>▪ The vegetation is to be removed, destroyed or lopped to maintain the safe and efficient function of an existing railway or railway access road, 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 <i>Conservation, Forest and Lands Act 1987</i>).</li> </ul>
<b>Regrowth</b>	<ul style="list-style-type: none"> <li>▪ The vegetation is regrowth which has naturally established or regenerated on land lawfully cleared of naturally established vegetation and is within the boundary of a timber production plantation, as indicated on a Plantation Development Notice or other documented record, and has established after the plantation.</li> <li>▪ This exemption does not apply to land on which vegetation has been cleared or otherwise destroyed or damaged as a result of flood, fire or other natural disaster.</li> </ul>
<b>Road safety</b>	<ul style="list-style-type: none"> <li>▪ The vegetation is to be removed, destroyed or lopped to maintain the safe and efficient function of an existing public road managed by the relevant responsible road authority (as defined by the <i>Road Management Act 2004</i>) in accordance with the written agreement of the Secretary of the Department of Environment, Land, Water and Planning (as constituted under Part 2 of the <i>Conservation, Forest and Lands Act 1987</i>).</li> </ul>

**No permit is required to remove, destroy or lop vegetation to the minimum extent necessary if any of the following apply:**

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|--------------------------|--|
| <b>Stone exploration</b> | <ul style="list-style-type: none"><li>▪ The vegetation is to be removed, destroyed or lopped to enable the carrying out of the Stone exploration.<br/><br/>The maximum extent of vegetation removed, destroyed or lopped under this exemption on contiguous land in the same ownership in a five year period must not exceed any of the following:<ul style="list-style-type: none"><li>• 1 hectare of vegetation which does not include a tree.</li><li>• 15 trees if each tree has a trunk diameter of less than 40 centimetres at a height of 1.3 metres above ground level.</li><li>• 5 trees if each tree has a trunk diameter of 40 centimetres or more at a height of 1.3 metres above ground level.</li></ul></li></ul> <p>This exemption does not apply to vegetation to be removed, destroyed or lopped to enable costeaning and bulk sampling activities.</p> |
| <b>Stone extraction</b>  | <ul style="list-style-type: none"><li>▪ The vegetation is to be removed, destroyed or lopped to enable the carrying out of Stone extraction in accordance with a work plan approved under the <i>Mineral Resources (Sustainable Development) Act 1990</i> and authorised by a work authority granted under that Act.</li></ul>   |
| <b>Surveying</b>         | <ul style="list-style-type: none"><li>▪ The vegetation is to be removed, destroyed or lopped for establishing sight-lines for the measurement of land by surveyors in the exercise of their profession, and if using hand-held tools.</li></ul>  |

#### 42.01-4

18/11/2011  
VC83

#### Decision guidelines

Before deciding on an application, in addition to the decision guidelines in Clause 65, the responsible authority must consider, as appropriate:

- The State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.
- The statement of environmental significance and the environmental objective contained in a schedule to this overlay.
- The need to remove, destroy or lop vegetation to create defensible space to reduce the risk of bushfire to life and property.
- Any other matters specified in a schedule to this overlay.

*Notes:*

*Refer to the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement, for strategies and policies which may affect the use and development of land.*

*Check the requirements of the zone which applies to the land.*

*Other requirements may also apply. These can be found at Particular Provisions.*