

09/05/2016

To: Department of Environment Land Water and Planning

Review of the native vegetation clearing regulations

Regulatory Strategy and Design

Via <http://haveyoursay.delwp.vic.gov.au/native-vegetation-clearing-regulations>

As a passionate supporter of the Victorian environment and an environmental professional I make the following submission to the review. Firstly I would like to acknowledge the apparent consideration of feedback received from consultation undertaken thus far and the frank appraisal of the components of the regulations that are not currently working.

Overall I am very supportive of the review process so far and of the Proposed Improvements (PIs) generally. However this support is subject to the development of the PIs into realistic and meaningful changes to the way the regulations are implemented across the State. I note a number of positive PIs of which I am particularly supportive, being:

- PI 1: Improved articulation of the '3-step' Avoid – Minimise - Offset approach to clearance of remnant native vegetation, with a focus on avoidance being the primary goal.
- PIs 5 to 7 and 9 to 11: Changes to the 'Risk' Pathways to simplify the process, and lower impact thresholds for referral to DELWP, and associated offsetting strategy requirements.
- PI 15: to improve consideration of the specific biodiversity value of scattered trees.
- PI 17: improve offset availability.

Below I have provided some comments relating to specific areas of the review that I consider particularly important.

Exemptions

I support the PIs relating to exemptions but consider this is an area that requires additional scrutiny. Given that the biggest vegetation loss comes from unregulated clearance, such as via agreements and exemptions, the regulations need to be strengthened to ensure high value vegetation is not slipping through these cracks. For example, 'Scattered Trees' in highly cleared agricultural landscapes are constantly being removed under 'existing use' permit exemptions. A detailed policy response to address this gap is required and should include provision of support (both biodiversity and planning) to councils to implement Vegetation Protection Overlays to limit the extent of clearing under exemptions.

Leadership

Government departments, public authorities and service providers operate under a wide variety of (generally unregulated) Agreements, Exemptions, Memoranda of Understanding (MoUs), or Codes of Practice (CoPs) with the State Government. These Agreements exist to 'streamline' the removal of remnant native vegetation, plants and animals in the name of avoiding the costs and time delays of a permit process. However, they can also serve to avoid regulatory requirements, such as reporting and detailed offset strategies, that are otherwise required for ordinary Victorians.

In addition to the direct losses from exemptions, the Victorian Government's own reporting shows that the third-largest cause of native vegetation losses occurs through 'insufficient management of threats on public land'.

Through this review, the Victorian Government needs to stand up and show leadership, by striving to exceed the minimum requirements of the regulations, through transparent policy, and a commitment to funding appropriate public land management.

A number of PIs seek to increase reporting requirements. While the intent of these PIs is understood, this is likely to place additional pressure on already under resourced councils, who are already struggling (failing) to successfully implement the regulations. Additional reporting requirements are not likely to improve this situation. There needs to be a shift to a co-regulatory approach, where the Victorian Government plays a much greater role in the implementation of the regulations, including committing funds and resources to support local councils. Currently, the best-resourced councils are those with the least amount of remnant native vegetation. Issues relating to leadership in compliance are discussed below.

Biodiversity

The review only proposes minor modifications to existing threatened-species focused modeling. We know biodiversity is made up of much more than just threatened species. We need to see protection of entire communities, not just a select number of plants and animals.

The contribution and significance of entire vegetation communities cannot be adequately considered with assumptions largely based on the modeled presence or absence of threatened species. The status and significance of vegetation communities within a local and bioregional context needs to be included in the reviewed regulations.

Compliance

If these regulations are to succeed where previous policies have failed there needs to be a genuine and public increase in compliance and enforcement actions, including improved support for councils that regulate the vast majority of clearance.

To provide a real disincentive to illegal clearance, penalties for non-compliance need to be increased to representative and genuinely punitive amounts and clearly articulated to the community.

Additionally the Victorian Government should play a much greater role in proactive community education and engagement, to increase awareness and understanding amongst Victorians about the value of biodiversity and the importance of the regulations that exist to protect it.

Thank you for the opportunity to provide comment on this vital and timely review. I look forward to seeing the regulations develop and more importantly seeing genuine investment in reversing the decline of Victoria's biodiversity.

Regards

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