Wombat Forestcare Inc

Review of the Native Vegetation Clearing Regulations
Regulatory Strategy and Design
Department of Environment, Land, Water and Planning
PO Box 500
East Melbourne VIC 8002

27th April 2016

Submission to Review of the native vegetation clearing regulations - Consultation Paper

Wombat Forestcare (WFC) welcomes the opportunity to make the following submission.

1. Native vegetation clearing policy
Given the importance of biodiversity the 'no net loss' objective is inadequate. The overall emphasis of the regulations should be a 'net gain' i.e. 'a reversal, across the entire landscape, of the long term decline in the extent and quality of native vegetation'.

Instead of 'the most significant impacts on biodiversity are avoided or not permitted' as stated in the paper, the objective should be that 'impacts on biodiversity at a local, regional and state level are avoided, minimised or not permitted'.

To reflect the importance of biodiversity, the number of permitted activities that are exempt from requiring a permit should be significantly reduced. When assessing permits the responsible authorities should also attempt to ensure that impacts on biodiversity at a local, regional and state level are avoided, minimised or not permitted.

To determine whether the regulations are successful a set of clear and measurable objectives should be developed. Information of the amount of illegal clearing, area cleared under exemptions and permitted clearing at a state and individual council level needs to be provided to accurately determine how much native vegetation is being cleared on an annual basis. For greater transparency more information needs to be provided on how much native vegetation clearing will be allowed and the reasons for this figure.

It should also be implicitly recognised that offsets do not compensate for the loss of vegetation or take many years for actual compensation to occur. For example, revegetation to offset the loss of large trees can take over 100 years to replace the habitat lost. Also, protecting other existing areas of native vegetation to compensate for vegetation removal still results in a net loss of vegetation.

A problem with the current regulations is that some Councils do not consider natural resource management a priority. For example, Hepburn Council does not have an environment officer or natural resource management position, instead relying on planning personnel to assess biodiversity issues (if they get assessed at all). It should be mandatory for all councils to have in
their employment an environment officer or NRM person with suitable qualifications so that they can properly carry out their regulatory duties.

Clearing on public land
A large amount of native vegetation clearance occurs on public land under agreements and public authority exemptions. This is not addressed in the discussion paper and a detailed response should be outlined.

Proposed Improvement 1 The greater focus on avoidance of native vegetation clearance as outlined is a very welcome improvement. However, this should not only apply to 'significant' vegetation as stated in the paper but to all native vegetation.

Proposed Improvement 2-4 Support proposals although more detailed information is required.

2. Permit process and decision-making

Proposed Improvement 5 The low risk-based pathway threshold should be 0.20ha and five large trees.

Proposed Improvement 6 More detailed information is required for proposal six. Although it is acknowledged that mapping will be improved, the over-reliance on mapping for decision making means that decisions are often made without all the necessary information (e.g. such as that provided by a site visit). Also the improvement of mapping could take a considerable time to achieve.

All properties pertaining to permit applications to remove more than 0.2 hectares of vegetation or more than 5 large trees should be inspected by a council biodiversity officer or equivalent. This officer should have the power to require further information, such as further site assessment, flora or fauna surveys etc.

Proposed Improvement 7-8 Support proposed improvements.

Proposed Improvement 9 More detail is required. Information other than solely maps, such as local expert opinion, should also be used to determine the pathways chosen.

Proposed Improvement 10 The key objective should be that 'detrimental impacts on biodiversity at a local, regional and state level are avoided, minimised or not permitted'.

Proposed Improvement 11 This proposal should be strengthened to require councils to protect locally important biodiversity. Locally important biodiversity should only be cleared in exceptional circumstances. Defining areas where clearing is not allowed under any circumstance should also occur. EVCs and their conservation status should also be a consideration.

3. Biodiversity information tools used in decision making and offset rules.

Proposed Improvement 12 Both mapping and on-site visits should be used in site assessments. For permit applications to clear greater than 0.2ha or five large trees, a council officer should initially visit the site to determine if further assessments are required. Further assessments would be undertaken by a suitable qualified consultant.

Proposed Improvement 13 Support proposal.

Proposed Improvement 14 EVCs and their conservation status should be a key consideration in assessing permit applications. Clearing in endangered EVCs should be avoided except in exceptional circumstances. Clearing in other threatened EVCs should be discouraged.
Proposed Improvement 15  Support proposal although information collected on scattered trees should also include tree diameter and a photo. The protection of large old trees is of vital importance for biodiversity and every effort should be made to ensure these trees are maintained in the landscape. Further information is required on how the 'value' of trees will be determined.

4. Offset delivery

As mentioned previously, it should be recognised that offsets do not compensate for loss of vegetation or takes many years to provide compensation (see comments in section one).

Proposed Improvements 16-20  Support proposals in context of the above.

5. Exemptions

Any changes to clearing regulations must significantly reduce the number and scale of exemptions where clearing is allowed without a permit. Assuming the importance and value of all native vegetation and biodiversity, WFC contents that the system would function perfectly well with only a small number of exemptions.

Given the large amount of clearing that occurs under exemptions, it is also inconsistent with the principal of avoiding native vegetation clearance, to have a large number of exemptions.

It can also be argued that the fewer the exemptions there are, the simpler it is to educate landowners and managers regarding native vegetation removal. A permit should be required in most circumstances to clear native vegetation.

A significant limitation of the consultation paper is the lack of detail provided on the type and scale of exemptions that will be permitted. Where exemptions are granted offsets should still be required.

For example, the 'existing use' exemption should be removed from the regulations.

The distances allowed for fence line clearing should also be significantly reduced and a permit should be required for clearing native vegetation on a fence line. This could be based on tree size (e.g. trees with a dbh over 40cm) and whether there are threatened species or EVC's.

Property owners should be able to request an evaluation from the shire NRM regarding whether a permit is required.

Proposed Improvement 21  Total clearing that occurs under exemptions should not have significant impacts on biodiversity at state, regional, local and site level. Significant new footprint permanent clearing should not occur under exemptions.

Proposed Improvement 22-23  Support proposal although material needs to offer more than guidance, it should clearly outline the intent and application of exemptions.

Proposed Improvement 24  A much greater level of information is required on the nature and type of such arrangements. If agreements referenced in the exemptions are to occur, they should be available for public comment before approval. Offsets should be required for all agreements to the same level as applied to private landowners.

6. Compliance and enforcement

Proposed Improvements 25  Strongly support and should be a priority.
Proposed Improvements 26  Support should be in the form of a co-ordinated joint approach between DELWP and councils.

Proposed Improvements 27  More information is required on the mechanisms that will be used to achieve this improvement and how that information will be used.

Proposed Improvements 28  Additional resources should be directed to DELWP to provide co-regulatory support.

Proposed Improvements 29  Support improvement.

Illegal Clearing
Any changes to the regulations should address the key drivers of illegal clearing. Although a range of key drivers are listed in the discussion paper, specific measures are not outlined to address each of these drivers.

Far more resources are required for education, monitoring and enforcement at both a council and state level.

As there are very few disincentives to illegal clearing, the penalties for illegal clearing should also be increased to act as a deterrent. Satellite imagery could be used to detect moderate to larger scale illegal clearing.

In order to limit the confusion over when a permit is or is not required the number of exemptions should be significantly reduced. Landowners and managers would be made aware that in most cases a permit is required to clear native vegetation.

Wombat Forestcare is a community environment group established to protect and enhance the ecological health of the Wombat State Forest and surrounding areas. WFC is aware of many instances of significant clearing of native vegetation on private properties in the region that should have been avoided. The lack of council resources, clarity of council responsibility and a broad range of exemptions have enabled a considerable loss of local native vegetation including large old trees.

WFC looks forward to 'Phase 3 – Develop and release system changes for comment' of this process and expects that this will include greater clarity and direction, specific targets and timelines.

Murray Ralph

Gayle Osborne (Secretary)

Wombat Forestcare Inc.