

# STATUTORY AUTHORISATIONS WORKS ON A WATERWAY

## GUIDANCE NOTE

**The Glenelg Hopkins CMA is responsible for authorising Works on Waterways under the *Water Act 1989*.**

A Works on Waterways Licence is one approval that may be required to legally perform works on or near a waterway.

Other authority approvals (licences, permits, permissions) are often required. The granting of a Works on Waterways Licence does not exempt you from the need to comply with other legislation.

**IT IS YOUR RESPONSIBILITY TO ENSURE ALL OTHER NECESSARY APPROVALS ARE OBTAINED PRIOR TO COMMENCEMENT OF WORKS.**

The table below outlines approvals which may be required prior to commencement of works. This table is a guide only. This is not necessarily a current and comprehensive statement of approvals which may be required for proposed works or activities.

The approvals required will depend upon the nature of the works or activities proposed and the area within which they are to be carried out.

We recommend that applicants obtain independent advice on the approvals required for the works or activities they propose to carry out.

| APPROVAL                            | LEGISLATION  | COMMENTS   |
|-------------------------------------|--|--|
| <b>Works on Waterways</b>           | <ul style="list-style-type: none"> <li><i>Water Act 1989 (Vic)</i></li> </ul>                    | This is the licence the Glenelg Hopkins CMA issues for works on a waterway. An assessment is undertaken that considers the impact of the works on the bed and banks (stability), and the health of the waterway including aspects such as fish passage.  |
| <b>Planning permit – Works type</b> | <ul style="list-style-type: none"> <li><i>Planning and Environment Act 1987 (Vic)</i></li> </ul> | <p>A planning permit may be required for works on waterways depending upon the nature and purpose of the works and the provisions of the relevant planning scheme (including zoning and overlay provisions). In some cases, a planning permit is required for the removal of native vegetation.</p> <p>Contact the relevant local council for further information.</p> |



| APPROVAL   | LEGISLATION   | COMMENTS  |
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| <b>Planning permit – Remove, Destroy or Lop of Native Vegetation</b> | <ul style="list-style-type: none"> <li>• <i>Planning and Environment Act 1987</i></li> <li>• <i>Victorian Planning Provisions Clause 52.17-1 &amp; Native vegetation regulations</i></li> </ul> | A permit is required to remove, destroy or lop native vegetation, including dead native vegetation, subject to certain exemptions which must be confirmed via consultation with your local council.   |
| <b>Planning permit – Changing flow across a boundary</b>             | <ul style="list-style-type: none"> <li>• <i>Planning and Environment Act 1987 (Vic)</i></li> </ul>  | <p>A planning permit may be required for earthworks associated with waterways or drains that alter the way water flows. Works that have the potential to change the flow of water across a property boundary require a planning permit under many zones within the provisions of the relevant planning scheme (including zoning and overlay provisions). This commonly applies under the Farming Zone.</p> <p>Contact the relevant local council for further information.</p> |
| <b>Works approval</b>  | <ul style="list-style-type: none"> <li>• <i>Environment Protection Act 1970 (Vic)</i></li> </ul>  | <p>A works approval may be required for some works on waterways (for example works which result in the discharge of wastewater into the waterway).</p> <p>Contact the Environment Protection Authority (EPA) for further information and approvals processes.</p>   |
| <b>Licence for a Dam or Bore</b>                                     | <ul style="list-style-type: none"> <li>• <i>Water Act 1989 (Vic)</i></li> </ul>   | <p>A permit or licence to construct a dam or bore is required under the <i>Water Act 1989</i> for certain proposals.</p> <p>Contact Southern Rural Water for further information.</p>   |
| <b>Permits for wildlife, fish or flora and fauna</b>                 | <ul style="list-style-type: none"> <li>• <i>Wildlife Act 1975 (Vic);</i></li> <li>• <i>Flora and Fauna Guarantee Act 1988 (Vic)</i></li> <li>• <i>Fisheries Act 1995 (Vic)</i></li> </ul>       | <p>A permit may be required for activities which could harm wildlife, fish or flora.</p> <p>Contact the Department of Energy, Environment and Climate Action (DEECA) for further information or to apply for a permit.</p>  |



| APPROVAL  | LEGISLATION  | COMMENTS  |
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| <p><b>Aboriginal heritage</b></p>                         | <ul style="list-style-type: none"> <li>• <i>Aboriginal Heritage Act 2006 (Vic)</i></li> <li>• <i>Aboriginal Heritage Regulations 2018 (Vic)</i></li> </ul> | <p>All Aboriginal cultural heritage places and objects in Victoria are protected by law under the <i>Aboriginal Heritage Act 2006</i>. It is against the law to disturb or destroy an Aboriginal cultural heritage place or object.</p> <p>It is the responsibility of the applicant, as the party legally and financially responsible for the proposed activity, to determine if a Cultural Heritage Management Plan (CHMP) is required under the <i>Aboriginal Heritage Act 2006</i>. <b>If a Cultural Heritage Management Plan (CHMP) is required, then the CHMP must be approved prior to the issue of other permits and licences.</b> Use the Aboriginal Heritage Planning tools on the Aboriginal Victoria website to determine if your works are likely to require a CHMP <a href="https://heritage.achris.vic.gov.au/aavQuestion1.aspx">https://heritage.achris.vic.gov.au/aavQuestion1.aspx</a>. A final copy of the process list must be attached to your Works on Waterways Licence application.</p> <p>If a CHMP is required, then the approved CHMP <b>must also be attached</b> to your Works on Waterways Licence application. Licence applications for works requiring a CHMP <b>will not</b> be processed by the CMA until an approved CHMP is received. Contact First Peoples – State Relations on 1800 762 003 or visit <a href="https://www.firstpeoplesrelations.vic.gov.au/cultural-heritage-permit">https://www.firstpeoplesrelations.vic.gov.au/cultural-heritage-permit</a> if you require assistance.</p> <p>Earthworks not governed by a CHMP but are within a culturally sensitive area or in/near a registered cultural heritage place have a risk of damaging Aboriginal cultural heritage. You should consider if you need to apply for a Cultural Heritage Permit (CHP) or undertake a voluntary CHMP. It is the responsibility of the applicant to seek further advice from about this from First Peoples – State Relations on either 1800 732 003 or <a href="https://www.firstpeoplesrelations.vic.gov.au/aboriginal-culture-and-heritage">https://www.firstpeoplesrelations.vic.gov.au/aboriginal-culture-and-heritage</a>.</p> |
| <p><b>Prohibition of certain works and activities</b></p> | <ul style="list-style-type: none"> <li>• <i>Heritage Rivers Act 1992 (Vic)</i></li> </ul>  | <p>Certain activities may be prohibited near heritage rivers.</p> <p>Contact the Department of Energy, Environment and Climate Action (DEECA) for further information on details of activities that cannot be undertaken in the vicinity of heritage rivers and the obligations on land managers to manage heritage rivers to achieve particular outcomes.</p>  |



| APPROVAL  | LEGISLATION   | COMMENTS   |
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| <b>Approval for carrying out a controlled action.</b> | <ul style="list-style-type: none"> <li><i>Environment Protection Biodiversity and Conservation Act 1999 (Commonwealth)</i></li> </ul>   | <p>Actions that may have significant impact on matters of National Environmental Significance must be referred to the Commonwealth Government for a determination as to whether the matter is a “controlled action”, and any necessary approvals must be obtained.</p> <p>Contact the Australian Government Department of Climate Change, Energy, the Environment and Water for further information including guidelines for matters of national environmental significance and details of the approvals process.</p> <p><b>NOTE: Many wetlands in the Glenelg Hopkins Region are protected by this legislation which can impose stiff penalties for non compliance. Please contact the CMA for advice the status of your wetland under this legislation prior to commencement of any works.</b></p> |
| <b>Native title</b>                                   | <ul style="list-style-type: none"> <li><i>Native Title Act 1993 (Commonwealth)</i></li> <li><i>Land Titles Validation Act 1994 (Vic)</i></li> <li><i>Traditional Owner Settlement Act 2010 (Vic)</i></li> </ul> | <p>Native title rights will need to be considered and an agreement may need to be entered into with any person holding native title over the land upon which the works are proposed to be carried out.</p> <p>Contact the Department of Justice and Community Safety for further information on native title matters.</p>  |
| <b>Works Authority – Extractive activities</b>        | <ul style="list-style-type: none"> <li><i>Mineral Resources (Sustainable Development) Act 1990 (Vic)</i></li> </ul>   | <p>A Works Authority is required for extractive (e.g. mining) industries.</p> <p>Contact the Department of Energy, Environment and Climate Action (DEECA) for further information or to apply for a work authority.</p>  |



| APPROVAL                                      | LEGISLATION  | COMMENTS   |
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| <p><b>Consent for works on Crown land</b></p> | <ul style="list-style-type: none"> <li>• <i>Land Act 1958 (Vic)</i></li> <li>• <i>Crown Land Reserves Act 1978 (Vic)</i></li> <li>• <i>Forests Act 1958 (Vic)</i></li> <li>• <i>National Parks Act 1975 (Vic)</i></li> <li>• <i>Coastal Management Act 1995 (Vic)</i></li> </ul> | <p>Consent may be required for the carrying out of works or activities on Crown land, with the type of consent depending upon the status of the relevant Crown land, for example:</p> <ul style="list-style-type: none"> <li>- Unreserved Crown Land: a licence or lease under the Land Act (if appropriate) or a formal agreement with the land manager if the works are to be carried out on behalf of the land manager.</li> <li>- Reserved Crown Land: a licence or lease under the Crown Land (Reserves) Act (if appropriate) or a formal agreement with the land manager if the works are to be carried out on behalf of the land manager.</li> <li>- State forest, national parks, state parks, nature reserves: Forests Act (lease/licence/section 52 permit/agreement providing works are on behalf of land manager), National Parks Act (licence/lease/section 23 approval/section 21 permit/agreement providing works are on behalf of land manager, as appropriate), Wildlife Act (agreement providing works are on behalf of land manager)</li> <li>- Coastal crown land: consent under the <i>Coastal Management Act 1995</i></li> </ul> <p>Contact the Department of Energy, Environment and Climate Action (DEECA) for further information on how to obtain Crown Land Consent for your works.</p> |
| <p><b>Before You Dig Australia</b></p>        | <ul style="list-style-type: none"> <li>• <i>Various</i></li> </ul>   | <p>Before You Dig Australia (BYDA) is a free national referral service designed to prevent damage and disruption to the vast pipe and cable networks which provides Australia with essential services.</p> <p>BYDA creates a unique partnership with Australia’s underground asset owners. It acts as a single point of contact for you to receive information about underground networks at your excavation site so you don’t have to contact the utility organisations individually. Simply inform BYDA of the location of your works and they pass on this referral to the affected asset owners. They then send the information directly to you.</p> <p>The BYDA service is also designed to protect Australia’s excavators. Whether you are a back yard renovator, an individual tradesman or a commercial excavator the potential for injury, personal liability and even death exists every day. Obtaining accurate information about your work site significantly minimises these risks.</p> <p>Go to <a href="http://www.byda.com.au">www.byda.com.au</a> for more information.</p>   |