

POST/EMAIL SUBMISSION DETAILS		
Date Received	08/03/2017	
Name	██████████	
Organisation	Green Wedge Protection Group	
Email	██████████	
Postcode	3760	
Privacy Options	I am making this submission on behalf of an organisation , and understand that it may be published and will include the name of the organisation unless otherwise requested	
Privacy Statement Correct?	Yes	
Privacy Collection Notice Read?	Yes	
Submission Type	Environmental/Community group	
Previous engagement in review?	Info session 2015	
	Workshop 2015/16	
	Targetted consultation	
	SRG	
	Written submission to CP?	Yes
	Other? Describe	
Will changes improve function of regs?		
Reasons	In part, definitely a step in the right direction.	
Implementation issue with proposed changes?	Yes	
Reasons	Vocal groups that might divert attention away from the important issues of halting broadscale vegetation/habitat loss and instead focus on the issues of perceived loss of landholder rights. Several years of hard work and community consultation have been invested in the formulation of these amendments - it would be unfortunate to allow a vocal few to usurp the process.	
Guidelines – guidance or clarification needed?	Yes	
Details	Other referenced documents that are not yet provided for comment - without these, the full implications of these policies and measures cannot be ascertained. We look forward to seeing these documents.	
Terms to include in guidelines glossary?	Yes	
Details	"domestic stock" "greatest value" "other	
Subscribe to e-newsletter?	Yes. Please send information updates to my email address	
Other comments		
Written submission provided?	Yes – attached	



Reg. No. A31739L

GWPG Submission to Native Vegetation Clearing Regulations Review

March 2017

Introduction

The Green Wedge Protection Group (GWPG) was formally incorporated in 1995, following municipal amalgamations. Less formally, the Group has existed since the early 1970s. The Purposes of the Green Wedge Protection Group include:-

- Working to ensure that residents and public officials of the Shire of Nillumbik act together to protect the environment; develop a high quality urban lifestyle within limited designated areas; and promote a rural lifestyle with sensitive farming and enhanced conservation objectives.
- Ensuring the Green Wedge is the strategic focus of the Shire of Nillumbik as outlined by the Local Government Review Board's final recommendation.
- Providing input to the Shire of Nillumbik and other decision making bodies on any matter considered relevant to the Green Wedge.

The Green Wedge Protection Group is heavily involved in state and local planning issues, both currently and prior to the group's formal inception, and will continue to provide advice and direction to authorities to ensure the intent of our Green Wedges is upheld at all levels of Government, and the values protected. The GWPG has involvement in the Green Wedge Coalition, and makes many submissions on state-level planning and environmental issues.

The Native Vegetation Clearing Regulations Review

Community Engagement

We congratulate the DEWLP on the broad range of stakeholders they have consulted with, combined with the wide-ranging community consultation, and all this will be complemented by the introduction of the Native Vegetation and Regulations Advisory Group. The 3 primary functions identified for the advisory group are exemplary! GWPG are supportive of the concept and proposed function of this group, and feel qualified to be part of this group. We would welcome further involvement.

The Importance of Planning

Planning, done correctly, is an evolutionary process. Presently, planning tends to be the domain of large commercial developers, and as a result has had serious impacts on the planning decisions made at a political level. As native vegetation protection is currently managed through planning controls, it is imperative that these tools NOT be politicized as this inevitably results in inconsistencies with regard to achievable protection for these habitats.

Planning has become a political football that lacks credibility because of its ad hoc approach to a myriad of issues that interact and require immense understanding, detailed knowledge of past, present and future trends and a comprehensive understanding of planning principles. Politicians are not planners and over the last ten or so years have proved this beyond any doubt. Equally so, politicians are not ecologists or scientists, yet vegetation protection is another of those political footballs..

The Green Wedge Protection sees planning must be viewed in a holistic manner, with our focus on the Shire of Nillumbik. And this includes planning that addresses loss/decline of native vegetation within our municipality as well as across the state.

Preservation of the Green Wedges, especially the Nillumbik Green Wedge which supports extensive tracts of remnant vegetation and is home to many threatened species, depends on the commitment from all levels and “sides” of politics to ensure we do not lose these irreplaceable environments.

It is time to re-establish adequate planning controls for protection of our natural environment that are “above” politics. A uniform approach by all parties to the future of our remnant habitats – our life support systems - is imperative if we are to halt the decline of our natural environment that threatens to destroy the functioning of our ecosystems..

We hope for bipartisan support for any Native Vegetation Clearing Regulations because its pointless to go to all this work to have it over-turned by any one vocal group or local government that might be driven by factors other than protection of our natural environment.

Nillumbik

Historically, Nillumbik has consisted of farming and conservation communities, both keen to preserve biodiversity. Over the last 20 years, the demographic has changed, with an influx of hobby farmers and lifestylers, who have little understanding of the longterm planning regulations which have enabled the integrity of the Nillumbik natural environment to be maintained. The new demographic focusses more on their land rights and less on the environment.

There are two groups within Nillumbik – NRA and PALs – which claim to act on behalf of all ratepayers of Nillumbik (or rural landholders) but this is NOT the case. They represent a relatively small demographic. Their agenda/s are primarily development and landholder rights ie. no controls and no overlays.

There is a wide range of groups not included under their umbrella such as FON, GWPG, Landcare, Friends of Groups and so on – all of which have a commitment to, and knowledge of, environmental issues in our municipality, and who are conscious of, work with and live with the ever-present fire danger but do not over-react.

Removal of the bushfire context from 52.17 to be wholly within 52.47 and 52.48 provides clarity, security, and simplifies the issues. If people are fearful of fire issues, this is dealt with comprehensively within 52.48 exemptions and reduces the ambiguities when dealing with aspects of planning controls. In the past we had no allowance for vegetation removal to provide defensible space – now we do. This should be seen as a win for those fearful of fire risks. The only ask is that, in some cases, the losses in vegetation to create a defensible space are offset elsewhere in an aim to achieve a No Net Loss.

Who sets the rules

These are state government regulations, not Nillumbik regulation, which confuses many of the vocal landholders. Clarification of the issues needs to be provided by both state and local government to reassure landholders.

Ongoing loss of native vegetation

Prior to the Native Vegetation Framework, we had no idea of the true extent of permitted vegetation losses, let alone illegal and incremental losses (and for that matter, losses via permit exemptions). Since the creation of the Native Vegetation Framework, and now the Native Vegetation Clearance Regulations, we now have data to verify the extent of losses and the success of our No Net Loss – Net Gain – No Net Loss goals. And the evidence is blatantly clear that biodiversity losses continue to occur at an alarming rate, much of which occurs legally, under the Exemptions in Clause 52.48 and 52.17 as well as under permitted losses through the Low Risk Pathway.

Other agencies

The Green Wedge Protection Group wholeheartedly supports the VNPA and Environment Justice' positions, as well as the LGPro and MAV submissions. These organisations have each produced submissions that provide credible expertise with regards to the finer details of the Native Vegetation Clearing Controls. Their expertise is invaluable, and should provide DEWLP with great guidance when fine-tuning these important policies.

Comments on Key Themes

The Consultation Paper on the Review of the Native Vegetation Clearing Regulations provide a suite of proposed improvements, which broadly reflect the feedback from a range of stakeholders on the *Permitted Clearing Guidelines* introduced in 2013..

A number of the proposed improvements in this Review seek to redress the balance of achieving a streamlined planning permit process for applicants, whilst protecting areas of high biodiversity value on both the state and local scale. Accurate mapping is therefore essential to achieve the best outcome for all parties.

Information and Site Assessment Requirements:

- Site assessment: Basic and Intermediate don't require a site assessment by an ecologist - condition score of all native vegetation to be removed is determined from the native vegetation condition map. Under Basic Assessment Pathway, the applicant is not required to prove they have avoided or minimised vegetation losses, only that they have considered this.
- In the Basic Assessment Pathway, an applicant is not necessarily required to avoid or minimise impacts to native vegetation. However steps to avoid and minimise impacts on other values may be required. *Thus we need to make very clear definitions regarding what constitutes "Biodiversity Values" and "Other Values", and who is vested with the authority to identify those values (ie. The biodiversity experts within the referral agencies, the responsible authority and the consultancies would be the rational choice!)*
- Effort to avoid and minimise impacts should be commensurate with the value of the native vegetation and should be targeted to reduce the impacts on areas of native vegetation with greatest value". *This needs clearer guidance on what "greatest value" is. For example, areas of high biodiversity but perhaps without endangered EVC's or known records of significant species, should be acknowledged in some way. Another example - under the proposed changes to the Clearance Regulations, the presence of a single Large Tree will lift a Basic Assessment proposal to the Intermediate Assessment Pathway. While this can work well in a forested environment, the same can not be said for grasslands. GWPG acknowledge that most grassland EVC's are considered endangered therefore receiving automatic Intermediate status, this methodology fails to*

recognise things such unmapped high-quality-derived (where trees have been removed but the groundflora is of high diversity) or remnant grasslands. While we see a potential issue, the GWPG is unsure on a way forward to deal with these issues. Possibly an item that the future Advisory Group could investigate.

- Proposed improvements which allow sitebased information collected to be used to demonstrate the values on site, or lack thereof, is vital for ensuring an equitable system for applicants which achieves genuine protection of biodiversity values.
- The review has reintroduced the acknowledgement tree size when assessing the value of scattered trees. Large trees will retain the 0.71 HabHa value, whereas small trees will now be valued at half of this score - this will benefit both the applicants and the environment alike. By ensuring the more valuable trees are identified appropriately and applicants are not subjected to higher offset requirements than necessary for smaller or lower biodiversity tree removals, ensures a transparent and justifiable system.

Mapping:

- The location map shows a substantial reduction in the extent of Location C (Location 3), with areas previously mapped as Location Risk C now being shown as Location 1. There is an increase in the intermediate category as this has been based on threatened EVC's and wetlands. Mostly noticeable are the large tracts of land in Gippsland that have dropped from the highest level of "concern" (High Risk) to the lowest (Basic Assessment). Our concern is this seems to be opening up large areas for forestry activities.

Offsetting:

- Among other points, one worthy of particular note is that large trees within a remnant patch are now to be offset by securing another Large Tree on a ration of 1:1. This is a rational approach and one that is supported by the GWPG. This will provide a far better outcome when considering permitted vegetation losses/
- A differentiation between large and small is now made for scattered trees. In the current system small scattered trees are assigned the same area as a large tree. The propose changes will mean that offset requirements for small trees will be lower, but also means that permitted vegetation clearance is more likely to avoid large trees as this would reduce an applicant's offset costs. This is a welcomed approach as this will place a higher value on the retention of larger habitat trees.

Refusing an application:

- GWPG wholly agree with the focus and direction of the submission made by the Biodiversity Planners Network, particularly the suggestion that if you cannot find an offset within the municipality, council have a right to refuse an application. Also responsible authorities should be able to refuse an application if the applicant hasn't shown that they have avoided/minimised their proposed impacts on native vegetation.

Exemptions:

- Under the exemptions to 52.17, whereby vegetation removal by grazing domestic stock is currently exempt, there needs to be a clear definition of what domestic stock are (cattle, sheep, horses, deer etc) and what grazing is, under these exemptions. And with clearer definitions, there may be a requirement for further restrictions to halt unnecessary degradation of habitats through grazing. Nillumbik has experienced loss of vegetation and biodiversity values bought about by the grazing of domestic stock in these areas and the lack of any planning tools to be able to stop this!

If we are aiming to achieve a No Net Loss program, we need to monitor all losses to get a full picture...and that includes losses due to grazing in bushland environments. Consideration might be given, perhaps, to a system whereby a permit is required for grazing domestic stock within "Intermediate" Pathway vegetation, and no grazing in "Detailed Assessment" habitats.,

- "Minimum Extent Necessary" needs clarification as this is open to ambiguity.

Compliance and Enforcement:

- Further improvements are suggested in the information gathering and promotion of co-regulatory support from DELWP, to support compliance and enforcement activities through DELWP employed enforcement officers who can provide training and support in case proceedings. *Compliance has to change. For any breaches under the current regulations, taking someone to VCAT usually results in a disregard for the VCAT findings due to a lack of support for compliance. The system has no teeth. Perhaps consideration should be given to a multi-level disincentive system, whereby breaches or lack of compliance are progressed up a chain of command that combines Local Government, DEWLP and other State Government agencies, VCAT and so on. .*

Our experiences in Nillumbik are that any manner of compliance has been shambolic! We have no faith in the local Laws, VCAT, or the Magistrates court. Fines are nominal, and quite often factored into development costs! GWPG would welcome of any improvements to the current system and a compliance regime that was effective – a system that might better achieve compliance to the regulations, with the aim of achieving the desired No Net Loss of biodiversity

Additional Documentation

The Summary of Proposed Amendments to the Victorian Planning Provisions refers to the document '*Assessment Handbook – native vegetation clearing*' which is to provide updated content to, and replace, the document '*Biodiversity assessment handbook – Permitted clearing of native vegetation*'. This updated document was not available for comment along with the Review. There is some trepidation to making comment regarding proposed changes without this guide.

The GWPG does, however, agree in principle – that these DOES need to be more guidance on how and when to refuse an application - however, its very difficult to be fully aware as we don't yet have the Assessment handbook (among a list of documents yet to be provided). Perhaps one of the first jobs of the new advisory group will be to assess the Assessment Handbook!!

Once the content of the Assessment Handbook is provided and is considered to address all necessary issues and provide suitable guidance, then this needs to become an Incorporated Document – this will give the document “more teeth”, so that any decisions relating to vegetation removal can stand up to scrutiny.

In response to the Improvements:

Positives

- The acknowledgement of smaller trees now holding a lower value than large trees is a welcomed modification to the clearing regulations. Previously, there was little incentive to retain large trees over small trees when they all held the same native vegetation offset value. This amendment will encourage the retention of substantial and environmentally significant trees, with applicants directed towards smaller trees with lower offset requirements.
- The proposed exemption for conservation work is also welcomed, particularly these works being undertaken under the guidance of an approved conservation management plan, whereby the removal of vegetation for conservation works will remove unnecessary red tape and onerous planning processes for quality conservation works..
- There appears to be some refinement in the mapping for the different Locations, with an increase in Location 2. While much of this increase is due to the inclusion of wetlands, this improvement, coupled with the change in extent threshold, should address some of the short-falls in the current system where much of the state has been mapped as “Low Risk”, despite including areas known to support high levels of biodiversity and intact habitats.
- Name change of assessment pathway . This now makes the language more inline with level of assessment required rather than the biodiversity risk as such.

- Large trees have been brought back into consideration and will influence the assessment pathway. Small scattered trees will no longer have an influence on the assessment pathway.
- The patch size of remnant vegetation cleared has changed under the proposed system. Clearance of patch of native vegetation equal or greater than 0.5 ha will now automatically trigger the Detailed assessment pathway regardless of the location of the site. Under the current system if the clearance was in Location A then the clearance would need to be equal to or greater than 1 ha to move above the Low risk category. This reduction in area is welcomed.
- The inclusion of mapped wetlands is common sense, as these environments are seasonal in nature thus may not always be visible to biodiversity consultants/experts at the time of assessing an application. It makes sense to have known wetlands included and treated as a patch of native vegetation.
- Regardless of pathway, all applications will be required to provide an avoid and minimisation statement explaining why the native vegetation removal cannot be avoided and how impacts on biodiversity and other values of native vegetation have been minimised.

Possible Improvements

- A further acknowledgement would be desirable for very large old trees as these forest/woodland giants are irreplaceable. It would seem justified to require a blanket Avoidance approach when faced with applications involving very large old trees.
- Under assessment guidelines, if an ecologist report need to be done, rather than local authorities sitting on the data generated, that this information could be somehow uploaded to the current information database that further improves the resolution of the current mapping. Habitat Hectare Assessment accreditation should continue to be the minimum credentials for an ecologist undertaking these assessments, OR there needs to be some means by which their findings can be verified.

Negatives

- It seems unclear regarding the possible effectiveness of the Low-risk (Basic Assessment) Avoid/Minimise statement. It appears that this Statement does not specifically require the applicant to show they have avoided or minimised vegetation loss, but that they have considered this. Their Avoid/Minimise statement may state that increased material costs or even an aesthetic preference will be adequate justification to increase vegetation loss.
- While under basic assessment, if an ecologist were to identify a threatened EVC, then the vegetation removal can be assessed under a higher pathway. But if an ecologist isn't used – as this ISN'T a requirement under the Basic Assessment Pathway, then how can this important information be found? Unmapped threatened EVCs and species are likely to be impacted. Council Biodiversity

Planners MUST either have the authority to provide that level of expertise and have an application raised to the higher assessment pathway. OR to avoid possible conflicts of interest, for them to be able to identify the need for further work by a consultant ecologist or make a referral to DEWLP based on the otherwise unmapped presence of threatened species and endangered EVCs.

- There still remains a need to show that the provision of Offsets do, in fact, achieve the No Net Loss necessary when allowing for permitted vegetation loss. To date, this has not been a convincing outcome.
- There is an ongoing problem, especially with RCZ and GW zones, whereby smaller lifestyle landholdings are being damaged beyond repair through incremental losses from grazing by domestic stock. There has been no refinement of the definition of grazing by domestic stock, only that there are exemptions in the Clause 52.17 that allow for vegetation removal by grazing stock. This has the potential to be misused to the extent where native vegetation losses can be substantial, with the introduction of, for example, cattle/horses onto rural lifestyle properties. Removal of vegetation by grazing domestic stock would ideally be focussed on primary production/farming, or on larger landholdings. Peri-urban areas in particular - such as the Shire of Nillumbik - have the potential to lose large areas of the municipality's vegetation through incremental loss when grazing animals are grazed within quality bushland habitats. Some planning controls are focussed on biodiversity conservation – such is the use of the Rural Conservation Zone – yet the inclusion of this exemption in 52.17 without clear definitions for “grazing” and “domestic stock”, or without clear boundaries on the appropriateness of these land use activities within native vegetation, then vegetation continues to be lost with little means available to prevent this occurring.
- It is important to remember that much of the state mapped as Low Risk contains native vegetation varying in quality from degraded to high/intact. Even the absence of reported significant species should not undervalue the areas of high quality, intact vegetation as these areas become important biodiversity “banks”. Common or widespread vegetation today does not mean this will remain so. In some regards, the quality of the vegetation, as opposed to the presence of significant species, should afford these intact remnants the necessary protection against losses. While the reduction in the area trigger (from 1Ha to 0.5Ha) that bumps a Basic application to an Intermediate or Detailed assessment application is an improvement on the current system, the value of Intermediate classing of applications remains uncertain.

Summing Up

There are inconsistent approaches and varying attitudes towards vegetation protection from municipality to municipality, across the state. Biodiversity protection achieved through layers of local planning controls, such as Environmental Significance or Significant Landscape or Tree Protection Overlays, varies massively

in their coverage and intent across Victoria. Some local government areas focus strongly on habitat retention, while others may be less committed. It is therefore imperative that the overarching controls – the VPP’s – can provide a state-wide, non-discriminatory level of biodiversity and vegetation protection.

While the current review is titled “Native Vegetation **C**learing Regulations Review”, with an apparent emphasis on CLEARING of native vegetation, these controls should be charged with the critical task of PROTECTING remnant habitat and allowing CLEARING only on a minimum as-needs basis, rather than allowing CLEARING of vegetation as the primary goal with biodiversity protection as a secondary concern.

GWPG have appreciated the opportunity to provide input into this Review process, and look forward to the adoption of the new regulations.