Reference: 03/01/004

27 April 2016

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

Dear Sir / Madam,

Towong Shire Council Submission to the Review of Native Vegetation Clearing Regulations

Towong Shire has extensive areas of remnant native vegetation and has a large Crown-private land interface. Whilst Towong Shire Council receives few planning applications for native vegetation removal, we have in recent years seen extensive native vegetation destruction by aerial spraying for blackberries. Given the resources and expertise that Council has and the lack of support from State government, undertaking enforcement in relation to these cases has been very difficult.

Council would like to make the following comments to the review of the native vegetation clearing regulations:

- Because local government is largely responsible for administering the clearing controls, there is a lack of consistency in the administration of the controls between local government areas. The lack of consistency is largely a function of variations between Councils in terms of financial resources, technical expertise and overall appetite for native vegetation destruction enforcement. The result is an inconsistent application of the regulations across regions and the state as a whole.

- Towong considers that the lack of evaluation measures makes it difficult to make a statewide or regional assessment about whether the policy objectives are being achieved. However, the burden of collecting this performance data should not be imposed on Council’s.

- The current exemptions within Clause 52.17 of all planning schemes are an area in need of review. Some exemptions such as the fence line clearing exemption are ambiguous and clarification is needed. There also needs to be greater flexibility within the Schedule to Clause 52.17 to specify the amount of native vegetation that can be removed when undertaking weed control activities in relation to a nominated weed, such as blackberry.

- The highly technical nature of quantifying vegetation losses and the subsequent calculation and implementation of offsets is problematic. Many Council’s do not have the technical expertise to do this.
The reduction in the status of the Department of Environment Land Water and Planning (DELWP) from a ‘determining’ referral authority to a ‘recommending’ referral authority has enabled DELWP to further retreat from supporting councils. We believe that the referral triggers in Clause 66.02-2 should be lowered so that assessment of most, if not all, native vegetation applications are dealt with by DELWP.

Towong agrees that a critical component of achieving compliance with regulations is community awareness and education and there needs to be a greater emphasis on prevention of native vegetation losses. Provision of this information to the community should be the responsibility of the State Government not Council.

Enforcement and compliance is a challenge and most Councils have limited resources for these activities. We feel that we have not been adequately supported by the State in relation to compliance or enforcement matters and we have been left to carry the load.

Towong feels that at the very least, and as a starting point, it should be possible for:
- DELWP to provide greater support and assistance for councils at VCAT or the Magistrates Court;
- DELWP staff to be authorised officers under the Planning and Environment Act and responsible for undertaking compliance and enforcement on high value sites of state significance; and/or
- The Flora and Fauna Guarantee Act review to empower DELWP to undertake enforcement and compliance on private land with high value sites of state significance.

Whilst a co-regulatory approach where the State government also bears some of the cost and responsibility would be better than the current arrangements, Towong strongly believes that this should go further and that all native vegetation enforcement and compliance should be undertaken by DELWP. This would achieve greater consistency in enforcement outcomes across the state and would ultimately be more likely to lead to the types of outcomes sought by the clearing controls.

For further information please contact [redacted] or [redacted]

Yours sincerely,

Jamie Heritage
Acting Chief Executive Officer