

# Powerline Bushfire Safety Program - Native Vegetation Removal Code of Practice

August 2016

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**Approved by the Secretary to the Department of Environment, Land, Water and Planning pursuant to an authorisation dated 25<sup>th</sup> May 2016.**

Approved on the 1<sup>st</sup> day of Sept 2016



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for Department of Environment, Land, Water and Planning

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## 1. Planning and Environment Act 1987

Removal of native vegetation in Victoria is regulated by the *Planning and Environment Act 1987* through local government planning schemes. Local planning schemes are generally binding on all people and corporations, on every Minister, government department, public authority and municipal council. Under Clause 52.17 of local planning schemes, a planning permit is required to remove, destroy or lop native vegetation (including dead vegetation) unless a relevant exemption applies.

### 1.1. Utility installation exemption

Under Clause 52.17-7 of local planning schemes, the Utility installations exemption states that no permit is required to remove, destroy or lop native vegetation to the minimum extent necessary to:

- Maintain a minor utility installation
- Maintain a utility installation in accordance with a code(s) of practice approved by Secretary of the Department of Environment, Land, Water and Planning (as constituted under Part 2 of the *Conservation, Forest and Lands Act 1987*), incorporated into this scheme and listed in the Schedule to this Clause.
- Enable the construction of a utility installation in accordance with a code(s) of practice approved by Secretary of the Department of Environment, Land, Water and Planning (as constituted under Part 2 of the *Conservation, Forest and Lands Act 1987*), incorporated into this scheme and listed in the Schedule to this Clause.

'Utility installation' is defined at clause 74 of the Victorian Planning Provisions (VPPs) to include 'Land used to transmit or distribute gas, oil or power'. Above or below ground power lines, and associated infrastructure required to transmit power are a 'utility installation'. It is noted that a 'utility installation includes a minor utility installation which is defined at clause 74 of the VPPs to include 'Land used for a utility installation comprising power lines designed to operate at less than 220,000 volts'.

### 1.2. Other legislative requirements

This Code of Practice (CoP) does not override requirements in relation to native vegetation removal under other legislation. The electricity distribution company must ensure they have processes in place to determine potential impact under other pieces of legislation. Other pieces of legislation include:

- *Environment Protection and Biodiversity Conservation Act 1999*
- *Flora and Fauna Guarantee Act 1988*
- *Catchment and Land Protection Act 1994*
- *Environment Effects Act 1978*
- *Wildlife Act 1975*
- *Aboriginal Heritage Act 2006*
- *Heritage Act 1995*
- *Planning and Environment Act 1987*
  - Planning scheme overlays and planning zones may still require obligations to be met in relation to native vegetation removal.

## 2. Powerline Bushfire Safety Program

The Powerline Bushfire Safety Program (PBSP) is responsible for delivering Recommendations 27 and 32 of the 2009 Victorian Bushfires Royal Commission recommendations. The PBSP was established to implement a program of works scheduled to be completed by 2022. The program is focussed on reducing the risk of Victorian powerlines causing bushfires.

## Recommendation 27

- Progressive replacement of all single-wire earth return (SWER) power lines in Victoria with aerial bundled cable, underground cabling or other technology that delivers greatly reduced bushfire risk. The replacement program should be completed in the areas of highest bushfire risk within 10 years and should continue in areas of lower bushfire risk as the lines reach the end of their engineering lives.
- Progressive replacement of all 22-kilowatt (kW) distribution feeders with aerial bundled cable, underground cabling or other technology that delivers greatly reduced bushfire risk as the feeders reach the end of their engineering lives. Priority should be given to distribution feeders in the areas of highest bushfire risk.

### 2.1. Modification works agreement

The Modification works agreement (MWA) is part of the Powerline Bushfire Safety Program. It is a contract between the State of Victoria and an electricity distribution company to perform construction works.

This CoP is restricted to native vegetation removed as a result of construction works carried out under an MWA.

## 3. Native vegetation Code of Practice

### 3.1. Scope of Code of Practice

The CoP applies to native vegetation removed by electricity distribution companies contracted to the state of Victoria through a Modification works agreement to construct infrastructure as part of the Powerline Bushfire Safety Program. Prior to accessing the Utility installations exemption and operating under the CoP, each electricity distribution company must seek and have received written confirmation from the Department of Environment, Land, Water and Planning's Native vegetation regulation.

Native vegetation removal below the clearance thresholds in accordance with the operation of this CoP is exempt from the requirement for a planning permit to remove native vegetation, as well as the requirement to secure native vegetation offsets.

Native vegetation removal above the thresholds in accordance with the operation of this CoP is exempt from a planning permit to remove native vegetation, but must secure offsets in accordance with *Permitted clearing of native vegetation - Biodiversity assessment guidelines*.

Native vegetation removal not in accordance with the operation of this CoP must apply for a planning permit to remove native vegetation.

### 3.2. Published Code of Practice

The Secretary to DELWP will publish the following on the department's external website as part of the native vegetation permit exemptions section, enabling it to be accessed by members of the public.

- Powerline Bushfire Safety Program - Native vegetation removal Code of Practice
- Annual report of the amount of native vegetation removed under this CoP

### 3.3. Review of Code of Practice

This CoP will be reviewed upon any changes to Clause 52.17 of the planning provisions, or to the *Permitted clearing of native vegetation - Biodiversity assessment guidelines*.

As a result of any changes to Clause 52.17, or to the *Permitted clearing of native vegetation - Biodiversity assessment guidelines* this CoP will either:

*Clause 52.17 Utility installation exemption: Powerline bushfire safety program - Native vegetation Code of Practice (August 2016)*



- continue to be applied;
- be superseded by an updated code of practice approved by the Secretary of DELWP; or
- be terminated

Breaches of this CoP by an electricity distribution company will be considered by DELWP and may impact on the electricity distribution company's future ability to use the CoP to access the exemption.

## 4. Operation of Code of Practice

This CoP applies to electricity distribution companies undertaking construction work as part of the Powerline Bushfire Safety Program.

This CoP can only be applied if the electricity distribution company complies with all the Operator requirements.

### 4.1. Operator requirements

The electricity distribution company must comply with all of the following requirements when utilising this CoP to access the Utility installations exemption in clause 52.17 of the VPPs:

#### **a. Powerline Bushfire Safety Program**

Complete extent of native vegetation removal must be for a specific individual project under the Powerline Bushfire Safety Program. The relevant 'PBSP - HV Identifier' must be included on the *PBSP project notification form* (Appendix A).

The electricity distribution company must have written confirmation from DELWP's Native vegetation regulation to access the Utility installations exemption through this CoP.

#### **b. Avoid unnecessary native vegetation removal**

Native vegetation that is not absolutely required to be removed must be avoided. This must be considered in the early planning and design of the works, and includes avoiding impact to Tree retention zones (TRZ), where practical.

- Where possible, avoiding placing assets near native vegetation and Tree Retention Zones by re-design/micro-placement of assets based on recommendations from a qualified ecologist or arborist.
- Where Tree Retention Zones (TRZs) of scattered trees intersected by >10% can't be avoided in made roadways, an arborist will undertake a pre-construction assessment and provide recommendations (e.g. moving the alignment slightly, boring etc.) to ensure trees will be considered retained and no offset will be required in accordance with the Department of Sustainability and Environment (2011): Native Vegetation – Technical Information Sheet.

Projects not removing native vegetation are not required to apply the requirements of this CoP.

#### **c. Minimise required native vegetation removal**

Native vegetation removal that cannot be avoided must be minimised as far as possible. This must be considered in the early planning or design of the works.

Discussions with DELWP and local governments can help inform minimisation of the extent and quality of native vegetation removal.

Each project must include how avoidance and minimisation of native vegetation has occurred on the *PBSP project notification form* (Appendix A).

#### **d. Identify extent and category of native vegetation to be removed**

Identify the native vegetation to be removed as either a remnant patch or scattered tree as defined in the *Permitted clearing of native vegetation - Biodiversity assessment guidelines*.

Remnant patch - an area of vegetation where at least 25 per cent of the total perennial understorey plant cover is native, or  
Any area with three or more native canopy trees where the canopy foliage cover is at least 20 percent of the area.

Scattered tree - a native canopy tree that does not form part of a remnant patch.

Multi-stemmed trees and trees with multi-stemmed coppice regrowth are considered as single trees. The removal of a canopy tree from a remnant patch without removing the remnant patch understorey is considered a scattered tree.

All native vegetation losses must be considered and included on the *PBSP project notification form* (Appendix A). This includes any incidental losses due to;

- Vehicle access and storage, and impacts of, construction activities
- Ongoing access
- Changes to hydrology
- Compaction and excavation
- Encroachment onto tree protection zones in accordance with *AS 4970-2009 Protection of trees on development sites*

To identify the native vegetation to be removed and determine which Location risk a single project is in, use the Native vegetation permitted clearing regulation tool within the Native vegetation information management (NVIM) system on DELWP's website (<http://nvim.delwp.vic.gov.au/>).

Follow these steps:

**STEP 1:**

Navigate to the Native vegetation permitted clearing tool using the appropriate link on the NVIM system homepage. Accept Terms and Conditions.

**STEP 2:**

Type in address of works in the 'Search bar' or zoom to the appropriate location using the 'Zoom' and 'Pan' icons.

**STEP 3:**

Using the 'Maps and Layers' drop down box and activate the 'Aerial imagery' and 'Native vegetation location risk' layers

**STEP 4:**

Using the 'Identify native vegetation' drop down box use the 'Remnant patch' or 'Scattered tree' tools to identify the areas of native vegetation proposed for removal.

**STEP 5:**

Refer to the Summary of marked native vegetation for Location risk and extent of native vegetation to be removed.

**e. Offset native vegetation if clearing thresholds are exceeded**

If native vegetation removal exceeds the following clearing thresholds, it must be offset in its entirety in accordance with the *Permitted clearing of native vegetation - Biodiversity assessment guidelines*.

- 1 hectare of remnant vegetation in Location A of the Location Risk Mapping, or
- 0.5 hectares of remnant vegetation in Location B or C of the Location Risk Mapping, and/or
- 5 scattered trees (on their own or in addition to one of the location thresholds).

Note that the Location risk of the native vegetation will default to the higher rating when proposed native vegetation removal for a single project crosses Location risks.

The requirement for offsets and how they will be secured must be included on the *PBSP project notification form* (Appendix A).

The offset must be secured prior to the removal of native vegetation, with evidence of the secured offset submitted to DELWP Healthy landscape.

#### **f. Consult with DELWP**

During project planning DELWP's Regional Planning and Approvals and Healthy Landscape team must be consulted to confirm the project meets the requirements of this CoP. DELWP can provide advice regarding the verification of the extent of native vegetation removal, avoidance and minimisation opportunities, and the offset strategy (if required).

DELWP will advise if adjacent native vegetation is at risk of impact and whether mitigation measures must be employed to avoid unintentional impact on this native vegetation.

DELWP may also be able to provide assistance identifying other legislative requirements from the removal of the identified native vegetation.

#### **g. Notify local government**

Local government must be notified of any proposed native vegetation removal as early in the project planning as possible. Local government may identify local biodiversity values and advise the project on possible avoidance and minimisation opportunities.

#### **h. Submit *PBSP project notification form***

A *PBSP project notification form* (Appendix A) must be completed and submitted to DELWP Regional Planning and Approvals and Healthy Landscape prior to the commencement of each specific project. The following information must be included on the form:

- **PBSP project details**, including clearing location and extent
- **Minimisation statement**, outlining specific actions taken to minimise native vegetation removal. Indicate reasons if minimisation is not possible.
- **Offset strategy**, if native vegetation removal is above clearance thresholds, it must contain information on how a compliant offset will be secured or a native vegetation credit extract issued by the native vegetation credit register.
- **Protection of remnant vegetation and trees (including scattered trees)**, if required to avoid impact to adjacent retained native vegetation
- **Attach the following:**
  - **Biodiversity Assessment Report** created from the NVIM system or **Biodiversity impact and offset requirement (BIOR) report** from DELWP native vegetation support
  - **Final project design plans** indicating where native vegetation will be lost.
  - **Construction environment management plan** detailing the;
    - Protection of water quality and waterway and riparian ecosystems, and
    - Prevention of land degradation and adverse effects on groundwater quality on land

DELWP healthy landscapes must be satisfied that all requirements have been met and reserve the right to request further information before endorsing the *PBSP project notification form*.

Once all the relevant information has been provided, DELWP healthy landscape have 28 working days to respond to the *PBSP project notification form*.

#### **i. Protection of native vegetation to be retained**

Native vegetation retained on site that is determined to be at risk of unintentional impact must be protected.

The method of mitigating unintentional impact must be discussed with DELWP Healthy landscapes, and if required included on the *PBSP project notification form* (Appendix A). Required mitigating measures must



be put in place before the work commences. The mitigating measures must stay in place until the threat of impact has abated.

Except with written consent of DELWP Regional Planning and Approvals and Healthy Landscapes team, within the area of native vegetation to be retained and any tree protection zone associated with the permitted use and/or development, the following is prohibited:

- Vehicular or pedestrian access
- Trenching or soil excavation
- Storage or dumping of any soils, materials, equipment, vehicles, machinery or waste products
- Entry and exit pits for underground services
- Any other actions or activities that may result in adverse impacts to retained native vegetation.

**j. Report native vegetation removal**

The electricity distribution company must record the native vegetation removed and offset secured (if required) for each individual project carried out in the financial year under this CoP. The template for recording projects is in Appendix B.

The report template must be submitted to DELWP Healthy Landscape by July 30<sup>th</sup>. DELWP will publish the report on its external website.

Where the submission of this report is not made by July 30<sup>th</sup>, the operation of this CoP and access to the Utility installations exemption will be suspended until such time that the information is supplied.

Any native vegetation removal in excess of what was included on the *PBSP project notification form* and endorsed by DELWP is considered a breach of the CoP and must be included in the annual report.

## Appendix A - PBSP project notification form

### 1. PBSP PROJECT DETAILS

Electricity Distribution  
Company

Name

Contact Phone

Email

Date submitted

PBSP - HV identifier

Project address/location

Local government area

Catchment Management  
Authority

Expected month of native  
vegetation removal

Ecological vegetation class  
of removed vegetation

Location risk (A,B or C)

Removal extent (hectares)

Removal extent (# of trees)

### 2. MINIMISATION STATEMENT (Project specific)

Describe how project design was used or what actions were taken to minimise native vegetation removal.  
Explain reasons if minimisation of native vegetation removal was not possible.

**3. OFFSET STRATEGY (if required)**

An offset compliant with the *Permitted Clearing of Native Vegetation - Biodiversity assessment guidelines* must be secured prior to the removal of native vegetation endorsed under the notification form.

Are native vegetation offsets required for this project? Yes No

	GBEUs	Minimum SBS
Offset requirement amount (if required)	SBEUs (species 1)	
	SBEUs (species 2)	

Provide evidence of an identified offset which meets offset criteria, or include a compliant credit extract from the Native vegetation credit register.

**4. Mitigation**

Is protection of retained native vegetation required? Yes No

Describe mitigation measure (type, location, timing):

**5. ATTACHMENTS**

**INCLUDED**

a) Biodiversity assessment report (BAR) or Biodiversity impact and offset requirement (BIOR) report	Yes	No
b) Plan of the design of proposed activity.	Yes	No
c) Construction environment management plan	Yes	No



## Appendix B - Annual report

The annual report must be completed by the electricity distribution company for native vegetation removed under this Code of Practice. The annual report must be submitted to DELWP Healthy landscape by July 30<sup>th</sup> for the previous financial year.

Information from the submitted report will be published on DELWP's website.

<b>Powerline Bushfire Safety Program - Native vegetation Code of Practice: Annual native vegetation report</b>										
<i>[Insert electricity distribution company name]</i>					<i>[Insert financial year]</i>					
<b>PBSP-HV Identifier</b>	<b>Local government area</b>	<b>Location risk</b>	<b>Endorsed removal</b>		<b>Is offset required?</b>	<b>Offset required (BEUs)</b>	<b>Offset evidence</b>	<b>Was endorsed removal exceeded?</b>	<b>Amount exceeded by</b>	
			ha	Trees					ha	trees
<b>Endorsed total</b>							<b>Exceeded endorsement</b>			