

Application Kit for a levee maintenance permit

Access to and maintenance of existing Crown land levees

Introduction

This Application Kit has been prepared to help you decide whether you want to apply for a permit to maintain an existing levee on Crown Land. It is important to understand that these permits do not allow the building of a new levee on Crown Land, nor do they allow for existing levees to be made higher or longer than they already are.

At the back of this Kit are the forms you need to use to apply for the permit. The process starts with you lodging a Pre-Application Inquiry Form, which will start the conversation between you and your local catchment management authority (CMA) about what you want to do.

Understanding the Permit Scheme

Who can be issued a permit?

A permit can be issued to any legal person that makes an Application in accordance with the Act.

Period of the permit

A permit may be issued for up to five years. The permit can only authorise the use of machinery and the introduction of levee material to the Crown land within the first 12 months of the permit period.

Private Land Neighbours

A permit cannot authorise the maintenance of those sections of a levee that are located on private land; nor can the permit authorise access over private land to a Crown land levee.

Refusing a permit

A range of different factors are considered when deciding whether to issue a permit. The decision not to issue a permit is at the discretion of the CMA.

Offences relating to unauthorised activities

If you carry out maintenance without a permit, breach your permit condition, or exceed the levee dimensions approved under the permit, you can be found guilty of an offence attracting a fine of up to 120 penalty units and /or one year in prison.

Varying a permit

The CMA or the permit holder can, within the constraints set out in the Water Act, vary a permit condition.

Pre-Application process

The Pre-Application phase has been designed to facilitate the exchange of information between you and the relevant government agencies. This will achieve two objectives. It will:

1. Ensure that you have the information necessary to apply for your permit.
2. Enable you to flag the dimensions to which you wish to maintain the levee.

You can then consider your information needs, and the CMA can consider those dimensions and advise you if they are likely to be approved before you make your formal application. These conversations can take place before you go to the trouble of preparing the detailed Work Plan that must accompany your Application.

As a result of these preliminary discussions, all parties should have a clear, common understanding of your intentions.

Other approvals may be required before you can start

Overview

Crown land is managed to protect a variety of values and some of these values are protected by legislation: both state and Commonwealth. As a result, even though we aim to make the levee maintenance process as simple as possible, you may need more than the approval of the CMA before you can undertake levee maintenance activities. For example, it is possible that you may also require approval under laws covering:

- cultural heritage
- environment protection.

The CMA can make the authorisations necessary under the *Water Act 1989*, but it cannot make the authorisations necessary under other Acts. However,

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the CMA may be able to advise of other approvals that may be required.

Please be aware, however, that it remains the responsibility of the permit holder to ensure they have all the necessary approvals before they conduct their maintenance activities.

Cultural heritage

The *Aboriginal Heritage Act 2006* and the *Aboriginal Heritage Regulations 2018* provide for the protection and management of Victoria's cultural heritage (for example Aboriginal places, objects and human remains), on public land as well as private land. No Victorian agency can issue approvals under any other Act without ensuring the developer has fully met the requirements of this Act.

All Crown land within 200 metres of a river is assumed to have cultural heritage and it is the applicant's obligation to undertake maintenance in a way that protects it, including stopping work if unknown cultural heritage is discovered during activities. Work in areas where cultural heritage is discovered may be able to recommence (subject to a management plan) once it has been assessed by a Cultural Heritage Officer. You can protect cultural heritage and avoid needing a permit in many situations by not digging on Crown land and not allowing machinery or equipment to cut into the soil, especially by avoiding driving over wet soil.

State and Commonwealth Environmental Laws

The removal of vegetation, either from a levee, or to enable you to pass over Crown land to access that levee, can be authorised under this permit. For this reason, it is particularly important that your permit application clearly identifies any vegetation you wish to remove. In some instances, the vegetation removal may also require a permit from DELWP to comply with the *Flora and Fauna Guarantee Act 1988* and, if approved, that permit will be issued to you along with your levee maintenance permit.

A levee maintenance permit will not exempt you from the application of Commonwealth laws such as the *Environment Protection and Biodiversity Conservation (EPBC) Act 1999*. If a levee maintenance proposal could affect any matters of national environmental significance, it must be referred to the Commonwealth Government under the EPBC Act. The CMA may discuss this with you.

It is the applicant's responsibility to ensure their actions will not impact on a matter of national environmental

significance and to ensure they have all necessary approvals before taking an action.

Because they are existing structures, existing levees will largely be unaffected by these laws, however, access routes to the levee may trigger environmental assessments. For this reason, it is in your interests to restrict your access to the levee either by using existing tracks or by going across private land (with the approval of the private landowner).

Planning Schemes

Levee maintenance on Crown land, which has been authorised under the (Water Act) levee maintenance permit scheme, does not require a permit under Planning Schemes.

Reassessing whether Crown land levee maintenance is for you

After you have met with the CMA to discuss your proposal, and once your Pre-Application Inquiry Form has been returned to you, you should re-assess whether maintaining a Crown land levee is the best way to manage your flood risk. You may like to review the other options available to you and compare the ongoing cost of these options against the ongoing cost of maintaining a Crown land levee. Other options include raising the floor levels of buildings or creating smaller 'curtilage' levees around specific infrastructure, which the CMA can discuss with you.

This is not to discourage you from making a levee maintenance permit application, only to remind you that in some circumstances – after receiving information based on your initial inquiry – you may decide it is more effective to manage your flood risk another way.

Permit Application

If you choose to proceed with a formal application, there are few key things to bear in mind.

Name on the Permit

When completing the Application Form, the name of the legal person on the permit will need to be the same as the person holding the necessary public liability insurance, if required.

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Map of the area

You will need to attach an annotated map, which must clearly mark:

- the section of levee you wish to maintain
- the route you intend to use to access the levee
- the site you propose storing machinery and materials during the initial maintenance phase
- the location of any machinery turning circles
- the vegetation you intend to remove: only vegetation approved under this Permit may be removed, so be precise
- trees of cultural or environmental significance that will not be removed
- the proposed site for the distribution of felled and lopped tree and other organic waste: it is illegal to remove produce from Crown land without authorisation
- the site of any protected flora you intend to re-locate during maintenance activities (if protected flora has been identified)
- the location of existing features such as waterways, buildings, power-lines, roads, access tracks, fences, channels, drains, pipelines, cables, water storages and other similar features that are in proximity to the levee
- the location of any borrow pits - borrow pits will not be authorised on Crown land.

Crown Land Managers Conditions

As part of the permit process, both the CMA and the Crown land manager can put conditions on your permit. The CMA will coordinate the permit conditions for you.

Work Plan

It will be a condition of your levee maintenance permit that you conduct your maintenance in accordance with an approved Work Plan. This may include:

- what the permit holder or his or her agent intends to do
- how the work is to be performed
- how public safety, aesthetic, archaeological, water resource, environmental and any other values are to be considered.

Lessee Approval

Before a permit may be issued you must demonstrate that you have the approval of any Crown land lease holders to the maintenance you propose in your application. The lessee must sign your permit Application Form prior to the application being lodged with the CMA.

Pre-application inquiry form

This is a Pre-Application Inquiry Form for a permit under Part 5AA of the *Water Act 1989*. Submitting this form will advise the CMA that you intend to apply for a levee maintenance permit. Following submission of this form the CMA will gather information for you on the land upon which the levee is located – including inquiring into any leases over the land - which will assist you in applying for a levee maintenance permit.

Applicant details

| | |
|--|----------------------|
| Name | |
| Postal Address | |
| Email | |
| Phone (business hours) | |
| Preferred method for response (circle) | Email, Phone or Post |

Description of the levee

| | |
|---|-----------------|
| Street addresses of start and end of the levee to be maintained | Street |
| | To Street |
| Attach a map of the levee (if possible) | |

Types of maintenance intended to be undertaken

| | |
|---|--|
| A short summary of what you want to do – e.g. use of machinery, soil, tree removal (if any) - to help the CMA understand the scale of your proposed activities. | |
|---|--|

Application Form

This Application Form is used to enable people to apply for a Levee Maintenance Permit under Part 5AA of the *Water Act 1989*.

Applicant details

Company Name (if applicable)

Phone Number

| | |
|--|--|
| | |
|--|--|

Given name

Surname

Phone Number

| Given name | Surname | Phone Number |
|------------|---------|--------------|
| | | |
| | | |
| | | |

There may be more than one name on the Application

Postal Address

| |
|--|
| |
|--|

Email Address

| |
|--|
| |
|--|

Details of Catchment Management Authority

This application is submitted to:

Catchment Management Authority

Contact name

| | |
|--|--|
| | |
|--|--|

Levee location

| |
|--|
| |
| |
| |
| |

Describe the location in terms of both streets and GPS codes.

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Specified crown land the levee is located on

List all Specified Crown land the levee that those portions of the levee to be maintained are located on:

| |
|--|
| |
| |
| |
| |

Describe the location of the levee in terms of both streets and via GPS codes.

Lease holder

The following has a lease over the land and has provided consent to the proposed maintenance activities:

| Lease Holder's Name | Proof that lease holder approval has been granted |
|---------------------|---|
| | (e.g. - see attached letter of consent) |

Levee dimensions

The dimensions to which the levee is to be maintained are:

Dimensions

| | |
|---------------------|---------------------------|
| Height | <i>millimetres/metres</i> |
| Breadth (footprint) | <i>millimetres/metres</i> |
| Length | <i>metres/kilometres</i> |

[Speak to your local CMA about your proposed dimensions](#)

Period the permit has effect

| | Commencement | Conclusion |
|--|----------------------------|----------------------------|
| Major maintenance activities (maximum one year) – use of machinery and bringing in of soil | TO BE COMPLETED BY THE CMA | TO BE COMPLETED BY THE CMA |
| Minor maintenance activities (up to five years from commencement of permit) | TO BE COMPLETED BY THE CMA | TO BE COMPLETED BY THE CMA |

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Description of type of maintenance activities

Please describe the type of maintenance you propose to undertake e.g.: topping up levee by 200 mm to restore to pre-eroded height / restoring heavily eroded sections of the levee / removing trees from levee / removing tree roots from levee / re- footing levee) Also describe the earthworks to be undertaken, e.g.: 'removal of poorly constructed levee will take place for approximately 200 metres and restored to height of original levee.

You may attach a simple diagram of the proposed activities.

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CONDITIONS

To be completed by the CMA and Crown land manager(s) – if any.

The permit holder hereby covenants with the CMA that during the term of the permit, the permit holder will: indemnify the Crown in respect of any claim or liability for property damage and/or injury or death of any person which arises directly or indirectly out of negligence, tort, contract or breach of a statutory duty by the permit holder or any associated party consequential to the use of occupation of the Crown land, including but without restricting the generality of the foregoing, the pollution or contamination of land or water and any costs charges and expenses incurred in connection therewith.

Signed by the Permit Applicant:

.....
Name

...../...../.....
Date

Approval of the CMA Authorising Officer:

.....
Name

.....
Title

.....
CMA

...../...../.....
Date

Permit variation application form

A levee maintenance permit may be varied by either the permit holder or the CMA (*note, this can only occur once a permit has been issued*).

| | |
|--|--|
| Permit holder Name and Contact Details | |
| Permit reference number | |
| Description of the Variation proposed by the permit holder (please describe the variation to the existing permit you would like to make). | |
| Approval of any lease holder <ul style="list-style-type: none"> • over land on which the levee is located • over land over which access is required by the applicant (To be obtained by the Permit Holder) | |
| Lease holder contact details | |

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| | |
|---|--|
| Comments by the land manager <i>(if the CMA deems that land manager may be affected by the variation)</i> (To be obtained by the CMA) | |
| Land manager's contact details | |

| | |
|---------------------|--|
| Comments by the CMA | |
| CMA Contact Details | |

The permit holder hereby covenants with the CMA that during the term of the permit, the permit holder will: indemnify the Crown in respect of any claim or liability for property damage and/or injury or death of any person which arises directly or indirectly out of negligence, tort, contract or breach of a statutory duty by the permit holder or any associated party consequential to the use of occupation of the Crown land, including but without restricting the generality of the foregoing, the pollution or contamination of land or water and any costs charges and expenses incurred in connection therewith.

Signed by the:

CMA Representative

.....

Date

/ /

Permit Holder

.....

Date

/ /

Note that the permit holder's signature is not required when the permit Variation is being proposed by the CMA.

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