

Table 1: Summary of proposed amendments to the Victoria Planning Provisions November 2016 - comments

Section	Detail	Comment
2.2.3: Outline of additional proposed change to Clause 52.17	A permit will expire if the development or any stage of it does not start within two years of the date of the permit	We are very supportive of the provision of a timeframe for the validity of a permit, as it provides concrete guidance for proponents. It would be useful to also have guidance on the period of validity for biodiversity information collected during a site assessment . If a proponent commissioned a biodiversity assessment ten years ago, can the findings still inform a permit application?
2.2.4: Outline of proposed changes to Clauses 52.16 and 52.17 Table of exemptions	Introduce a new 'Conservation work' exemption to enable conservation works, subject to approval by the DELWP Secretary. The exemption would mean that a permit to remove, destroy or lop native vegetation is not required for carrying out of conservation works that are outlined in a conservation management plan and demonstrate no net loss to biodiversity.	We support the inclusion of an exemption for conservation work where the short-term removal of native vegetation will result in demonstrable favourable outcomes for the site and no net loss to biodiversity over the medium to longer term.
2.2.4: Outline of proposed changes to Clauses 52.16 and 52.17 Table of exemptions	Emergency works, Fences and Planted vegetation – reword these three exemptions to remove ambiguity and potential misuse.	The exemption for planted vegetation should continue to include cases where vegetation was planted for aesthetic or amenity purposes. As an illustrative example, we often see wind breaks of planted eucalypts native to Victoria but not indigenous to the area (for example, rows of <i>Eucalyptus globulus</i> . subsp. <i>globulus</i> in farmland within the Victorian Volcanic Plain) planted by farmers on private land. It is not appropriate for these to be treated in the same manner as remnant grassland in the area.
2.2.4: Outline of proposed changes to Clauses 52.16 and 52.17 Table of exemptions		Exemptions should be added state-wide to a list of native plants that are problematic, such as Coast Wattle and Sweet Pittosporum when clearly outside their natural range. This could be separately published (similar to the advisory lists of rare and threatened species) to allow for updates, and could even delineate by council or CMA where (e.g. occurrences outside a published, mapped firmer, natural distribution) and when this exemption applies.

Table 2: Native vegetation clearing: Draft assessment guidelines November 2016 - comments

Section	Detail	Comment
3.2.1: Site-based information	To determine the extent of a scattered tree it is assigned a standard area based on the size of the tree. Scattered trees are classed into two sizes small and large. A small scattered tree is mapped as a circle with a 10 metre radius and a large scattered tree is mapped as a circle with a 15 metre radius.	We support the distinction between large and small scattered trees.
3.2.1: Site-based information	Any area of overlap between the assigned extent of scattered trees is dissolved.	This is sensible.
3.2.1: Site-based information	A large tree can be either a large scattered tree or a large tree contained within a patch.	We generally support the inclusion of large trees in patches in the consideration of site-based information; however provision needs to be made for very large patches with a large number of large trees, where mapping of every large tree may prove impractical within a reasonable time frame..

Section	Detail	Comment
3.2.1: Site-based information	<p>A large tree is a native canopy tree with a Diameter at Breast Height (DBH) greater than or equal to the large tree benchmark for the local Ecological Vegetation Class (EVC)... Some Mallee EVCs do not list a large tree benchmark DBH for canopy trees. In these EVCs all Mallee eucalypts identified as canopy tree species are regarded as large trees and assigned the standard extent for a large tree. Any other EVC that does not list a large tree benchmark DBH for canopy trees is assigned a default large tree benchmark DBH of 40cm (equivalent to a circumference of 125.7cm).</p>	<p>Clarification needs to be provided for cases where a large tree benchmark is given for one canopy species but not another (for example, Riverine Chenopod Woodland (EVC 103) in the Murray Mallee bioregion, where both <i>Eucalyptus largiflorens</i> (Black Box) and <i>Acacia stenophylla</i> (River Coobah) are listed as canopy species, but a large tree DBH is provided only for <i>Eucalyptus largiflorens</i> as to whether the default large tree benchmark DBH of 40cm applies to the second canopy species.</p> <p>Where remnant patch vegetation is such that all trees are considered large trees (such as mallee scrub), an exemption from mapping them and measuring them individually should be made where the practicality of achieving this is problematic. Instead, an estimate of tree density should be made based on the average area occupied by five plots of ten trees (i.e. a total of fifty trees). Fifty trees should therefore be set as the threshold for such averaging exercises.</p>
3.2.1: Site-based information	<p>A mapped wetland may be excluded from consideration if it is covered by a hardened, man-made surface, for example, a roadway. The mapped extent of a wetland may be refined if supported by the outcome of a hydrological assessment, and approved by the DELWP Secretary.</p>	<p>We support the potential to exclude wetlands from consideration where the mapping is clearly incorrect. Clarification needs to be provided on the necessary qualifications of the person performing the hydrological assessment, and the type of information required to support this.</p>
3.2.1: Site-based information	<p>Patches and scattered trees identified without an accredited native vegetation assessor are assigned the modelled condition score shown in the native vegetation condition map.</p>	<p>Our experience indicates that scattered trees usually site within a highly-disturbed location with a very low condition score. It would make more sense to apply the standard condition score of 0.20 to all scattered trees regardless of whether they have been mapped by the proponent or an accredited native vegetation assessor.</p>

Section	Detail	Comment
4.1.2 Determining the assessment pathway of an application	The footnotes to this section provide an opportunity for an applicant to retain the services of an accredited native vegetation assessor and for the information they gather to supersede the information in the location map about endangered EVC's.	The capacity for a proponent to provide site-specific accurate information on the biodiversity of their site to accompany their application is supported.
4.2 Site assessment	Applications in the Basic Assessment Pathway and Intermediate Assessment Pathway do not require an assessment by an accredited native vegetation assessor. The condition score of all native vegetation to be removed is determined from the native vegetation condition map.	<p>It needs to be made very clear that applications under the Basic Assessment Pathway and Intermediate Assessment Pathway that do not require an assessment by an accredited native vegetation assessor still require the proponent to identify any large trees (which requires them to identify which bioregion and EVC they are in), and to map the extent of native vegetation. This includes being able to distinguish between native and exotic grasses, and identify which species are perennial. The Assessment Guidelines need to identify very clearly that proponents accept the risk if they choose not to appoint an accredited native vegetation assessor and they make the wrong call.</p> <p>In this context, applicants who decide to submit a site assessment undertaken by an accredited native vegetation assessor should have the opportunity to have that application assessed based on that information and their offset obligation established based on this site-specific, accurate information. This is the same principle supported in the footnotes to section 4.1.2 of the draft guidelines. This principle should be applied consistently, not selectively.</p>



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4.2 Site Assessment	Where a detailed assessment pathway application is required, the native vegetation assessment must be undertaken by an accredited native vegetation assessor whose accreditation is less than two years old.	This requirement makes it incumbent on DELWP to run accreditation update sessions at sufficient frequency to ensure the 'system' works. In line with previous correspondence with the Department, we recommend that a forward calendar of accreditation days should be committed to each year by the Department so that all parties, including the Department's assessors can plan their work programs sufficiently far ahead to reduce the inconvenience of short notice or accreditation exercises at insufficient frequency.
4.5.1 Decision guidelines for all applications	The role the native vegetation to be removed plays in land and water protection, including: > protecting water quality and waterway and riparian ecosystems, particularly within 30 metres of a wetland or waterway and in special water supply catchment areas listed in the Catchment and Land Protection Act 1994 > preventing land degradation, including soil erosion, salination, acidity, instability and water logging, particularly: where ground slopes are more than 20 per cent; on land which is subject to soil erosion or slippage; and in harsh environments, such as coastal or alpine areas > preventing adverse effects on groundwater quality, particularly on land: where groundwater recharge to saline water tables occurs, that is in proximity to a discharge area or that is a known recharge area	The protection of these functions of native vegetation is already covered in the application of ESOs, SLOs, EMOs and SMOs. To add them here seems to constitute double-handling. It is inevitable if this remains as it is that more and more VCAT cases will require more and more non-biodiversity expert input. The guidelines should remain focussed on biodiversity values and their protection and offsetting. These other values of native vegetation should be dealt with through a different strategic planning and development control approach.

Section	Detail	Comment
5.1.3 General Offset Attributes: Vicinity	General offsets will be sources from the local municipality or the CMA region in which removal is proposed.	<p>Experience since 2013 indicates that this has led to a concentration of general offsets at sites that do not reflect the diversity of EVC's and in particular the cumulative impact on particular EVC's that is occurring through many 'low risk' permit decisions. This could be dealt with by providing an incentive to offset in a similar environment.</p> <p>In addition, the opportunity to satisfy offset requirements in the same bioregion is considered ecologically appropriate and would somewhat address this problem.</p> <p>Restricting offsets purely to the CMA region, particularly in the Melbourne region will lead to steadily escalating costs as supply diminishes. The land value implications of an on-title protected offset for land near Melbourne are far greater than further away. The supply of Melbourne region offsets will therefore likely be harder to maintain. Allowing offsets within the same bioregion addresses this substantially.</p>
5.1.3 General offset attributes: Large Trees	When an application includes the removal of large trees the offset secured must include protection of at least one large tree for every large tree to be removed. This requirement is in addition to the number of general biodiversity units required and the vicinity and minimum strategic biodiversity value score requirements. If the proposed offset site does not contain the required number of large trees additional trees can be secured. These trees must be located within the same Catchment Management Authority boundary or municipal district as the native vegetation to be removed. However, the minimum strategic biodiversity value score requirement does not apply	<p>It would therefore follow that if an offset site has more large trees than required these should be able to be sold separately. It is foreseeable that projects may need to meet their GBEU and (at least a portion) of their large tree offsets separately.</p> <p>It is also suggested that any additional large trees required could be sourced from anywhere in Victoria (as for large trees where specific offsets are required).</p> <p>Alternatively, offsets could be required to have the same <i>Large Old Tree Score</i> component in habitat hectare score as the removal patch.</p>

Section	Detail	Comment
5.1.3 General offset attributes: Offset attribute exchange	<p>The minimum strategic biodiversity value score of the offset site may be reduced by a maximum of 10 per cent (i.e. to no less than 70 per cent of the strategic biodiversity value score of the native vegetation to be removed) if the offset secured includes protection of any (or all) of the following:</p> <ul style="list-style-type: none"> ▪ Ten per cent more general biodiversity units than is required. ▪ At least two large trees for every large tree to be removed 	This is a sensible approach that recognises that offset sites still make a significant contribution to biodiversity even if they do not exactly match the clearing site.
5.1.5 Specific Offset Attributes Habitat for species	If specific offsets are required for multiple species, an offset, or multiple offsets, must provide habitat for each species. It is acceptable for one offset site to be used to secure all specific offset requirements contained in a single permit. An area of native vegetation can provide habitat for multiple species.	<p>This paragraph is confusing and could be interpreted as a single offset site being all that is required. The policy direction needs to be made less ambiguous here. Clearly:</p> <ol style="list-style-type: none"> 1) All species offsets must be met where the habitat being affected is suitable (whether mapped as important or not); and 2) All such relevant species offsets should be met in habitat that is suitable. <p>As it stands, this paragraph leaves open the possibility that one site can meet all species offset requirements whether the habitat is suitable or not. This is surely not the intention of the guidelines.</p>

Section	Detail	Comment
5.3 Offset Site Eligibility	<p>An offset site must comply with the criteria:...</p> <ul style="list-style-type: none"> • The site is not already being used to offset other clearance of native vegetation or species habitat required under Victorian or federal legislation, i.e. it is not an existing offset site. • The site is not subject to a current agreement under an incentive or grant program. 	<p>Site eligibility should take account of the Commonwealth <i>Environment Protection and Biodiversity Conservation Act 1999</i> (EPBC Act) Environmental Offsets Policy. This requires species- or community-specific offsets usually at a higher ration to removal than the Victorian vegetation offset system. Such sites used to offset impacts on matters of national environmental significance under the EPBC Act for the same removal should explicitly be called in as eligible by these guidelines. Furthermore, the Commonwealth recognises ‘advance offsets’ and this needs to be called in explicitly as eligible</p> <p>Explicit mention of the EPBC Act offset requirement and recognition of the interaction between the two jurisdictions will remove any confusion or uncertainty. This is entirely consistent with the Commonwealth’s offset policy.</p>

Section	Detail	Comment
<p>6.1 Use of site-based information to supplement mapped information</p>	<p>Site-based information may be used to supplement the habitat importance map for a species in certain circumstances, <i>with the approval of the DELWP Secretary</i>. All applications supported by a site assessment must be completed by an accredited site assessor. Details are included in the Assessment handbook – native vegetation clearing. The circumstances where this applies include:</p> <ul style="list-style-type: none"> ▪ Removing specific offset requirements from clearing sites when it is clearly demonstrated that the vegetation cannot be habitat for that species. ▪ Providing for the consideration of rare or threatened species that have been observed on site when a habitat importance model has not been developed. This allows for consideration of this information where it is presented or is available but cannot be used to impose additional requirements on applicants. ▪ Adding specific credits to offset sites when it is clearly demonstrated that the vegetation is habitat for that species. ▪ Verifying that native vegetation at offset sites is suitable habitat for the species listed. This applies for third party offset sites that are to be registered on the Native Vegetation Credit Register. 	<p>This is sensible and recognises the skills of accredited site assessors.</p> <p>Notwithstanding this, it does not provide for a requirement for a specific offset for removal where the occurrence of a threatened species is confirmed from site-based information but the area is not mapped as important habitat in a developed DELWP model. This is considered a deficiency that should be remedied.</p> <p>The process and criteria for approval by the DELWP Secretary needs to be documented in the Guidelines and a reasonable timeframe established and committed to.</p> <p>Verifying that native vegetation at offset sites is suitable habitat for the species listed should apply to all offset sites, not just those in the NVCR.</p>
<p>6.2 Alternative arrangements for specific offset requirements</p>	<p>This section sets out the way in which alternative specific offsets can be considered and used.</p>	<p>This approach to alternative offsets has been in practice since the limitations of the new specific offset requirement became apparent. We consider that these alternative arrangements are workable and preserve the integrity of the threatened species protection objective. We have availed ourselves of these on behalf of clients and find that they are workable and well-administered. The information requirements are clear in the associated information memorandum issued by DELWP. This should be included in the new handbook.</p>

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<p>Other comments:</p>		<p>Since December 2013, most proponents requiring a permit for native vegetation removal have not had to undertake specific site surveys for threatened species. This has considerably reduced the rate at which information on the occurrence of threatened species is being generated, slowing the process of refining the species habitat importance modelling and mapping that underpins decision-making on native vegetation removal. As long as this situation persists, the mapping will not improve substantially as the empirical base it sits upon is not improving significantly. To both inform decision making better over time and to provide for continual improvement in decision-making, site-based field surveys for threatened species should be considered an important way of removing uncertainty where the modelled mapping clearly lacks precision. More opportunity should be provided for the gathering of site-based information where this uncertainty and imprecision can be removed. In particular, for example, a site proposed for removal that supported hundreds of a particular threatened flora species compared with one that supported less than 10 should be treated differently by a decision-maker. Reliance on habitat importance modelling does not enable such nuances to inform decisions. Bad decisions that seriously compromise the recovery of threatened species are therefore inevitable without such information. Consideration should be given to a site-based survey of a threatened species being mandated where the habitat importance score is above a particular threshold and the likelihood of occurrence is considered moderate to high based on an accredited site assessor's initial habitat assessment.</p>