

ONLINE SUBMISSION DETAILS		
Date Received	01/03/2017	
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Postcode	3067	
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	Consultancy	
Previous engagement in review?	Info session 2015	Yes
	Workshop 2015/16	
	Targetted consultation	
	SRG	
	Written submission to CP?	
	Other? Describe	
Will changes improve function of regs?		
Reasons	The proposed changes will improve the regulations through the 3-step approach, the inclusion of endangered EVCs, sensitive wetlands and coastal areas in the assessment pathways, and the additional assessment and offsetting requirements for large trees. The proposed changes will not however improve the regulations due to the proposed application of the 3-step approach, how large trees are proposed to be assessed and offset, the Strategic Biodiversity Score, the lack of monitoring undertaken to validate methods to achieve no net loss, and the failure of offsets to adequately compensate for loss. Please see items 1-6 in the attached document for further detail.	
Implementation issue with proposed changes?	Yes	
Reasons	Further clarification is required for a number of statements and definitions and the methods proposed for assessment and offset of large tree need further review. Please see items 1, 3 and 4 in the attached document for more detail.	
Guidelines – guidance or clarification needed?	Yes	
Details	Further clarification is required in the application of the 3-step approach under the Basic Assessment Pathway, how avoidance and minimisation "should be targeted to reduce the impacts on areas of native vegetation with greatest value", and the roles of the Strategic Biodiversity Score and offset multipliers. Please items 1, 4 and 6 in the attached document for more detail.	
Terms to include in guidelines glossary?	Unsure	
Details		
Subscribe to e-newsletter?	Yes. Please send information updates to my email address	
Other comments	Please read my full response to the review of native vegetation regulations in the attached document.	
Written submission provided?	Yes	

## Submission to DELWP's Review of the Native Vegetation Clearing Regulations

**██████████, Biodiversity Offsets Victoria**

### **1. The Three-Step Approach**

The proposed re-introduction of the three-step approach of avoid, minimise and offset for all applications would be a positive change that will help to avoid unnecessary native vegetation loss as well as require applicants to consider their own impacts on biodiversity at each site. However, it is unfortunate that the approach is not proposed to be applied in its entirety to all applications. The application requirements for the basic assessment pathway state that applicants are not required to demonstrate avoidance and minimisation of impacts on biodiversity values, however they “may be required” to demonstrate avoidance and minimisation of impacts on “other values” (p. 14 and 16).

The three-step approach should be required for all applications in regard to impacts on all (biodiversity and “other”) values. This requirement would encourage applicants to adequately consider the consequences of their actions, seek alternative options where possible, reduce the reliance on offsetting (which currently does not provide sufficient compensation for losses, see item 6 below), and potentially minimise the resistance to offsetting costs if all other options have been exhausted.

Secondly, the basic assessment pathway requirement to avoid and minimise impacts to other values “may be” required is very vague. “Other values” has been defined elsewhere in the guidelines, however the circumstances in which avoidance and minimisation of impacts to other values will be required under the basic assessment pathway has not been defined. This potential requirement is likely to cause confusion amongst applicants and decision makers, and will be lost in translation in the application of the guidelines. To simplify the application process, all applications should require the application of the three-step approach in respect to biodiversity and other values. Combining these values under “environmental values” may also help to simplify the approach for applicants.

The assessment guidelines also state that avoidance and minimisation “should be targeted to reduce the impacts on areas of native vegetation with greatest value”, however “native vegetation with greatest value” is not defined. What tools or attributes should be used to determine which native vegetation is of greatest value (eg. habitat hectare score, EVC conservation significance, extent, connectivity, threatened species habitat, presence of large trees etc)? And at what scale? Is the determination of value relative to the site, property, region or state? Further clarification would assist this determination for applicants and decision-makers.

### **2. Assessment Pathways**

The inclusion of endangered EVCs and sensitive wetlands and coastal areas as part of the intermediate pathway is a positive change that will hopefully place greater value on our most vulnerable and biodiversity-rich ecological communities on the part of the decision maker. It is encouraging that an additional component of

EVCs (the endangered conversation status) is being utilised and serving a purpose, however this still leaves the four other conservation statuses (vulnerable, rare, depleted and least concern) and many other aspects of EVCs underutilised.

### 3. Large Old Trees

The re-introduction of the assessment of large trees in patches, and the additional offset requirement of a one to one replacement for all large trees is a positive change that better reflects their true replacement and habitat value. However the process that has been proposed for assessment and offsetting misuses the EVC benchmarks and may not work in practice.

The classification of large trees in regards to EVCs makes sense, however the application of a large tree size to EVCs without a large tree benchmark, such as Lowan Sands Mallee and Plains Grassland, means that EVCs will be applied in ways that were not intended. If Mallee trees are considered too valuable not to have to replace, then perhaps the treeless Mallee EVC benchmarks that do contain canopy tree species need to be updated to also contain a benchmark Large tree size.

Previously under the Framework, in the event that a large tree was located within a normally treeless EVC, such as Plains Grassland, the assessor would determine a large tree benchmark from the large tree species and its corresponding and/or nearby EVC benchmark size, such as 80cm DBH for a River Redgum. Applying a blanket 40cm DBH benchmark to all treeless EVCs means that many trees (and some understorey trees or shrubs) will be incorrectly classified as large trees. In these situation, site assessments may be the only option to avoid applicants being unfairly debited with large tree offset requirements for the clearance of trees or shrub that are not large tree species.

The application of a blanket large tree benchmark to EVCs without one also creates a disjunct between the assessment of clearance sites and the assessment of offset sites. Offset sites and the gain that they generate are assessed using the EVC benchmarks. Therefore Mallee EVCs without a large tree benchmark cannot generate large trees as offsets, however under the draft assessment guidelines clearance of this vegetation will generate large tree offset requirements. This may be an issue for first party offsets where applicants wish to offset permitted clearance on site. Does DELWP intend to extend these blanket large tree benchmarks into the assessment of offset sites?

If the removal of large trees needs to be offset through a one to one replacement, in addition to native vegetation offsets (General or Specific units), the large trees should be sold separately to avoid adding further complication, difficulty and cost for applicants to secure suitable offsets. There are a number of issues with combining the native vegetation and large tree offsets into one purchase. These include:

- If large trees in a credit site are to be allocated evenly across the sites gain credits, then any sale of credits will partially reduce the number of large trees available whether sold to meet large tree offset requirement or not, thereby reducing the availability of large trees on the market unnecessarily. Credit owners will also end up with partial (1/2 or ¼) large trees available;

- Treeless credit sites on the NVCR will lose their demand. Treed EVCs will be favoured over treeless EVCs in the market and their prices will increase;
- The increased demand and scarcity of treed credit sites will make it more difficult and expensive for permit holders to meet their offset requirements if they are required to purchase the native vegetation credits that also happen to contain the right number of large tree offsets they need. In most instances, permit holders will probably have to purchase more offset credits than required and from a combination of different sites. For example, if the credit site only contains a very sparse spread of trees (eg. 5 trees over 1 General unit), and an applicant needs to purchase 0.1 General units and 5 large trees, the applicant will be required to purchase 10 times the native vegetation offset amount to meet their large tree offset requirements. If we assume the average General unit price of \$140,000, this could equate to an additional \$126,000 to the cost of their offsets. If the large trees were sold separately their total offset cost would be \$14,000 plus the cost of 5 trees; and,
- Extra burden may be placed on the NVCR team to test scenarios and credit site combinations in order to meet permit holder requirements.

If large trees were sold in a separate market, their price would be dictated by the market, and less confusion will be caused amongst permit holders and credit owners.

Lastly, it is not clear why scattered trees have two different default condition scores applied to them depending on who undertakes the assessment, ie. non-assessed scattered trees receive the modelled condition score and scattered trees assessed by an accredited assessor receive a condition score of 0.2. Why not apply the modelled condition score to both assessment types, or apply a score of 0.2 to both? They are both default scores, however their distinction is not made clear in the draft assessment guidelines.

#### **4. Strategic Biodiversity Value Score**

The Strategic Biodiversity Value Score is defined in the draft assessment guidelines as a “rank of a location’s complementary contribution to Victorian biodiversity”. Firstly, this definition does not clarify the origins and role of this score for the reader. Secondly, biodiversity is not a phenomenon that should be “ranked”, as by making winners in biodiversity conservation we also make losers. Is this score an essential tool for biodiversity conservation in Victoria? And how will it support the objective of no net loss?

#### **5. No Net Loss**

The objectives of Clauses 52.16 and 52.17 include a “no net loss to biodiversity”, and goes on to state that this objective will be achieved “by applying the three-step approach in accordance with the *Native vegetation clearing – assessment guidelines*”. This method proposed to achieve no net loss was the exact same method proposed in 2002 to achieve Net Gain under the Framework. However, nowhere has DELWP, nor any other body, been able to demonstrate that the three-step approach is an effective method to achieving a net gain or no net loss.

In 2008, DSE's *Native Vegetation Net Gain accounting first approximation report*<sup>1</sup> showed that Victoria lost an estimated 4090 habitat hectares (approximately 10000-14000 hectares) of native vegetation per year from 1998-05. The loss was predominantly on private land, with a higher rate of loss of grassy vegetation than woody vegetation. This report shows that the introduction of the Framework in 2002, which included the objective for Net Gain in native vegetation via the three-step approach, did not halt the ongoing losses in native vegetation across Victoria. Whilst these losses were likely to have been the result of some illegal clearance, it was also likely to have been a result of permitted clearance that was not adequately offset.

Unfortunately, no further accounting of native vegetation extent has been undertaken (or made public) since 2008. The approximation reports were recommended to be undertaken every 2-3 years, making the second report well overdue. DELWP's *Outcomes Report* identified the need for greater compliance and enforcement, and monitoring of illegal and permitted vegetation clearance. These tasks will be essential to determine if the no net loss objective is being met and if the proposed three-step approach is effective in achieving this. However given Victoria's previous record, I fear that achieving no net loss is not possible under the proposed approach, which is in part due to the inability of our offsetting arrangement to adequately compensate for biodiversity loss.

## 6. Offsets

Native vegetation offsets are not calculated in the same manner as losses, and therefore do not provide an equivalent offset. Both methods use habitat hectares and the modelled Strategic Biodiversity and Habitat Importance scores as appropriate. However offsets are calculated under the assumption that there will be a natural decline in native vegetation over time in the absence of an offset taking place to protect and enhance it. Calculations for vegetation loss however do not have any inbuilt assumptions of natural decline.

In remnant vegetation offset sites, this assumption is applied through the Prior Management Gain, the Site Security Gain and the Maintenance Gain. In theory, all these gains can be generated and used to compensate for native vegetation clearance elsewhere in Victoria without any active management being undertaken to enhance the quality and/or extent of native vegetation at the offset site. The only gain that is awarded for increasing the extent and/or quality of native vegetation is the Improvement Gain.

Many recent studies into the delivery of compensatory offsets have found that the assumption of natural decline built into biodiversity gains are leading us towards a continual decline in biodiversity<sup>23456</sup>. One study<sup>5</sup> reported that the assumed natural decline built into Victoria's Gain Calculator is also significantly higher than the observed rate of vegetation loss (more than double the recent observed rates of forest loss), which would result in a serious overestimation of biodiversity gains being generated in offset sites. So not only do the

<sup>1</sup> DSE 2008. *Native Vegetation Net Gain accounting first approximation report*. Victorian Government, Department of Sustainability and Environment, East Melbourne.

<sup>2</sup> Bull et al 2013a. 'Biodiversity offsets in theory and practice'. *Orynx*, Vol. 47, No. 3, p. 369-380.

<sup>3</sup> Bull et al 2013b. 'Importance of Baseline Specifications in Evaluating Conservation Interventions and Achieving No Net Loss of Biodiversity'. *Conservation Biology*, Vol 28, No. 3, 799-809.

<sup>4</sup> Gibbons et al 2016. 'A Loss-Gain Calculator for Biodiversity Offsets and the Circumstances in Which No Net Loss Is Feasible'. *Conservation Letters*, Vol. 9, No. 4, p. 252-259.

<sup>5</sup> Maron et al 2015. 'Locking in Loss: Baselines of decline in Australian biodiversity offset policies'. *Biological Conservation*, Vol. 192, p. 504-512.

<sup>6</sup> Maron et al 2016. 'Taming a Wicked Problem: Resolving Controversies in Biodiversity Offsetting'. *Bioscience*, Vol. 66, No. 6, p. 489-498.

methods for calculating vegetation losses and offsets not correlate (as losses do not contain built in assumptions of natural decline), but the assumed natural decline being averted in offsets sites is more than double the recorded vegetation decline in Victoria.

The *draft Assessment Guidelines* proposes to continue the use of multipliers to determine offset requirements from native vegetation loss (although the relationship between these multipliers and achieving no net loss was not made clear). If the biodiversity gains calculated for an offset were equivalent to the losses from permitted clearance, then the use of multipliers should in theory result in a Net Gain in biodiversity. However, these multipliers are not likely to adequately account for the overestimation of gains that are being generated at an offset site. The inbuilt assumptions of natural decline and overestimation of gains at offset sites stifles Victoria's capacity to achieve a No Net Loss in native vegetation and needs to be addressed to avoid ongoing losses. Gains should not be generated from an offset site for simply 'averting loss'. Prior Management, Site Security and Maintenance should only act as minimum requirements for remnant vegetation offsets and not contribute to their Gain.

Similarly, the Site Security and Maintenance Gains in the revegetation gain calculator should not contribute to the gain value. The Outcomes Report proposed updates to the revegetation gains calculator to favour sites with existing scattered trees and connections to other remnant vegetation. These proposed updates along with a revised gain calculation will both support better biodiversity outcomes for revegetation offset sites.