This information sheet explains the consultation process completed during the review of the native vegetation clearing regulations. It also summarises the submissions received on the paper released for public consultation in March 2016, and provides the department’s response.

The Department of Environment, Land, Water and Planning (DELWP) led the review of the native vegetation clearing regulations (regulations). The aim of the review was to ensure the regulations sensibly protect sensitive vegetation. Engaging with the community and stakeholders was key to completing the review, which began in May 2015.

The review was supported by a Stakeholder Reference Group (SRG) comprising DELWP, an independent chairperson and representatives from the City of Greater Bendigo, Environmental Farmers Network, Environmental Justice Australia, Hume City Council, Minerals Council of Australia (Victoria branch), Municipal Association of Victoria, Trust for Nature, Urban Development Institute of Australia, Victorian Farmers Federation, and Victorian National Parks Association.

The SRG met regularly throughout the review to share experiences and provide advice. It helped test draft proposals and provided important feedback from a broad range of perspectives.

This helped DELWP prepare the proposed amendments to relevant clauses of the Victoria Planning Provisions, as described in 2 documents are now available for public comment:

- **Review of the native vegetation clearing regulations – Summary of proposed amendments to the Victoria Planning Provisions**, and
- the draft **Native vegetation clearing – assessment guidelines** (Assessment guidelines), which will be the updated incorporated document.

These two documents are collectively referred to as the **regulatory system changes**.

**Consultation process**

The review comprises four phases:

1. **Issues identification** (May 2015 – March 2016)
2. **Public consultation paper and submissions** (March 2016 – June 2016)
3. **Develop and release system changes for comment** (March 2016 – February 2017, current phase)
4. **Implement regulatory system changes** (from March 2017)

**Phase 1: Issues identification**

This phase established the review team within DELWP and the SRG. Key information was collected during this phase of the review and included stakeholder workshops, meetings with the SRG, surveys, and permit data collection and analysis.

Nineteen community and local government workshops were held across Victoria. These were followed by a number of meetings with key stakeholders or industry groups that enabled more in-depth discussions. More than 600 people took part in these workshops.
At the workshops, stakeholders worked with DELWP staff at theme based tables to share their thoughts about what was working well, raise issues, and offer suggested improvements. The workshop themes were:

– native vegetation clearing policy
– permit process and decision making
– biodiversity information tools used in decision making and offsetting
– offset delivery
– exemptions (from the need for a permit), and
– compliance and enforcement.

Surveys of local councils and consultants were also undertaken to collect information from key users of the regulatory system.

Collation and analysis of this information, DEWLP permitted clearing data and the statewide permit tracking database was undertaken to also identify issues that should be considered.

Proposed improvements were developed based on the key issues identified from all these information sources, and detailed in the Review of the native vegetation clearing regulations – consultation paper (Consultation paper).

**Phase 2: Public consultation paper and submissions**

The Consultation paper was released for comment on the 17 March 2016. The paper set out 29 proposed improvements under the six workshop themes.

The comment period was open for nine weeks and 218 submissions were received from a broad range of stakeholders. The comments in the submissions were recorded against each of the six themes and 29 proposed improvements. Where it was evident, the level of support for the proposed improvement was recorded.

Some submissions provided broad and high level comments based on the themes. About 80 submissions provided detailed comments on each proposed improvement.

Where consent was provided, and in line with DELWP privacy laws and obligations, submissions made to the Consultation paper were published on the DELWP Have your Say website.

The table below outlines the number of submissions received based on stakeholder groups:

<table>
<thead>
<tr>
<th>Submission group</th>
<th>Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>Local government</td>
<td>39</td>
</tr>
<tr>
<td>Industry peak body</td>
<td>13</td>
</tr>
<tr>
<td>Environment/community group</td>
<td>36</td>
</tr>
<tr>
<td>Academic/researcher</td>
<td>6</td>
</tr>
<tr>
<td>Consultant</td>
<td>12</td>
</tr>
<tr>
<td>Forestry</td>
<td>15</td>
</tr>
<tr>
<td>Traditional owner</td>
<td>2</td>
</tr>
<tr>
<td>Farming</td>
<td>11</td>
</tr>
<tr>
<td>Portfolio agency or authority</td>
<td>53</td>
</tr>
<tr>
<td>Individuals</td>
<td>21</td>
</tr>
<tr>
<td>Other</td>
<td>10</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>218</strong></td>
</tr>
</tbody>
</table>

**Phase 3: Develop and release system changes for comment**

The review outcomes and proposed regulatory system changes were developed based on the submissions received and data analysis.

The development of the changes was also supported by a number of targeted internal and external stakeholder workshops and workshops with the SRG. These workshops helped develop, refine and test the proposed regulatory system changes and the program of ongoing improvements.

The ongoing improvements are described in the Review of the native vegetation clearing regulations – outcomes report (Outcomes report).

The review concluded with the release of the Outcomes report and the proposed regulatory system changes, which have been released for community consideration and comment.

**Phase 4: Implement regulatory system changes**

Comments will be considered before finalising and implementing the changes to the regulatory system. A training program and guidance material will be developed and provided to local council before the new regulations are implemented. The ongoing improvements described in the Outcomes report will also be further developed and implemented during this phase.
Consultation paper submissions and response

This section provides a summary of the comments received on the Consultation paper and the department’s response.

Consultation and engagement

Feedback in the submissions about the consultation process and various opportunities to be involved was generally positive. A few submitters stated that they hadn’t been adequately engaged. Many stakeholders requested further opportunities to work with DELWP to help develop the detailed changes.

Response

A range of approaches were used to engage with as many stakeholders as possible. This included face to face information sessions, targeted workshops, SRG workshops, and a dedicated review email and website to enable community interaction throughout the project. DELWP will continue to test and develop proposals with stakeholders as the program of ongoing improvements is developed and implemented.

A native vegetation stakeholder advisory group will be established to provide advice to DELWP on the implementation of the changes to the regulatory system.

General submission comments

Many submissions provided general feedback not specifically related to the proposed improvements. A number of submissions requested more detail and greater clarity about some of the proposed improvements and how they will be implemented.

Some submissions noted the need to consider the proposed improvements against the objectives of the draft Biodiversity plan—Protecting Victoria’s Environment - Biodiversity 2036—and in context of other relevant environmental legislation or policy, especially the Fauna and Flora Guarantee Act 1988 review.

The need for assessment of the economic impacts and increased regulatory burden that may arise from implementation of the proposed improvements, especially for applicants who are currently in the low risk-based assessment pathway, was also raised.

DELWP also noted comments requesting any changes to be assessed in accordance with the Victorian Guide to Regulation.

Some submissions raised climate change and cumulative impacts being important issues, and that it was not clear how these would be addressed under the review.

Response

DELWP considered linkages with draft Biodiversity plan and the review of the Flora and Fauna Guarantee Act 1988 as part of this review.

All proposed changes were developed using the principles of good regulatory practice outlined in the Victorian Guide to Regulation, including the implementation costs. As an example, instead of the proposed reduction of assessment pathways from 3 to 2, two as proposed, a Basic Assessment Pathway was refined to provide a straightforward assessment and offset process for low impact clearing proposals.

Climate change and cumulative losses are difficult to address in the context of a site permit to remove native vegetation. Landscape scale maps are more appropriate ways to consider these issues, and over time DELWP will improve these maps to enable consideration of these issues as part of the regulations.
Theme 1: Native vegetation clearing policy

Submission feedback highlighted the need to ensure policy objectives are clear, meaningful and connect well to other environmental legislation and key government strategies for Victoria’s biodiversity.

Most submissions indicated conditional support for the four proposed improvements under this theme. There were some comments that the definition of native vegetation that is ‘significant’ to Victoria’s biodiversity was too narrow as it focused on rare or threatened species habitat, and that the benefits and services provided by native vegetation should also be considered.

Some comments noted a lack of clarity around policy objectives and language, particularly around understanding the difference between ‘no net loss’ and ‘net gain’.

Submissions raised concerns that illegal clearing and losses attributed to exemptions are not quantified or considered when measuring policy objectives. Some submitters were concerned about potential increased monitoring and reporting costs and suggested these be funded by State Government.

Response

The proposed changes no longer include the term ‘significant contribution’, and now the focus is on the values of native vegetation. These values are described in the Assessment guidelines and include biodiversity values such as condition, species habitat and large trees, as well as other landscape and cultural values. The changes focus on protecting native vegetation, especially where these values are high.

The clearing regulations aim to ensure no net loss to biodiversity from the permitted clearing of native vegetation. This means that impacts on biodiversity are balanced (or offset) by benefits to biodiversity that the permit holder has to pay for.

Net gain is an overall improvement for biodiversity as described in the draft Biodiversity plan. It can be achieved by undertaking additional actions that contribute to biodiversity improvements, such as investment in local Landcare groups, government funded conservation enhancement projects, and increasing the state conservation reserve system.

It is difficult to capture comprehensive data on illegal clearing and clearing that takes place under exemptions. This needs to be accounted for when reporting on ‘no net loss’ and ‘net gain’, and will be built into the monitoring and reporting plan and compliance and enforcement strategy.

The monitoring and reporting plan will include regular low cost options for reporting as well as more long term, and potentially higher cost options for reporting against the objective of the regulations.

Theme 2: Permit process and decision making

Submission feedback included the need to ensure that the suite of improvements do not result in greater complexity or costs for applicants or regulators. Concern was raised that the requirement for applicants to include an avoid and minimisation statement and offset strategy in planning permit applications would result in increased costs, especially for lower assessment pathway applications.

Some submissions requested more detail around the proposed changes to mapping tools so they could understand any implementation issues. Stakeholders were divided in their support for replacing the location risk map with a map of highly localised habitats. This was based on concerns relating to data limitations for private land and that Ecological Vegetation Class (EVC) conservation status was not considered.

Response

The statements relating to avoid and minimise and offsets are intended to be brief. They will simply describe how native vegetation removal has been avoided or minimised and how the required offset will be secured. The term offset strategy is now replaced by the term offset statement to reflect this. The statements can be prepared by applicants without specialist input.

The Assessment guidelines contain more detail about this, and the Guide for applicants will explain how to avoid and minimise impacts in the different assessment pathways. It will also explain how to prepare the required offset statement.

The Guide for applicants will be available when the updated regulations come into force.

The updated species maps used as a key input in the Location map have taken account of the apparent bias in species records—most records are located within national parks. The Location map now includes highly localised habitats, as well as endangered EVCs and nationally listed wetlands and coastal areas. Removal of large trees is also a factor used to determine the assessment pathway of an application.
Theme 3: Biodiversity information tools used in decision making and offset rules

Comments in this theme highlighted that the mapped data and tools could not be readily understood. Some submissions also expressed a lack of confidence in a map’s ability to accurately identify biodiversity values.

Conditional support was expressed for:

- the inclusion of site-based species habitat assessment
- improved and more accessible mapping information
- considering the biodiversity value of scattered and large trees.

Concern was raised about potential increased costs to applicants, and the need for additional resources for regulators if more site information was required to be assessed.

There was general support for placement of greater emphasis on dispersed species key habitat, conditional on stakeholders having more information about how this would be done and how it would affect applicants.

Many stakeholders submitted that regular data and mapping updates are required to ensure the maps support better decision making.

Response

The Assessment guidelines and the Biodiversity information products document describe how the various maps were developed and how they are applied in the regulatory system.

Proposed changes include the option for applicants to provide site assessed habitat characteristics when they believe that the mapped information should be supplemented. This supplementary information will be assessed by DELWP and is not expected to impact on council resources.

Key habitat for dispersed species was identified using the habitat importance scores and some important records such as known roosting sites. These maps are used alongside the dispersed habitat importance maps when determining if the proposed native vegetation removal has significant impact on rare or threatened species.

The Biodiversity information products document outlines the approach to update maps used in the regulations.

Theme 4: Offset delivery

Many submissions supported the increase in the use and functionality of the Credit Register by registering all third-party offsets, provided it did not increase costs for applicants. Some suggested that all offset sites should be centrally registered.

There was support to improve the offset market, especially in areas of low availability. Most stakeholders also supported the use of revegetation as an offset option, especially where it improves landscape connectivity and addresses local biodiversity loss.

There was general support for developing a framework for Crown land offsets, provided a clear and transparent process is put in place.

Response

Improvements to the operation of the Credit Register will be introduced as part of the program of ongoing improvements. This will include consulting with key stakeholders to identify how costs can be reduced, and outlining the process for registration of third party offset sites. The potential to include all offset sites easily will be considered during the development of this process.

A study of the operation of the offset market will be completed once the new regulations are implemented. This will include identifying areas that have low offset availability and the actions needed to address this.

Updating the revegetation standards to enable desirable revegetation and establishing Crown land offsets is also included in the program of ongoing improvements.
Theme 5: Exemptions

Most submissions expressed support for the proposed improvements in this theme. There was general support for guidance on the intent and application of exemptions, and a formalised set of exemption purposes and principles. Most submissions supported the proposal to increase the clarity of the exemptions.

Some submitters requested more information around what reporting or recording of clearing that occurs under exemptions would be required, and what this would mean for local and state government.

There was support for a consistent approach to the agreements referenced in the exemptions, provided the process is transparent and publicly available.

Concerns were expressed about the amount of clearing under exemptions on Crown land, and how no net loss was considered and addressed for new permanent clearing.

Response

An updated set of exemptions to improve their clarity and operability is included in the proposed regulatory system changes. Further guidance will be prepared to assist in the interpretation and application of the exemptions. This will be done in consultation with relevant stakeholders as part of the program of ongoing improvements.

DELWP will work with relevant stakeholders to develop cost effective approaches to record and report on the clearing that occurs under exemptions.

A consistent approach to agreements will be developed in consultation with local government and relevant stakeholders. These agreements will be made publicly available, including those that apply to public land.

Theme 6: Compliance and enforcement

Compliance and enforcement was a common theme throughout many submissions and a high priority for a number of stakeholders. There was also strong recognition by many stakeholders that this area of the regulations needs more resourcing to be effective.

There was strong support expressed for developing a compliance and enforcement strategy and for more information on what this would include.

Many submissions also supported the development of guidance and support materials and improved information gathering.

Some concerns were raised about the potential for community groups to be involved in enforcement of the regulations.

Most submissions supported a co-regulatory approach between DELWP and other levels of government and relevant agencies to address non-compliance. There was also support expressed for a review of the overarching compliance and enforcement framework.

Response

The development of a compliance and enforcement strategy will provide broad direction to ensure a focus on identifying key compliance risks, and that the regulatory response is consistent and proportionate.

The compliance and enforcement strategy and support material will be developed in consultation with local government and relevant stakeholders as part of the program of ongoing improvements.

The role of community groups and stakeholders described in the Consultation paper is targetted to help raise community awareness around the application of the regulations.

Opportunities to strengthen the compliance and enforcement framework will be sought through existing reviews, including the review of the Fauna and Flora Guarantee Act 1988.

Other issues

Some submissions raised a number of other issues including the bushfire exemptions under Clause 52.48 of planning schemes, delineation of ‘no go zones’ and a suggestion that the regulation of native vegetation clearing be removed from planning schemes and dealt with under stand-alone legislation by an independent regulator.

Response

These issues were outside the scope of this review.

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